TENTATIVE: SUBJECT TO REVISION

TOWN OF PALM BEACH

Town Manager's Office

TOWN COUNCIL MEETING

TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD

AGENDA

DECEMBER 13, 2016

9:30 AM

Welcome!

For information regarding this agenda and the procedures for public participation at Town Council Meetings, please refer to the end of this agenda.

I. CALL TO ORDER AND ROLL CALL

Mayor Gail L. Coniglio
Michael J. Pucillo, President
Richard M. Kleid, President Pro Tem
Bobbie Lindsay
Danielle H. Moore
Margaret A. Zeidman

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. APPROVAL OF AGENDA

IV. RECOGNITIONS

A. Recognition of Michael J. Scharf, Planning and Zoning Commission from May 2014 through September 2016

John S. Page, Director of Planning, Zoning & Building

B. Recognition of Fredrick "Tim" Campbell, Golf Course Superintendent, as

2016 Town of Palm Beach Employee of the Year.
Gail Coniglio, Mayor

V. PRESENTATIONS

A. Planning and Zoning Commission Presentations by Applicants
John S. Page, Director of Planning, Zoning & Building

B. Shore Protection Board Presentations by Applicants
H. Paul Brazil, P.E., Director of Public Works

VI. COMMENTS OF MAYOR GAIL L. CONIGLIO

VII. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

VIII. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

IX. APPROVAL OF CONSENT AGENDA (SEE NOTE 5)

A. MINUTES

1. TOWN COUNCIL MEETING MINUTES
Susan A. Owens, MMC, Town Clerk

   a. Minutes of the October 13, 2016, Regular Meeting

   b. Minutes of the November 8, 2016, Regular Meeting

   c. Minutes of the November 9, 2016, Regular Meeting

2. LOCAL PLANNING AGENCY MEETING MINUTES
Susan A. Owens, MMC, Town Clerk

   a. Minutes of the October 13, 2016, Meeting

   b. Minutes of the November 9, 2016, Meeting

3. Approval of Major Matters Considered by the Architectural Commission at its meeting of November 30, 2016.
John S. Page, Director of Planning, Zoning & Building

B. RESOLUTIONS

1. RESOLUTION NO. 199-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving an Agreement by and Between the Palm Beach County Supervisor of Elections and the Town of Palm Beach Relating to Vote Processing Equipment Use and Election Services; Providing an Effective Date.
Susan A. Owens, MMC, Town Clerk

2. RESOLUTION NO. 206-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing an Amendment to Bid No. 2016-12 for Town-wide Street Light Replacement to Include the Bradley Place Street Light Replacement,

and Increasing the Contract in the Amount of $275,000 for a Total Revised Construction Contract Amount of $2,595,605, and Increasing the Original Construction Phase Budget of $2,550,000 for this Project, for a Revised Construction Phase Budget of $2,825,000.

H. Paul Brazil, P.E., Director of Public Works

3. RESOLUTION NO. 207-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing an Increase to the Engineering Construction Phase Services for the Town-Wide Street Light Replacement Project to Accept and Include the Bradley Place Street Light Replacement, in the Amount of $34,000, and Increasing the Original Construction Phase Engineering Budget of $165,000 for this Project, for a Revised Total Budget of $199,000.

   H. Paul Brazil, P.E., Director of Public Works

4. RESOLUTION NO. 208-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving Two (2) Purchase Orders to Rechtien International Trucks, Inc., for the Purchase of Four (4) Vehicles: Three (3) International Durastar Cabs and Chassis with Aluminum Dump Bodies in the Total Amount of $255,399, and One (1) International Durastar Cab and Chassis with a Peterson RS3 Crane Body in the Amount of $179,287, for a Total Amount of $434,686, in Accordance with the Florida Sheriff's Association Contract 16-VEH14.0, Specification 12, and Establishing an Overall Budget of $440,000.

   H. Paul Brazil, P.E., Director of Public Works

5. RESOLUTION NO. 209-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving A Purchase Order to Palmetto Ford for the Purchase of One (1) Ford F-450 Cab and Chassis With Fleet Utility Body in the Amount of $53,510 on Florida Sheriff's Association Contract 16-VEH14.0, (Specification 7) and Establishing an Overall Budget of $55,000.

   H. Paul Brazil, P.E., Director of Public Works

6. RESOLUTION NO. 210-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Isuzu Truck of Ocala for the Purchase of Four (4) Isuzu Cab and Chassis with 6 Yard Packer Bodies in the Total Amount of $361,812 on Florida Sheriff's Association Contract 16-VEH14.0, Specification 6, and Establishing an Overall Budget of $375,000.

   H. Paul Brazil, P.E., Director of Public Works

7. RESOLUTION NO. 211-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Contract Extension to Advanced Disposal Services Solid Waste Southeast, Inc., for Bid No. 2014-05 Compacted Garbage Collection, in the Annual Amount of $255,932.31 and Establishing a Budget of $260,000.

   H. Paul Brazil, P.E., Director of Public Works

8. RESOLUTION NO. 212-2016 A Resolution of the Town Council of the

Town of Palm Beach, Palm Beach County, Florida, Amending the Department of Public Works Engineering Division Standard Applicable to Public Rights-of-Way and Easements, Amending Chapter XII, Miscellaneous Provisions; Yard Trash, Requirements Pertaining to Collections and Placement, and the Enforcement Thereof.
H. Paul Brazil, P.E., Director of Public Works

9. RESOLUTION NO. 213-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a One Year Renewal Agreement to Wells Fargo Bank, N.A., for RFP No. 2010-22, Banking and Merchant Card Services, and Authorizing the Town Manager to Take Further Action Necessary to Effectuate the Contract.

   Jane Struder, Director of Finance

10. RESOLUTION NO. 214-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Adopting a Town of Palm Beach Retirement System Investment Policy Statement.

    Thomas G. Bradford, Town Manager

11. RESOLUTION NO. 215-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Food and Beverage Services Agreement for the Town of Palm Beach Par 3 Golf Course Between the Town of Palm Beach and PB Ocean View, Inc., and Authorizing the Town Manager to Execute the Same on Behalf of the Town.

    Beth Zickar, Director of Recreation

12. RESOLUTION NO. 216-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving an Agreement With GolfNow, LLC, for the Provision of an Electronic Tee Sheet, Point of Sale Software, a Marketing Platform and Related Support Services for the Par 3 Golf Course, and Authorizing the Town Manager to Execute the Same on Behalf of the Town.

    Beth Zickar, Director of Recreation

13. RESOLUTION NO. 217-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida Approving Golf Instruction Services Agreements for the Town of Palm Beach Par 3 Golf Course Between the Town of Palm Beach and Bradford Costa, Gene George, Kellie Stenzel, Tim McCoy, John Saffold, Steve Madsen, and Authorizing the Town Manager to Execute the Same on Behalf of the Town.

    Beth Zickar, Director of Recreation

14. RESOLUTION NO. 218-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Renewal of a Contract Between the Town and Florida Blue, to Provide Administrative Services for Group Health Coverage; in an Amount not to Exceed $350,000, and Authorizing the Town Manager to Take Actions Necessary to Effectuate This Contract.

    Danielle Olson, Director of Human Resources

15. RESOLUTION NO. 219-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Contractual Service Specialists Agreement Between the Town of Palm Beach and Kenneth A. Scheppke, M.D., P.A., as Medical Director and Authorizing the Town Manager to Execute the Same on Behalf of the Town.
    Kirk W. Blouin, Director of Public Safety
16. RESOLUTION NO. 220-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Purchase of the Zoll Autopulse System in the Amount of $65,687.20 from Zoll Medical Corporation Via NPP Government, RFP NO. 520.
    Kirk W. Blouin, Director of Public Safety
17. RESOLUTION NO. 221-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Rescinding Resolution No. 198.2016 and Authorizing The Mayor to Execute an Agreement for Mutual Assistance and Automatic Aid Between Palm Beach County and the Town of Palm Beach for Fire-Rescue Emergency Services.
    Kirk W. Blouin, Director of Public Safety
18. RESOLUTION NO. 222-2016 A Resolution of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Repealing Section 112, of The Town's Administrative Amendments To The Florida Building Code, Chapter 1, Which Establishes A Building Board of Adjustment And Appeals.
    John S. Page, Director of Planning, Zoning, & Building

C. OTHER

1. Request to Consider Ordinance Nos. 24-2016 and 25-2016 Prior to 5:00 p.m. at a Public Hearing
   John S. Page, Director of Planning, Zoning & Building
2. Workweek Modification for Firefighters Holding the Rank of Lieutenant
   Thomas G. Bradford, Town Manager
3. Authorization of Ordinance, Rules and Standards Committee to Study Amending Section 42-199 of the Town Code of Ordinances, Relative to Construction Work
   Jay Boodheshwar, Deputy Town Manager
4. Update of Bradley Park Improvements Approval
   H. Paul Brazil, P.E., Director of Public Works

X. BOARD/COMMISSION ANNUAL REPORT

A. Shore Protection Board Annual Report
E. Llwyd Ecclestone, Jr., Chair

XI. COMMITTEE REPORTS

A. Report of the Finance and Taxation Committee Meeting of November 3,

2016

Michael J. Pucillo, Chair

B. Report of the Ordinances, Rules, & Standards Committee Meeting of November 10, 2016

Bobbie Lindsay, Chair

XII. PUBLIC HEARINGS

A. RESOLUTION NO. 223-2016 A Resolution of the Town Council, of the Town of Palm Beach, Palm Beach County, Florida, Electing to Use the Uniform Method of Collecting Non-Ad Valorem Special Assessments Levied Within the Incorporated Area of the Town; Stating a Need for Such Levy; Providing for the Mailing of this Resolution; and Providing for an Effective Date.

Jane Struder, Director of Finance

XIII. REGULAR AGENDA

A. Old Business

1. Consideration of Modifications to Street Scape at the Northeast Corner of South County Road and Chilean Avenue as Part of the Town Hall Square Project.

   H. Paul Brazil, P.E., Director of Public Works

2. Update on Proposed Recreation Center and Improvements to Seaview Park
   Beth Zickar, Director of Recreation
   TIME CERTAIN: 11:00 A.M.
   a. Report Regarding Outcome of ARCOM, Recreation Advisory Commission, and Public Input Meetings.

   b. Presentation of Updated Architectural and Site Plans

   c. Consideration of the Recreation Commission's Recommendation Regarding an Additional Community Survey
   d. Resolution No. 230-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order in the Amount of $24,539, to Hedrick Brothers Construction, Inc., for Pre-Construction Phase Services for the Seaview Park and Palm Beach Community Center Improvements and Establishing a Preliminary Pre-Construction Phase Budget of $25,000.
   H. Paul Brazil, P.E., Director of Public Works

3. Consideration of Modifications to Pedestrian Signalization of the Sunset Avenue and North County Road Intersection.

   H. Paul Brazil, P.E., Director of Public Works

B. New Business

1. Appointment of Town Manager Thomas G. Bradford Pursuant to

Section 4.02(b)of the Town Charter from December 14, 2016 through December 12, 2017

Thomas G. Bradford, Town Manager

2. Appointment to the Planning and Zoning Commission

   John S. Page, Planning, Zoning & Building

3. Appointments to the Shore Protection Board

   Thomas G. Bradford, Town Manager

4. Update on Newly Approved One Cent Surtax (Sales Tax).

   Thomas G. Bradford, Town Manager

5. RESOLUTION NO. 224-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving Petitions Exempting the Church of Bethesda-by-the-Sea from the Residential Permit Parking Requirements within the Neighborhood and Directing the Town Manager or his Designee to Post Appropriate Regulatory Signage Reflecting Residential Permit Parking with Church Exemption.

   Thomas G. Bradford, Town Manager

6. Recommendation in Regard to Modification of General Employee Pension Benefits
   TIME CERTAIN 2:00 P.M.

   Michael J. Pucillo, Chair

7. Consideration of Proposed Method to Address Right-of-Way Ownership Issues Along North Ocean Boulevard Between Sunrise Avenue and Wells Road.

   H. Paul Brazil, P.E., Director of Public Works

8. Adoption of the 2017 Town Council Meeting Schedule

   Thomas G. Bradford, Town Manager

9. Approval of the Scheduling of the 2017 Town Caucus for January 3, 2017, at 7:00 p.m., and the Scheduling of a Special Town Council Meeting to Declare the Results of the Caucus for January, 6, 2017, at 9:30 a.m.

   Susan A. Owens, MMC, Town Clerk

10. Waiver to Town Code 42-196 Through 199 and 42-226 Through 229 for Extended Construction Hours and Work During Season by the Winthrop House for Use of Cranes on Hammond Avenue.

    H. Paul Brazil, P.E., Director of Public Works

11. Landmarks Preservation Commission - Unexcused Absenses

    John S. Page, Director of Planning, Zoning & Building

12. Coastal Update
    H. Paul Brazil, P.E., Director of Public Works

    a. Shore Line Protection Update

    b. Waivers to Town Code for Construction Dates, Hours, and Noise for

Reach 4 Dune Restoration.

c. RESOLUTION NO. 225-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding Bid No. 2016-28 and Approving a Construction Contract to Coston Marine Services, Inc. for the Construction of the Lake Worth Lagoon Waterway Access Maintenance Dredging, in the Amount of $1,063,500, and Establishing a Construction Phase Budget of $1,200,000, Contingent Upon the Necessary Permit Modification and Upon Receipt of Donations to Fully Fund this Project.

d. RESOLUTION NO. 226-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing State Grant of FDEP Contract No. 16PB4, Between the State of Florida Department of Environmental Protection and the Town of Palm Beach Under the Florida Beach Management Funding Assistance Program for the Beach Management Agreement, Specifically Physical Monitoring Reimbursement, in the amount of $124,777.50, and Authorizing the Town Council President to Execute Same on Behalf of the Town.

e. RESOLUTION NO. 227-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order in the Amount of $100,000 to Woods Hole Group, for a Coastal Vulnerability Assessment, and Establishing a Task Budget of $110,000.

13. Authorization to Use Construction Management at Risk Services for the Townwide Undergrounding Program.

    H. Paul Brazil, P.E., Director of Public Works

C. Matters Pulled From Consent Agenda: If needed

XIV. ORDINANCES

A. First Reading

1. ORDINANCE NO. 21-2016 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 42, Environment; Article V, Noise; Section 42-230, Lawn Maintenance Equipment Noise, so as to Define the Hours of Operation of Lawn Maintenance Equipment; Prohibiting Commencement of Large Scale Landscape Installation on Saturdays; Regulating Sound Level Measurement of Said Equipment; Regulating Use of Leaf Blowers; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing for an Effective Date.

    Jay Boodheshwar, Deputy Town Manager

2. ORDINANCE NO. 26-2016 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 106, Streets, Sidewalks and Other

Public Places; Article V, Sidewalks; Section 106-156, Regarding Duty to Maintain Sidewalks and Gutters Free of Debris, Encumbrances and Obstructions; Providing a Definition of Debris, Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

Jay Boodheshwar, Deputy Town Manager

3. ORDINANCE NO. 27-2016 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Code of Ordinances of The Town of Palm Beach at Chapter 66, Natural Resource Protection, Article I, In General, Section 66-2, Definitions so as to Add, Amend or Delete Various Terms Related to Landscape and Irrigation Requirements; Amending Article IV, Vegetation, Relating to Conditions for Landscape Design, Installation and Removal; Moving General Requirements for Landscape Design to a New Section 285; Modifying Section 66-286 Establishing Minimum Requirements for Shade Trees, Required Landscaping for Interior Parking Lots, Minimum Landscape Installation Requirements, Modifying Irrigation Standards and Requirements for Irrigation and Irrigation Systems, Providing for Requirements Related to the Submission of Plans, and Landscape Installation and Removal Permits; Adding Section 66-287 Requiring That All Required Landscaping be Approved by the Planning, Zoning and Building Department Prior to the Issuance of Certificates of Occupancy or Completion; Adding a New Section 66-288 Requiring Protection of Trees During Construction; Adding a New Section 66-289 Requiring Vegetation Maintenance; Adding a New Section 66-290 Providing Standards Related to Tree Trimming; Adding a New Section 66-291 Prohibiting Certain Practices Related to Tree Trimming; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

   John S. Page, Director of Planning, Zoning & Building

4. ORDINANCE NO. 28-2016 An Ordinance of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Rescinding Section 18-241 of The Town Code of Ordinances Relating To Building Board of Adjustment And Appeals In Its Entirety; Providing For Severability; Providing For Repeal of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

   John S. Page, Director of Planning, Zoning & Building

XV. ANY OTHER MATTERS

XVI. ADJOURNMENT

XVII. FUTURE MEETINGS

PLEASE TAKE NOTE:

Note 1: No written materials received after 3:30 p.m. on the Thursday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that

meeting. Written materials received after 3:30 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.

Note 2: The progress of this meeting may be monitored by visiting the Town's website (townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.

Note 3: If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/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.

Note 4: Disabled persons who need an accommodation in order to participate in the Town Council Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.

Note 5: Items listed on the Consent Agenda will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that any item(s) be moved to the Regular Agenda and individually considered.

Note 6: All back-up material for the items listed on the agenda are posted to the Town's website and emailed to all Stay Informed subscribers on the Friday before the Town Council meeting. To access the back-up materials and/or subscribe to the Stay Informed list, please visit the Town's website (townofpalmbeach.com).

PROCEDURES FOR PUBLIC PARTICIPATION

Citizens desiring to address the Town Council should proceed toward the public microphones when the applicable agenda item is being considered to enable the Town Council President to acknowledge you.

PUBLIC HEARINGS: Any citizen is entitled to be heard on an official agenda item under the section entitled "Public Hearings," subject to the three minute limitation.

COMMUNICATIONS FROM CITIZENS: Any citizen is entitled to be heard concerning any matter under the section entitled "Communications from Citizens," subject to the three minute limitation. The public also has the opportunity to speak to any item listed on the agenda, including the consent agenda, at the time the agenda item comes up for discussion.

OTHER AGENDA ITEMS: Any citizen is entitled to be heard on any official agenda item when the Town Council calls for public comments, subject to the three minute limitation.

Town Council Meetings are public business meetings and, as such, the Town Council retains the right to limit discussion on any issue.

Main Town Calendar

Veterans Recognition Ceremony
December 13, 9:00 AM - 9:20 AM @ Memorial Park
More Details

Town Council Meeting
December 13, 9:30 AM @ Council Chambers
More Details

Selection Committee Meeting for RFP No. 2016-48
December 14, 9:00 AM - 1:00 PM @ Emergency Operations Center (EOC)
Oral Presentations for Investment Consulting - OPEB Trust Closed Per FS Statute 286.0113
More Details

Town Council Meeting-Development Review
December 14, 9:30 AM @ Council Chambers
More Details

Code Enforcement Board Meeting
December 15, 2:00 PM @ Council Chambers
More Details

Landmarks Preservation Commission Meeting
December 21, 9:30 AM @ Council Chambers
More Details

CHRISTMAS HOLIDAY-TOWN HALL CLOSED
December 23, All Day
More Details

CHRISTMAS HOLIDAY-TOWN HALL CLOSED
December 26, All Day
More Details

Architectural Commission (ARCOM) Meeting
December 28, 9:00 AM @ Council Chambers
More Details

NEW YEAR'S HOLIDAY-TOWN HALL CLOSED
December 30, All Day
More Details

Recreation Advisory Commission Meeting
January 4, 9:00 AM @ Council Chambers
More Details

Town Council Meeting-Regular Business
January 10, 9:30 AM - 5:00 PM @ Council Chambers

More Details

Town Council Meeting-Development Review
January 11, 9:30 AM @ Council Chambers
More Details

Ordinances, Rules, and Standards Committee Meeting
January 12, 9:30 AM @ Council Chambers
More Details

Planning and Zoning Commission Meeting
January 17, 9:30 AM @ Council Chambers
More Details

Landmarks Preservation Commission Meeting
January 18, 9:30 AM @ Town Council Chambers
More Details

Code Enforcement Board Meeting
January 19, 2:00 PM
More Details

Ordinances, Rules, and Standards Committee Meeting
February 2, 9:30 AM @ Council Chambers
More Details

Town Council Meeting-Regular Business
February 14, 9:30 AM - 5:00 PM @ Council Chambers
More Details

Town Council Meeting-Development Review
February 15, 9:30 AM @ Council Chambers
More Details

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TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Minutes

Agenda Title

Approval of Major Matters Considered by the Architectural Commission at its meeting of November 30, 2016.

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

- **Memorandum Dated December 1, 2016, from John S. Page, Director of Planning, Zoning & Building**
- **ARCOM Meeting Minutes of November 30, 2016**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: John S. Page, Director of Planning, Zoning & Building

Re: Approval of the Architectural Commission Meeting Minutes of November 30, 2016

Date: December 1, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council approve the major items that were approved by ARCOM at the regularly scheduled meeting of November 30, 2016.

BOARD OR COMMISSION RECOMMENDATION

The Architectural Commission recommends that the Town Council approve the major items which were considered at the regularly scheduled meeting of November 30, 2016.

GENERAL INFORMATION

These minutes are submitted to the Town Council for approval pursuant to Chapter 18-177 of the Town of Palm Beach Code of Ordinances.

Attachment

JSP:kmc

TOWN OF PALM BEACH

PLANNING, ZONING AND BUILDING DEPARTMENT

MINUTES OF THE REGULAR ARCHITECTURAL COMMISSION MEETING HELD ON WEDNESDAY, NOVEMBER 30, 2016

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com.

I. CALL TO ORDER

The meeting was called to order at 9:01 a.m. by Mr. Sammons.

II. ROLL CALL

Richard Sammons, Chairman	PRESENT
Ann L. Vanneck, Vice Chairman	PRESENT
Peter I. C. Knowles, Member	PRESENT
Martin D. Gruss, Member	PRESENT (left at the lunch break)
Robert N. Garrison, Member	PRESENT
Alexander C. Ives, Member	PRESENT (arrived at 9:04 a.m.)
Michael B. Small, Member	PRESENT
Maisie Grace, Alternate Member	PRESENT
John David Corey, Alternate Member	PRESENT
Betsy Shiverick, Alternate Member	PRESENT

Staff Members present were:
John S. Page, Director of Planning, Zoning & Building
John Lindgren, Planning Administrator
Paul Castro, Zoning Administrator
Kelly Churney, Secretary to the Architectural Review Commission

III. PLEDGE OF ALLEGIANCE

Mr. Sammons led the Pledge of Allegiance.

IV. APPROVAL OF THE MINUTES FROM THE OCTOBER 26, 2016 MEETING

Motion made by Mrs. Vanneck and seconded by Mr. Gruss to approve the minutes from the October 26, 2016 meeting. Motion carried with all in favor.

V. APPROVAL OF THE AGENDA

Mrs. Vanneck requested to defer project B-062-2016, 425 Chilean Ave. and B-063-2016, 130 Dolphin Rd. to the December 28, 2016 meeting. Mrs. Vanneck also requested to withdraw project B-061-2016, 254 Sunrise Ave. from the agenda.

Motion made by Mrs. Vanneck and seconded by Mr. Small to approve the agenda as amended. Motion carried with all in favor.

VI. ADMINISTRATION OF THE OATH TO PERSONS WHO WISH TO TESTIFY

Ms. Churney administered the oath at this time and throughout the meeting as necessary.

Mr. Page also stated for the record that Mrs. Vanneck declared a conflict at 1330 N. Ocean Blvd. at the October 26, 2106 meeting and has correctly completed the 8B form in accordance with State Law.

VII. PROJECT REVIEW

A. MAJOR PROJECTS-OLD BUSINESS

B-044-2016 Demolition/New Residence
ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE
Address: 232 Colonial Ln.
Applicant: SKIK, LLC (Zvenka Kleinfeld, Manager)
Architect: Patrick Segraves/SKA Architect + Planner
Project Description: Demolition of existing one-story home. New two-story Island Style home to be approximately 2,800 square feet. Home will consist of living room, dining room, kitchen, four bedrooms, four and one half bathrooms, and a one car garage.

SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE INFORMATION: The applicant is requesting a special exception with site plan review to allow the construction of a 2,845.5 square foot two-story, single family residence on a non-conforming lot which is 75 feet in width in lieu of the 100-foot minimum required; 82 feet in depth in lieu of the 100-foot minimum required and 6,150 square feet in area in lieu of the 10,000 square foot minimum required. The applicant is requesting a variance to have a front yard setback for one story portion of the residence at 23 feet in lieu of the 25-foot minimum setback required.

At the July meeting, a motion carried to approve the demolition. A second motion carried to defer the architecture for one month to the August meeting. At the August meeting, a motion carried to defer the project for one month to the September meeting. At the September meeting, a motion carried to defer the project to the November meeting.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Segraves presented to the Commissioners surrounding properties photos, an aerial photo, a site plan, streetscape, floor plans, renderings, and elevations of the proposed project. He showed the Commissioners all of the changes that he had made since the project was last presented.

Commissioners Comments: Many of the Commissioners thought the design had improved from the last presentation. There was a question about the color of the house. Mr. Segraves presented the Commissioners with a sample color of the house and shutters but stated he was open to different colors. Some of the members also questioned the rear awnings. One

member asked about the detail of the shutters. Mr. Segraves responded. Mr. Corey offered a suggestion for the placement for the louvers on the shutters. One Commissioner thought it looked boxy among the other homes on the street. Chairman Sammons provided the following suggestions: changing the door height to a 6'8" door, varying the height on the door and windows, taking 4" off the height of the first floor or lowering the mid-band and restudying the balcony posts.

Mr. Skowron presented the proposed landscape and hardscape plans. Mr. Skowron showed the Commissioners a site plan and elevations of the proposed project.

Commissioners Comments: Mrs. Vanneck expressed her concern about the Pygmy Date Palms on the front elevation and thought they needed to be thinned out. Many other Commissioners agreed. Mrs. Vanneck also thought the front bedroom needed some landscaping and suggested to restudy the heights of the plantings as well. Ms. Shiverick asked about the possibility of adding another Banana tree. Mr. Skowron responded. Mr. Corey suggested to add a shade tree on the front west side.

Julie Araskog, 1490 Via Manana, stated that she thought the house was too dissimilar for the street in terms of its height and mass and expressed concern that the house is too boxy.

Motion made by Mr. Garrison and seconded by Mr. Small that the implementation of the proposed special exception, site plan and variance would not cause negative architectural impact to the subject property. Motion carried 5-2 with Mrs. Vanneck and Mr. Sammons opposed.

A second motion made by Mr. Garrison and seconded by Mr. Ives to approve the project as presented with the caveat that the columns on the front are changed, the front door is changed to a 6'8" door, the windows on the bottom floor are raised, lowering the clapboard to the bottom of the plate, lowering the balcony and to defer the landscaping for one month to the December 28, 2016 meeting. Motion carried 5-2 with Mrs. Vanneck and Mr. Gruss opposed.

Mr. Small requested that the new changes in the architecture be presented in the new landscaping plan at the next meeting. Mr. Segraves agreed to this request.

B-50-16 Additions/Modifications

Address: 2300 Ibis Isle Rd. West
Applicant: Rob and Sue Bushman
Architect: Quinn Miklos/Miklos Architecture
Project Description: 1) Re-configure existing driveway and front property line pilaster layout; 2) add two driveway gates; 3) replace existing flat cement tile roof with new flat cement tile roof; 4) bedroom, covered front entry and rear covered pavilion additions; 5) existing pool and spa shape slightly reconfigured; 6) existing landscaping adjusted and augmented.

At the August meeting, a motion carried to defer the project to the September meeting. At the September meeting, a deferral request was granted to the October meeting. At the October meeting, a deferral request was granted to the November meeting.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Miklos presented streetscape photos, a site plan, elevations, section details and renderings for the proposed project and indicated all of the changes since the last presentation. Mr. Miklos also presented samples of the roof as well as the driveway.

Commissioners Comments: Many of the Commissioners were not in favor of either gates and of gates in general and suggested using landscaping as a buffer. Mr. Miklos stated that he would remove the fencing from the project and would restudy the gates. Mr. Corey suggested to restudy the pilasters as the seemed heavy and that the front entry seemed to wide and needed some restudy. Chairman Sammons made the following suggestions: changing the roof to a mitered corner, changing the bedroom to the same size of the garage, narrow the columns at the front entry, trying a smaller cupola on the pavilion, align the pavilion eaves with the house eaves, reduce the beams to 8' on the pavilion and the front entry and to reduce the height of the entablature.

Motion made by Mrs. Vanneck and seconded by Mr. Garrison to defer the project for restudy to the December 28, 2017 meeting paying close attention to the comments from the chairman as well as removal of the fence, a restudy of the driveway material, and to return with a new gate plan if necessary. Motion carried with all in favor.

B-059-2016 Demolition/New Residence
ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE(S)
Address: 221 Oleander Ave.
Applicant: Barnacle PB LLC
Architect: Michael J. Johnson Architect, P.A.
Attorney: Maura Ziska
Project Description: Demolition of existing 2 story building and construction of a new 2-story single family residence. New hardscape and landscape.

VARIANCE INFORMATION: The applicant requests a variance to allow construction of a new 2,930 square foot, two story residence on a lot with a depth of 56 feet in lieu of the 100 foot minimum required and a lot area of 4,200 square feet in lieu of the 10,000 square foot minimum; a variance to allow lot coverage to be 41.6% in lieu of the 30% maximum allowed; a variance to allow a front yard setback to be 13.5 feet in lieu of the 25 foot minimum; and a variance to allow a rear yard setback to be 10 feet in lieu of the 15 foot minimum required.

At the October meeting, a motion carried to approve the demolition. A second motion carried to defer the project for one month for restudy to the November 30, 2016 meeting.

Call for disclosure of ex parte communication: Disclosure by several members.

Ms. Ziska provided a brief history of the property and explained the variance that they are seeking a favorable recommendation to the Town Council for the project.

Daniel Menard presented all of the comments that the Commissioners made at the last meeting and discussed the changes that were made in response to those comments. Mr. Menard presented a site plan, neighborhood study; neighborhood photos, floor plans, roof plan, detail sheets and elevations and indicated where the changes had been made.

Ms. Ziska stated that there were no neighbor objections to the project and that they also had one letter of support.

Commissioners Comments: Many of the Commissioners were in favor of the changes and thought the house had charm. Mr. Corey asked about the position of the louvers on the shutters and thought the pergola on the side of the house seemed a bit strange. Chairman Sammons made the following suggestions: reduce the fascia to 4", lower the eave line, reduce the door height, reduce the first floor about one foot, change the casements to 3'4" wide, place the pergola underneath the eave, reduce size of brackets, add a beam underneath the pergola on the side and simplify the stucco band.

Don Skowron presented the proposed landscape and hardscape plan. He showed the Commissioners a site plan and elevations of the proposed project.

Commissioners Comments: There was a suggestion to restudy the front landscaping, especially the symmetry. Many of the Commissioners thought there needed to be a canopy tree in the corner of northeast corner of the lot. There was a suggestion to put a second canopy tree on the northwest corner as well and to scoop out the hedge to do so. There was a suggestion to make an arched hedge over the front walkway. A suggestion was made to put something along the back wall as well.

Motion made by Mr. Garrison and seconded by Mr. Small to defer the project for restudy to the December 28, 2017 meeting paying close attention to the comments from the chairman. Motion carried with all in favor.

B-061-2016 Lighting
Address: 254 Sunrise Ave.
Applicant: Philip Witt
Architect: Molnar Jordan and Associates
Project Description: Exterior LED Lighting upgrade. Replace exterior canopy mount lighting fixtures, add new exterior wall mount lighting fixtures and add new pole fixtures.

At the October meeting, a motion carried to defer the project for one month to the November 30, 2016 meeting.

Please note: This discussion item was withdrawn at the Approval of the Agenda, Item V.

B-062-2016 Demolition/New Residence
Address: 425 Chilean Ave.
Applicant: Lorraine S. Charman
Architect: Kevin Asbacher/Asbacher Architecture
Project Description: Demolish (2) existing two-story townhomes. Construct a new two-story residence in the French Neoclassical style with a one-story 2 car garage. Final landscape and hardscape.

At the October meeting, a motion carried to approve the demolition. A second motion carried to defer the project for one month for restudy to the November 30, 2016 meeting.

Please note: This discussion item was deferred to the December 28, 2016 meeting at the Approval of the Agenda, Item V.

B-063-2016 Demolition/New Residence
Address: 130 Dolphin Rd.
Applicant: 130 Dolphin Rd LLC
Architect: Michael J. Johnson Architect P.A.
Project Description: Demolition of existing structure. New 2-story residence. Updated cottage style. White stucco finish with black trim and grey cement tile roof. New landscape and hardscape.

At the October meeting, a motion carried to defer the project for one month for a complete restudy to the November 30, 2016 meeting.

Please note: This discussion item was deferred to the December 28, 2016 meeting at the Approval of the Agenda, Item V.

B-064-2016 Demolition/New Construction
ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE(S)
Address: 316 Seabreeze Ave.
Applicant: Mr. & Mrs. Gregory Fisher
Architect: Patrick Segraves, SKA Architect + Planner
Landscape Architect: Don Skowron
Project Description: Demolition of existing house and new construction of 2,800 square foot Mediterranean Revival two-story home. Home will consist of three bedrooms and two and one half baths with living room, dining room and kitchen. Final landscape/hardscape to be included.

VARIANCE INFORMATION: The applicant is requesting a special exception with site plan review to allow the construction of a 2,700 square foot two-story, single family residence on two platted lots which combined creates a lot that is 50 feet in width in lieu of the 100-foot minimum required and 6,125 square feet in area in lieu of the 10,000 square foot minimum area required. The following variances are being requested. To allow a 6-foot west side yard setback for the two story portion in lieu of the 15-foot minimum required and to allow a 6-foot east side yard setback for the one story portion in lieu of the 12.5-foot minimum required.

At the October meeting, a motion carried to approve the demolition. A second motion carried to defer the architectural presentation of the new construction to the November 30, 2016 meeting.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Segraves asked if he could present both homes to the Commission as a joint presentation. Mr. Sammons agreed but stated that the Commission would act on each project separately.

Mr. Segraves stated that both homes 316 and 320 Seabreeze Ave. were approved for demolition but his client decided not to demolish the homes until after season. He stated that the owner spent time talking to the neighbors and to get feedback on the proposed plans for both homes. Mr. Segraves presented a contextual site plan, a streetscape, a footprint of the existing houses to be demolished and to be built, renderings, elevations, floor plans and materials to be used for the proposed projects. Mr. Segraves indicated that the large front hedge at 320 Seabreeze Ave. would remain.

Mr. Skowron presented the landscape and hardscape plan for both projects. He showed the Commissioners a site plan and elevations for both properties.

Mrs. Vanneck inquired about the hedge in the middle of the rear yard if these properties are to be considered as a compound. Mr. Skowron stated that the hedge would be removed. She also stated that there are too many palms proposed at the rear of the properties and suggested placing two shade in the rear of the properties.

Commissioners Comments: Many of the Commissioners thought that both homes were too similar and were not in favor of the designs because they looked alike.

Mr. Garrison expressed concern that the driveway proposed at 316 Seabreeze Ave. would not work with the existing large tree in the front yard. Mr. Skowron stated that the tree would be moved if it became necessary.

Motion made by Mr. Gruss and seconded by Mr. Ives to deny the both applications because the proposed homes are excessively similar.

Anne Pepper, 333 Seaspray Ave., expressed concern that the structures are too similar and feels it diminishes the character of the Sea Streets.

Dorothy Martin, 312 Seabreeze Ave., expressed concern about the setback variances and the close proximity of the proposed home to her bedroom. She also expressed concern about elevation and drainage.

There was some discussion on the pending motion.

Motion failed 2-5 with Messrs. Knowles, Garrison, Small and Sammons and Mrs. Vanneck opposed.

A second motion made by Mr. Ives and seconded by Mrs. Vanneck to defer the projects at 316 and 320 Seabreeze Ave. for two months to the January 25, 2016 meeting for significant redesign.

Mr. Castro stated that the new design cannot contain a gate and wall that would connect the two properties.

Mr. Knowles asked Mr. Segraves to restudy the side yard setbacks.

Motion passed with all in favor.

A short break was taken at 10:51 a.m. The meeting resumed at 11:05 a.m.

B-065-2016 Demolition/New Construction
ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE(S)
Address: 320 Seabreeze Ave.
Applicant: Mr. & Mrs. Gregory Fisher
Architect: Patrick Segraves, SKA Architect + Planner
Landscape Architect: Don Skowron
Project Description: Demolition of existing house and new construction of 2,800 square foot Mediterranean Revival two-story home. Home will consist of three bedrooms and two and one half baths with living room, dining room and kitchen. Final landscape/hardscape to be included.

VARIANCE INFORMATION: The applicant is requesting for approval of a special exception with site plan review to allow the construction of a 2,713 square foot two-story, single family residence on two platted lots which combined creates a lot that is 50 feet in width in lieu of the 100-foot minimum required and 6,125 square feet in area in lieu of the 10,000 square foot minimum area required. The following variances are being requested. To allow a 6-foot east side yard setback for the two story portion in lieu of the 15-foot minimum required and to allow a 6-foot west side yard setback for the one story portion in lieu of the 12.5-foot minimum required.

At the October meeting, a motion carried to approve the demolition. A second motion carried to defer the architectural presentation of the new construction to the November 30, 2016 meeting.

Please note: This item was heard with B-064-2016, 316 Seabreeze Ave and a motion was made at that time, relative to this project.

B-066-2016 Demolition/New Construction
ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE(S)
Address: 340 Seaview Ave.
Applicant: Town of Palm Beach (Tom Bradford, Town Manager)
Architect: Nelo Freijomel/Stephen Boruff, AIA Architects + Planners, Inc.

Landscape Architect: Keith Williams/Nievera Williams Design
Attorney: Maura Ziska/Kochman & Ziska
Project Description: Demolition of the existing one-story recreation center, maintenance building, pro shop, tennis hitting wall & backstop and the construction of a new two-story, community center & gymnasium, new maintenance building and a new tennis observation pavilion with attached tennis hitting wall & maintenance yard and associated site work including a new elevated plaza, numerous new stairs and ramps, new playground area and the renovation and expansion of on-site parking.

VARIANCE INFORMATION: The applicant is requesting a special exception with site plan review to approval to allow a new two-story 33,810 square foot Recreation Center for the Town of Palm Beach that will include a new athletic field, parking lot, gymnasium, tennis pro shop, multi-purpose room, fitness center with locker rooms, concession area, classrooms, offices and new maintenance building, new tennis backboard, new scoreboard. A second special exception request is to allow for a rebound wall to be constructed on the north side of the new maintenance building. The following variances are being requested in order to construct the new community center: 1) A west side yard setback of 10 feet in lieu of the 30 foot minimum required for properties that are in excess of 20,000 square feet; 2) A north side yard setback of 8 feet in lieu of the 30 foot minimum required for properties that are in excess of 20,000 square feet; 3) A street rear yard setback for the new parking lot on Royal Palm Way of 4 feet in lieu of the 35 foot minimum required for properties that are in excess of 20,000 square feet; 4) an east side yard setback of 4 feet in lieu of the 30 foot minimum required for the new parking lot on Royal Palm Way for properties that are in excess of 20,000 square feet; 5) a height of 27 feet in lieu of the 22 foot maximum allowed; 6) an overall height of 35 feet in lieu of the 30 foot maximum allowed; 7) a vertical distance to the top of beam of 30.75 feet in lieu of the 26 foot maximum distance allowed from the crown of street to top of beam; 8) landscaped open space of 43% in lieu of the 55% minimum required for properties that are in excess of 20,000 square feet; 9) parking lot interior landscaped open space of 5% in lieu of the 10% minimum required; 10) to allow signage on the proposed scoreboard which would exceed the maximum signage allowed (of one for each street frontage); 11) to allow three (3) air-conditioning units to be on the roof that is in excess of the 4 foot maximum allowed. The proposed A/C units will be 5 feet tall plus the height of the stand.

At the October meeting, a motion carried to approve the demolition. A second motion carried to defer the project for restudy, with particular attention to reducing the mass and addressing the elimination of the north field for one month to the November 30, 2016 meeting.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Page reminded the Commission that the demolition was approved in October for this project but the architecture was deferred for one month for restudy to address the elimination of the north field and reducing the overall mass.

Mr. Sammons stated that the Commission would be reviewing the architecture and landscape and asked the public to limit their comments to the quality of the architecture.

Beth Zickar, Director of Recreation, thanked the Commissioners for their feedback at the previous meeting and stated the favorable recommendations that they are seeking for the Town Council. She also stated that the Town Council would consider the feedback from the Recreation Advisory Commission and the public.

Ms. Ziska provided the modifications to the proposed variances and explained those changes to the Commissioners.

Mr. Freijomel clarified a square footage calculation for the Commissioners. There was some discussion on the reduction on the square footage.

Mr. Freijomel presented existing, previously proposed and currently proposed building footprints and discussed the square footages that are proposed. He also discussed the massing of the previously proposed and the currently proposed building. He presented a site plan, floor plans, elevations, roof plan, renderings and two additional parking options. Mr. Freijomel indicated, in detail, all of the changes that had been made since the last time the project was presented.

Mr. Williams presented the landscape and hardscape for the proposed project. Mr. Williams presented a site plan and elevations for the project and indicated the changes that were made since the last time the project was presented.

Mr. Sammons asked if the site is greener than what is existing today in terms of trees. Mr. Williams responded.

John Randolph, Town Attorney, stated that the Commissioners should be exclusively reviewing the architecture. He also stated that any recommendations that the Recreation Advisory Commission made should be presented to the Town Council and is not for their purview.

Ms. Grace asked for clarification on the variances. Ms. Ziska explained each variance and the changes that are now being proposed. Mr. Page stated that the Zoning Administrator will verify all of the changes to the variances.

Mr. Ives asked Ms. Ziska if other properties on Seaview would require the same variances if they were to be built today. Ms. Ziska responded.

Mr. Castro suggested the Commission make recommendations on all of the parking options that were presented to provide the most flexibility to the Town Council.

Mrs. Vanneck stated she thought the newly proposed building fit in well with the surrounding structures and was impressed with the changes. She also stated she preferred parking option B. There was some discussion about the parking options.

Mr. Gruss asked about the plans for the field during the construction. Mr. Freijomel responded and also talked about the CM at risk, which is being proposed and will be put in place.

Mr. Small asked if a multi-level parking garage and a multi-story exercise room overlooking the field was ever considered. Mr. Freijomel stated that the area was too narrow. Mr. Castro stated that option would not be feasible.

Mr. Garrison asked if a full size soccer field was possible with both parking options. Mr. Freijomel responded.

Mr. Knowles asked for confirmation for the Town's request with the newly proposed recreation center. Mr. Page responded.

Alexandra Hufty Anlyan, 154 Atlantic Ave., spoke in opposition to the project and about the massing of the proposed building.

Jack McDonald, stated that the Palm Beach Day School needed between 20 and 30 variances to be built and asked about the hedging material being proposed for the tennis courts. Mr. Williams responded. There was some discussion about this topic.

Susan Watts, 44 Cocoanut Row, questioned the square footage of the building that was reported in the Palm Beach Daily News, stated the massing is too large and there are too many windows in the proposed building.

Julie Araskog, 1490 Via Manana, asked about the basketball court size, where the cars and trucks would park during the construction, and stated that the proposed building is too massive from the street and did not fit in architecturally. Mr. Freijomel responded.

Victoria Donaldson, 227 Brazilian Ave., stated her concern about the safety of the children during the construction, thought the building was too tall and thought it would be intimidating to children.

Sofia Maduro, 249 Everglade Ave., talked about the Recreation Advisory Commissioners recommendations, stated that the proportions are still out of scale and it was still too large. Mr. Freijomel responded to some Ms. Maduro's comments.

Jane Goodman, stated that the Recreation Advisory Commission voted 4-3 against the design and asked for the Commission to defer the project.

Michael Ainslie, 202 Plantation Rd., stated that the new design made changes in the right direction and asked the Commission to endorse the new design.

Matthew Smith, 1237 N Ocean Way, complimented the architecture, thought the changes were dramatic and was in favor of the new design.

Commissioners Comments: There was a comment made that the new design is not beautiful or attractive. Another comment was made that the building isn't inspiring and since this is a public building, it needs to inspire people. Another member thought the project was still too massive and questioned whether the gymnasium is necessary. There was a suggestion to remove the fitness center from the second floor to therefore reduce the variances. One member stated that the whole site would be fenced during construction, regulated by security. There was a question about the lower windows on the north elevation

on the gymnasium. Some felt that the scale of the building was appropriate and fit in the area nicely. Chairman Sammons recommended the following: the building needs greater presence and questioned the style and character, restudy the beam across the fitness center, restudy the windows, remove a bit of height on the building, restudy the loggias on the gymnasium and the main building, increase the size of both towers and add more character, suggested steel windows and doors, increase the grills above the doors and restudy the eave details.

Motion made by Mrs. Vanneck and seconded by Mr. Garrison that the implantation of the proposed variances will not cause negative architectural impact to the subject property with the existing parking or parking option B. Motion carried 4-3 with Messrs. Ives, Gruss and Small opposed.

A second motion made by Mrs. Vanneck and seconded by Mr. Gruss to defer the project for one month for restudy to December 28, 2016. Motion carried 6-1 with Mr. Ives opposed.

A lunch break was taken at 1:02 p.m. The meeting resumed at 2:00 p.m. Mr. Ives arrived at 2:02 p.m. Ms. Grace arrived at 2:22 p.m.

B-067-2016 New Residence
Address: 212 Coral Lane
Applicant: Linda Saville
Architect: Mark Marsh/Bridges, Marsh & Associates, Inc.
Landscape Architect: Keith Williams/Nievera Williams Design
Project Description: New one and two-story single family residence with associated landscape/hardscape improvements.

At the October meeting, a motion carried to defer the project for one month to the November 30, 2016 meeting for restudy.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Marsh stated that the changes have made the proposed home more traditional based on the comments from the last month's presentation. Mr. Marsh presented an aerial map, site plan, streetscape, surrounding property photos, floor plans, previously proposed and currently proposed elevations, renderings and details. Mr. Marsh explained all of the changes that were proposed.

Mr. Knowles asked about samples. Mr. Marsh showed the Commissioners different samples.

Mr. Garrison stated that the first floor window in the center on the north elevation needed to be changed to be less prominent. He also stated that the space on the east elevation between the windows on the two floors needed to be restudied. There was some discussion on these items.

Many of the Commissioners thought the design changes were a vast improvement.

Chairman Sammons made the following recommendations: add inflection to the front entry and widen the arch, restudy the window in the middle with the different cornice, add two more columns to the back porch and suggested to lower the height of the building. Mr. Marsh responded. Mr. Sammons also suggested that the frieze is too heavy.

Mr. Corey suggested to restudy the sliding doors in the rear of the house and asked about the material of the garage door.

Mr. Williams presented the proposed landscape and hardscape for the project. He presented the site plan and elevations and indicated all of the changes since the project was presented at last month's meeting.

Mrs. Vanneck thought the plans were well done and suggested adding an arched palm on the north elevation. Mr. Williams agreed.

Ms. Shiverick felt like the garden was incongruous with the house design and suggested adding more green and tropical plants rather than colorful flowers in the garden. Mr. Williams agreed.

Mr. Sammons stated the planks were not consistent with the new house design. Mr. Williams agreed. Mr. Sammons also asked if the pitch could be lowered over the closet and the dining room to remove the flat spots. Mr. Marsh responded and explained the roof. Mr. Sammons also asked about the channeling on the garden elevations. Mr. Marsh responded.

Motion made by Mrs. Vanneck and seconded by Mr. Ives to approve the project as presented with the caveat that the changes are made from the suggestions from the chairman and to also revisit the planks to something less linear in the landscaping. Motion carried with all in favor.

B-068-2016 Additions/Modifications
Address: 1333 N. Lake Way
Applicant: Douglas and Susanne Durst 2012 Family Trust
Architect: Dustin Mizell/Environment Design Group
Project Description: Addition of a service gate and a pedestrian gate located along the south property line.

At the October meeting, a motion carried to defer the project for one month to the November 30, 2016 meeting for restudy.

Call for disclosure of ex parte communication: Disclosure by Mrs. Vanneck.

Mr. Mizell explained the changes that were made since the last month's presentation. He stated that the project has now been landscaped along Ocean Terrace. Mr. Mizell presented a site plan, previously proposed and currently proposed renderings, photos of the existing conditions and indicated the proposed changes.

Many of the Commissioners were in favor of the proposed changes. Mr. Sammons made a suggestion that the top of the gate should be straight rather than arched.

Motion made by Mrs. Vanneck and seconded by Mr. Garrison to approved the project as presented with a straight top to the gate. Motion carried with all in favor.

B. MAJOR PROJECTS-NEW BUSINESS

B-070-2016 New Residence

Address: 266 Fairview Rd.
Applicant: Beacon 266 LLC
Architect: Matthew Kraig/MHK Architecture & Planning
Landscape Architect: Lang Design Group
Project Description: Construction of a new two story single-family residence with pool, spa, hardscape and landscape.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Kraig stated that this is a spec house. He presented an aerial map, streetscape, surrounding property photos, a site plan, CCR diagram, floor plans, elevations, renderings, inspirational photos, building sections, detail sheets and presented a material sample board for the proposed home.

Ms. Grace asked the style of the proposed home. Mr. Kraig stated it was the Florida Coastal Cottage style.

Commissioners Comments: Many of the Commissioners were not in favor of the exposed gable, particularly on the front of the home. Some felt the layout of the house worked well. One member was not in favor of the details on the exterior of the home. There were suggestions to restudy the material, siding and sliding doors. There was a question about the proposed colors and the composite trim. A comment was made that the volume of the roof was too large and needed to be reduced. One of the members preferred the look of a metal roof rather than the proposed cedar shake. There was a comment that the roof brackets were too long and should possibly be removed. One of the members stated the front and the back facades do not relate and questioned the stone choice on the waterfall.

Motion made by Mr. Garrison and seconded by Mrs. Vanneck to defer the project for one month to December 28, 2016 for a complete restudy. Motion carried with all in favor.

B-072-2016 New Residence Modification

ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE(S)
Address: 1610 N. Ocean Blvd.
Applicant: DBSC, LLC c/o Maura Ziska, Esq. - Manager
Architect: Roger Janssen/Dailey Janssen Architects, P.A.
Project Description: Variance needed for previous ARCOM approval of a new two story residence; construction of a new two story residence with pool, hardscape and landscape. ARCOM to make recommendation for variances for point of measurement for building height, overall height and CCR.

VARIANCE INFORMATION: The applicant requests three (3) variances for a point of measurement to allow the construction of a new 9,670 square foot two story residence. The proposed variances are for the new house to have a point of measurement at 8 feet National Geodetic Vertical Datum ("NGVD") in lieu of the 7.5 foot NGVD required and the 9.5 NGVD finished floor elevation proposed which will accomplish the following: 1) Allow a cubic content ratio ("CCR") to meet the maximum allowed by code at the ratio of 3.85 (94,999 cubic feet) in lieu of the 3.97 ratio (97,839 cubic feet) calculated at 7.5 NGVD; 2) Allow a height to meet the maximum allowed by code at 22 feet in lieu of the 22.25 feet if measured at 7.5 NGVD; 3) Allow an overall height to meet the maximum allowed by code at 30 feet in lieu of 30.1 feet if measured at 7.5 NGVD.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Janssen stated that ARCOM had recently approved the plans for a new two-story residence at this location. Mr. Janssen stated that during the review of the plans with the building department, it was discovered that the building height was measured at 7.5 NGVD and they are requesting it to be measured 8.0 NGVD. He explained the reasoning for the request.

Ms. Ziska stated that this request is driven by the FEMA requirements and further explained the request.

Mr. Small expressed his concern with the illegal parking that is occurring around the site. Ms. Ziska responded and stated she would pass the message on to the contractor.

Motion made by Mrs. Vanneck and seconded by Mr. Garrison that the implementation of the proposed variance will not cause negative architectural impact to the subject property. Motion carried 6-1 with Mr. Sammons opposed.

A second motion made by Mr. Small and seconded by Mr. Garrison to approve the project as presented with no parking allowed on N. Ocean Blvd or E. Inlet Dr. Motion carried with all in favor.

B-073-2016 Additions/Modifications

Address: 250 List Rd.
Applicant: Donald and Kim Patrick
Architect: Mark Marsh/Bridges, Marsh & Associates
Landscape Architect: Dustin Mizell/Environment Design Group

Project Description: Renovation to an existing single story residence to include the addition of 200 sq. ft., a new covered entry element, covered patio, trellis, new window and doors, and new flat concrete tile roof. Improvements to hardscape & landscape as well.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Marsh presented the renovations for the project. He presented a site plan, existing and proposed floor plans, roof plan, existing and proposed elevations, material samples and colors, and renderings for the proposed project.

Mr. Mizell presented the proposed landscape plan for the property. He presented a site plan, renderings and elevations of the proposed project.

Commissioners Comments: Many of the members were in favor of the changes.

Mr. Corey asked about the relocation of the Royal Palms and stated he thought that they were not in keeping with the house. Mr. Mizell responded.

Mrs. Vanneck suggested to relocate the Royal Palms to the proposed location of the King Alexander Palms. Mr. Mizell agreed.

Motion by Mrs. Vanneck and seconded by Mr. Small to approve the project as presented with the caveat that the Royal Palms are relocated to the center of the property. Motion carried with all in favor.

B-074-2016 Landscape Modifications
ARCOM TO MAKE RECOMMENDATIONS RELATIVE TO VARIANCE(S)
Address: 357 Seabreeze Ave.
Applicant: William J. Georgas
Architect: Tim Johnson/Fernando Wong Outdoor Living Design
Attorney: Frank Lynch
Project Description: Installation of perimeter fence and related landscaping.

VARIANCE INFORMATION: The applicant is proposing to install a six foot (6') high wooden fence on the west property line. The following variances are being requested: a) to allow the wooden fence with a zero (0) setback in lieu of the three foot (3') minimum required; b) to allow said wooden fence without the required three foot (3') high hedge in front of the wooden fence.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Lynch explained the proposed project and the reason for the variance requests. Mr. Lynch entered an Installation and Maintenance Agreement between Mr. Georgas and the Town of Palm Beach into the record. Mr. Lynch explained the hardship for the variance requests.

Mr. Small asked a question about the location of the fence in relation to the plantings. Mr. Lynch responded.

Mr. Johnson discussed the existing planting height.

Mr. Lindgren explained the Town of Palm Beach's right of way on the property. Some discussion continued on this issue.

Mrs. Vanneck asked about the existing fence on the exterior of the landscaping. Mr. Lynch stated it was staff approved. Mr. Lindgren stated the reason for the approval.

Ms. Grace asked about the possibility of conditioning the approval that the hedge remain tall enough to block the fence, the possibility of the Town selling the right of way to the property owner and the possibility of removing the approval if the hedge is not taken care of by the owner. Mr. Lindgren responded.

Mr. Knowles questioned the hardship. Mr. Lynch responded.

Motion made by Mr. Garrison and seconded by Mr. Ives that the implementation of the proposed variance will not cause negative architectural impact to the subject property. Motion passed 4-3 with Mses. Vanneck and Grace and Mr. Small opposed.

A second motion made by Mr. Garrison and seconded by Mr. Ives to approve the project as presented. Motion passed 4-3 with Mses. Vanneck and Grace and Mr. Small opposed.

B-075-2016 Landscape/Hardscape Modifications
Address: 160 Seaview Ave.
Applicant: Coral Beach Corporation
Architect: Ralph Cantin/AIA
Landscape Architect: John Lang/Lang Design Group
Project Description: Revisions to previously approved landscape/hardscape and lighting.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Lang discussed the changes for the proposed project. He presented a site plan, elevation and lighting plan. He confirmed that lights would not shine in to the neighbor's property.

Mrs. Vanneck suggested to continue the hibiscus down the wall on the north elevation. Mr. Lang explained the reasons for the discontinuation of the hibiscus. Mrs. Vanneck suggested adding bougainvillea down the wall to continue the color. Mr. Lang agreed.

Motion made by Mrs. Vanneck and seconded by Mr. Garrison to approve the project as presented with the caveat that bougainvillea is added on the east side of the long wall on the north elevation. Motion carried with all in favor.

C. MINOR PROJECTS - OLD BUSINESS

NONE

D. MINOR PROJECTS-NEW BUSINESS

A-054-2016 Hardscape Modifications
Address: 2773 S. Ocean Blvd., Bldg. 1
Applicant: Waterfront Services, Inc.
Engineer: Howard J. Miller
Project Description: Install new railing, concrete curb and planter removal.

Call for disclosure of ex parte communication: None.

Craig Perry, Waterfront Services, Inc., explained the proposed changes of the railings at the property.

Mr. Garrison asked how the fence would be fastened to the deck. Mr. Perry responded.

Motion made by Mr. Garrison and seconded by Mr. Ives to approve the project as presented with the caveat that the railings are core drilled when installed and that they meet the current building code. Motion carried with all in favor.

IX. OTHER BUSINESS

Mrs. Vanneck stated that she felt that projects should not be reviewed with the mini-sets are not submitted on time. Mr. Lindgren responded. Some discussion continued regarding the new ARCOM submittal requirements.

Mr. Page reviewed the 2017 ARCOM meeting dates with the Commissioners and stated that the meetings may have been moved due to some religious holidays.

X. COMMUNICATIONS FROM CITIZENS (3 MINUTE LIMIT PLEASE)

None

XI. COMMENTS OF THE ARCHITECTURAL COMMISSION AND DIRECTOR OF PLANNING, ZONING AND BUILDING DEPARTMENT

Mr. Small informed the Commission about the passing of Bob Moore and stated that he would be missed.

Ms. Grace asked a question about the details on the agenda.

XII. ADJOURNMENT

Motion made by Mr. Ives and seconded by Mr. Garrison to adjourn the meeting at 3:51 p.m. Motion carried without benefit of a roll call.

The next meeting will be held on Wednesday, December 28, 2016 at 9:00 a.m. in the Town Council Chambers, 2nd floor, Town Hall, 360 S County Rd.

Respectfully Submitted,

Richard Sammons, Chairman
ARCHITECTURAL COMMISSION

kmc

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Resolutions

Agenda Title
RESOLUTION NO. 199-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving an Agreement by and Between the Palm Beach County Supervisor of Elections and the Town of Palm Beach Relating to Vote Processing Equipment Use and Election Services; Providing an Effective Date.

Presenter
Susan A. Owens, MMC, Town Clerk

ATTACHMENTS:

- **Memorandum dated December 2, 2016, from Susan A. Owens, MMC, Town Clerk**
- **Resolution No. 199-2016**
- **2017 Agreement with Palm Beach County Supervisor of Elections Office**
- **Exhibits A & B - Election Charges**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Susan A. Owens, MMC, Town Clerk

Re: Agreement with SOE Relating to Vote Processing Equipment Use and Election Services
Resolution No. 199-2016

Date: December 2, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution No. 199-2016, approving an agreement with the Palm Beach County Supervisor of Elections for Vote Processing Equipment Use and Election Services for the year 2017.

GENERAL INFORMATION

The Palm Beach County Supervisor of Elections (SOE) requires annual agreements with each of the Palm Beach County municipalities for Vote Processing Equipment Use and Election Services. This is the standard annual agreement spelling out the respective responsibilities of the Town and the SOE, setting forth the estimated election costs, and covering the regular 2017 Town of Palm Beach municipal election cycle. There have been no significant changes for the Town from last year's agreement. Any services and costs related to special elections will be detailed in a separate agreement.

FUNDING/FISCAL IMPACT

The cost for the February 7, 2017, general election is estimated at $16,500, and funding has been allocated for same in the FY 2017 Budget. Should it be required, the cost for a February 21, 2017, run-off election is estimated at an additional $16,500. Additional SOE costs may also be incurred in the event of recounts. Those costs will vary widely based upon the type and number of recount(s) required under Florida law; and, as such, cannot be determined at this time. A General Fund contingency transfer will be required in the event of a run-off election and/or any recounts or special elections.

The above referenced costs are only for services rendered by the SOE and do not include all election-related expenditures, such as legal advertising, ballot printing, ballot translation, equipment delivery and pickup, and Poll Worker salaries. These election-related expenses for the general election are covered in the Town Clerk's adopted budget. In the event of a run-off, recount, or special election, additional funding may be needed to cover these types of costs too.

TOWN ATTORNEY REVIEW

This resolution and agreement have been reviewed and approved by the Town Attorney for legal form and sufficiency.

Attachments

cc: Jay Boodheshwar, Deputy Town Manager
Kathleen Dominguez, Deputy Town Clerk

RESOLUTION NO. 199-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING AN AGREEMENT BY AND BETWEEN THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS AND THE TOWN OF PALM BEACH RELATING TO VOTE PROCESSING EQUIPMENT USE AND ELECTION SERVICES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Supervisor of Elections has offered, pursuant to the terms of the Agreement attached hereto, to provide vote processing equipment and election services to the Town of Palm Beach in regard to municipal elections in the Town of Palm Beach; and

WHEREAS, it is the desire of the Town to accept the use of such equipment and the election services of the Supervisor of Election for its municipal elections; and

WHEREAS, the terms agreed to by the parties in this regard are incorporated within an Agreement between the Supervisor of Elections and the Town of Palm Beach, a copy of said Agreement being attached hereto.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The Town Council hereby accepts the terms of the Agreement between the Supervisor of Elections and the Town of Palm Beach relating to vote processing equipment use and election services from the Supervisor of Elections and hereby approves the terms of the Agreement between said parties, a copy of which is attached hereto, and hereby authorizes the Mayor of the Town to execute said agreement on behalf of the Town of Palm Beach.

Section 2. This Resolution shall become effective immediately upon passage.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 13th day of December, 2016.

_____
Gail L. Coniglio, Mayor

_____
Michael J. Pucillo, Town Council President

_____
Richard M. Kleid, Council President Pro Tem

_____
Bobbie Lindsay, Town Council Member

ATTEST:

_____
Danielle H. Moore, Town Council Member

_____
Susan A. Owens, MMC, Town Clerk

_____
Margaret A. Zeidman, Town Council Member

AGREEMENT FOR VOTE PROCESSING EQUIPMENT USE AND ELECTION SERVICES BY AND BETWEEN THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS AND THE TOWN OF PALM BEACH

THIS AGREEMENT, is made and entered into this ___ day of _____, 201__, effective January 1, 2017, by and between the Palm Beach County Supervisor of Elections, an elected county officer pursuant to Article VIII, Sec.1(d) of the *Florida Constitution*, hereinafter referred to as the "**SOE**", and the Town of Palm Beach, a municipal corporation, chartered and organized in accordance with the laws of the State of Florida, hereinafter referred to as the "Municipality".

WITNESSETH:

WHEREAS, Chapters 97 to 106, *Florida Statutes*, constitute the Florida Election Code (the "Code") which applies to municipalities where expressly so stated; and

WHEREAS, Sec 100.3605, *Florida Statutes*, states that "[T]he Florida Election Code, chapters 97-106 shall govern the conduct of a municipality's election in the absence of an applicable special act, charter, or ordinance provision"; and

WHEREAS, the Municipality and the SOE desire to work together to provide for municipal elections and to allocate certain responsibilities and expenses between the two parties to ensure that the provisions of the Code are followed during municipal elections; and

WHEREAS, the SOE and the Municipality wish to enter into this Agreement to set out the terms of this coordinated program.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter contained to be kept and performed by the parties hereto, and for the mutual benefit of the Municipality, its constituents and the SOE, it is agreed as follows:

1. **PURPOSE:**

The purpose of this Agreement is to set forth the terms and conditions under which services will be provided by the SOE and staff to the Municipality for municipal elections and to set forth the responsibilities of both parties so that there is a clear understanding of the rights and responsibilities of all parties. Such rights and responsibilities shall apply to the General, Run-Off, and Recount elections as necessary as well as the Post Election Audit, unless otherwise stated hereinbelow.

2. **DATE OF GENERAL MUNICIPAL ELECTION:**

The date of the Town of Palm Beach's General Municipal election is February 7, 2017. It is hereby acknowledged and agreed that if the date listed is the same as most other municipalities in March or November, there will be a cost sharing among municipalities for costs incurred by the SOE. Such costs shall be allocated on a pro-rata share basis; otherwise, it is hereby acknowledged and agreed upon by the municipality that it is responsible for all costs of the election, incurred by the office of the SOE.

3. **FEES AND CHARGES TO BE PAID BY THE MUNICIPALITY**:

The SOE hereby agrees not to charge Municipalities for taxpayer purchased equipment and supplies; (i.e. voting machines, tables, chairs, etc.) and associated maintenance and contract fees related to such equipment in return for which the Municipality hereby agrees not to charge the SOE for polling places or poll worker training facilities and allow their use for any training, within its dominion and control. Examples of municipal elections charges related to certain services performed by the SOE to be passed through to the Municipality on a shared pro rata basis for all municipalities holding elections on a general election day (i.e. 2nd Tuesday in March or November) are attached hereto as Exhibit A. All items to be paid or reimbursed to the SOE will be paid by the Municipality within thirty (30) days of receipt of an invoice from the SOE with documentation verifying the charges. Examples of total costs to small, medium and large municipalities are attached hereto as Exhibit B.

4. **RESPONSIBILITIES OF BOTH THE MUNICIPALITY AND THE SOE FOR MUNICIPAL ELECTIONS:**

A. **Notice and Advertisement**

(1) **Municipality**

(a) Properly call and advertise the election according to statutes and charter at its own expense.

(b) Issue a resolution or ordinance to the SOE requesting that the Supervisor of Elections conduct the municipality's election, provide ballot language for any ballot questions within the resolution if applicable and appoint at least 3 members of the Municipality's Canvassing Board, which may or may not include the SOE, at the SOE's discretion.

(c) certify that the registered voter information provided by the SOE to the municipality reflects the proper boundaries of the city and notify the SOE of any changes.

(2) SOE

(a) Publish legal notices for Logic & Accuracy testing, absentee ballot canvass, Post Election Audit and news releases on book closing.

B. **Qualifying Candidates and Petition Initiatives**

(1) **Municipality**

(a) Provide qualifying packets to candidates and accept and process all qualifying papers and fees.

(b) Collect Name and Pronunciation Guides from the candidates at the time of qualifying and submit to SOE.

(c) Respond to all candidate inquiries and questions.

(d) Respond to all legal inquiries and questions.

(e) Respond to all media inquiries.

(f) Provide all necessary information and materials for petition initiative process

(2) **SOE**

(a) Verify signatures on any qualifying petitions submitted by candidates or for petition initiatives and notify the municipality of such results upon the close of the candidate qualifying or petition initiative deadlines as applicable.

C. **Ballots**

(1) **Municipality**

(a) Review, amend (if necessary) and approve ballot proof prepared by SOE.
(b) Place an order with the SOE for a sufficient quantity of ballots as applicable.
(c) Pay ballot design costs to the SOE as incurred.
(d) Pay the ballot printer directly for the cost of said ballots.
(e) Reimburse the SOE for costs incurred for translation and audio recording of ballot.
(f) Reimburse SOE for preparation of Absentee Ballot, Edge layout and Sample Ballot.

(2) **SOE**

(a) Layout, check, proof and deliver ballot layout to the printer.
(b) Receive, securely store and account for all ballots until disbursed to polling places.
(c) Contract to have audio recorded for Touch Screen ballot.
(d) Control all access to unvoted ballots while in the possession of the SOE.

D. **Equipment Testing**

(1) **Municipality**

(a) Provide that a representative will be present during the Logic and Accuracy testing as noticed by SOE.

(2) **SOE**

(a) Develop a unique test script and manually mark ballots to be used in public Logic & Accuracy test.
(b) Conduct public Logic & Accuracy test.

E. **Early Voting – Optional**

(1) **Municipality**

(a) Reimburse the SOE for staff overtime hours due to weekend and/or evening hours for Early Voting.
(b) Pay SOE for Early Voting supplies.
(c) Contract with, schedule and pay poll workers directly.
(d) Deliver voted ballots to SOE daily at a location designated by SOE.
(e) Designate Early Voting sites 120 days prior to each Election and notify SOE in writing of the locations.

(2) **SOE**

(a) Prepare and provide all supplies needed for each Early Voting site.
(b) Provide the Municipality with a list of poll workers.
(c) Train poll workers.
(d) Provide staffing to accept voted ballots daily at a location designated by SOE.

F. **Absentee Voting**

(1) **Municipality**

(a) Reimburse SOE for all postage costs incurred at the current postal rate.
(b) Pay SOE for materials and handling of each absentee ballot.
(c) Pay SOE $.10 per absentee ballot for verifying signatures on returned voted ballot certificates.
(d) Refer all requests for absentee ballots to SOE.

(2) **SOE**

(a) Determine eligibility and compile Absentee Ballot file.
(b) Accept all requests for Absentee Ballots by telephone, mail or in person.
(c) Prepare and mail Absentee Ballots.
(d) Deliver Absentee Ballots to the Post Office.
(e) Receive voted Absentee Ballots.
(f) Verify signatures on returned voted Absentee Ballot certificates.
(g) Prepare and open Absentee Ballots for tabulation.
(h) Account for all Absentee Ballots.
(i) Notify Absentee Ballot voter and provisional voters of the disposition of the Canvassing Board as required by law.
(j) Record Absentee Ballot returns to voter history.
(k) Conduct public testing of Logic and Accuracy for Absentee Ballot tabulating equipment.
(l) Provide qualified staff to operate tabulation equipment to count Absentee Ballots.

G. **Polling Places**

(1) **Municipality**

(a) Arrange for the use of an adequate number of polling places.
(b) Confirm polling place accessibility and ADA compliance.
(c) Notify SOE in writing thirty (30) days prior to election of the need for tables and chairs if necessary.
(d) Notify SOE of polling locations to be used no later than noon the Friday after the municipal candidate qualifying deadline.
(e) Notify the SOE not less than 30 days prior to the election that a polling place will be moved to another site.
(f) Notify voters, as required by law, if their regular polling place is to be temporarily relocated.

(2) **SOE**

(a) Provide the Municipality with a list of polling places and SOE contract.
(b) Provide tables and chairs upon written notice from the Municipality when required.
(c) Provide polling place supplies, i.e. signs, cones, etc.
(d) Notify voters and the Municipality of permanent polling place change(s).

H. **Precinct Supplies**

(1) **Municipality**

(a) Pay SOE for precinct supplies provided.

(b) Provide a secure place for precinct clerks to return supplies and voted ballots on election night.
(c) Pay SOE for the production of Precinct Registers or for programming electronic poll books and related communication fees.
(d) Pay directly to the SOE's contracted moving company to have voting equipment delivered and picked up from polling place no later than the day before the election and returned after the election.

(2) **SOE**

(a) Provide Precinct Registers or electronic poll books for each polling place location.
(b) Provide Master CD compilation of registered voters for precinct advisors or provide up to date electronic poll books.
(c) Provide certification of registered voters after book closing.
(d) Prepare equipment, cabinets and routing of voting equipment delivery.
(e) Provide laptop computer at each polling place or electronic poll books.
(f) Provide CD of voter file database for each polling place or up to date electronic poll books.
(g) Provide poll worker Clerks with cell phones.
(h) Provide Provisional Ballot envelopes and affidavit forms for each polling place.
(i) Provide secrecy sleeves in a number and amount appropriate for each polling place.

I. **Poll Workers**

(1) **Municipality**

(a) Contact, contract with and pay poll workers directly (using only poll workers who are currently on the SOE list, or individuals who have successfully completed required training).
(b) Schedule and notify poll workers of training classes.
(c) Reimburse SOE for expenses incurred for delivery and pick up of equipment to training locations.
(d) Reimburse SOE for expenses incurred in printing training material.
(e) Reimburse SOE for expenses incurred for trainers to train poll workers.
(f) Reimburse SOE for expenses incurred for contracted training locations.

(2) **SOE**

(a) Provide the Municipality with a list of current poll workers.
(b) Develop poll worker training schedule.
(c) Plan and contract for training classes and locations.
(d) Contract with and pay trainers to train poll workers.
(e) Provide printed training materials for poll workers.

J. **Election Day Support**

(1) **Municipality**

(a) Verify that all polling places are available to poll workers no later than 6:00 a.m. and open for voting promptly at 7:00 a.m. on Election Day.
(b) Ensure that all polling places remain open until 7:00 p.m. or until all voters who are in line to vote at 7:00 p.m. have completed voting.
(c) Reimburse SOE for all phone bank costs.

(2) **SOE**

(a) Provide an additional list of poll worker replacements if needed.
(b) Provide technical support personnel as needed.
(c) Provide phone bank support to respond to poll workers and voters on Election Day.

K. **Ballot Tabulation/Counting of Election Results**

(1) **Municipality**

(a) Deliver all voted ballots and other necessary election related items to a place designated by the SOE after the polling places have closed on Election Day.
(b) Deliver **all** voting machine cartridges to a place designated by the SOE after the polling places have closed on Election Day.
(c) Reimburse the SOE for any staff overtime and other expenses in relation to the tabulation and processing of ballots on Election Day.
(d) Act as member of Canvassing Board.

(2) **SOE**

(a) Provide technical staff and required equipment to administer tabulation and election results.
(b) Assist and act, or appoint a designee to assist and act on the SOE's behalf, as a member of the Municipality's Canvassing Board if desired by the municipality and approved by the SOE or act as a member of the County Canvassing Board if it canvasses the municipality's election, if allowed by law.
(c) Post election results on SOE WEB site and provide the same to Channel 20.
(d) Provide the Municipal Clerk with unofficial election results upon conclusion of tabulation and canvassing of ballots cast on Election Day.

L. **Post Election Day**

(1) **Municipality**

(2) **SOE**

(a) Provide the Municipal Clerk with an official certification of election results if allowed by law.
(b) Store all necessary election records and ballots until the expiration of retention period prescribed by statutes.
(c) Process polling place affirmation forms.
(d) Sort, inventory, pack and store all election materials for retention and disposition.
(e) Notify voters of the disposition of their Absentee or Provisional Ballots after the determination by the Canvassing Board, as required by law.
(f) Respond to public records requests regarding records kept on behalf of the Municipality.
(g) Record voting history for each voter who voted on Election Day.

M. **Audit**

(1) **Municipality**

(a) Provide that the Municipal Clerk will be responsible for the administration of the

audit.
(b) Reimburse SOE for any staff time or other related expenses as may result from conducting the manual audit.

(2) **SOE**

(a) Organize precinct information to allow the Municipal Clerk to randomly select the race and precinct(s) that shall be audited.
(b) Organize and prepare ballots for manual audit.
(c) Provide SOE staff to conduct manual audit.
(d) Ascertain and publically post manual audit result to SOE WEB site.

N. **Recount**

(1) **Municipality**

(a) Provide that the Municipal Clerk will be responsible for the administration of the Recount, with support and guidance from the SOE.
(b) Act as a member of the Canvassing Board.
(c) Notify the candidates of the time and date of the Recount.
(d) Post public notice(s) of the Recount with the time and location.
(e) Cause to have the Recount recorded and minutes kept and approved by the Canvassing Board.
(f) Review with the Canvassing Board and the counting teams the statutes and rules of the Division of Elections, specifically Rule 1S-2.031. Recount Procedures; and Rule 1S-2.027. Standards for Determining Voter's Choice on a Ballot.
(g) Reimburse the SOE for all staff salaries/overtime, facility and other expenses required to conduct the Recount.

(2) **SOE**

(a) Post public notice(s) of the Recount with the time and location.
(b) Test tabulating equipment as required by Sec. 101.5612, *Florida Statues*.
(c) Provide counting teams for examining out stacked ballots.
(d) Prepare and organize ballots for Recount processing.
(e) Tabulate ballots and provide professional staff for equipment operations.
(f) Provide official certification as determined by the Canvassing Board.

5. **INDEMNITY:**

Each party to this agreement shall be liable for its own actions and negligence. To the extent permitted by law, the Municipality shall indemnify, defend and hold harmless SOE against any actions, claims or damages arising out of the Municipality's negligence in connection with performance under this Agreement; and the SOE shall indemnify, defend and hold harmless the Municipality against any actions, claims or damages arising out of the negligence of SOE in connection with its performance under this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth at Sec. 768.28, *Florida Statutes.* In no case shall such limits for the Municipality extend beyond $200,000 for any one person or beyond $300,000 for any judgment which, when totaled with all other judgments, arises out of the same incident or occurrence. These provisions shall not be construed to constitute agreement by either party to indemnify the other for such other's negligent, willful or intentional

acts or omissions. In the event of litigation, trial or appellate, between the Municipality and the SOE relating to a municipal election governed by this Agreement, or otherwise in connection with the interpretation or application of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing party. Notwithstanding the above, the municipality shall defend legal challenges relating to its municipal election and shall be fully responsible for all legal costs including attorneys' fees for such defense of the Municipality and the SOE. The municipality shall be responsible for damages, if any, assessed by virtue of such lawsuit, up to the monetary limits provided for hereinabove without recourse to the SOE.

6. In the event of a Special Election, the municipality shall enter into a separate contract and receive the approval of the Supervisor of Elections for the actual election date at least 90 days prior to a Special Election. The expense of any Special Election shall include all actual costs incurred by the Supervisor of Elections, including hourly and salaried staff costs and other related election expenses as documented.

7. **TERM:**

This Agreement shall begin on the effective date January 1, 2017 and continue for a term of one year in order to cover the municipal election cycle of Municipal Election Day and a run-off election, and may be modified by mutual agreement of the parties. Any proposed changes to this Agreement shall be provided to the municipalities no later than August 1 of the applicable year, or as soon as practicable. All other requested services to be provided by the Supervisor of Elections Office shall be by separate contract.

8. **CHANGE IN LAW:**

In the event any change in law abrogates or modifies any provisions or applications of this Agreement, the parties hereto agree to enter into good faith negotiations and use their best efforts to reach a mutually acceptable modification of this Agreement.

9. **NOTICES:**

All formal notices affecting the provisions of this Agreement may be delivered in person or be sent by facsimile, registered mail, or by a recognized overnight courier such as FedEx, to the individual designated below, until such time as either party furnishes the other party written instructions to contact another individual.

For the SOE:	For the Municipality:
Supervisor of Elections 240 S. Military Trail West Palm Beach, Florida 33415 Attention: Susan Bucher	Town of Palm Beach 360 S. County Road Palm Beach, FL 33480 Attention: Thomas G. Bradford, Town Manager

10. **SEVERABILITY:**

If any clause, section, or provision of this Agreement shall be declared to be unconstitutional, invalid or unenforceable for any cause or reason, or is abrogated or negated by a change in law, the same shall be eliminated from this Agreement, and the remaining portion of this Agreement shall be in full force and effect and be valid as if such invalid portions thereof had not been incorporated herein.

11. By signing this contract, you and your municipality approve the contract as a form of legal sufficiency and certify that this contract has met all of the legal requirements of your

Municipal Charter and all other related laws.

12. **NO MODIFICATION EXCEPT IN WRITING:**

This is the complete and final agreement between the parties. No representations other than those set forth herein shall be binding upon the parties. No modification of this agreement shall be effective unless submitted in writing and signed by both parties, or their duly authorized representatives.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement effective January 1, 2017.

As to the SOE:

WITNESSES:

SUPERVISOR OF ELECTIONS
PALM BEACH COUNTY

_____

_____

_____
Susan Bucher

Date: _____

As to the MUNCIPALITY:

ATTEST:

TOWN OF PALM BEACH

_____
Susan A. Owens, MPA, MMC, Town Clerk

_____
Gail L. Coniglio, Mayor

(Town Seal)

Date: _____

	C	M	N	O
1	**Exhibit A**			
2				
3	**Supervisor of Elections Municipal Election Charges**			
4				
5		**---------- 2017 COSTS ----------**		
6				
7		Single Election		Uniform Elections
8	**ABSENTEE BALLOTS**			
9	Set up AB fee	0.40		0.03
10	On Call Support - Pitney Bowes			*0.16*
11	Prepare and mail Absentee Ballots (machine use, voter file, postage) - materials and postage	2.20		2.20
12	Provide absentee voting - prep and mailing; staff time	0.80		0.50
13	Process absentee ballot requests; staff time	0.89		0.89
14	Recording/verification of Absentee Ballot returns - staff time	0.89		0.89
16	Notification to voters of Absentee Ballots on the disposition of Canvassing Board	0.09		0.09
17	**TOTAL ABSENTEE BALLOT SERVICES**	**5.28**		**4.77**
18				
19	**MUNICIPAL PACKAGE**			
20	Arrange for translating, printing and recording of audio ballot	*TBD*		*TBD*
21	Provide polling place supplies – signs, cones, tables, chairs, etc.	25.00		25.00
22	Publish legal notices (L&A testing, AB canvassing)	833.48		97.93

	C	M	N	O
1	**Exhibit A**			
2				
3	**Supervisor of Elections Municipal Election Charges**			
4				
5		---------- 2017 COSTS ----------		
6				
7		Single Election		Uniform Elections
23	L&A test development (unique test script, manual ballot marking, pretesting for comparisons and pulling equipment for public tests)	147.12		147.12
24	Election Day support (all staff available & phone bank for voters)	1,151.10		480.96
25	Election Morning and Night OT staff	2,888.16		591.83
28	Assist the municipality with canvass of Absentee Ballots	328.34		328.34
30	Post of election results on WEB site and on Channel 20	97.87		97.87
31	Interface with candidates, press, city staff, city attorneys regarding Election Law	177.04		177.04
32	Assist in finding poll worker replacements	54.84		54.84
33	Conduct mandatory audit days after election	147.17		147.17
34	Store all ballots for mandatory 12 months			
35	Provide certification of registered voters after book closing	66.96		66.96
36	Prepare information for upload to ePollBooks_Jeff D	80.16		80.16
37	Prepare Absentee Ballot, Edge layout and Sample Ballot - Equip Center	133.91		133.91
38	Prepare Absentee Ballot, Edge layout and Sample Ballot - IT	160.32		160.32
39				
40	TOTAL MUNICIPAL PACKAGE SERVICES	**6,291.46**		**2,589.44**

	C	M	N	O
1	**Exhibit A**			
2				
3	**Supervisor of Elections Municipal Election Charges**			
4				
5		**---------- 2017 COSTS ----------**		
6				
7		Single Election		Uniform Elections
41				
42	**PRECINCT SERVICES**			
43	Prepare Clerk bags incl Ipad,cell phones and election materials - IT and PW Staff time	13.19		13.19
44	Delivery and Pick up of voting equipment to training locations	12.92		4.04
45	Prepare equipment cabinets and routing of voter equipment	23.24		23.24
46	Prepare precinct scanners and ADA Touch screen equipment	23.24		23.24
47	Management of voting history (post elections)	30.77		30.77
48	Plan training class locations/trainers payroll/printed training materials	43.37		43.37
49	iPAD programming and prep time _IT staff	9.63		9.63
50	iPADs Data Service	144.00		144.00
51	Notification to provisional voters re: the disposition of Canvassing Board	5.62		5.62
52	Copy of current polling place contract	0.15		0.15
53	Copy of current poll workers	0.15		0.15
54				
55	**TOTAL PRECINCT SERVICES**	**306.28**		**297.40**
56				
67				
68	**Translation services incurred will be included in the SOE invoice to the municipalities that**			
69	**required the service.**			

EXHIBIT B

PALM BEACH COUNTY SUPERVISOR OF ELECTIONS
Municipal Election Charges
(example costs)

2017 Uniform Election Costs *

MUNICIPALITY	MUNICIPAL PACKAGE	ABSENTEE BALLOTS		PRECINCTS	
		# ballots	@4.77	# precincts	@ $297.40
HAVERHILL	$2,589	40	$191	3	$892
RIVIERA BEACH	$2,589	1,209	$5,767	23	$6,840
BOCA RATON	$2,589	3,304	$15,760	38	$11,301

2017 One Municipal *

MUNICIPALITY	MUNICIPAL PACKAGE	ABSENTEE BALLOTS		PRECINCTS	
		# ballots	@5.28	# precincts	@ $306.28
HAVERHILL	$6,291	40	$211	3	$919
RIVIERA BEACH	$6,291	1,209	$6,384	23	$7,044
BOCA RATON	$6,291	3,304	$17,445	38	$11,639

* ***Costs exclude expenses absorbed by municipalities i.e.; pollworker payroll, precinct rentals, precinct*** **ballot printing, advertising and precinct security . In addition, translation services incurred for municipalities are not included in these costs, and will be included in the SOE invoice to only the municipalities that required the service.**

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Resolutions

Agenda Title
RESOLUTION NO. 206-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing an Amendment to Bid No. 2016-12 for Town-wide Street Light Replacement to Include the Bradley Place Street Light Replacement, and Increasing the Contract in the Amount of $275,000 for a Total Revised Construction Contract Amount of $2,595,605, and Increasing the Original Construction Phase Budget of $2,550,000 for this Project, for a Revised Construction Phase Budget of $2,825,000.

Presenter
H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- **Memorandum dated November 22, 2016, from H. Paul Brazil, P.E., Director of Public Works**
- **Resolution No. 206-2016**
- **PowerCore, Inc. Bid Items**
- **Bradley Place Street Light Replacement**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Amend the Project Scope and Authorize an Additional Appropriation for the Town-wide Street Light Replacement Project
Accelerated Capital Improvement Program – Phase 2
Resolution No. 206-2016

DATE: November 22, 2016

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 206-2016 amending the project scope to add the Bradley Place street light replacement and authorizing an additional appropriation to the construction phase budget for the Town-wide Street Light Replacement Project in the amount of $275,000 which increases the construction phase budget from $2,550,000 to $2,825,000.

GENERAL INFORMATION

The Town Council approved Resolution No. 51-2016 on April 12,2016 awarding Bid No. 2016-12 and construction contract to PowerCore, Inc., in the amount of $2,320,605 and established a construction phase budget of $2,550,000.

The design of Bradley Place street light replacement was initially completed as part of the Town-wide Street Light Replacement Project and was later separated and included in the Bradley Place from Royal Poinciana Way to Wells Road Improvements, a roadway reconstruction project. At the December 8, 2015 Town Council meeting, Town Council deferred the Bradley Place - Royal Poinciana Way to Wells Road Improvements project. At the same time, the Purchasing Division was soliciting bids for the Town-wide Street Light Replacement Project less the Bradley Place street lights.

The Type "A" pole for the Town-wide Street Light Replacement Project inadvertently included the Bradley Place street light poles. The pole production order submitted to the manufacturer, Valmont Industries, included the additional poles. Subsequent to this order, the contractor was made aware that the cost of the poles has increased in cost by approximately forty percent (40%). Fortunately, the Bradley Place poles were purchased at the lower cost under this contract. The contractor has agreed to maintain their bid prices on the remaining materials necessary to complete the Bradley Place street light replacement. In reviewing Powercore, Inc.'s bid documentation with the Purchasing Division and seeing the material prices still increasing, amending PowerCores contract to include the Bradley Place street light replacement would realize a savings of $100,000 to $120,000. PowerCore, Inc. has performed well above the staff expectations.

Staff recommends that Town Council amend the Town-wide Street Light Replacement Project contract with PowerCore, Inc. to include the Bradley Place street light replacement and authorize the additional funding through the Town's Accelerated Capital Improvement Program-Phase 2 Construction Phase Budget from $2,550,000 to $2,825,000.

FUNDING/FISCAL IMPACT

Funding for the Town-wide Street Light Replacement Project and the Bradley Place street light replacement is fully contained within the Town's Accelerated Capital Improvement Program-Phase 2. There are sufficient funds in this account for this improvement.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

TOWN ATTORNEY REVIEW

This resolution has been reviewed and approved by the Town Attorney for legal form and sufficiency.

cc: Eric B. Brown, P.E., Assistant Director of Public Works
Jane Struder, Director of Finance
Patricia Strayer P.E., Town Engineer
Adiz Pedraza, Purchasing Manager

RESOLUTION NO. 206-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING AN AMENDMENT TO BID NO. 2016-12 FOR TOWN-WIDE STREET LIGHT REPLACEMENT TO INCLUDE THE BRADLEY PLACE STREET LIGHT REPLACEMENT, AND INCREASING THE CONTRACT IN THE AMOUNT OF $275,000 FOR A TOTAL REVISED CONSTRUCTION CONTRACT AMOUNT OF $2,595,605, AND INCREASING THE ORIGINAL CONSTRUCTION PHASE BUDGET OF $2,550,000 FOR THIS PROJECT, FOR A REVISED CONSTRUCTION PHASE BUDGET OF $2,825,000.

* * * * *

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The Town Council of the Town of Palm Beach hereby approves a purchase order increase of $275,000 to PowerCore, Inc., for the Town-wide Street Light Replacement Project.

Section 2. The Town Council of the Town of Palm Beach hereby approves an increase of $275,000 to the construction phase budget for the Town-wide Street Light Replacement Project, with a revised total budget of $2,825,000.

Section 3. The Town Manager is hereby authorized to execute a change order on behalf of the Town of Palm Beach for these additional construction services.

Section 4. The Town Manager is hereby authorized to effect an increase to the Construction Phase Engineering Budget.

Section 5. The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to effectuate the additional construction work for the project, including any necessary change order work as recommended by the Public Works Director.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 13th day of December 2016.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Council President Pro Tem
	Bobbie Lindsay, Town Council Member
ATTEST:	Danielle H. Moore, Town Council Member
Susan A. Owens, MMC, Town Clerk	Margaret Zeidman, Town Council Member

PowerCore, Inc.
5101 W. Eau Gallie Blvd
Melbourne, Florida 32934-9134
Phone: 321-253-1402
Fax: 321-253-2308

Quote Date:	10/12/2016	Location:	Town-Wide Street Lighting
Project No.:	Town of Palm Beach #2016-12	Limits From:	N/A
Fed Aid No.:	N/A	To:	N/A
County:	Palm Beach	Limits At:	Various
Const Days:	N/A	Contract No.:	N/A

Bid Item No.	Description	Plan Quantity	UM	Unit Price	Total
	Prime Bid Items				
A-1	Mobilization/Demobilization/General Conditions	1.00	LS	16,633.40	16,633.40
A-2	Performance/Payment Bonds/Insurance	1.00	LS	4,560.00	4,560.00
A-3	Maintenance of Traffic	1.00	LS	3,640.00	3,640.00
	Total Prime Bid Items				**24,833.40**
	Lighting Bid Items				
B-1	Round Concrete Base	29.00	EA	1,241.00	35,989.00
B-2	Spread Footer Base		EA	2,389.00	
B-3	Demo pole, base, fixture, etc.	28.00	EA	766.00	21,448.00
B-5	Type 'A' Pole		EA	5,021.00	
B-8	Type 'A' Fixture	29.00	EA	1,970.00	57,130.00
B-11	Sidewalk Repair	29.00	EA	1,360.00	39,440.00
B-12	Pull Box at Pole Base (w/ Arrestors, Fuses, Wirin	29.00	EA	1,572.00	45,588.00
B-13	Pull Box - Combined Circuits	3.00	EA	816.00	2,448.00
B-16	Directional Drill	110.00	FT	28.75	3,162.50
B-18	2" Conduit and Trench Restoration - Non-Pavem	100.00	FT	7.75	775.00
B-19	(3) #6 Wires	2,500.00	FT	4.25	10,625.00
B-20	Conduit abandon in place	2.00	EA	630.00	1,260.00
B-22	Site Restoration	1.00	LS	5,743.80	5,743.80
B-24	Service Point C Modification	1.00	EA	7,449.00	7,449.00
	Total Lighting Bid Items				**231,058.30**
	Project Total				255,891.70

NOTES:

1) The necessary Type 'A' Light Poles are paid for under the current contract and are not included i these additional items.
2) Items A-1, A-2, A-3 & B-22 are priced at 20% of the original contract values.
3) This quotation must be accepted within 30 days, or the prices may be subject to adjustment.

PowerCore, Inc.

Tony Zirpoli, Estimator
tzirpoli@powercore.us

TOWN OF PALM BEACH
BRADLEY PLACE STREET LIGHT REPLACEMENT
ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST

NO.	ITEM DESCRIPTION	QUANT.	UNIT		UNIT PRICE		TOTAL PRICE
	SECTION A - PROJECT GENERAL CONDITIONS						
A-1	MOBILIZATION & GENERAL CONDITIONS	1	LS	$	25,000.00	$	25,000.00
A-2	BONDS & INSURANCE REQUIREMENTS	1	LS	$	7,500.00	$	7,500.00
A-3	MAINTENANCE OF TRAFFIC	1	LS	$	17,000.00	$	17,000.00
	SECTION A SUBTOTAL					**$**	**49,500.00**
	SECTION B - BRADLEY PLACE						
B-1	ROUND CONCRETE BASE	29	EA	$	1,400.00	$	40,600.00
*B-2	SPREAD FOOTER BASE	1	EA	$	3,000.00		
B-3	DEMO POLE, BASE, FIXTURE, ETC.	28	EA	$	700.00	$	19,600.00
**B-5	TYPE 'A' POLE	29	EA	$	7,500.00		
B-8	TYPE 'A' FIXTURE	29	EA	$	2,200.00	$	63,800.00
B-11	SIDE WALK REPAIR	29	EA	$	1,100.00	$	31,900.00
B-12	PULL BOX AT POLE BASE (W/ ARRESTORS, FUSES, WIRING, GROUNDING, WP SPLICES)	29	EA	$	1,250.00	$	36,250.00
B-13	PULL BOX - COMBINED CIRCUITS	3	EA	$	900.00	$	2,700.00
B-16	DIRECTIONAL DRILL	110	FT	$	28.00	$	3,080.00
B-18	2" CONDUIT AND TRENCH RESTORATION - NON-PAVEMENT	100	FT	$	24.00	$	2,400.00
B-19	(3) #6 WIRE	2500	FT	$	5.00	$	12,500.00
B-20	CONDUIT ABANDON IN PLACE	2	EA	$	400.00	$	800.00
B-22	SITE RESTORATION	1	LS	$	10,000.00	$	10,000.00
B-24	BREAKERS @ EXIST PNLBD, LIGHTING CONTACTOR, PANEL BOARD, UNISTRUT AND HARDWARE TO EXIST. RACK	1	EA	$	9,000.00	$	9,000.00
	SECTION B SUBTOTAL					**$**	**232,630.00**
	SECTION A + B TOTAL PROJECT						
	SECTION A + B TOTAL					**$**	**282,130.00**
	10% CONTINGENCY					**$**	**29,000.00**
	TOTAL PROJECT COST					**$**	**320,000.00**

* Line Item B-2 "Spread Footer" is not anticipated to be necessary for the Bradley Place Street Light Replacement

**Line Item B-5 "Type 'A' Pole" material cost has increased since the original bid by approximately $2,000. Prepurchasing the poles has resulted in a cost savings of approximately $60,000.

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Resolutions

Agenda Title
RESOLUTION NO. 207-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing an Increase to the Engineering Construction Phase Services for the Town-Wide Street Light Replacement Project to Accept and Include the Bradley Place Street Light Replacement, in the Amount of $34,000, and Increasing the Original Construction Phase Engineering Budget of $165,000 for this Project, for a Revised Total Budget of $199,000.

Presenter
H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- **Memorandum dated November 22, 2016, from H. Paul Brazil, P.E., Director of Public Works**
- **Resolution No. 207-2016**
- **Mock Roos Proposal**

TOWN OF PALM BEACH
Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Amend Engineering Construction Phase Services and Authorize an Additional Appropriation for the Town-wide Street Light Replacement Project
Accelerated Capital Improvement Program – Phase 2
Resolution No. 207-2016

DATE: November 22, 2016

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 207-2016 amending the Engineering Construction Phase Services to add the Bradley Place street light replacement and authorizing an additional appropriation to the Engineering Construction Phase Budget for the Town-wide Street Light Replacement Project in the amount of $34,000 which increases the construction phase budget from $165,000 to $199,000.

GENERAL INFORMATION

The Town Council approved Resolution No. 50-2016 on April 12,2016 awarding the Engineering Construction Phase Services to Mock Roos and Associates, Inc., in the amount of $149,500 and established a construction phase budget of $165,000.

The design of Bradley Place street light replacement was initially completed as part of the Town-wide Street Light Replacement Project and was later separated and included in the Bradley Place from Royal Poinciana Way to Wells Road Improvements, a roadway reconstruction project. At the December 8, 2015 Town Council, Town Council deferred the Bradley Place - Royal Poinciana Way to Wells Road Improvements project. At this time, the Purchasing Division was soliciting bids for the Town-wide Street Light Replacement Project less the Bradley Place street lights.

The Type "A" pole for the Town-wide Street Light Replacement Project inadvertently included the Bradley Place street light poles. The pole production order submitted to the manufacturer, Valmont Industries, included the additional poles. Subsequent to this order, the contractor was made aware that the cost of the poles has increased in cost by approximately forty percent (40%). Fortunately, the Bradley Place poles were purchased at the lower cost under this contract. The contractor has agreed to maintain their bid prices on the remaining materials necessary to complete the Bradley Place street lights replacement. In reviewing Powercore, Inc.'s bid documentation with the Purchasing Division and seeing the material prices still increasing, amending PowerCores contract to include the Bradley Place street lights would realize a savings of $100,000 to $120,000. PowerCore, Inc. has performed well above the Town Staff expectations.

In a companion December 13, 2016 Town Council item, staff is recommending Town Council amend the project scope and authorize an additional appropriation for the Town-wide street light replacement construction to include the Bradley Place street light replacement.

The Construction Phase Engineering Services will include plan updates, shop drawing reviews, site visits, maintaining daily reports, progress photos, scheduling, conducting meetings, preparing meeting minutes, assisting Town staff with on-site observations, inspections, public notifications, and certifying the construction is completed according to the design.

Staff recommends that Town Council amend the Engineering Construction Phase Services for the Town-wide Street Light Replacement Project with Mock Roos and Associates, Inc. to include the Bradley Place street light replacement and authorize the additional funding through the Town's Accelerated Capital Improvement Program–Phase 2 Engineering Construction phase budget from $165,000 to $199,000.

FUNDING/FISCAL IMPACT

Funding for the Town-wide Street Light Replacement Project and the Bradley Place street light replacement is fully contained within the Town's Accelerated Capital Improvement Program - Phase 2. There are sufficient funds in this account for this improvement.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

TOWN ATTORNEY REVIEW

This resolution has been reviewed and approved by the Town Attorney for legal form and sufficiency.

cc: Eric B. Brown, P.E., Assistant Director of Public Works
Jane Struder, Director of Finance
Patricia Strayer P.E., Town Engineer
Adiz Pedraza, Purchasing Manager

RESOLUTION NO. 207-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING AN INCREASE TO THE ENGINEERING CONSTRUCTION PHASE SERVICES FOR THE TOWN-WIDE STREET LIGHT REPLACEMENT PROJECT TO ACCEPT AND INCLUDE THE BRADLEY PLACE STREET LIGHT REPLACEMENT, IN THE AMOUNT OF $34,000, AND INCREASING THE ORIGINAL CONSTRUCTION PHASE ENGINEERING BUDGET OF $165,000 FOR THIS PROJECT, FOR A REVISED TOTAL BUDGET OF $199,000.

* * * * *

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The Town Council of the Town of Palm Beach hereby approves a purchase order increase of $34,000 to Mock Roos and Associates, Inc. Engineering Construction Phase Services, for the Town-wide Street Light Replacement Project, thereby increasing the original construction phase engineering budget of $165,000 for this project for a revised total budget of $199,000.

Section 2. The Town Manager is hereby authorized to execute a change order on behalf of the Town of Palm Beach for these additional engineering services and to effect an increase to the Construction Phase Engineering Budget as stated above.

Section 3. The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to effectuate the additional construction work for the project, including any necessary change order work as recommended by the Public Works Director.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 13th day of December 2016.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Council President Pro Tem
	Bobbie Lindsay, Town Council Member
ATTEST:	Danielle H. Moore, Town Council Member
Susan A. Owens, MMC, Town Clerk	Margaret Zeidman, Town Council Member

MOCK • ROOS

ENGINEERS • SURVEYORS • PLANNERS

November 15, 2016

Mr. Michael Roach, P.E.
Town of Palm Beach
P.O. Box 2029
Palm Beach, FL 33480-2029

Ref. No. B4029.11
Subject: Town-Wide Street Light Replacement Engineering During Construction Assistance Services – 2017 Season

Dear Michael:

We are submitting the attached *Proposal to Provide Town-Wide Street Light Replacement Engineering During Construction Assistance Service – 2017 Season*. Please review the attached documents and return one signed copy of the *Proposal* to our office as our authorization to proceed with the Scope of Services outlined in the proposal.

We will provide the Scope of Services on an hourly basis, plus reimbursable expenses. We anticipate the total fee to provide the Scope of Services will be $34,000.00.

If you have any questions please contact me at 683-3113, extension 293. Thank you for using Mock•Roos on this project. We look forward to working with you.

Sincerely,

MOCK, ROOS & ASSOCIATES, INC.

Garry G. Gruber, P.E.
Senior Vice President

GGG:jeh
Enclosure
Copies: Bookkeeping

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Mock, Roos & Associates, Inc.
5720 Corporate Way, West Palm Beach, Florida 33407-2066, (561) 683-3113, fax 478-7248

Proposal to Provide Town-Wide Street Light Replacement Engineering During Construction Assistance Services – 2017 Season

Services to be provided by: Mock•Roos

Services provided to (Client): Town of Palm Beach

Proposal Date: November 15, 2016

Proposal Terms

A. Project Understanding:

The Town has extended the scope and project construction schedule for its Town-Wide Street Light Replacement project and intends to continue construction of the project during the Town's active 2017 construction season.

Mock•Roos will perform services as outlined in **B. Scope of Services** below:

B. Scope of Services:

PRE-CONSTRUCTION ACTIVITIES

Task 1 – Conduct one Pre-Construction meeting with the Contractor and the Town. Prepare and distribute the pre-construction meeting minutes.

Task 2 – Provide Mock•Roos staff to review Contractor's fabrication shop drawing and engineering submittals for conformance with the Contract Documents. Up to two reviews per shop drawing submittal are included to address comments as appropriate. Provide hard copies with a submittal log to the Contractor and Town.

CONSTRUCTION ACTIVITIES

Task 3 – Perform review of Contractor's initial submitted project schedule. Review Contractor's progress schedule (assume 6 submittals).

Task 4 – Attend construction meeting between the Contractor, the Town, and Mock•Roos during the construction period. A total of 8 meetings are included. Prepare and distribute meeting minutes taken at weekly construction meetings. It is assumed that meetings will be held at the Town's Public Works office.

Task 5 – Attend up to 4 additional meetings as requested by the Town during the construction period.

Task 6 – Provide a Mock•Roos field representative to perform site observations of the Contractor's Work during the construction period. Up to 20 hours per week for 10 weeks are included in this proposal. Prepare and review Mock•Roos field observation reports.

Task 7 – Perform the services of a professional engineer to perform periodic site observations to observe for conformance with the Contract Documents. A total of 8 site visits are included in this proposal.

Task 8 – Review, recommend, and prepare minor field directive changes and/or contingency expenditures, as requested by the Contractor or the Town. Services related to major changes or change order proposals will be negotiated at that time.

Task 9 – Attend monthly onsite pay application review meeting between the Contractor, Mock•Roos, and the Town. Provide review and payment recommendations for the Contractor's monthly pay applications and one final pay application. A total of 4 pay application reviews are included in this proposal.

Task 10 – Perform pre-final walk-through(s) with the Contractor, Mock•Roos, and the Town for facilities completed during the construction season. Prepare and distribute associated punch lists.

Task 11 – Perform one "final completion walk-through" with the Contractor, Mock•Roos, and the Town for facilities completed during the construction season.

Task 12 – Coordinate construction project closeout with the Contractor, Town and FDOT.

C. Additional Services:

1. Any services not included in the Scope of Services will be considered Additional Services.

2. Additional Services can be provided upon Mock•Roos receiving a revised scope of services and approved change order from the Town.

D. Fees and Rates:

1. The total fee to provide the Scope of Services on an hourly basis with a not to exceed fee of $34,000.00.

2. Mock•Roos can provide Additional Services at the Mock•Roos hourly rates in effect at that time, plus any reimbursable expenses, or for an agreed upon lump sum fee.

E. Conditions:

1. All terms become valid upon Mock•Roos receiving one complete copy of this proposal within 30 days of its date.

2. In case of discrepancies, the terms of this proposal supersede those of previous agreements.

F. Acceptance and Authorization to Proceed:

1. This proposal is acceptable and Mock•Roos has authorization to proceed with the Scope of Services. This authorization becomes valid upon Mock•Roos receiving a Purchase Order for these services.

MOCK•ROOS

Signed: 11/15/2016

Name: Garry G. Gruber, P.E.

Title: Senior Vice President

Date: November 15, 2016

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TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Resolutions

Agenda Title
RESOLUTION NO. 208-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving Two (2) Purchase Orders to Rechtien International Trucks, Inc., for the Purchase of Four (4) Vehicles: Three (3) International Durastar Cabs and Chassis with Aluminum Dump Bodies in the Total Amount of $255,399, and One (1) International Durastar Cab and Chassis with a Peterson RS3 Crane Body in the Amount of $179,287, for a Total Amount of $434,686, in Accordance with the Florida Sheriff's Association Contract 16-VEH14.0, Specification 12, and Establishing an Overall Budget of $440,000.

Presenter
H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- **Memorandum dated November 2, 2016, from H. Paul Brazil, P.E., Director of Public Works**
- **Resolution No. 208-2016**

TOWN OF PALM BEACH
Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Approve Purchase Orders to Rechtien International Trucks, Inc. for Vehicle Acquisitions
Resolution No. 208-2016

DATE: November 2, 2016

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 208-2016 approving two (2) purchase orders to Rechtien International Trucks, Inc. for three (3) International Durastar Cab and Chassis with aluminum trash dump bodies, in the total amount of $255,399 and one (1) International Durastar cab and chassis with a Peterson RS3 crane body in the amount of $179,287, for a total amount of $434,686 via the Florida Sheriffs Association Contract 16-VEH14.0, (Specification #12) and establishing a total budget of $440,000.

GENERAL INFORMATION

It is necessary, at this time, to replace three (3) of our existing trash dumps used for transporting yard waste from our established collection routes to the disposal facility. Funds are reflected within the FY2017 Equipment Replacement Fund. The existing trucks are between ten (10) and thirteen (13) years old and have roughly 140,000 miles. This equipment is scheduled for replacement in 2017.

It is also necessary, at this time, to replace one of our existing cranes used to collect yard waste as it has reached the end of its useful life. Per the equipment depreciation schedule, this truck is due for replacement in 2017. Funding within the FY2017 Equipment Replacement Fund budget is approved for these purchases.

FUNDING/FISCAL IMPACT

Funds for these purchases will come from the Equipment Replacement Fund in the amount of $434,686. Although $400,977 was budgeted for these vehicle purchases, sufficient funding is available in the FY2017 budget due to surplus funds from favorable bids received earlier this year for the purchase of two solid waste transfer trailers (which resulted in about $65K savings compared to the budget for those vehicles). Therefore, the overall FY17 ERF budget for PW acquisitions is still sufficient.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

TOWN ATTORNEY REVIEW

This resolution has been reviewed and approved by the Town Attorney for legal form and sufficiency.

Attachment

cc: Jane Struder, Director of Finance
Eric B. Brown, Assistant Director of Public Works/Operations
Chester Purves, Services Manager
Adis Pedraza, Purchasing Manager

RESOLUTION NO. 208-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING TWO (2) PURCHASE ORDERS TO RECHTIEN INTERNATIONAL TRUCKS, INC., FOR THE PURCHASE OF FOUR (4) VEHICLES: THREE (3) INTERNATIONAL DURASTAR CABS AND CHASSIS WITH ALUMINUM DUMP BODIES IN THE TOTAL AMOUNT OF $255,399, AND ONE (1) INTERNATIONAL DURASTAR CAB AND CHASSIS WITH A PETERSON RS3 CRANE BODY IN THE AMOUNT OF $179,287 FOR A TOTAL AMOUNT OF $434,686, IN ACCORDANCE WITH THE FLORIDA SHERIFF'S ASSOCIATION CONTRACT 16-VEH14.0, SPECIFICATION 12, AND ESTABLISHING AN OVERALL BUDGET OF $440,000.

* * * * *

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1: The Town Council of the Town of Palm Beach hereby approves two (2) purchase orders to Rechtein International Trucks Inc., for the purchase of three (3) International Durastar cabs and chassis with aluminum dump bodies in the amount of $255,399 and one (1) International Durastar cab and chassis with a Petersons RS3 crane body in the amount of $179,287 for a total amount of $434,686 in accordance with Florida Sheriff's Association Contract 16- VEH14.0, specifications 12 and establishes an overall budget of $440,000.

Section 2. The Town Manager is hereby authorized to execute a purchase order on behalf of the Town of Palm Beach for these vehicles.

Section 3. The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to effectuate the purchase of this vehicle, including any necessary change order work as recommended by the Public Works Director.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 13th day of December 2016.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Council President Pro Tem
	Bobbie Lindsay, Town Council Member
ATTEST:	Danielle H. Moore, Town Council Member
Susan A. Owens, MMC, Town Clerk	Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Resolutions

Agenda Title
RESOLUTION NO. 209-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving A Purchase Order to Palmetto Ford for the Purchase of One (1) Ford F-450 Cab and Chassis With Fleet Utility Body in the Amount of $53,510 on Florida Sheriff's Association Contract 16-VEH14.0, (Specification 7) and Establishing an Overall Budget of $55,000.

Presenter
H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- **Memorandum dated November 8, 2016, from H. Paul Brazil, P.E., Director of Public Works**
- **Resolution No. 209-2016**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Approve a Purchase Order to Palmetto Ford for Vehicle Acquisition
Resolution No. 209-2016

DATE: November 8, 2016

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 209-2016 approving a purchase order to Palmetto Ford for one (1) 2017 Ford F-450 cab and chassis truck with a fleet utility body in the amount of $53,510 via the Florida Sheriffs Association Contract 16-VEH14.0, (Specification #7) and establishing a total budget of $55,000.

GENERAL INFORMATION

It is necessary, at this time, to replace the fleet service truck used for responding to emergency break down road calls, and transporting equipment. Funding is reflected within the FY2017 Equipment Replacement Fund. The existing truck is 21 years old and has 94,000 miles, and has reached the end of its useful life. This equipment is scheduled for replacement in 2017.

FUNDING/FISCAL IMPACT

Funds for this purchases will come from the Equipment Replacement Fund in the amount of $53,510. Sufficient funding was previously approved in the FY2017 budget for this purchase.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

TOWN ATTORNEY REVIEW

This resolution has been reviewed and approved by the Town Attorney for legal form and sufficiency.

Attachment

cc: Jane Struder, Director of Finance
Eric B. Brown, Assistant Director of Public Works/Operations
Chester Purves, Services Manager
Adis Pedraza, Purchasing Manager

RESOLUTION NO. 209-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A PURCHASE ORDER TO PALMETTO FORD FOR THE PURCHASE OF ONE (1) FORD F-450 CAB AND CHASSIS WITH FLEET UTILITY BODY IN THE AMOUNT OF $53,510 ON FLORIDA SHERIFF'S ASSOCIATION CONTRACT 16-VEH14.0, (SPECIFICATION 7) AND ESTABLISHING AN OVERALL BUDGET OF $55,000.

* * * * *

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1: The Town Council of the Town of Palm Beach hereby approves a purchase order to Palmetto Ford for the purchase of one (1) Ford F-450 cab and chassis with fleet utility body in the amount of $53,510 consistent with Florida Sheriffs Association Contract 16-VEH14.0, (Specification 7) and establishes an overall budget of $55,000.

Section 2. The Town Manager is hereby authorized to execute a purchase order on behalf of the Town of Palm Beach for this vehicle.

Section 3. The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to effectuate the purchase of this vehicle, including any necessary change order work as recommended by the Public Works Director.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 13th day of December 2016.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Council President Pro Tem
	Bobbie Lindsay, Town Council Member
ATTEST:	Danielle H. Moore, Town Council Member
Susan A. Owens, MMC, Town Clerk	Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Resolutions

Agenda Title
RESOLUTION NO. 210-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order to Isuzu Truck of Ocala for the Purchase of Four (4) Isuzu Cab and Chassis with 6 Yard Packer Bodies in the Total Amount of $361,812 on Florida Sheriff's Association Contract 16-VEH14.0, Specification 6, and Establishing an Overall Budget of $375,000.

Presenter
H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- **Memorandum dated November 3, 2016, from H. Paul Brazil, P.E., Director of Public Works**
- **Resolution No. 210-2016**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Approve Purchase Order to Isuzu Truck of Ocala for Vehicle Acquisitions
Resolution No. 210-2016

DATE: November 3, 2016

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 210-2016 approving a purchase order to Isuzu Truck of Ocala for four (4) 2017 Isuzu cab and chassis trucks with 6-yard rear load packer body in the total amount of $361,812 via the Florida Sheriffs Association Contract 16-VEH14.0, (Specification #6) and establishing a total budget of $375,000.

GENERAL INFORMATION

It is necessary, at this time, to replace four (4) of our existing garbage trucks used for collecting garbage from our established residential routes and transporting to the disposal facility. Funds are reflected within the FY2017 Equipment Replacement Fund. The existing trucks are ten (10) years old and have reached the end of their useful life. This equipment is scheduled for replacement in 2017.

FUNDING/FISCAL IMPACT

Funds for these purchases will come from the Equipment Replacement Fund in the amount of $361,812. Sufficient funding was previously approved in the FY2017 budget for these purchases.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

TOWN ATTORNEY REVIEW

This resolution has been reviewed and approved by the Town Attorney for legal form and sufficiency.

Attachment

cc: Jane Struder, Director of Finance
Eric B. Brown, Assistant Director of Public Works/Operations
Chester Purves, Services Manager
Adis Pedraza, Purchasing Manager

RESOLUTION NO. 210-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A PURCHASE ORDER TO ISUZU TRUCK OF OCALA FOR THE PURCHASE OF FOUR (4) ISUZU CAB AND CHASSIS WITH 6 YARD PACKER BODIES IN THE TOTAL AMOUNT OF $361,812 ON FLORIDA SHERIFF'S ASSOCIATION CONTRACT 16-VEH14.0, SPECIFICATION 6, AND ESTABLISHING AN OVERALL BUDGET OF $375,000.

* * * * *

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1: The Town Council of the Town of Palm Beach hereby approves a purchase order to Isuzu Truck of Ocala for the purchase of four (4) Isuzu cab and chassis with 6-yard packer bodies in the total amount of $361,812 consistent with Florida Sheriffs Association Contract 16- VEH14.0, specification 6 and establishes an overall budget of $375,000.

Section 2. The Town Manager is hereby authorized to execute a purchase order on behalf of the Town of Palm Beach for these vehicles.

Section 3. The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to effectuate the purchase of this vehicle, including any necessary change order work as recommended by the Public Works Director.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 13th day of December 2016.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Council President Pro Tem
	Bobbie Lindsay, Town Council Member
ATTEST:	Danielle H. Moore, Town Council Member
Susan A. Owens, MMC, Town Clerk	Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Resolutions

Agenda Title
RESOLUTION NO. 211-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Contract Extension to Advanced Disposal Services Solid Waste Southeast, Inc., for Bid No. 2014-05 Compacted Garbage Collection, in the Annual Amount of $255,932.31 and Establishing a Budget of $260,000.

Presenter
H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- **Memorandum dated November 8, 2016, from H. Paul Brazil, P.E., Director of Public Works**
- **Resolution No. 211-2016**
- **Bid No. 2014-05**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Authorization to Renew Compacted Garbage Collection Contract
Resolution No. 211-2016

DATE: November 8, 2016

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 211-2016, authorizing the third (3rd) twelve-month renewal of the Compacted Garbage Collection Contract with Advanced Disposal Services Solid Waste Southeast, Inc., in the annual amount of $255,932.31, and establishing a project budget of $260,000.

GENERAL INFORMATION

Advanced Disposal Services Solid Waste Southeast Inc. was awarded the Compacted Garbage Collection Contract, Bid No. 2014-05, on January 1, 2014 and has performed satisfactorily for the past year. The contract provides for the option of four (4) twelve-month renewals with all original terms, conditions, and pricing. The contract consists of servicing specialized compaction type dumpsters ranging from 2 cubic yards to 30 cubic yards in size at eight (8) business locations within the Town on a varying schedule of one (1) day a week to seven (7) days a week based upon the specific needs of the business.

This renewal includes a requested price increase of 1.6 % based on CPI data per the contract.

FUNDING/FISCAL IMPACT

Sufficient funds are available in the approved Public Works budget for FY2017 to complete this work. The cost of this contract is reimbursed 100% by the customers who receive the service, resulting in no net cost to the Town's taxpayers.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

TOWN ATTORNEY REVIEW

This resolution has been reviewed by the Town Attorney and approved for legal form and sufficiency.

Attachment

cc: Jane Struder, Director of Finance
Eric B. Brown, P.E., Assistant Director of Public Works
Chester Purves, Services Division Manager
Adis Pedraza, Purchasing Manager

RESOLUTION NO. 211-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A CONTRACT EXTENSION TO ADVANCED DISPOSAL SERVICES SOLID WASTE SOUTHEAST, INC., FOR BID NO. 2014-05 COMPACTED GARBAGE COLLECTION, IN THE ANNUAL AMOUNT OF $ 255,932.31 AND ESTABLISHING A BUDGET OF $260,000.

* * * * *

WHEREAS, Bid No. 2014-05 was awarded on January 1, 2014, to Advanced Disposal Services Solid Waste Southeast, Inc., to provide compacted garbage collection to the Town of Palm Beach; and

WHEREAS, Advanced Disposal Services Solid Waste Southeast, Inc., has provided acceptable service under that contract; and

WHEREAS, that contract allows for four (4) twelve-month extensions.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The third contract extension for a period of twelve (12) months, beginning January 1, 2017 and ending December 31, 2017, is hereby approved for Advanced Disposal Services Solid Waste Southeast, Inc., in the amount of $255,932.31 and establish a budget of $260,000.

Section 2. The Town Manager is hereby authorized to execute this contract extension on behalf of the Town of Palm Beach.

Section 3. The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to effectuate the implementation of these services, including any necessary change order work as recommended by the Public Works Director.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 13th day of December 2016.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Council President Pro Tem
	Bobbie Lindsay, Town Council Member
ATTEST:	Danielle H. Moore, Town Council Member
Susan A. Owens, MMC, Town Clerk	Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

PURCHASING DIVISION

September 20, 2016

Advanced Disposal Services
Att: James Suter – District Manager
P.O. Box 6484
Carol Stream, IL 60197-6484
James.suter@advanceddisposal.com

Ref: Bid No. 2014-05 – Compacted Garbage Collection
Year 4 of Contract – 3rd. Renewal

Dear James:

As specified in the referenced bid document, we have an option to renew the existing contract for another one year period if it is mutually agreeable to all parties.

Please advise by signature below, if a one year extension of our current contract at same terms, conditions, specifications and pricing stated in your bid dated November 6, 2013 would be acceptable.

Please complete and return this form to the Purchasing Division by no later than 2:00 PM on September 26, 2016. Your response may be faxed to 561-835-4688 or emailed to itriestman@townofpalmbeach.com

Respectfully,

Ilyse Triestman
Assistant Purchasing Manager

✓ I hereby agree to a one year extension of the subject bid.

_____ I do not approve a one year extension of the subject bid for the following reasons:

Request CPI Increase on All Services
June 2015 - June 2016 Change = 1.6%

SIGNATURE

11-3-2016
DATE

JAMES SUTER
NAME (PRINT)

951 Okeechobee Road • Suite D • West Palm Beach, Florida 33401
Telephone: (561) 838-5406 • Facsimile (561) 835-4688
Website: www.townofpalmbeach.com
Recycled Paper

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Resolutions

Agenda Title
RESOLUTION NO. 212-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Department of Public Works Engineering Division Standard Applicable to Public Rights-of-Way and Easements, Amending Chapter XII, Miscellaneous Provisions; Yard Trash, Requirements Pertaining to Collections and Placement, and the Enforcement Thereof.

Presenter
H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- **Memorandum dated November 15, 2016, from H. Paul Brazil, P.E., Director of Public Works**
- **Resolution No. 212-2016**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Town Right-of-Way Manual Revisions
Resolution No. 212-2016

DATE: November 15, 2016

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 212-2016 amending the Town's Right-of-Way Manual to include the enforcement of yard trash collection and placement requirements.

GENERAL INFORMATION

The Town of Palm Beach has been experiencing a significant amount of construction activity for both publicly and privately owned buildings and infrastructure improvements. The Town's Public Works Right-of-Way Inspector enforces the rules within the Right-of-Way Manual regarding construction materials, vehicles, and debris within the right-of-way, however, it does not include provisions for yard trash. Yard trash within the Town covers a significant amount of the roadway which makes streets even more congested with construction ongoing. This leads to slower travel times and increases the chances of accidents. The Town of Palm Beach Code of Ordinance Section(s) 102-45 and 102-47 define the locations and duration for the placement and collection of yard trash and the applicable fines for non-compliance. This verbiage should also be included within the Right-of-Way Manual to increase enforcement and address violations.

Staff recommends extending the Public Works Right-of-Way Inspector and the Public Works Director's designee(s) to be able to enforce a safe Right-of-Way due to yard trash.

The Town's Right-of-Way Manual, **Chapter XII – Miscellaneous Provisions: Yard Trash** contains the following:

Placement of yard trash is specifically prohibited in the paved portion of any Florida Department of Transportation right-of-way within the Town or to the paved portions of County Road, Ocean Boulevard, or Lake Way.

The recommended revisions are as follows:

Yard Trash Placement and Collection

Trash placed for collection by a property owner, occupant or agent shall be in compliance with the regulations hereinafter set forth:

- ***In the months of November through and including the month of April, trash may be placed on the public right-of-way, adjacent to the property from which it came, not more than one (1) day prior to the scheduled day of collection.***

- ***During the months of May through and including the month of October, trash may be placed on the public right-of-way, adjacent to the property from which it came, not more than three (3) days prior to the scheduled day of collection.***

- ***Trash placed for collection shall not extend more than six (6) feet into the street from the curb or pavement edge and shall not obstruct the street or sidewalk or create an unsafe condition as determined by the Chief of Police. If trash is placed in violation of this subsection, the person in violation shall be cited not only for violation of this section, but also for a violation of Section 106-1 of the Town Code of Ordinances relating to the obstruction of sidewalks and streets.***

These provisions shall not apply to the paved portion of the State Department of Transportation right-of-way within the Town or to the paved portions of County Road, Ocean Boulevard or North Lake Way, where the placement of trash is specifically prohibited.

Charge for Curbside Trash Placed Prior to the Authorized Collection Date

In the event any person places trash for collection in violation of the requirements set forth in the Yard Trash section above, that person shall be cited for violation of this section and pay a fine in the amount prescribed in the fee schedule set forth in Section 2-439 of the Town Code of Ordinances, and shall otherwise be subject to the jurisdiction of the code enforcement board.

FUNDING/FISCAL IMPACT

These policy revisions will have no funding impacts.

TOWN ATTORNEY REVIEW

This resolution has been reviewed and approved by the Town Attorney for legal form and sufficiency.

Attachment

cc: Jane Struder, Director of Finance
Eric B. Brown, P.E., Assistant Director of Public Works
Patricia Strayer, P.E., Town Engineer
Jeffrey M. Sanon, P.E., Project Engineer
Chester Purves, Services Manager
Adis Pedraza, Purchasing Manager

RESOLUTION NO. 212-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION STANDARD APPLICABLE TO PUBLIC RIGHTS-OF-WAY AND EASEMENTS, AMENDING CHAPTER XII, MISCELLANEOUS PROVISIONS: YARD TRASH, REQUIREMENTS PERTAINING TO COLLECTIONS AND PLACEMENT, AND THE ENFORCEMENT THEREOF.

* * * * *

WHEREAS, the Town of Palm Beach, Town Council authorized the creation of the Department of Public Works, Engineering Division Standards Applicable to Public Rights-of-Way and Easements by Ordinance 11-94 on July 12, 1994; and

WHEREAS, the Department of Public Works, Engineering Division Standards Applicable to Public Rights-of-Way and Easements is reviewed from time-to-time and may be modified by Resolution of the Town Council; and

WHEREAS, the Town has determined, due to the non-compliance of the yard trash collections and placement requirements within the Town Code of Ordinances, that it is necessary to ensure public health, safety, and welfare and reduce traffic; and

WHEREAS, the Town has determined that it is necessary to amend the Town's Right-of-Way Manual in the manner and form attached.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL of the Town of Palm Beach, Palm Beach County, Florida as follows:

Chapter XII – Miscellaneous Provisions: Yard Trash

Yard Trash Placement and Collection

Trash placed for collection by a property owner, occupant or agent shall be in compliance with the regulations hereinafter set forth:

In the months of November through, and including the month of April, trash may be placed on the public right-of-way, adjacent to the property from which it came, not more than one (1) day prior to the scheduled day of collection.

During the months of May through, and including the month of October, trash may be placed on the public right-of-way, adjacent to the property from which it came, not more than three (3) days prior to the scheduled day of collection.

Trash placed for collection shall not extend more than six (6) feet into the street from the curb or pavement edge and shall not obstruct the street or sidewalk or create an unsafe condition as determined by the chief of police. If trash is placed in violation of this subsection, the person in violation shall be cited not only for violation of this section, but also for a violation of Section 106-1 of the Town Code of Ordinances relating to the obstruction of sidewalks and streets.

These provisions shall not apply to the paved portion of the State Department of Transportation right-of-way within the town or to the paved portions of County Road, Ocean Boulevard or North Lake Way, where the placement of trash is specifically prohibited.

Charge for Curbside Trash Placed Prior to the Authorized Collection Date

In the event any person places trash for collection in violation of the requirements set forth in the Yard Trash section above, said person shall be cited for violation of this section and pay a fine in the amount prescribed in the fee schedule set forth in Section 2-439 of the Town Code of Ordinances, and shall otherwise be subject to the jurisdiction of the code enforcement board.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 13th day of December 2016.

_____	_____
Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	_____
	Richard M. Kleid, Council President Pro Tem
	_____
	Bobbie Lindsay, Town Council Member
	_____
ATTEST:	Danielle H. Moore, Town Council Member
_____	_____
Susan A. Owens, MMC, Town Clerk	Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Resolutions

Agenda Title
RESOLUTION NO. 213-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding a One Year Renewal Agreement to Wells Fargo Bank, N.A., for RFP No. 2010-22, Banking and Merchant Card Services, and Authorizing the Town Manager to Take Further Action Necessary to Effectuate the Contract.

Presenter
Jane Struder, Director of Finance

ATTACHMENTS:

- **Memorandum Dated November 30, 2016, from Jane Struder, Director of Finance**
- **Resolution No. 213-2016**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Jane Struder, Director of Finance

Re: Authorization to Extend Agreement for Banking Services
Resolution No. 213-2016

Date: November 30, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution No. 213-2016, authorizing the Town Manager to enter into a one year renewal agreement, beginning October 1, 2016, with Wells Fargo Bank, N.A. for Banking and Merchant Card Services.

GENERAL INFORMATION

On August 10, 2010, the Town Council approved Resolution No. 92-10, awarding RFP No. 2010-22 to Wachovia Bank, a Division of Wells Fargo Bank, N.A. for the Town's Banking and Merchant Card Services. The original term of the agreement was five years with three one year extensions. This will be the second one-year extension of the contract.

TOWN ATTORNEY REVIEW

The Town Attorney has reviewed and approved Resolution No. 213-2016 for legal form and sufficiency.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

FUNDING/FISCAL IMPACT

The annual contracted fees for banking service charges are approximately $17,500 and are offset by an earnings allowance credited against the Town's average daily balance. The Town expects to spend $127,000 in FY2017 for merchant card services provided for Par 3, Tennis, Town Docks, Parking Ticket /Kiosks and other Town credit card collections.

jls
cc: Lance Aylsworth, Vice President, Wells Fargo Bank, N.A.

RESOLUTION NO. 213-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING A ONE YEAR RENEWAL AGREEMENT TO WELLS FARGO BANK, N.A., FOR RFP NO. 2010-22, BANKING AND MERCHANT CARD SERVICES, AND AUTHORIZING THE TOWN MANAGER TO TAKE FURTHER ACTION NECESSARY TO EFFECTUATE THE CONTRACT.

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1: Renewal of the Town of Palm Beach RFP No. 2010-92 for the provision of banking and merchant card services is hereby awarded to Wells Fargo Bank, N.A. for the twelve month period beginning October 1, 2016 through September 30, 2017.

Section 2: The Town Manager is hereby authorized to execute an agreement on behalf of the Town of Palm Beach for the provision of banking and merchant card services with Wells Fargo Bank, N.A.

Section 3: The Town Manager, or his designee, is hereby authorized and directed to take such further legal actions as may be necessary to effectuate the provision of banking and merchant card services to the Town of Palm Beach.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 13th day of December 2016.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Council President Pro Tem
	Bobbie Lindsay, Town Council Member
ATTEST:	Danielle H. Moore, Town Council Member
Susan A. Owens, MMC, Town Clerk	Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Resolutions

Agenda Title
RESOLUTION NO. 214-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Adopting a Town of Palm Beach Retirement System Investment Policy Statement.

Presenter
Thomas G. Bradford, Town Manager

ATTACHMENTS:

- **Memorandum Dated December 6, 2016, from Thomas G. Bradford, Town Manager**
- **Res. No. 214-2016**
- **Investment Policy Statement**
- **IPS Target Asset Allocation**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

From: Thomas G. Bradford, Town Manager

Re: Resolution No. 214 – 2016 Adopting a Town of Palm Beach Retirement System Investment Policy Statement

Date: December 5, 2016

STAFF RECOMMENDATION

Staff recommends the Town Council adopt the Pension Board of Trustees recommended Investment Policy Statement which is Exhibit A to proposed Resolution No. 214 – 2016. Also attached is a memorandum from Investment Manager, The Bogdahn Group, indicating the existing and proposed asset allocations for your reference.

GENERAL INFORMATION

At their meeting on November 18, 2016 the Pension Board of Trustees adopted a new investment policy statement as a recommendation for your consideration. The purpose of an investment policy statement is to set forth investment objectives. The proposed investment policy statement includes the following sections:

- Purpose
- Target allocations
- Performance objectives
- Investment guidelines
- Communications
- Compliance criteria for investment manager review
- Applicable Town ordinances
- Filing of the investment policy review and amendments

The primary purpose for this updated investment policy statement pertains to the target allocations as shown on page 2 of the investment policy statement. Here one finds a table that sets forth the asset allocation targets approved by the Pension Board as a recommendation to the Town Council. The table shows the asset classes, the target allocation, the range within which the asset allocation may fluctuate and the benchmark index for the asset class.

TOWN ATTORNEY REVIEW

Resolution No. 214-2016 follows a form previously approved by the Town Attorney.

Cc: William Hanes, Pension Administrator
Danielle Olson, Director of Human Resources
Jane Struder, Finance Director
James Linn, ESQ
John C. Randolph, Town Attorney

RESOLUTION NO. 214-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, ADOPTING A TOWN OF PALM BEACH RETIREMENT SYSTEM INVESTMENT POLICY STATEMENT

WHEREAS, the Town of Palm Beach Retirement System Pension Board of Trustees adopted a recommended Investment Policy Statement at their meeting on November 18, 2016, for Town Council consideration; and

WHEREAS, the Pension Board of Trustees maintains that an important determinant of future investment returns is the expression and periodic review of the Town of Palm Beach Retirement System investment objectives; and

WHEREAS, the recommended Investment Policy Statement is the adopted expression of the Pension Board of Trustees current investment objectives for all assets under the control of the Pension Board of Trustees based upon the advice of the Investment Manager.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL of the Town of Palm Beach, Palm Beach County, Florida as follows:

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

Section 2. The Town of Palm Beach Retirement System Investment Policy Statement, attached hereto as Exhibit A, is hereby approved and adopted.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 13th day of December 2016.

_____
Gail L. Coniglio, Mayor

_____
Michael J. Pucillo, Town Council President

_____
Richard M. Kleid, Council President Pro Tem

_____
Bobbie Lindsay, Town Council Member

ATTEST:

_____
Danielle H. Moore, Town Council Member

_____
Susan A. Owens, MMC, Town Clerk

_____
Margaret A. Zeidman, Town Council Member

EXHIBIT A

TOWN OF PALM BEACH RETIREMENT SYSTEM

INVESTMENT POLICY STATEMENT

I. PURPOSE OF INVESTMENT POLICY STATEMENT

The Pension Board of Trustees ("Board") maintains that an important determinant of future investment returns is the expression and periodic review of the Town of Palm Beach Retirement System ("the Retirement System") investment objectives. To that end, the Board has adopted this statement of Investment Policy and directs that it applies to all assets under their control.

In fulfilling their fiduciary responsibility, the Board recognizes that the retirement system is an essential vehicle for providing income benefits to retired participants or their beneficiaries. The Board also recognizes that the obligations of the Retirement System are long-term and that investment policy should be made with a view toward performance and return over a number of years. The general investment objective is to obtain a reasonable total rate of return - defined as interest and dividend income plus realized and unrealized capital gains or losses - commensurate with the Prudent Investor Rule and any other applicable ordinances and statutes.

Reasonable consistency of return and protection of assets against the inroads of inflation are paramount. However, interest rate fluctuations and volatility of securities markets make it necessary to judge results within the context of several years rather than over short periods of five years or less.

The Board will employ investment professionals to oversee and invest the assets of the Retirement System. Within the parameters allowed in this document and their agreements with the Board, the investment management professionals shall have investment discretion over their mandates, including security selection, sector weightings and investment style.

The Board, in performing their investment duties, shall comply with the state statute on fiduciary duty (section 112.656, Florida Statutes), and fiduciary standards set forth in Employee Retirement Income Security Act of 1974 (ERISA) at 29 U.S.C. s. 1104(a) (1) (A) – (C). In case of conflict with other provisions of law authorizing investments, the investment and fiduciary standards set forth in this section shall prevail.

II. TARGET ALLOCATIONS

In order to provide for a diversified portfolio, the Board has engaged investment professional(s) to manage and administer the fund. The investment manager(s) are responsible for the assets and allocation of their mandate only and may be provided an addendum to this policy with their specific performance objectives and investment criteria.

The Board has established the following asset allocation targets for the total fund:

Asset Class	Target	Range	Benchmark Index
Domestic Equity	35%	30% - 40%	Russell 3000
International Equity	20%	15% - 25%	MSCI-ACWI ex US
Total Equity	***55%***	***45% - 65%***	
Broad Market Fixed Income	12.5%	10% - 25%	BB-Barclays Aggregate.
Non-Core Fixed Income[1]	5%	0% - 10%	BB-Barclays Multiverse
Total Fixed Income	***17.5%***	***10% - 25%***	
Real Estate Core / Value-Added Real Estate[1]	10%	0% - 20%	NFI-ODCE Fund Index (EW)
Hedge Fund[2]	5%	0% -15%	Strategy Index[2]
Global Macro Allocation[2]	5%	0% -15%	Strategy Index[2]
Pvt. Equity[2]	7.5%	0% -15%	S & P 500 + 3%
Total Non-Traditional Assets	***27.5%***	***0% - 35%***	

Note: Allocation to Pvt. Equity shall be based on invested capital.

1. Absent of a full allocation, all or a portion of the target allocation will remain in domestic fixed income with the corresponding allowable range adjustment around the revised domestic fixed income target.
2. Absent of a full allocation, all or a portion of the target allocation will remain in domestic equity with the corresponding allowable range adjustment around the revised domestic equity target.
3. The "strategy index" for alternative assets is defined as the most appropriate index, combination of indices, or absolute return target for the investment(s) in question. The strategy index will be determined at the time of engagement based on the specific investment's long-term objective, prospectus, and/or governing documents and reflected in performance evaluation reports.

The Board of Trustees, with assistance from the Consultant, will monitor the aggregate asset allocation of the portfolio, and will rebalance to the target asset allocation based on market conditions. If at the end of any calendar quarter, the allocation of an asset class falls outside of its allowable range, barring extenuating circumstances such as pending cash flows or allocation levels viewed as temporary, the asset allocation will be rebalanced into the allowable range. To the extent possible, contributions and withdrawals from the portfolio will be executed proportionally based on the most current market values available. The Board does not intend to exercise short-term changes to the target allocation.

The Office of the Town Finance Director is authorized to move funds as required within the existing investment structure and its established investments as required for the maintenance of the target allocation, and for the management of Retirement System Cash Flow.

III. INVESTMENT PERFORMANCE OBJECTIVES

The following performance measures will be used as objective criteria for evaluating the effectiveness of the Investment Managers.

A. Total Portfolio Performance

1. The performance of the total portfolio will be measured for rolling three and five year periods. The Target Index for the Retirement System is defined in the TARGET ASSET ALLOCATION table including within this policy.

2. On a relative basis, it is expected that the total portfolio performance will rank in the top 50th percentile of the appropriate peer universe over three and five-year time periods.

3. On an absolute basis, the objective is that the return of the total portfolio will equal or exceed the actuarial earnings assumption as scheduled (effective with the September 30, 2016 actuarial valuation, the assumed rate of investment return will be decreased to 7.4 %, and will further decrease by 10 basis points each year thereafter until the assumed rate reaches 7.0% effective with the September 30, 2020 actuarial valuation) and provide inflation protection by meeting Consumer Price Index plus 3%.

B. Equity Performance

The combined equity portion of the portfolio, defined as common stocks and convertible bonds, is expected to perform at a rate at least equal to the respective indices indicated in the target allocation table. Individual components of the equity portfolio will be compared to the specific benchmarks defined in each Investment Manager addendum. All portfolios are expected to rank in the top 50th percentile of the appropriate peer universe over three and five-year time periods.

C. Fixed Income Performance

The overall objective of the fixed income portion of the portfolio is to add stability and liquidity to the total portfolio. The fixed income portion of the portfolio is expected to perform at a rate at least equal to the respective indices indicated in the target allocation table. Individual components of the equity portfolio will be compared to the specific benchmarks defined in each Investment Manager addendum. All portfolios are expected to rank in the top 50th percentile of the appropriate peer universe over three and five-year time periods.

D. Real Estate Performance

The overall objective of the real estate portfolio of the portfolio, if utilized, is to add diversification and another stable income stream to the total fund. The real estate portion of the total fund, defined as core, open ended private real estate, is expected to perform at a rate at least equal to the NFI-ODCE Fund Index (EW) and rank in the top 50th percentile of the appropriate peer universe over 5-year time periods.

E. Alternative and Other Non-Traditional Asset Performance

The overall objective of the alternative and/or "other asset" portion of the portfolio, if utilized, is to reduce the overall volatility of the portfolio and enhance returns. This portion of the fund will be benchmarked as outlined in the manager addendum.

IV. INVESTMENT GUIDELINES

A. Authorized Investments

Pursuant to the investment powers of the Board of Trustees as set forth in the Florida Statutes and local ordinances, the Board of Trustees sets forth the following investment guidelines and limitations:

1. Equities:
   a. Must be traded on a national exchange or electronic network; and
   b. Not more than five percent (5%) of the Retirement System's assets, at the time of purchase, shall be invested in the common stock, capital stock or convertible stock of any one issuing company, nor shall the aggregate investment in any one issuing company exceed 5% of the outstanding capital stock of the company; and
   c. Additional criteria may be outlined in the manager's addendum.

2. Fixed Income:
   a. All directly held fixed income investments shall have a rating of in the Top Four ratings classifications as reported by a major credit rating service; and
   b. The value of bonds issued by any single corporation shall not exceed 5% of the total fund; and
   c. Additional criteria may be outlined in the manager's addendum.

3. Money Market:
   a. The money market fund or STIF options provided by the Retirement System's custodian; and
   b. Have a minimum rating of Standard & Poor's A1 or Moody's P1.

4. Pooled Funds:
   Investments made by the Board may include pooled funds. For purposes of this policy pooled funds may include, but are not limited to, mutual funds, commingled funds, exchange-traded funds, limited partnerships and private equity. The asset classification of the fund will be based upon its investment objective and may be interpreted consistent with the Florida Department of Management Services Division of Retirement. Pooled funds may be governed by separate documents which may include investments not expressly permitted in this Investment Policy Statement. In the event of investment in a pooled fund, the Board will adopt the prospectus or governing policy of the pooled fund as referenced in an addendum to this Investment Policy Statement.

B. Trading Parameters

When feasible and appropriate, all securities shall be competitively bid. Except as otherwise required by law, the most economically advantageous bid shall be selected. Commissions paid for purchase of securities must meet the prevailing best-execution rates. The responsibility of monitoring best price and execution of trades placed by each manager on behalf of the Retirement System will be governed by the Portfolio Management Agreement between the Retirement System and the Investment Managers.

C. Limitations

All directly held equity and fixed income securities must be readily marketable. Commingled funds must be independently appraised at least annually.

D. Absolute Restrictions

No investments shall be permitted in;

1. Any investment not specifically allowed as part of this policy.

2. Illiquid investments, as described in Chapter 215.47, Florida Statutes.

V. COMMUNICATIONS

A. On a monthly basis, the custodian shall supply an accounting statement that will include a summary of all receipts and disbursements and the cost and the market value of all assets.

B. On a quarterly basis, the Investment Managers shall provide a written report affirming compliance with the security restrictions of Section IV (as well as any provisions outlined in the Investment Manager's addendum). In addition, the Investment Managers shall deliver a report each quarter detailing the Retirement System's performance, forecast of the market and economy, portfolio analysis and current assets of the Retirement System. Written reports shall be delivered to the Board within 30 days of the end of the quarter. A copy of the written report shall be submitted to the person designated by the Town, and shall be available for public inspection. The Investment Managers will provide immediate written and telephone notice to the Board of any significant market related or non-market related event, specifically including, but not limited to, any deviation from the standards set forth in Section IV or their Investment Manager addendum.

C. If the Fund owns investments, that complied with section IV at the time of purchase, which subsequently exceed the applicable limit or do not satisfy the applicable investment standard, such excess or noncompliant investments may be continued until it is economically feasible to dispose of such investment in accordance with the prudent man standard of care, but no additional investment may be made unless authorized by law or ordinance. An action Retirement System outlining the investment 'hold or sell' strategy shall be provided to the Board immediately.

D. The Investment Consultant shall evaluate and report on a quarterly basis the rate of return net of investment fees and relative performance of the Retirement System.

E. The Board will meet periodically to review the Investment Consultant performance report. The Board will meet with the investment manager and appropriate outside consultants to discuss performance results, economic outlook, investment strategy and tactics and other pertinent matters affecting the Retirement System on a periodic basis.

F. At least annually, the Board shall provide the Investment Managers with projected disbursement needs of the Retirement System so that the investment portfolio can be structured in such a manner as to provide sufficient liquidity to pay obligations as they come due. To this end the Investment Managers should, to the extent possible, attempt to match investment maturities with known cash needs and anticipated cash-flow requirements.

VI. COMPLIANCE

A. It is the direction of the Board that the Retirement System assets are held by a third party custodian, and that all securities purchased by, and all collateral obtained by the Retirement System shall be properly designated as Retirement System assets. No withdrawal of assets, in whole or in part, shall be made from safekeeping except by an authorized member of the Board or their designee. Securities transactions between a broker-dealer and the custodian involving purchase or sale of securities by transfer of money or securities must be made on a "delivery vs. payment" basis to insure that the custodian will have the security or money in hand at conclusion of the transaction.

B. The investment policy shall require all approved institutions and dealers transacting repurchase agreements to execute and perform as stated in the Master Repurchase Agreement. All repurchase agreement transactions shall adhere to the requirements of the Master Repurchase Agreement.

C. At the direction of the Board operations of the Retirement System shall be reviewed by independent certified public accountants as part of any financial audit periodically required. Compliance with the Board's internal controls shall be verified. These controls have been designed to prevent losses of assets that might arise from fraud, error, or misrepresentation by third parties or imprudent actions by the Board or employees of the Retirement System sponsor, to the extent possible.

D. The Board acknowledges the importance of continuing education for the Trustees. Education will be provided on an on-going basis by the Fund's actuary, attorney, custodian, investment manager(s), consultant and administrator. In addition, the Trustees are encouraged to attend educational conferences in connection with their duties and responsibilities.

E. With each actuarial valuation, the Board shall determine the total expected annual rate of return for the current year, for each of the next several years and for the long term thereafter. This determination shall be filed promptly with the Department of Management Services, the Retirement System's sponsor and the consulting actuary.

F. The proxy votes must be exercised for the exclusive benefit of the participants of the Retirement System. Each Investment Manager shall provide the Board with a copy of their proxy voting policy for approval. On a regular basis, at least annually, each manager shall report a record of their proxy vote.

VII. CRITERIA FOR INVESTMENT MANAGER REVIEW

The Board wishes to adopt standards by which judgments of the ongoing performance of a portfolio manager may be made.

- Four (4) consecutive quarters of relative under-performance verses the benchmark index.
- Three (3) year trailing return below the top 50th percentile within the appropriate peer group and under performance verses the benchmark index.
- Five (5) year trailing return below the top 50th percentile and under performance verses the benchmark index.
- Three (3) year downside volatility greater than the index (greater than 100), as measured by down market capture ratio.
- Five (5) year downside volatility greater than the index (greater than 100), as measured by down market capture ratio.
- Style consistency or purity drift from the mandate.
- Management turnover in portfolio team or senior management.
- Investment process change, including varying the index or benchmark.
- Failure to adhere to the IPS or other compliance issues.
- Investigation of the firm by the Securities and Exchange Commission (SEC).
- Significant asset flows into or out of the company.
- Merger or sale of firm.
- Fee increases outside of the competitive range.
- Servicing issues – key personnel stop servicing the account without proper notification.
- Failure to attain a 60% vote of confidence by the Board.

Nothing in this section shall limit or diminish the Board's right to terminate the manager at any time for any reason.

VIII. APPLICABLE TOWN ORDINANCES

If at any time this document is found to be in conflict with the Town Ordinances or applicable Florida Statutes, the Ordinances and Statutes shall prevail.

IX. REVIEW AND AMENDMENTS

It is the Board's intention to review this document at least annually subsequent to the actuarial report and to amend this statement to reflect any changes in philosophy, objectives, or guidelines. In this regard, the Investment Manager's interest in consistency in these matters is recognized and will be taken into account when changes are being considered. If, at any time, the Investment Manager feels that the specific objectives defined herein cannot be met, or the guidelines constrict performance, the Board should be notified in writing. By initialing and continuing acceptance of this Investment Policy Statement, the Investment Managers concur with the provisions of this document. By signing this document, the Chairman attests that this policy has been recommended by the Investment Consultant, reviewed by the Retirement System's legal counsel for compliance with applicable law, and approved by the Board of Trustees.

X. FILING OF THE INVESTMENT POLICY

Upon adoption by the Board, the investment policy shall be promptly filed with the Florida Department of Management Services, the Town, and the Retirement System's actuary. The effective date of the Investment Policy shall be the 31 days following the filing date with the Town.

_____ _____

For the Town of Palm Beach Retirement System — Date
Wilber Ross, Chairman

_____ _____

For the Town of Palm Beach Retirement System — Date
Brett E. Madison, Secretary

Approved as to form and legal sufficiency:

_____ _____

Jim Linn — Date
Counsel to the Board of Trustees

THE BOGDAHN GROUP
simplifying your investment and fiduciary decisions

FROM: Dave West, CFA and Daniel Johnson
TO: William Hanes, Plan Administrator, Town of Palm Beach Retirement System
DATE: November 18, 2016
RE: Summary of Plan Asset Allocation and Manager Change Recommendations

The following is a summary of the recommended changes to the Plan's investment program. The proposed asset allocation changes are consistent with the proposed Investment Policy Statement, and are intended to address the strategic challenges identified within the current investment program as discussed with the Board of Trustees. The recommendations for the subsequent manager mandate assignment changes are consistent and necessary to execute the overall strategic objectives of the Retirement System.

IPS Target Asset Allocation

Asset Class	Current %	Target %	% Change
Total Domestic Equity	19.2	35	15.8
Total International Equity	17	15	-2
Total EM Equity	10.6	5	-5.6
Total Fixed Income	20.8	17.5	-3.3
Total Alternatives/Hedge	12.8	10	-2.8
Total Private Equity	7.3	7.5	0.2
Total Real Estate	6.5	10	3.5
Total REIT Composite	5.2	0	-5.2
Total Liquid Capital	0.6	0	-0.6

*current values based on September 30, 2016 market values

Recommendation Review:

- Increase Domestic Equity Allocation (while increasing the proportional allocation as a percent of total equity).
- Decrease International and dedicated Emerging Equity Allocation (while decreasing the proportional allocation as a percent of total equity).
- Reduce allocation to Domestic Fixed income (marginal).
- Reduce allocation to Hedge Fund (marginal).
- Increase allocation to Core Real Estate.
- Eliminate REIT allocation consistent with funding Direct Real Estate (viewed as high correlating equity).
- Eliminate dedicated liquid capital allocation (completed).

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Manager/Mandate Change Recommendations

- Engage Core Real Estate Manager, eliminating the REIT Equity Index Fund as the primary source of funds.
- Terminate Acadian Emerging Markets Equity II (Retaining Wells Berkeley St EM as sole dedicated EM component).
- Terminate Wellington Diversified Inflation Hedge. (Retaining currently Mesirow, Weatherlow, and Standard Life in the alternatives asset class.)
- Decrease Vanguard Total Bond Market Index commensurate with the Policy target allocation reduction
- Increase existing Domestic Equity Manager allocations consistent with broad asset class allocation change.

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Resolutions

Agenda Title
RESOLUTION NO. 215-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Food and Beverage Services Agreement for the Town of Palm Beach Par 3 Golf Course Between the Town of Palm Beach and PB Ocean View, Inc., and Authorizing the Town Manager to Execute the Same on Behalf of the Town.

Presenter
Beth Zickar, Director of Recreation

ATTACHMENTS:

- **Memorandum Dated November 29 , 2016 From Beth Zickar, Director of Recreation**
- **Resolution 215-2016 Amendment to Food & Beverage Agreement**
- **Amendment to Food and Beverage Services Agreement**
- **Food and Beverage Services Agreement**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Beth Zickar, Director of Recreation

Re: Amendment to the Par 3 Golf Course Food and Beverage Services Agreement
Resolution No. 215 - 2016

Date: November 29, 2016

STAFF RECOMMENDATION

Staff recommends Town Council adopt Resolution No. 215-2016, authorizing the Town Manager to execute an amended agreement with PB Ocean View, Inc. to provide food and beverage services at the Town of Palm Beach Par 3 Golf Course.

GENERAL INFORMATION

At June 11, 2013, Town Council meeting, Resolution No. 76-2013 was adopted, authorizing the Town Manager to execute an agreement with PB Ocean View, Inc. to provide food and beverage services at the Town of Palm Beach Golf Course.

During the summer and fall of 2013, staff worked closely with PB Ocean View, Inc. to prepare for the opening of the new clubhouse and the Al Fresco restaurant. The restaurant opened for business to the public on January 17, 2014. Despite the tremendous amount of preparation by the golf and restaurant staff, multiple challenges presented themselves in the early weeks of operation, including shortage of storage space and consistency in housekeeping and repairs. These challenges were addressed swiftly and fairly in conjunction with the restaurant staff.

At the September 9, 2014, Town Council meeting, Resolution No. 124-2014 was adopted, authorizing changes to the executed agreement, which included the addition of 500 square feet of storage space in the old pro-shop, minor changes/clarifications to the responsibilities of the Town and the contractor. The amendment also included language changes relative to the valet service and staff parking and additional compensation to the Town for the storage space provided in the old pro-shop.

Additional modifications to the agreement were adopted by the Town Council on November 10, 2015, when Resolution 164-2015 was approved. Amendments to the agreement which were incorporated to address the continued growth and operational challenges of the restaurant and golf course included: contractor responsibility for the payment of property tax liability assessed against or related to the food and beverage services, clarification on fiscal responsibility for repair and maintenance of restaurant and related facilities, the addition of language from the original RFP which outlined the town's responsibility

to absorb all utility costs, refined definitions within the agreement and amendment of the structure of the service fee.

The business development of the restaurant has continued to create opportunities for refinement within the current agreement to ensure responsibilities are clearly delineated. An additional amendment to the agreement is being presented to the Town Council for consideration. This amendment includes the following clarifications:

- The addition of 80 square feet of storage space in the old pro-shop for PB Ocean View, Inc.;
- Responsibility, by PB Ocean View, Inc., for the installation of window tinting on the north and south glass doors of the old pro-shop;
- Responsibility, by PB Ocean View, Inc., to reimburse Town for 50% of the cost of the purchase and installation of the weather protection on the second floor veranda;
- Responsibility, by PB Ocean View, Inc., for all maintenance and repairs associated with the upkeep of the weather screening;
- Responsibility, by PB Ocean View, Inc., for all expenses associated with the need to increase electric service required for restaurant operation;
- Responsibility, by PB Ocean View, Inc., for the cleaning of the restrooms in both the Clubhouse and the old pro-shop;
- Reimbursement by PB Ocean View, Inc., to the Town for all electric charges associated with the old pro-shop.

FUNDING/FISCAL IMPACT

The cost for the weather screening for the second floor veranda of the Clubhouse is estimated at $66,000. PB Ocean View, Inc., will be reimbursing the Town for 50% of that cost, resulting in a potential savings of approximately $33,000. The Town will incur no costs for the maintenance and repairs of the screening during the full term of the agreement with this contractor. The Town will incur no costs for the installation of window tinting on the north and the south glass doors of the old clubhouse. This building improvement was not part of the renovation that had previously been funded. The Contractor will be reimbursing the Town for the electric costs associated with the operation of the old pro shop. This funding is expected to result in a savings of approximately $5,700 a year.

PURCHASING REVIEW

This amended agreement has been reviewed and approved by the Purchasing Division of the Finance Department.

TOWN ATTORNEY REVIEW

The Town Attorney has reviewed this resolution and amended agreement and approved same for legal form and sufficiency.

c: John C. Randolph, Town Attorney
Jane Struder, Director of Finance
Adis Pedraza, Purchasing Manager
Anthony Chateauvert, Golf Manager

RESOLUTION NO. 215-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE FOOD AND BEVERAGE SERVICES AGREEMENT FOR THE TOWN OF PALM BEACH PAR 3 GOLF COURSE BETWEEN THE TOWN OF PALM BEACH AND PB OCEAN VIEW, INC., AND AUTHORIZING THE TOWN MANAGER TO EXECUTE THE SAME ON BEHALF OF THE TOWN.

WHEREAS, The Town Council of the Town of Palm Beach awarded a ten-year contract for the provision of food and beverage services at the Town of Palm Beach Par 3 Golf Course to PB Ocean View, Inc., on July 1, 2013, and

WHEREAS, The Town Council approved amendments to the original agreement on September 9, 2014 and November 10, 2015, and

WHEREAS, The existing contract has an ending date of June 23, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The Town and PB Ocean View, Inc., wish to further amend the agreement dated July 1, 2013, in the manner and form attached.

Section 2. The Town Manager is hereby authorized to execute an amendment to the agreement on behalf of the Town of Palm Beach for the provision of food and beverage services at the Town of Palm Beach Par 3 Golf Course.

Section 3. The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to execute this agreement for the provision of food and beverage services at the Town of Palm Beach Par 3 Golf Course.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 13th day of December, 2016

_____	_____
Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	_____
	Richard M. Kleid, Town Council President Pro Tem
	_____
	Bobbie Lindsay, Town Council Member
	_____
ATTEST:	Danielle H. Moore, Town Council Member
_____	_____
Susan Owens, MMC, Town Clerk	Margaret A. Zeidman, Town Council Member

FIRST AMENDMENT TO
FOOD AND BEVERAGES SERVICES AGREEMENT
FOR THE TOWN OF PALM BEACH PAR 3 GOLF COURSE

COME NOW the parties hereto, the Town of Palm Beach, hereinafter referred to as "Town", and PB Ocean View, Inc., hereinafter referred to as the "Contractor," and hereby agree as follows:

WHEREAS, Town and Contractor entered into a Food and Beverage Services Agreement for the Town of Palm Beach Par 3 Golf Course commencing July 1, 2013, a copy of which is attached hereto and incorporated herein by reference; and

WHEREAS, the parties wish to amend said Agreement by interlineation in the following manner and form; and

WHEREAS, said amendments have been made after negotiations and for valuable consideration to each party.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledge, Town and Contractor hereby agree to the following amendments which are interlineated into the terms of the initial Agreement.

1. Paragraph II, Scope of Services, is hereby amended at paragraph 2 to read as follows:

II. <u>SCOPE OF SERVICES</u>

2. Contractor shall be provided the exclusive use of the clubhouse dining room, outdoor verandas, and kitchen on the second floor, and service/storage room and walk-in cooler/freezer on the first floor, as well as approximately **<u>580</u>** square feet of storage in the old pro-shop to store, prepare, and provide food and beverage services to golfers and non-golfers visiting the Par 3 Golf Course. Contractor shall also have the non-exclusive right to the first floor restrooms. All of the foregoing facilities shall be constructed by the Town, at its expense, in accordance with the

plans and specifications prepared by Smith and Moore Architects (Job No. 001285). The restaurant shall contain a minimum of 150 customer seats. Contractor shall have the right to request design modifications during the construction phase for the provided spaces, as long as said changes do not adversely affect the construction schedule, and the Contractor agrees to pay for the increased cost of any modifications. Access to these spaces will be permitted immediately after the Certificate of Occupancy has been received by the Town, or such other date authorized by the Town based on completion of the clubhouse construction.

2. Paragraph III, Contractor Responsibilities, is hereby amended at paragraphs 6 and 15 to read as follows:

III. <u>CONTRACTOR RESPONSIBILITIES</u>

6. <u>Contractor's Obligations for Repair and Maintenance:</u> The Contractor shall maintain the provided spaces in a good, neat, clean, safe and sanitary condition, free from waste and offensive odors, and free of vermin, rodents, bugs and other pests throughout the term of this Agreement. Contractor shall keep all furnishings, fixtures and accessories, and any display facilities, in good repair. Contractor shall immediately notify Golf Course manager of the need for any repairs or maintenance that are structural or mechanical in nature and Contractor shall take all necessary steps to mitigate any potential dangers or hazards until repairs can be made. Repairs and maintenance, as used in this agreement, includes the upkeep of all fixtures, furnishings and equipment that may be provided by the Town under this Agreement in order to preserve it in efficient, usable, working order for the purpose that it is used, and for its normal usable life expectancy. Maintenance includes, but is not necessarily limited to, periodic servicing, repairs, replacement of parts after breakdown and any such other functions as are necessary to preserve and conserve said furnishings, fixtures and equipment. Maintenance also includes the replacement of worn out, unrepairable or obsolete furnishings, fixtures or equipment. Maintenance shall not include those repairs requiring capital expenditure, as normally defined for Town operations, which repairs shall be at the Town's expense. **<u>Contractor shall be responsible for any expense associated with the need to increase electric service required for the restaurant operation.</u>**

a. *Cleaning:* The Contractor shall be responsible for the daily cleaning of the dining room, verandas, kitchen, bar area, storerooms, and restrooms **<u>(in both the Clubhouse and the old pro shop),</u>** and the bussing of all tables, and shall keep the trash area clean and orderly. The provided spaces shall be maintained

in accordance with all applicable code requirements of the Health Department of Palm Beach County.

b. *Windows:* Contractor shall be responsible for the regular cleaning of the windows between the restaurant and verandas, interior and exterior. **Contractor will be responsible for the installation of window tinting on the north and south glass doors of the old pro shop.**

c. *Grease Traps:* Contractor shall comply with local regulations regarding wastewater and grease. Contractor shall obtain all applicable permits at Contractor's cost. Contractor shall do whatever is necessary to properly maintain and clean the grease trap as often as necessary to prevent clogging or discharge, and in compliance with applicable regulations, including pump down and cleaning.

d. *Odors:* The Contractor shall use every effort to prevent noxious odors emanating from the provided spaces.

e. *Fire Prevention:* Contractor shall maintain adequate fire prevention, including kitchen hood systems and fire extinguisher in compliance with all code requirements.

f. *Weather Screening:* Contractor shall reimburse the Town for fifty percent (50%) of the cost for the purchase and installation of a mutually agreed upon weather screening solution for the second floor veranda of the Clubhouse. Contractor shall be responsible for all maintenance associated with the upkeep and repair of the weather screening, upon installation.

* * *

15. Utilities: The Town shall be responsible for arranging for and paying for all charges associated with water, electric, natural gas and cable service. **The Contractor shall reimburse the Town for all electric charges associated with the old pro shop. Payment must be received by the Town, within thirty (30) days of invoice.**

3. Paragraph X, General Conditions, is hereby amended at paragraph 19 by correcting a typographical error relating to waiver of jury trial as follows:

X. GENERAL CONDITIONS

19. Applicable Law and Venue, Waiver of Jury **Trial**: This Agreement shall be construed and interpreted, and the rights of the parties hereto determined, in accordance with Florida law. Town and Contractor submit to the jurisdiction of Florida courts and federal courts located in Florida. The parties agree that proper venue for any suit concerning this Agreement shall be Palm Beach County, Florida, or the Federal Southern District of Florida. Contractor agrees to waive all defenses to any suit filed in Florida based upon improper venue or *forum nonconveniens*. 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.

4. Except as to these amendments, all other terms contained within the original Agreement attached shall remain in full force and effect.

IN WITNESS WHEREOF, the Town and Contractor have executed this Agreement as of the date indicated below under the signature of the Town Manager.

ATTEST:

_____
Susan Owens
Town Clerk

TOWN OF PALM BEACH

_____
Thomas G. Bradford
Town Manager

RECOMMEND APPROVAL:

Date:_____

_____
Beth Zickar
Director of Recreation

TOWN ATTORNEY APPROVAL:

_____
John C. Randolph
Town Attorney

PB OCEAN VIEW, INC.

By:_____
Arlene Desiderio, President

Date:_____

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FOOD AND BEVERAGE SERVICES AGREEMENT
FOR THE
TOWN OF PALM BEACH PAR 3 GOLF COURSE

This CONTRACTUAL AGREEMENT, incorporating the related Exhibits and RFP 2013-13, ("Agreement") is made and entered into by and between the TOWN OF PALM BEACH, hereinafter referred to as "Town" and PB OCEAN VIEW, INC., hereinafter referred to as the "Contractor".

WITNESSETH:

WHEREAS, the Town owns and operates the Town of Palm Beach Par 3 Golf Course, situated within the Town of Palm Beach at 2345 South Ocean Boulevard, Palm Beach, Florida, 33480 and

WHEREAS, the Town issued a Request for Proposals, RFP No.2013-13 (the "RFP") pursuant to state and local law to solicit proposals for food and beverage services at the Town of Palm Beach Par 3 Golf Course and

WHEREAS, Contractor responded to the RFP by submitting its proposal dated February 6, 2013, (the "Proposal") and

WHEREAS, after negotiations, Contractor was determined to offer the best value to the Town; therefore, the Town and Contractor desire to enter into this Agreement according to the terms and subject to the conditions set forth herein.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Town and Contractor hereby agree as follows:

I. TERM OF AGREEMENT

The initial term ("Initial Term") of this agreement shall be in effect beginning July 1, 2013, and terminating June 30, 2023, unless terminated sooner as hereinafter set forth. Provided that the Contractor is not in breach or default of the Agreement, the term of the Agreement may be renewed, at the sole discretion of the Town, for additional one-year terms upon the mutual, written agreement of the parties.

II. SCOPE OF SERVICES

1. Contractor shall have the sole concession for all food and beverage services within the boundaries of the Town of Palm Beach Par 3 Golf Course. Contractor shall have the exclusive right to place vending machines on Golf Course property. All revenue from the vending machines shall be included in Contractor's reports of gross revenue from its operations.

2. Contractor shall be provided the exclusive use of the clubhouse dining room, outdoor

verandas, and kitchen on the second floor, and service/storage room and walk-in cooler/freezer on the first floor, as well as approximately 500 square feet of storage in the old pro-shop to store, prepare, and provide food and beverage services to golfers and non-golfers visiting the Par 3 Golf Course. Contractor shall also have the non-exclusive right to the first floor restrooms. All of the foregoing facilities shall be constructed by the Town, at its expense, in accordance with the plans and specifications prepared by Smith and Moore Architects (Job No. 001285). The restaurant shall contain a minimum of 150 customer seats. Contractor shall have the right to request design modifications during the construction phase for the provided spaces, as long as said changes do not adversely affect the construction schedule, and the Contractor agrees to pay for the increased cost of any modifications. Access to these spaces will be permitted immediately after the Certificate of Occupancy has been received by the Town, or such other date authorized by the Town based on completion of the clubhouse construction.

3. Contractor shall provide food and beverage services under the name of Al Fresco Restaurant & Bar, but may change said name, with permission of the Town, and as long as the provided spaces continue to be used for the intended use.

III. CONTRACTOR RESPONSIBILITIES

1. Use of Clubhouse and Golf Course Property.

   a. Permissible Activities: Contractor shall have the exclusive right during the term of this agreement to use the provided spaces in the clubhouse for the provision of food and beverage services, including alcoholic beverages, offering casual dining with table service within the boundaries of the Golf Course. The Contractor shall not use the provided spaces, nor permit any other person or entity to use the provided spaces for any other purpose unless the Contractor obtains the Town's prior, written consent, which may be withheld in Town's sole discretion.

   b. Mobile Concession Cart: The Town hereby grants Contractor exclusive permission to operate a golf-cart type mobile concession cart on the Golf Course for the purpose of selling beverages and snacks to golfers. Town may revoke and withdraw this permission for use of the golf course by the mobile concession cart if, in Town's sole discretion, the use creates a nuisance to the golf course or golfers, or such permission withdrawal is determined to be in the best interest of the Town.

   c. Hours of Operation: Food and beverage services shall be provided seven (7) days per week, 365 days per year; Sunday through Saturday for a sufficient amount of time to provide, breakfast, lunch, and dinner service, as well as food & beverage options for golfers and non-golfers throughout the day, unless otherwise modified as provided by this Agreement.

d. Commencing with the first day of food and beverage services by Contractor in the provided spaces, which shall begin no later than three (3) weeks after the Town receives the Certificate of Occupancy, or such other date authorized by the Town based on completion of the clubhouse construction, and continuing for the remainder of the term of this Agreement, Contractor shall continuously provide food and beverage services on a schedule of hours in compliance with this Agreement, except if Contractor is prevented from doing so by causes beyond the reasonable control of Contractor. Contractor shall not have the provided spaces unoccupied or vacant, and, during the entire Agreement term, shall continuously provide food and beverage services permitted under this Agreement. Contractor acknowledges that its continuous operation during the entire Agreement Term is a material requirement of this Agreement and failure shall be considered a default and breach. Notwithstanding the foregoing, Contractor shall have the right, with prior notice to the Golf Course Manager, to suspend services for one week in the summer for maintenance, repairs and deep cleaning of provided spaces and equipment, if Contractor deems it necessary.

e. Prohibited Uses: At all times during the term of this Agreement, including, but not limited to, the installation of any approved improvement, equipment or furniture upon the provided spaces in the clubhouse, the Contractor shall not disturb or interfere with the use of the other areas of the clubhouse and restrooms. Contractor shall not permit any unlawful act to be carried on or committed in the provided spaces. Contractor shall not permit any use of the provided spaces which, directly or indirectly, is forbidden by law, ordinance or government regulation, or which may be dangerous to life, limb or property. Contractor shall not allow the provided spaces to be used in any manner or for any purpose that might invalidate the insurance of any policy maintained by the Town or Contractor.

i. *Hazardous Materials:* Contractor shall not cause or permit the storage, use, generation, release or disposal (collectively, "Handling") of any Hazardous Materials (as defined below), in, on or about the provided spaces or the clubhouse by Contractor or any agents, employees, contractors, Contractor's, sub-lessees, customers, guests or invites of Contractor (collectively with Contractor, "Contractor Parties"), except that Contractor shall be permitted to use normal quantities of supplies, or ("Common Chemicals"), providing that the Handling of such Common Chemicals shall comply at all times with all Hazardous Materials Laws (as defined below). Notwithstanding anything to the contrary contained herein, however, in no event shall Contractor permit any usage of Common Chemicals in a manner that may cause the provided spaces or the clubhouse to be contaminated by any Hazardous Materials or in violation of any Hazardous Materials Laws. Contractor's obligation under this Section shall survive the expiration or other termination of this Agreement. For purposes of this Section "Hazardous Materials" means any explosive, radioactive materials, hazardous wastes, or hazardous substances, including

without limitation, asbestos and asbestos containing materials ("ACMs"), PCB's, CFCs, or substances defined or regulated as hazardous substances or hazardous materials in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601-9657; the Hazardous Materials Transportation Act of 1975, 42 U.S.C. Section 1001-1012; the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901-6987; or any other federal, state or local law, ordinance or regulation. "Hazardous Materials Laws" shall mean all federal, state, and local laws, ordinances and regulations defining, regulating, restricting or otherwise governing the storage, use, generation, release or disapproval of Hazardous Materials.

ii. Contractor shall not allow or permit any conduct or omission at the provided spaces that will promote or allow the production or growth of mold, spores, fungus, or any other similar organism, and shall indemnify Town and hold Town harmless from any claim, demand, cost and expense (including attorney fees) arising from or caused by Contractor's failure to strictly comply with its obligation under this provision.

iii. Contractor shall immediately furnish Town and Golf Course Manager with any (i) notices received from any insurance company or governmental agency or inspection bureau regarding any unsafe or unlawful conditions within the provided spaces, and (ii) notices or other communication sent by or on behalf of Contractor to any person relating to environmental laws or hazardous substances.

2. Payment of Taxes: Subject to any exemptions from the payment of such taxes under Florida law, the Contractor shall timely pay all applicable intangible taxes and tangible personal property taxes on Contractor's personal property, sales and use taxes, and any other applicable federal, state or local taxes, assessments, and charges assessed against or relating to the Contractor's services. ~~**The Palm Beach Par 3 Golf Course is exempt from property taxes. Therefore**~~ There is ~~**no**~~ property tax liability associated with this Agreement **as it pertains to the commercial food and beverage operation.** ~~**If the Town's exemption changes for any unforeseen reason, the parties will negotiate payment responsibilities for any potential future**~~ **The Contractor shall be responsible for the payment of** property taxes ~~liabilities~~ **that are levied against the parcel and specific to the commercial services provided by the Contractor. The Contractor shall make payment of property taxes due directly to the Tax Collector. Proof of payment shall be furnished to the Town prior to January 31 of each year.**

3. Alterations: The Contractor, at its own expense, shall have the right during the Agreement Term to make non-structural interior alterations and improvements to the provided spaces as the Contractor may deem necessary for its use and business, provided all such work is done in a good, workmanlike manner, pursuant to all applicable codes, rules regulations and ordinances. All such alterations and

improvements shall become the property of the Town and shall remain upon and be surrendered with the provided spaces upon termination of the Agreement. Contractor may not make any exterior or structural alterations without the prior written consent of the Town.

4. Signage: Contractor will provide any signage, and utilities required for operating or illuminating any signage, in accordance with the Town's code and zoning requirements. Signage must be professional, not hand-lettered. The Town shall review and approve all additional signage, including those affixed to the interior of windows.

5. Outside Attachments: Contractor shall not attach or place any item, such as antennae, awnings, lights, heaters, or any other items on the exterior of the Clubhouse, without the written approval of the Town or its agents. The Town hereby grants Contractor permission to attach speakers and holiday decorations to the exterior of the Clubhouse, provided such items are attached in a secure and safe manner without damage to the Clubhouse. In the event of a tropical storm, hurricane or other windstorm, Contractor shall remove any outside attachments it installed on the Clubhouse.

6. Contractor's Obligations for Repair and Maintenance: The Contractor shall maintain the provided spaces in a good, neat, clean, safe and sanitary condition, free from waste and offensive odors, and free of vermin, rodents, bugs and other pests throughout the term of this Agreement. Contractor shall keep all furnishings, fixtures and accessories, and any display facilities, in good repair. Contractor shall immediately notify Golf Course manager of the need for any repairs or maintenance that are structural or mechanical in nature and Contractor shall take all necessary steps to mitigate any potential dangers or hazards until repairs can be made. **Repairs and maintenance, as used in this agreement, includes the upkeep of all fixtures, furnishings and equipment that may be provided by the Town under this Agreement in order to preserve it in efficient, usable, working order for the purpose that it is used, and for its normal usable life expectancy. Maintenance includes, but is not necessarily limited to, periodic servicing, repairs, replacement of parts after breakdown and any such other functions as are necessary to preserve and conserve said furnishings, fixtures and equipment. Maintenance also includes the replacement of worn out, unrepairable or obsolete furnishings, fixtures or equipment. Maintenance shall not include those repairs requiring capital expenditure, as normally defined for Town operations, which repairs shall be at the Town's expense.**

   a. *Cleaning:* The Contractor shall be responsible for the daily cleaning of the dining room, verandas, kitchen, bar area, storerooms, and restrooms, and the bussing of all tables, and shall keep the trash area clean and orderly. The provided spaces shall be maintained in accordance with all applicable code requirements of the Health Department of Palm Beach County.

b. *Windows:* Contractor shall be responsible for the regular cleaning of the windows between the restaurant and verandas, interior and exterior.

c. *Grease Traps:* Contractor shall comply with local regulations regarding wastewater and grease. Contractor shall obtain all applicable permits at Contractor's cost. Contractor shall do whatever is necessary to properly maintain and clean the grease trap as often as necessary to prevent clogging or discharge, and in compliance with applicable regulations, including pump down and cleaning.

d. *Odors:* The Contractor shall use every effort to prevent noxious odors emanating from the provided spaces.

e. *Fire Prevention:* Contractor shall maintain adequate fire prevention, including kitchen hood systems and fire extinguisher in compliance with all code requirements.

7. Furniture Fixtures and Equipment.

a. *Furniture:* The furniture existing in the provided spaces at the time of the occupancy is owned by and shall remain the property of the Town. In the event the Contractor desires to replace such furniture at Contractor's expense, it shall so notify and obtain approval from the Town and provide a reasonable time for the Town to remove its furniture. The Contractor is responsible for all repairs and cleaning.

b. *Contractor Fixtures:* All equipment, trade fixtures and televisions, furnishings and accessories owned by Contractor ("Contractor Fixtures") and installed in the provided spaces shall remain the property of Contractor. Contractor's installation of Contractor Fixtures must meet all applicable codes, laws and licensing requirements. The Contractor shall be responsible for all costs associated with furnishings and installing Contractor Fixtures. Contractor shall keep Contractor Fixtures in good condition and repair, normal wear and tear excepted. The Town shall incur no obligation for repairs or maintenance thereon.

c. The Contractor shall not remove any Contractor Fixtures during the Agreement Term, including any extensions thereto, at any time that the Contractor is in default under the terms of this Agreement and such removal shall be a material default and breach of this Agreement. If not in default, the Contractor may remove Contractor Fixtures from time to time during the Agreement Term, provided, however that all Contractor Fixtures permanently affixed to the provided spaces in such a manner that removal would cause damage to the provided spaces or necessitate fundamental changes thereto, including, but not limited to, built-in furniture and equipment, shall not be removed; and provided further that such removal will not cause damage to the provided spaces, and such Contractor Fixtures will be immediately replaced.

Contractor shall, within thirty (30) days, repair any damage to the provided spaces caused by the removal of said Contractor Fixtures.

d. Contractor shall, at its expense, remove any Contractor Fixtures not purchased by the Town; provided, however, that all Contractor Fixtures permanently affixed to the Contractor Premises in such a manner that removal would cause damage to the provided spaces or necessitate fundamental changes thereto, including but not limited to, built-in furniture and equipment, shall remain on the provided spaces upon the expiration or termination of the Agreement. The Contractor shall, at its sole cost and expense, repair or cause to be repaired any damage resulting from the removal of the Contractor Fixtures allowed to be removed hereunder. The Town reserves the right to purchase from Contractor any Contractor Fixtures that may be removed from the provided spaces in accordance with this Agreement.

e. *Contractor Equipment:* Contractor shall provide all kitchen equipment it requires which is not listed in Exhibit "B". Contractor shall be responsible for repair and maintenance of all kitchen, food and beverage equipment supplied by the Town and Contractor, including all food service equipment. Contractor shall be obligated to perform preventative maintenance on all equipment, such as but not limited to lubricating equipment. Contractor shall establish and perform preventative routine maintenance programs on its food service equipment in accordance with manufacturers' recommendations. During the term of this Agreement, all such equipment shall be kept clean, fully operational and show no signs of visual or structural damage, excepting normal wear. Contractor may be required by the Town or Golf Course Manager to make any improvements in the methods of cleaning of use of equipment in order to avoid frequent repairs to equipment. All equipment shall at all times meet all code requirements, including, but no limited to the applicable building codes and fire safety codes.

f. *Repairs:* Throughout the Agreement Term, Contractor must provide the Golf Course Manager with a copy of each paid invoices for repairs Contractor has made on Town-owned equipment and property upon request. Town equipment and property shall be subject only to such depreciation as may result from ordinary wear and tear resulting from ordinary use. Contractor shall be the insurer of the Town against the risk of loss or theft or damage as a result of the Contractor's negligence to any fixtures, equipment or personal property owned by the Town.

g. *Replacement:* If equipment is deemed to be broken and unable to be repaired, Contractor shall notify the Golf Course Manager in writing within 24 hours of non-repairable determination. Once the Golf Course Manager agrees that the equipment cannot be repaired and must be replaced, the Contractor shall replace equipment at its own expense and take ownership of said equipment. Contractor shall provide Golf Course Manager with a copy of the receipt of payment for such equipment/property (detailed description of equipment/property must be disclosed on receipt of payment). Contractor

shall not be expected to replace equipment/fixtures/appliances that are affixed to Town property whereby tampering with such equipment/fixtures would alter the appearance and function of the equipment or the building.

This section shall not apply to any equipment or installation that the Town is obligated to repair pursuant to Section IV 3 below, such as the air conditioning, which the Town shall replace at its expense.

8. Operations: Contractor shall provide food and beverage services in accordance with the requirements of this Agreement. Contractor shall provide regular bussing and cleaning of tables in the restaurant, outdoor verandas, and mobile concession cart.

   a. Contractor shall provide all food, beverages and supplies, and mechanisms for ordering and receiving and maintain accounts for food, beverages and supplies.

   b. *Deliveries:* Deliveries shall be accepted by the Contractor and its employees, unless otherwise approved by the Golf Course Manager. Golf Course staff will not accept deliveries for Contractor.

9. Advertising and Promotion:

   a. The Contractor is responsible for coordinating advertising agreements, contracts, marketing items, and advertising costs associated with the promotion of (Al Fresco Restaurant & Bar), at its own expense.

   b. Contractor shall not use the Town's name, seal or golf course logo in advertising or promotions, without the Town's prior, written consent for each advertising instance; provided, however, that Contractor may reference the Palm Beach Par 3 Golf Course in providing the location of (Al Fresco Restaurant & Bar) in such advertising without the Town's prior consent.

   c. The Town may reference Contractor's restaurant in its promotion of the Golf Course.

10. Credit Cards: Contractor shall be required to accept major credit cards as a convenience to the customers.

11. Garbage and Recycling: Contractor will use its best efforts to recycle eligible materials and to utilize "green" materials to the extent practical, and will encourage its customers to recycle. Contractor shall be responsible for emptying the waste and recycling containers within the provided spaces frequently enough so that it will not accumulate in the provided spaces. Contractor shall empty all trash and recycling receptacles at the close of business each day. Contractor shall be responsible for wrapping, covering and otherwise securing garbage and recyclables and transporting and depositing such garbage and recyclables in sealed containers/dumpster(s) at location(s) designated by the Town. Contractor will be responsible for securing commercial garbage and recycling services. Contractor will not allow boxes, cartons,

barrels or other similar items to remain in view from the public areas. Contractor shall immediately clean up any spilled refuse.

12. LPG: The Contractor shall be responsible for arranging and paying for all charges for liquid petroleum gas required for operating any LPG-fueled equipment.

13. Tobacco: Smoking is prohibited in the dining room or anywhere in the clubhouse. Customers may smoke in designated areas only.

14. Communications: The Contractor shall be responsible for providing computers, photocopiers, fax machines, etc., to be utilized by Contractor. The Town will provide telephone services.

15. **Utilities: The Town shall be responsible for arranging for and paying for all charges associated with water, electric, natural gas and cable service.**

16. Menu and Food Quality: The Contractor may offer appropriately priced food selections and beverages consistent with the market demand of the Golf Course and use of the facilities, as well similar casual dining establishments.

    a. *Tournament Packages:* The Contractor will be expected to work with the Golf Course Manager in creating and catering "tournament packages" for golf events.

    b. *Food Quality:* Contractor shall maintain a standard of quality food and beverage service superior to similar operations in the area for public golf courses or casual dining establishments. Contractor shall not sell any food products which pose a safety hazard or health hazard.

    c. *Condiments:* Contractor shall be responsible for providing appropriate condiments and dining accessories to customers purchasing food and beverage products at no additional cost to the customer. Such types of condiments and dining accessories include, but are not limited to the following; ketchup, mustard, mayonnaise, sugar, cream, salt, peppers, straws, eating utensils, disposable plates, bags, disposable cups and napkins.

    d. *Stocking:* All merchandise and supplies necessary for the production of the menu must be kept stocked at all times.

    e. *Special Events:* Small group dinners, special events, outdoor services and on-site catering can be booked with prior notice to the Golf Course Manager. The Golf Course Manager will make every effort to accommodate Contractor requests; however, any disruption of regular food and beverage services must be approved in advance by the Golf Course Manager.

17. Health Inspections: Contractor and its staff shall comply with all regulations of the Florida Department of Business and Professional Regulation, and all health

regulations of other government agencies, and all other applicable laws and regulations associated with the provision of food and beverage services. Contractor must provide, post, and maintain at all times, signs in restroom facilities instructing all employees to wash their hands. The finding of three or more **repetitive, uncorrected** critical violations (as defined by the Florida Division of Hotels and Restaurants) by a health inspector within any twelve month period shall be a material breach and default of this Agreement.

18. Occupational Environmental Safety and Health: Contractor shall comply with all applicable Federal, State and Local laws regarding "Occupational Environmental Safety and Health". This shall include but not be limited to compliance with the U.S. Department of Labor-Occupational Safety and Health and the Florida State Department of Labor Divisions of Safety Standards and Regulations.

19. Locks/Key: Contractor shall utilize the lock and key system provided by Town for the provided spaces. No door or access point to or within the provided spaces may deviate from the Town's lock and key system. Contractor may not re-key any lock, replace any lock or install any new or additional lock on any door or access point to or within the provided spaces. Town and Golf Course Manager shall have a master key to all locks within the provided spaces. In the event of any repair or replacement needed for any lock or key for the provided spaces, Contractor shall notify the Golf Course Manager who shall cause any necessary repair or replacement to be made. In the event any action by Contractor or its employees or agents is the cause of such repair or replacement, Contractor shall reimburse Town for the actual cost of such repair or replacement.

20. Accounts Payable: The Contractor shall pay promptly when due all bills, debts and obligations incurred in connection with the operation of its business under this Agreement and shall not permit same to become delinquent and suffer no lien, mortgage, judgment, execution or adjudication in bankruptcy which will in any way impair the rights of the Town under this Agreement.

21. Employees and Supervision:

    a. *Customer Service:* Contractor shall provide strong customer service to patrons and customers. Service should be timely, attentive and friendly.

    b. *Staffing*: Contractor shall provide staffing for all aspects of the food and beverage operations.

    c. *Supervision*: Contractor shall hire and assign a full-time qualified and experienced manager who will be physically on the premises or readily available to personally resolve problems during operating hours. Failure to provide this level of supervision shall be a material breach and default of this Agreement.

d. *Staff*: Contractor will recruit, train, supervise, direct, and deploy the optimum number of employees to match the work requirements. Each employee should:

1. be clean, neat, and well groomed,
2. be free from offensive body odor,
3. be professional, courteous and friendly,
4. have required health permits before employment,
5. not wear excessive amount of jewelry, perfume or cologne,
6. be in a uniform, such as matching polo shirts, aprons, etc. with appropriate work shoes.

All staff of the Contractor shall be thoroughly trained to act in a professional manner and shall be able to communicate clearly with customers. Contractor's staff shall adhere to all state and local regulations pertaining to food service personnel and service of alcoholic beverages. The Contractor shall control and correct objectionable conduct, demeanor and appearance of its staff as requested by the Golf Course Manager. The Contractor's staff shall not be permitted to smoke or drink alcoholic beverages while at work at the Golf Course.

22. Unauthorized Aliens; Patriot's Act: The knowing employment by Contractor of any alien not authorized to work by the immigration laws of the United States is prohibited and shall be in default of this Agreement. In the event that the Contractor is notified or becomes aware of such default, the Contractor shall take steps as are necessary to terminate said employment with 24 hours of notification or actual knowledge that an alien is being employed. Contractor's failure to take such steps as are necessary to terminate the employment of any said alien within 24 hours of notification or actual knowledge that an alien is being employed shall be grounds for immediate termination of the Agreement. Contractor shall take all commercially reasonable precautions to ensure that it does not employ persons who are not authorized to work by the immigration laws of the United States. Contractor further represents that it is not in violation of any laws relating to terrorism or money laundering, including the Executive Order and/or the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public law 107-56, the "Patriot Act").

23. Licenses and Permits:

a. Contractor, at Contractor's expense, shall procure and maintain all governmental licenses or permits required for the proper and lawful conduct of Contractor's business and activity carried on in the provided spaces, including all licenses and permits to operate indoor and outdoor food services and to serve alcohol. Contractor shall conform to all licensing and/or permit requirements and guidelines under the State of Florida Department of Agriculture and Consumer Services Division of food Safety, and/or the State of Florida Department of Business and Professional Regulation, including, but not limited to the Department of Health, Building and Fire of Palm Beach

County, Florida and the Town of Palm Beach ordinances and regulations. The Contractor shall make available, upon request, evidence satisfactory to Town that all required licenses are in good standing. The Contractor shall be responsible for any fines resulting from its failure to comply with all licensing and permit requirements. The revocation of any license shall be deemed a material default and may result in the termination of this Agreement.

b. *Liquor Licenses:* Contractor will be responsible for obtaining a liquor license to serve alcoholic beverages. Contractor shall comply with all terms of said license.

24. Parking:

a. Contractors' employees and staff shall utilize the designated "employee" parking spaces in the Par 3 maintenance lot and the south parking lot at Phipps Ocean Park as overflow.

b. *Valet Parking*: Contractor may provide valet parking services through a sub-contractor service. Any such valet services shall not interfere with the operations of the Golf Course. Contractor shall ensure that the valet service: (i) obtains an approved valet parking permit pursuant to Town of Palm Beach Code of Ordinances, Chapter 118, Section 118-145 through 118-159 prior to commencement of any services being performed; (ii) provides all insurance coverages pursuant to Chapter 118; (iii) ensures that valets utilize only the parking area(s) as approved in the valet parking permit.

c. Neither Town nor its agents shall be liable for: (i) loss or damage to any vehicle or other personal property parked or located upon the Golf Course and whether caused by hurricanes, fire, theft, explosion, strikes, riots or any other cause whatsoever; or (ii) injury to or death of any person in, about or around the Golf Course or any vehicles parking therein or in proximity thereto whether caused by hurricanes, fire, theft, assault, explosion, riot or any other cause whatsoever and Contractor hereby waives any claim for or in respect to the above and against all claims or liabilities arising out of loss or damage to property or injury to or death of persons, or both, relating to any of the foregoing. Contractor shall not assign any of its rights hereunder and in the event an attempted assignment is made, it shall be void.

25. Books and Records; Reports:

a. The Contractor shall operate and maintain a system of accounting that accounts for all monies received at the time of sale and at any time be prepared to submit accurate records of all transactions. The Contractor shall provide receipts to customers for all food, beverage, goods and services sold. The Contractor shall keep and maintain all required financial records in accordance with generally accepted accounting principles.

b. The Contractor shall:

i. Provide equipment such as cash registers, or any other electronic or mechanical device for recording customers' sales.
ii. Ensure all persons handling sales shall promptly record said sales (cash or credit) in cash registers and other electronic or mechanical devices immediately upon sale to each paying customer and shall not delay or "gang" register or record such sales.
iii. Maintain during the term of the Agreement all books of account, reports and records customarily used in this type of operation.
iv. Keep and preserve for at least (3) years a record of any and all earnings, receipts, fees and income whatsoever resulting from Contractor's operation at the Golf Course and any activity conducted thereon, including but not limited to the provision of food and beverage services, in accordance with the generally accepted accounting procedures.

26. Reports: On or before the tenth day following the end of each calendar month throughout the term of the Agreement, Contractor shall furnish to the Golf Course Manager a report of gross revenues earned during the preceding calendar month, on forms approved by the Town. The report shall be signed by the Contractor, certifying to the accuracy of gross revenues, and shall include accounting of all receipts and appropriate back-up.

a. Within thirty (30) days following each twelve (12) month period under the Agreement, Contractor shall submit to the Town a report listing gross revenues by month for the preceding twelve (12) month period, including a breakdown and itemization of all revenues and expenses. The report shall be signed by the Contractor, certifying the accuracy of said report.

27. Contractor shall assume the risk of loss to Contractor's furniture, equipment and trade fixtures, products, materials, and food goods resulting from any loss, including but not limited to theft, vandalism, power outages, fire and natural events such as windstorm, flooding or other acts of God.

28. Misrepresentation by Contractor of any material fact, whether intentional or not, regarding insurance coverage, policies, or capabilities will be material default and grounds for termination of this Agreement.

IV. TOWN RESPONSIBILITIES

1. The Town reserved to itself the right to access in, over, under and through the provided spaces to maintain the Clubhouse, repair and replace systems and utilities, and perform its maintenance obligations and other obligations under this Agreement, provided such activities do not materially interfere with Contractor's use of the provided spaces.

2. Signage: The Town will permit Contractor's sign at the entrance to the Golf Course parking lot, if approval is received from the appropriate local regulatory board or commission.

3. Town's Obligation to Repair: The Town, upon notice from Contractor in accordance with this article, shall repair the foundation, roof, exterior structural walls, interior ceilings, doors, windows, walls, counters and plumbing and sewage facilities within or serving the provided spaces, all mechanical, air conditioning, heating, ventilation, electrical and lighting systems and facilities within or serving the provided spaces, and all wiring or other infrastructure in the walls, floors, ceilings or hard structure of the provided spaces. In the event that any damage or repair is directly caused by the Contractor or its employees or agents, the Contractor shall reimburse Town for the cost of such repairs. The Town shall have no obligation to make any repairs and shall not in any way be liable to Contractor for failure to make any repairs, unless the Contractor has previously notified the Golf Course Manager and Town of the necessity for repair, and the Town has failed to cause such repairs to be made within a reasonable time.

4. Inspection for Repairs: The Town shall be entitled to inspect the provided spaces from time to time to determine needed repairs to be made by Town and to provide the Contractor with a written list of items requiring repair by the Contractor. The Contractor shall have thirty (30) days from its receipt of the list to repair all items on the list, unless the nature of such repair is such that it cannot be accomplished within 30 days, in which case the Contractor shall be allowed a reasonable period of time to make such repairs, provided Contractor promptly and diligently pursues such repairs. The failure of the Town to provide a list of repairs to Contractor shall not relieve Contractor of its maintenance and repair obligations.

5. If Contractor fails, refuses or neglects to properly maintain the provided spaces, Town may, (in addition to any other remedy Town may have) but shall not be required to, upon five (5) days written notice to Contractor, make or complete the maintenance or repairs and Contractor shall pay the costs and expense thereof, plus an administrative charge of fifteen percent (15%), to Town, upon demand, as Additional Fee. In the event of emergency repairs, no notice is required.

6. Equipment: The Town shall provide the kitchen equipment listed in Exhibit "B", attached and incorporated herein. All such equipment will be inventoried and in acceptable operating condition when the Contractor commences operation.

7. During normal business hours on reasonable prior notice, the Town or its agents may at the Town's expense audit and examine all records relating to Contractor's food and beverage services. The Town or agents, shall have access to all records, documents, and information collected and/or maintained by the Contractor or by others regarding operations at the Golf Course. This information shall be made accessible to the Town for purposes of inspection, reproduction, and audit without restriction. These books and records shall include, without limitation, (i) detailed original records of all sales at or from the provided spaces, (ii) records of any exclusions or deductions from gross revenue; (iii) sales tax records and reports, (iv) all other records, if any, which

would normally be examined by an independent accountant pursuant to accepted auditing standards in performing an audit of Contractor's sales. Contractor's failure to keep such records or to allow such inspection or audit of its books and records shall be a default under this Agreement.

8. Entry by Town: Town, or its agents, may enter the provided spaces during normal business hours to (a) inspect the same; (b) make repairs or perform maintenance required of Town under the terms hereof; (c) supply any service to be provided by Town to Contractor under this Agreement if any; and (d) post notices of non-responsibility, provided, however, that any such entry shall be done as promptly as reasonably practical and so as to cause as little interference to Contractor as reasonably practical. Contractor hereby waives any claim for damages for any inconvenience to or interference with Contractor's business or any loss of occupancy or quiet enjoyment of the provided spaces occasioned by such entry. Town shall have the right to use any and all means which Town may deem proper to open Contractor's doors in an emergency in order to obtain entry to the provided spaces, and any entry to the provided spaces obtained by Town is an emergency shall not be construed or deemed to be a forcible or unlawful entry into or a detainer of the provided spaces or an eviction, actual or construction, of Contractor from the provided spaces or any portion thereof and Town shall have no liability to Contractor as a result thereof.

9. Town shall not be liable for any interruption whatsoever in utility services: water, gas, sanitary sewer and electrical services.

V. FEES FOR EXCLUSIVE FOOD & BEVERAGE RIGHTS

1. Commencing on the tenth (10th) day of the first month following the original Occupancy Date and continuing during the Agreement Term the Contractor shall pay to the Town a Service Fee (with any applicable sales tax imposed thereon, if any) plus Additional Fees (both defined below) for the exclusive rights to provide food and beverage services, without demand, deductions, setoffs or counterclaims, in accordance with the terms of this Agreement. (Service Fee plus Additional Fees are collectively referred to as "Fees"). All Fees shall be made by a check payable to the Town of Palm Beach and delivered to the Golf Course Manager. If the Agreement is commenced or terminated during a monthly rental period, the fee will be prorated on a daily basis and, in the case of termination, paid by the Contractor on or before the termination date. All Fees shall be payable in U.S. currency, drawn on either a Florida financial institution or on a financial institution that is a member of the Federal Reserve System.

2. Service Fee: Contractor shall pay the Town ~~as~~ **a** service fee for the exclusive right to provide food and beverage services at the Town of Palm Beach Golf Course, ~~the sum of One Hundred and Fifty Thousand Dollars ($150,000) per year~~ in monthly installments. **The fee structure shall be as follows:**

Gross Yearly Revenue up to $1,500,000	**10% of gross payable to Town**
Gross Yearly Revenue in excess of $1,500,000	**10.5% of gross payable to Town**

The fees shall be due no later than the 10th day of each month.

Contractor provides a guarantee that payment to the Town shall not drop below $150,000.00.

~~**Per the schedule provided in the Contractor's proposal dated February 6, 2013, a copy of which is attached hereto as Exhibit "A", without demand, on the 10th day of each month during the Initial erm. The Contractor's obligation to pay the service fee shall commence upon Contractor's occupancy of the provided spaces after the Certificate of Occupancy is received by the Town the "Occupancy Date.**~~

3. Additional Fees: All sums of money or charges payable to Town from Contractor under this Agreement, other than Service Fee, are defined as "Additional Fees" and are due without deductions, setoffs, or counterclaims. Additional Fees shall be paid per calendar month, without demand, on the first day of each month during the original Agreement Term.

   ~~**An additional 10.5% of gross revenue will be paid as Additional Fee on gross revenue over $1,500,000 for every one year period of the Agreement, per the schedule provided in the Contractor's proposal dated February 6, 2013, a copy of which is attached hereto as Exhibit "A."**~~

4. In the event the Agreement is extended for any renewal period, the monthly service fee shall be determined prior to renewal.

5. Late Payments: If any monthly payment of fees is not received within ten (10) days of the due date each month, a late charge of Twenty-Five Dollars ($25.00) shall be added for the first day late, plus an additional Five Dollars ($5.00) per day for each day thereafter until payment is received. Any late charges becoming due under this paragraph shall be added and become due with the next monthly payment of rent.

6. Partial Payments: No payment to or receipt by Town of a lesser amount than due shall be deemed to be other than on account of the total obligation due. No endorsement of a statement on any check or other communication accompanying a check for payment of any amounts payable under this Agreement shall be deemed to be an accord and satisfaction, and Town may accept such check without prejudice to Town's right to recover the balance of any sums owed by Contractor.

7. Returned Check Fee: If any check for ~~rent~~**service fee** or other sums due hereunder received by the Town is returned by the bank for insufficient funds, in addition to any other right or remedy available to the Town as a result of such default, Contractor shall pay to the Town a returned check fee as follows to reimburse the Town for the costs and expenses associated with such returned check: *$25 fee for a check less than*

$50, $30 fee for a check between $50 - $300 and $40 or 5% fee of the check value (whichever is greater) for a check over $300.

8. No Guarantee: The Town makes no guarantee of profitability to the Contractor. All expenses and losses are to be borne exclusively by the Contractor.

VI. INSURANCE

1. Contractor shall, at Contractor's sole expense, provide at its own cost and expense during the life of the contract, the following insurance coverages to the Town of Palm Beach (30) thirty business days prior to the commencement of any work. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The insurance shall be evidenced by certificates and/or policies including premiums as determined by the Town of Palm Beach. It shall be an affirmative obligation upon the Contractor to advise the Town's Risk Manager at fax no. 561-838-5497, e-mail risk@townofpalmbeach.com, 360 S. County Road, Palm Beach, Fl 33480 within 24 hours or the next business day of cancellation, non-renewal or modification of any stipulated insurance and failure to do so shall be construed to be a breach of this Agreement/contract. The Town of Palm Beach reserves the right to require additional coverages and limits based upon the particular service or change in service provided by the Contractor.

2. Comprehensive General Liability Insurance coverage with limits of liability not less than $1,000,000 Each Occurrence/$2,000,000 Aggregate. The Certificate of Insurance shall indicate an Occurrence Basis only. Claims made policies will not be accepted. The Town of Palm Beach shall be endorsed as an additional insured under the General Liability coverage. The Contractor's General Liability coverage shall be primary and non-contributory.

3. Liquor Liability with limits of liability not less than $1,000,000 each occurrence. The Town of Palm Beach shall be endorsed as an additional insured under the liquor liability policy.

4. Auto Liability coverage with limits not less than $1,000,000 Each Occurrence Combined Single Limit each accident. The Certificate of Insurance shall indicate coverage for Any Auto or Owned Autos/ Hired Autos/Non-Owned Autos.

5. Workers' Compensation coverage with statutory limits pursuant to Florida State Statute 440.

6. Employers Liability coverage with limits not less than $100,000 for each accident, $100,000 disease (each employee) and $500,000 disease (policy limit).

7. In the event that claims in excess of the insured amounts provided herein are filed by reason of any operations under the contract, the amount excess of such claims or any portion thereof may be withheld from any payment due or to become due the Contractor until such time the Service Contractor shall furnish such additional security covering such claims as may be determined by the Town of Palm Beach.

8. Umbrella or Excess Liability is required up to the minimum limit of liability if the limits of liability shown on the Certificate of Insurance under General Liability do not meet the minimum limit of liability as required.

9. Third Party Crime policy with a limit of liability not less than $1,000,000.All required insurance policies shall provide a waiver of subrogation and rights of recovery against the Town of Palm Beach, including its agents, officers, past and present employees, elected officials and representatives, the insurance policy in effect shall protect both parties and be primary and non-contributory for any and all losses covered by the above described insurance. Insurers have no recourse against the Town of Palm Beach for payment or assessments in any form on any insurance policy.

VII. INDEMNIFICATION

1. Contractor hereby agrees to indemnify, defend and hold harmless without limit the Town, and its officers, agents, employees, and elected and appointed officials, from and against any and all liability, claims, demands, damages, fines, fees, expenses, penalties, suits, proceedings, actions and cost actions, including attorney's fees for trail and on appeal, of any kind and nature arising or growing out of or in any way connected with Contractor's operation, maintenance or repair of the provided spaces associated with the provision of food and beverage services, or the performance of this Agreement, caused by any act or omission of Contractor, its agents, servants, employees, invitees or others.

VIII. TERMINATION: END OF AGREEMENT TERM

1. This Agreement shall terminate without further notice at expiration of the Agreement Term.

2. Notwithstanding anything to the contrary contained in this Agreement, at the expiration of the Agreement Term, including any renewal thereof, or the earlier termination of this Agreement, the Contractor may remove any Contractor Fixtures and equipment furnished to the provided spaces by or at its expense; provided, however, that all furniture or equipment permanently affixed to the provided spaces in such a manner that removal would cause damage or necessitate fundamental changes thereto, including but not limited to, built in furniture and equipment, shall remain upon the expiration or termination of this Agreement.

3. The Contractor shall, at its sole cost and expense, repair or cause to be repaired any damage resulting from the removal of the Contractor's fixtures and equipment allowed to be removed hereunder. If the furnishings, trade fixtures and equipment are not removed within fifteen (15) calendar days after the expiration of the Agreement Term, or within such other time period as mutually agreed to by the parties, then any such furnishings, trade fixtures and equipment not removed shall be conclusively deemed abandoned and automatically become the property of the Town. The

Contractor also shall, at its sole cost and expense, have the grease trap cleaned. Contractor shall take all efforts necessary to ensure that the liquor licenses are transferred to the Town. This provision shall survive the termination of this Agreement.

4. At the expiration or earlier termination of the Agreement Term, Contractor shall deliver all keys to the provided spaces to the Town and shall, except as otherwise provided in this Agreement, return the provided spaces in broom clean condition, normal wear and tear excepted, and with a cleaned-out grease trap.

IX. PALM BEACH COUNTY INSPECTOR GENERAL

1. The Contractor is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract and in furtherance thereof may demand and obtain records and testimony from the Contractor and its independent contractors. The Contractor understands and agrees that in addition to all other remedies and consequences provided by law, the failure of the Contractor or its independent contractors to fully cooperate with the Inspector General when requested may be deemed by the municipality to be a material breach of this contract justifying its termination.

X. GENERAL CONDITIONS

1. Damage or Destruction of Licensed Premises. If the provided spaces, or any portion thereof, are destroyed or damaged as to materially hinder effective use of the provided spaces pursuant to this Agreement then the damage to the provided spaces shall be promptly repaired by Town, unless Town shall elect to terminate this Agreement. In no event shall Town be required to repair or replace Contractor's merchandise, trade, fixtures, furnishings or equipment.

    a. If the Town elects not to repair or replace the provided spaces, it shall give written notice of its election to Contractor within ninety (90) days of the occurrence of such damage or destruction. Upon receipt of such notice, Contractor shall promptly remove its merchandise, furnishing, trade fixtures and equipment from the provided spaces.

    b. If Town elects to repair or rebuild the provided spaces, and this Agreement is not terminated, then all insurance proceeds of Contractor and Town, however recovered, shall be made available for payment of the cost of repair, replacing and rebuilding. Contractor shall repair or replace its merchandise, trade fixtures, furnishings and equipment in a manner and to at least a condition equal to that immediately prior to the damage or destruction. Contractor shall be entitled to an abatement of the ~~rent~~ **service fee** due during the reconstruction period.

2. Liens: The Town and Contractor hereby agree, and notice is hereby given to all third parties, that Contractor, in procuring work, labor and materials for any improvements

or repairs to the provided spaces which have been authorized by the Town, is not in any way acting as the Town's agent and that the Town shall not be liable for any work, labor or materials furnished to Contractor by any contractor, subcontractor, laborer, materialman, or vendor, and no mechanic's or other lien for any such work, labor or materials shall attach to or affect the reversionary or other estate or interest of the Town in and to the provided spaces. The Contractor shall indemnify, defend and hold harmless the Town from and against any and all liability, claims, costs and expenses arising out of work performed on the provided spaces by Contractor or at Contractor's direction, including reasonable attorney's fees and costs incurred, by the Town in negotiating, settling, defending or otherwise protecting against such claims. It is understood and agreed that any such improvements and installations installed by the Contractor are specific to Contractor's business and are being procured for the sole purpose of enhancing Contractor's business and not to confer any permanent benefit or enhancement in value on the Town or the provided spaces. The Contractor shall inform every service or material provider of the foregoing provisions prior to contracting with any of them for goods or services.

3. Assignment: Contractor shall not assign this Agreement (whether by assignment, sale of the partnership or its assets, merger, or operation of law) without the prior, written consent of the Town. Contractor shall not assign the operation of any food service or concession under this Agreement.

4. Default and Remedies: The occurrence of any one of the following shall constitute an Event of Default and breach of this Agreement by Contractor.

    a. The Contractor fails to pay Service Fee, Additional Fees, taxes or other sums when due and does not cure such failure within five (5) business days of Contractor's receipt of written notice of such failure by Town;
    b. Contractor fails to comply with the insurance requirements of this Agreement and does not cure such failure within five (5) business days of Contractor's receipt of written notice of such failure by Town;

    c. Contractor removes furniture, trade fixtures, equipment or accessories without replacement after notice and failure to cure such default;

    d. Contractor fails to keep the premises in clean and orderly condition or make any repairs after notice and failure to cure such default;

    e. Contractor receives three (3) or more **repetitive, uncorrected** critical violations from health inspectors within any twelve month period;

    f. Contractor's failure to provide food and beverage services on a regular basis after notice and failure to cure such default;

    g. Contractor fails to adequately address customer complaints in a timely manner and/or fails to provide excellent customer service in a consistent manner, after notice and failure to cure such default;

h. Contractor fails to provide the level of supervision required by this Agreement after notice and failure to cure such default;

i. Contractor fails to provide food and beverage services in accordance with the terms and conditions of this Agreement after notice and failure to cure such default;

j. Contractor fails to perform any other term, condition or obligation of Contractor under this Agreement (other than payment of rent, taxes or any other sums due, or to maintain the required insurance coverage) and does not cure such failure within thirty (30) days of Contractor's receipt of written notice of such failure from Town;

k. The abandonment or failure to take possession of the provided spaces (for purposes of this Agreement, abandonment shall be defined as Contractors' absence from the provided spaces of a period of more than five (5) consecutive calendar days without the Town's consent);

l. Contractor's assignment of this Agreement or subletting of the provided spaces or any portion thereof except as permitted in this Agreement;

m. The dissolution or liquidation of Contractor's corporation;

n. The subjections of any right or interest of Contractor in the provided spaces to attachment, execution, or other levy, or to seizure under legal process, if not released within twenty (20) days;

o. The appointment of a receiver, who is not removed within sixty (60) days after appointment, to take possession of the provided spaces for any reason, including but not limited to, assignment for benefit of creditors or voluntary or involuntary bankruptcy proceedings, or pursuant to any mortgage permitted by provisions or this Agreement;

p. An assignment by Contractor for the benefit of creditors or the filing of a voluntary or involuntary petitions by or against Contractor under any law for the purpose of adjudicating Contractor a bankrupt; or for extending time for payment, adjustment, or satisfaction of Contractor's liabilities; or for reorganization, liquidation, dissolution, or arrangement on account of or to prevent bankruptcy or insolvency; unless the assignment or proceedings, and all consequent orders, adjudications, custodies, and supervisions are dismissed, vacated or otherwise permanently stayed or terminated within sixty (60) days after the assignment, filing or other initial event;

q. Contractor commits waste to the provided spaces;

r. Contractor receives more than two notices of the same default within any twelve (12) month period, notwithstanding any subsequent cure of the default identified in such notices.

5. Town's Remedies: Upon the occurrence of an Event of Default, the Town may , if it so elects, terminate this Agreement by giving five (5) days written notice of such termination to Contractor, whereupon this Agreement shall automatically cease and terminate and Contractor shall be immediately obligated to quit the provided spaces and transfer the liquor licenses to the Town. Any other notice to quit or notice of Town's intention to reenter the provided spaces is hereby expressly waived by Contractor. Upon the termination of this Agreement, Contractor shall surrender possession and vacate the provided spaces immediately and remove Contractor's property. Town may proceed to recover possession of the provided spaces by legal process or by reentry and possession. The Contractor hereby grants to Town a license to enter into the provided spaces upon termination, with or without process of law, and to repossess the provided spaces and to expel or remove Contractor, and at Contractor's expense, any and all Contractor's property using force as may be necessary, without being deemed in any manner guilty of trespass, eviction, forcible entry or detainer, or conversion of property and without relinquishing any of Town's rights or remedies under this Agreement or at law or equity. In addition to any other remedy it may have, the Town may recover from Contractor all damages incurred by reason of such breach or Event of Default, including the cost of recovering the provided spaces.

    a. Any and all property, merchandise, furnishings, trade fixtures and equipment of Contractor which may be removed from the provided spaces by Town, pursuant to the authority of Town, at the risk, cost and expense of Contractor. Town shall not be responsible for the value, preservation of safekeeping of such property, merchandise, furnishings, trade fixtures and equipment. Contractor shall have thirty (30) days from the date of removal to retake such property, merchandise, furnishings, trade fixtures and equipment from storage and to pay to Town all expenses incurred in the removal and all storage charges. Any such property not taken from storage by Contractor within the thirty days shall be conclusively deemed to have been forever abandoned by Contractor and Town may dispose of same in such manner as Town shall choose, but such disposal shall not relieve Contractor of the obligation to reimburse Town for the cost of removal, storage and disposition of such property.

6. The Town's Default and the Contractor's Remedies: The Town shall be in default of this Agreement if the Town fails to perform and observe any of its obligations require to be performed under this agreement or applicable law, and fails to cure such default within thirty (30) days of the Town's receipt of written notice of such default from the Contractor; provided, however, that if the nature of the Town's default is such that is cannot reasonably be cured within such 30 day period, then the Town shall have a reasonable period of time to cure such default provided that it diligently undertakes and pursues such cure to the Contractor's reasonable satisfaction.

7. Non-Waiver; Remedies Cumulative: Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No action or inaction by Town shall constitute a waiver of a default. No waiver by either

party of any breach of any provision of this Agreement shall be deemed a waiver of a breach of any other provision of this Agreement or consent to any subsequent breach of the same or any other provision. If any action by either party shall require the consent or approval of the other party, the other party's consent to or approval of such action on any one occasion shall not be deemed a consent or approval of said action on any subsequent occasion or consent to or approval of any other action on the same or any subsequent occasion. Any and all rights and remedies which either party may have under this Agreement or by operation of law, either at law or in equity upon any breach, shall be distinct, separate and cumulative and shall not be deemed in consistent with each other; and no one of them, whether exercised by said party or not, shall be deemed to be in exclusion or any other, an any two or more or all of such rights and remedies may be exercised at the same time.

8. Town's Right to Perform Contractor's Duties and Obligations. If Contractor fails to perform any of its duties or obligations under this Agreement, then the Town may (but is not obligated to) perform the same after giving thirty (30) days' notice to Contractor and Contractor shall reimburse Town the costs incurred by Town in performing same.

9. Contractor Representations:

   a. Contractor represents and warrants that at the time of execution of this Agreement, Contractor is not insolvent, it is not in bankruptcy proceedings or receivership, nor is it engaged in or threatened with any litigation, arbitration or other legal or administrative proceedings or investigations of any kind which would have an adverse effect on its ability to perform its obligations under this Agreement.
   b. Contractor represents to Town that (i) neither Contractor nor any person or entity that directly owns a 10% or greater equity interest in it nor any of its officers, directors or managing members is a person or entity (each, a "Prohibited Person") with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of Treasury, including those named on OFAC's Specially Designated and Blocked Persons list or under Executive Oder 13244, signed on September 24, 2001, entitled "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism, or other governmental action; (ii) that Contractor's activities do not violate the international Money Laundering Abatement and Financial Anti-Terrorism Act or 2001 or the regulations or orders promulgated thereunder; and (iii) that throughout the term of the Agreement, these representations or Contractor shall remain valid and Contractor shall comply with the Executive Order and Money Laundering Act.

10. No Partnership or Joint Venture: Nothing contained in this Agreement shall constitute or be constructed to be or create a partnership or joint venture between the Town and Contractor.

11. Business Day: Should any due date hereunder fall on a Saturday, Sunday or legal holiday, then such due date shall be the first Town business day following such Saturday, Sunday or legal holiday.

12. Limitation of Liability: Town desires to enter into this Agreement only if in so doing Town can place a limit on Town's liability for any cause of action for money damages due to an alleged breach by Town of this Agreement, so that its liability for any such breach never exceeds the sum of $25,000.00. Contractor hereby expresses its willingness to enter into this Agreement with a $25,000.00 limitation on recovery for any damage action for breach of contract. Accordingly Contractor hereby agrees that Town shall not be liable to Contractor for damages in an amount in excess of $25,000.00 for any action for breach of contract arising out of the performance or nonperformance of any obligations imposed upon Town by this Agreement. The foregoing provisions shall not preclude an action by Contractor for specific performance. Nothing contained in this section or elsewhere in this Agreement is in any way intended to be a waiver of the limitation place upon Town's liability as set forth in Florida Statues, Second 768.28

13. Force Majeure: Neither party shall be deemed in default with respect to the failure to perform any of the terms, covenants and conditions of this Agreement if such failure is due in whole or in part to any strike, lockout, labor dispute (whether legal or illegal), civil disorder, inability to procure materials, failure of power, restrictive governmental laws and regulations, riots, insurrections, war fuel shortages, accidents, casualties, windstorm, Acts of God, terrorism, or any other cause beyond the reasonable control of either party. In such event, the time for performance shall be extended by an amount of time equal to the period of the delay so caused. The provisions of this paragraph shall not relieve Contractor from the prompt payment of rent and other sums due hereunder if Contractor can reasonably occupy the provided spaces.

14. Compliance with Laws:

    a. Contractor shall, at its expense, comply with all valid requirements of governmental authorities and all applicable present and future federal, state, and local laws, ordinance, rules, and regulations relating to the use and occupancy of the provided spaces, the liquor licenses, and any repairs or work performed on the provided spaces by Contractor, except if same is an obligation of Town. Contractor will indemnify, Town against any penalty, damage or charge imposed for any violation by Contractor, its agents and employees, of such requirements.

    b. The Town will comply with all applicable laws, rules and regulations imposed upon it as the owner of the provided spaces.

    c. This Agreement is contingent upon Contractor obtaining all certificates, licenses, permits, and other approvals that may be required by any federal, state, or local authority for the operation of the restaurant and bar. The payment of any penalties or fines arising out of or in any way connected with

the violation of, or non-compliance with, the foregoing shall be Contractor's responsibility.

15. Notices: Any notices, demands or correspondence by either party to the other given pursuant to or by virtue of this Agreement must be hand-delivered or sent by U.S. Mail-Certified Mail, Return Receipt Requested, addressed to the receiving party at the following addresses or to such other address as Town or Contractor may designate by written notice to the other:

    If to Town:

    Town of Palm Beach
    P.O. Box 2029
    Palm Beach, FL 33480
    Attn: Director of Recreation

    If to Contractor:

    PB Ocean View, Inc.
    87 Via Mizner
    Palm Beach, FL 33480
    Attn: Arlene Desiderio, President

16. No Agent: Contractor acknowledges that it is not an agent of the Town and shall have no authority to bind Town to any contractual or other obligation whatsoever.

17. Patriot Act Compliance: Contractor certifies that Contractor is not acting directly or indirectly for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, Specially Designated National or Blocked Person as defined by an pursuant to any law, order, rule or regulation. Contractor further certifies that it is not engaged in this Agreement directly or indirectly on behalf of any such person, group, entity or nation. Contractor hereby agrees to defend indemnify and hold Town harmless from and against any and all claims, damages or losses, including attorney's fees, arising from or related to a breach of the foregoing certification.

18. Time is of the Essence: Time is of the essence with respect to the payment of all fees and with respect to the performance of every provision of this Agreement in which time of performance is a factor.

19. Applicable Law and Venue, Waiver of Jury Trail: This Agreement shall be construed and interpreted, and the rights of the parties hereto determined, in accordance with Florida law. Town and Contractor submit to the jurisdiction of Florida courts and federal courts located in Florida. The parties agree that proper venue for any suit concerning this Agreement shall be Palm Beach County, Florida, or the Federal Southern District of Florida. Contractor agrees to waive all defenses to any suit filed in Florida based upon improper venue or *forum nonconveniens.* TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH

PARTY HEREBY WAIVES ITS RIGHTS TO A TRAIL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

20. Third Party Beneficiary: Nothing contained in this Agreement shall be construed so as to confer upon any other party the rights of a third party beneficiary.

21. Construction of Language: The language in all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning. Each party has participated extensively in the negotiations concerning and drafting of this Agreement, and each had the opportunity to be represented by legal counsel.

22. Unlawful Discrimination: Contractor shall not discriminate against any employee, applicant for employment, or any patron or customer, because of race, color, religion, sex, gender identity or expression, national origin, age, disability, familial status, marital status or sexual orientation, or any other factor which cannot be lawfully used as a basis for service delivery.

23. Amendment: This Agreement may only be amended or modified by the mutual, written agreement of the parties.

24. Assignment: Contractor or Contractor's legal representatives or successors in interest, shall not mortgage, pledge, encumber, franchise, assign or in any manner transfer this Agreement, nor shall the Contractor permit the provided spaces to be sub-let, used or occupied for the conduct of any business by any third person or business entity, or for any purpose other than is authorized under this Agreement. The Town shall not be required to give its consent to any assignment or transfer of control of stock in the Contractor's corporation if such transfer does not result in the new assignee having a different use or less experience in the approved use as the Contractor.

25. No Broker: The Town and Contractor represent and warrant to each other that neither party has engaged, employed nor dealt with any broker for whom a commission is due in connection with this Agreement.

26. Memorandum of Agreement: At either party's request, the Town and Contractor shall execute a Memorandum of Agreement mutually agreed to by the parties, which may be recorded in the public records of Palm Beach County, Florida.

27. Entire Agreement: This Agreement, along with the Exhibits and the terms and conditions of the RFP, constitutes the entire agreement and understanding of the parties and supersedes all negotiations and other verbal discussions and agreements of any kind, and there are no covenants, promises, representations, conditions or understandings by any party or the agent of any party hereto, either oral or written, between the parties or relied upon by the parties, other than as set forth in this Agreement. No subsequent alteration, modification, deletion, change or additions to this Agreement shall be binding upon the Town or Contractor unless same shall be in writing and signed by Town and Contractor.

28. Exhibits: The following Exhibits are attached and are made a part of this Agreement

a. Attachment A - Pizza al Fresco, LLC Proposal, Dated February 6, 2013
b. Attachment B - List of Town Provided Kitchen Equipment
c. Attachment C - RFP NO. 2013-13
d. Attachment D - Letter Dated April 4, 2013, from Arlene Desiderio, President, Regarding Corporate Entity Change from Pizza al Fresco, LLC to PB Ocean View, Inc.

[Remainder of page intentionally blank. Signatures on following page]

IN WITNESS WHEREOF, the Town and Contractor have executed this Agreement as of the date indicated below under the signature of the Town Manager.

ATTEST:

Susan Owens
Town Clerk

TOWN OF PALM BEACH

~~Peter B. Elwell~~**Thomas G. Bradford**
Town Manager

Date: 11/10/15

RECOMMEND APPROVAL:

~~Jay Boodheshwar~~**Beth Zickar**
Director of Recreation ~~& Special Projects~~

TOWN ATTORNEY APPROVAL:

John C. Randolph
Town Attorney

PB OCEAN VIEW, INC.

By:
Arlene Desiderio, President

Date: 11-18-15

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Resolutions

Agenda Title
RESOLUTION NO. 216-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving an Agreement With GolfNow, LLC, for the Provision of an Electronic Tee Sheet, Point of Sale Software, a Marketing Platform and Related Support Services for the Par 3 Golf Course, and Authorizing the Town Manager to Execute the Same on Behalf of the Town.

Presenter
Beth Zickar, Director of Recreation

ATTACHMENTS:

- **Memorandum Dated November 30, 2016 From Beth Zickar, Director of Recreation**
- **Resolution 216-2016 Agreement with GolfNow for Golf Management Software**
- **GolfNow Agreement**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Beth Zickar, Director of Recreation

Re: Authorization to Execute Agreement with GolfNow, LLC. for Electronic Tee Sheet, Point of Sale Software and an Electronic Marketing Platform
Resolution No. 216-2016

Date: November 30, 2016

STAFF RECOMMENDATION

Staff recommends Town Council adopt Resolution No.216-2016 authorizing the Town Manager to execute an agreement with GolfNow, LLC. for two (2) years, with automatic renewals for periods of one (1) year, for the provision of electronic tee sheet, point of sale software and an electronic marketing platform for the Par 3 Golf Course.

GENERAL INFORMATION

The Town of Palm Beach prepared and advertised an RFP for a golf course management software system on August 14 and 21, 2016. Four proposals were received and evaluated by the Selection Committee. Three proposals were shortlisted and participated in oral interviews on October 20, 2016. The Selection Committee's ranked the firm GolfNow, LLC. as the highest based upon the submittal response to the RFP and the oral interview. At the November 8, 2016 Town Council meeting approval was granted of the Selection Committee's recommendation.

GolfNow, LLC., offers an electronic tee sheet program geared towards maximizing course utilization. It was built to properly match golf business operations and provides many features including customizable tee sheet options, POS system integration into the tee sheet, and tee time summary and usage reports. The comprehensive GolfNow, LLC. web reservation platform drives rounds and serves as an online reservation engine. The online system allows us to use our website for on-line reservations. All internet bookings are real-time, appearing on the tee sheet instantly. Golfers booking on-line or through the pro-shop receive an email confirmation of their reservation, including tee time information, cancellation policies and any other information we may choose to provide. This platform will allow the sale of tee times across multiple channels including third party sites, mobile sites, and via social media.

GolfNow, LLC. has been providing a marketing platform for the Par 3 Golf Course since 2010. This service will continue and includes:

- Customized, responsive website development and hosting

- E-mail marketing campaigns
- Facility marketing through social media
- Marketing across multiple marketplace electronic platforms

The proposal, also includes providing three (3) POS computer terminals, two (2) cash drawers, credit card readers and receipt printers at no additional cost to the Town.

The current agreement with GolfNow, LLC. for the marketing services provides the golf course presence in exchange for two (2) tee times per day. The agreement being considered proposes the additional services be provided at the same exchange rate. We have used the no payment option that is referred to as an "inventory exchange" method. Through this option the Town has provided GolfNow, LLC. with a pre-determined amount of tee time inventory in lieu of upfront, monthly, and annual payments. Golfers (who may not be reached through our normal advertising efforts) are able to purchase these tee times directly through GolfNows' website, which provides a very valuable indirect exposure to our facility.

FUNDING/FISCAL IMPACT

There is no expense impact with this agreement, as the hardware, software and service support provided by GolfNow, LLC. will be offset with tee time inventory exchanges in lieu of payment. However, the number of tee time exchanges the course will be involved in will be reduced by twelve (12) tee times per week, due to the consolidation of services to one vendor.

PURCHASING REVIEW

This procurement has been reviewed and approved by the Purchasing Division of the Finance Department. Town Council approval is recommended.

TOWN ATTORNEY REVIEW

The Town Attorney has reviewed this resolution and agreement and approved same for legal form and sufficiency.

Attachments

cc: Jane Struder, Director of Finance
John C. Randolph, Town Attorney
Adis Pedraza, Purchasing Manager
Tony Chateauvert, Golf Manager

RESOLUTION NO. 216 -2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING AN AGREEMENT WITH GOLFNOW, LLC, FOR THE PROVISION OF AN ELECTRONIC TEE SHEET, POINT OF SALE SOFTWARE, A MARKETING PLATFORM AND RELATED SUPPORT SERVICES FOR THE PAR 3 GOLF COURSE, AND AUTHORIZING THE TOWN MANAGER TO EXECUTE THE SAME ON BEHALF OF THE TOWN.

WHEREAS, The Town of Palm Beach requires a software system that will provide a golf specific point of sale and tee sheet application with an on-line reservation application; and

WHEREAS, The Town Council of Palm Beach approved the recommendation of the Selection Committee ranking of the firms responding to the Request for Proposals (RFQ), with Golf Now, LLC, being the highest ranked proposer, and;

WHEREAS, the Town of Palm Beach wishes to enter into an agreement with GolfNow, LLC for the provision of an electronic tee sheet, point of sale software and an electronic marketing platform

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1: The Golf Course Management Software System Agreement for the Town of Palm Beach Par 3 Golf Course between the Town of Palm Beach and GolfNow, LLC. attached hereto and incorporated by reference as a part of this resolution, is hereby approved.

Section 2: The Town Manager is authorized to execute to execute the attached GolfNow,LLC agreement the same on behalf of the Town.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 13th day of December, 2016.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Town Council President Pro Tem
	Bobbie Lindsay, Town Council Member
ATTEST:	Danielle H. Moore, Town Council Member
Susan Owens, MMC, Town Clerk	Margaret A. Zeidman, Town Council Member

GOLFNOW
Go. Play.

Order Form

This Order Form, together with the Standard Terms and Conditions attached hereto and incorporated herein by reference, shall constitute a binding legal agreement (this "Agreement"), between GolfNow, LLC ("GolfNow") and The Town of Palm Beach ("Course" – Legal Entity Name) (individually, a "Party" and collectively, the "Parties"), and is made and entered into as of the last date of the last signature written below (the "Effective Date"), and shall govern GolfNow's provision of software, marketing, and/or technology services for Course's golf courses listed below.

GolfNow: GolfNow, LLC 7580 Golf Channel Drive Orlando, FL 32819	**Course (Legal Entity Name):** The Town of Palm Beach **Course (Legal Entity Address):** 2345 S. Ocean Blvd, Palm Beach, FL 33480 **Course's Golf Courses:** Palm Beach Par 3 Golf Course

Prepared By:	John Krasula	**Course Contact Name:**	Tony Chateuvert
Phone:	407.388.8552	**Course Contact Phone:**	561.547.0598
Email:	john.krasula@golfchannel.com	**Course Email:**	tchateauvert@townofpalmbeach.com

TERM AND RENEWALS: The Initial Term of this Agreement shall be Two (2) Years from the Effective Date and shall be non-cancellable except pursuant to the terms of Section 5 of the Standard Term and Conditions, which provides for termination in the event the other party materially breaches the Agreement and fails to cure such breach within thirty (30) days. **UPON EXPIRATION OF THE INITIAL TERM, THIS AGREEMENT SHALL AUTOMATICALLY RENEW FOR SUCCESSIVE ONE (1) YEAR TERMS.** Course has the obligation prior to any one year renewal term to terminate the Agreement at least thirty (30) days prior to the start of the renewal term.

DISTRIBUTION		**PAYMENT**
GolfNow Marketplace		One (1) Trade Time per day, per golf course
GolfNow Booking Engine		
GolfNow Mail		
Facebook Booking Engine		
PREMIUM OFFERINGS		**PAYMENT**
GolfNow Premium Marketing Platform		Included
TeeTimes.com		
Website Development and Hosting		
TECHNOLOGY		**PAYMENT**
GolfNow Reservations		One (1) Trade Time per day, per golf course
SERVICES	**SERVICE OPTIONS**	**PAYMENT**
[SELECT SERVICE]	[ANSWERS SERVICE OPTIONS]	N/A
[SELECT SERVICE]	[PLUS SERVICE OPTIONS]	
HARDWARE	**QUANTITY**	**PAYMENT**
POS Computer	3	Included
Cash Drawer	2	Included
USB Receipt Printer	2	Included
Cash Drawer	2	Included
Credit Card Swipe Reader	2	Included
ONLINE MARKETING		**ACKNOWLEDGED**
Does Course agree to grant GolfNow permission to purchase keywords in search engine marketing that include Course's name, or any other trade name, trademark or other intellectual property belonging to Course?		NO

TOTAL PAYMENT(s): Two (2) Trade Times per day, per golf course

Trade Time(s): A single 'Trade Time' is defined as four (4) individual 18-hole rounds (with cart) per day made available for sale by GolfNow for its own benefit. *(By way of example, if Course's total payment to GolfNow is two (2) Trade Times, Course shall provide GolfNow with eight (8) individual 18-hole rounds (with cart) per day)*. The tee times of such rounds shall be mutually agreed upon within the time period beginning thirty (30) minutes after Course opening and ending four and one half (4.5) hours prior to dusk. Trade Times shall be available for purchase on Course website, golfnow.com and GolfNow's network of partner websites.

Agreed to and Accepted

Course Signature: _____ **Printed Name:** _____ **Date:** _____

GolfNow Signature: _____ **Printed Name:** _____ **Date:** _____

"GolfNow" shall mean GolfNow, LLC and GolfNow G1, LLC collectively. Course shall mean the legal entity listed as "Course" on the included Order Form. The Parties acknowledge and agree that except as otherwise provided herein, the Standard Terms and Conditions and any applicable Addendum shall be updated and amended from time to time by GolfNow with the consent of Course. Course's use of the Services and Software hereunder shall be subject at all times to the then current Standard Terms and Conditions and/or applicable Addendum. Should the Standard Terms and Conditions and/or applicable Addendum be amended, GolfNow shall provide Course with at least sixty (60) days' prior written notice of such change and Course shall have the option to terminate this Agreement within thirty (30) days of receipt of such notice.

1. GolfNow Services. GolfNow shall provide GolfNow's Tee Time Marketing and Technology Services (the "Services") for the purpose of marketing, promoting and selling Course tee times and/or enhancing Course's technology. GolfNow shall provide access to Course tee times to any of its branded websites, partner or affiliated websites, or any other distribution channel. GolfNow shall apply the latest version of the GolfNow Services to the marketing and administration of Course tee times. GolfNow shall notify Course in advance in writing of any GolfNow Services updates, and will provide appropriate training and/or materials to Course concerning all updates. Course shall provide GolfNow with access to all of the internal and external systems (including third party systems licensed to Course) necessary for GolfNow to provide the Services. Course shall honor all tee times reserved through GolfNow's distribution channels and shall treat all golfers originating from GolfNow with proper courtesy and respect. Course shall make every effort to maintain its inventory in the most up-to-date manner possible, with proper communication to GolfNow regarding changes in availability, course conditions, etc. The Parties shall work cooperatively to minimize double-bookings, cancellations and the like.

2. GolfNow Software. GolfNow grants Course a limited, non-exclusive, non-transferable license to utilize the software as set forth on the included Order Form (the "Software"). Course may use the Software for the purpose of managing and marketing Course's golf course properties and shall not sell, sublicense, lend, or otherwise transfer the Software to others. Neither Course, nor any third party working with or on behalf of Course, may reverse engineer, decompile, disassemble, or customize the Software including but not limited to, creating any software interface with the Software for the purpose of selling or marketing tee times through the Internet or any Internet site, without the express knowledge and written agreement of GolfNow. Course understands and acknowledges that all third party vendors must have a written agreement with GolfNow in order to create any interface with the Software.

3. GolfNow-Owned Hardware. To the extent that GolfNow has provided Course with any hardware, all such hardware shall remain GolfNow's property and shall be returned by Course to GolfNow within fourteen (14) days upon the earlier of: (i) termination of this Agreement due to breach; or (ii) expiration of the Term.

4. Fees and Pricing. Course's payment to GolfNow shall be the "Total Payment" amount set forth on the Order Form attached hereto. Course shall have the option of selecting one of the 'Flexible Payment Options' outlined within Exhibit A. If Course elects to charge an online fee for rounds booked on its website, GolfNow shall retain One Dollar and Twenty-Four Cents per round ($1.24/round), and remit the remainder to Course. If applicable, Course shall have the right to approve the price and amount of all non-Trade Time inventory offered in the GolfNow network. GolfNow shall receive tee times and rates equal to or better than those offered by Course to any third party distribution service. Course acknowledges and agrees that Course's payment to GolfNow is a material element of this Agreement. Due to this material element, in the event that Course does not comply with the payment requirements hereunder or otherwise breaches the terms of this Agreement (each a "Non-Compliance Event"), Course shall be required to pay GolfNow a fee of Two Hundred Fifty Dollars ($250.00) per golf course per month for each month after the first instance of any Non-Compliance Event through either: (i) the cure of the Non-Compliance Event; or (ii) the end of the current Term, whichever is shorter.

5. Term and Termination. The initial term of this Agreement, along with any applicable Renewal Term, shall be for the period of time as set forth on the attached Order Form (the "Term"), and shall be non-cancellable except as provided herein. Either Party may immediately terminate this Agreement in the event that the other Party materially breaches this Agreement and fails to cure such breach within thirty (30) days' written notice of such breach. Upon termination of this Agreement, Course shall delete and return all Software (including all copies), and sign a statement certifying same.

6. Support and Training. GolfNow shall provide Course appropriate levels of training (including access to remote training and on-line resources). Additional in-person training may be provided for an additional fee. Telephone and email support shall be provided to Course during normal business hours through GolfNow's published phone numbers and email addresses.

7. Data Security. Industry standards have been set by the Payment Card Industry Data Security Standards ("PCI Standards") for protection of customer information. GolfNow and Course both represent and warrant that they will comply with PCI Standards during the entire Term of this Agreement and thereafter with respect to customer data accumulated during the Term, and further agree to adhere to all other applicable standards, laws, rules, and regulations for protection of customer data to which they have access during the entire Term of this Agreement. GolfNow agrees that it will use systems, tools and security and take commercially reasonable steps to ensure Course customer data hosted by GolfNow is not accessed, redistributed, duplicated, or modified. GolfNow shall be free to provide certain required levels of access to contracted third party vendors that may need access to such data in order to provide services.

8. Privacy Policies and Terms of Use. Course will at all times during the Term: (a) maintain a privacy policy and terms of use that are consistent with applicable laws and industry best practices (as determined by reference to the practices of other consumer-oriented websites and the promulgations of applicable industry standards bodies); (b) make such policy and terms of use easily accessible to end users; and (c) comply with such policy and terms of use. GolfNow will maintain a separate privacy policy and terms of use on all modules and booking engines that are hosted on Course's website(s) that pertain solely to the collection and processing of any customer data through these modules and/or booking engines, but not to any other component or function of Course's website(s).

9. Limited Warranties and Remedies. Both Parties represent and warrant that: (a) they have the authority to enter into this Agreement and that their signatories are duly authorized and empowered to sign this Agreement on their behalf; and (b) they will comply with all applicable laws, ordinances, statutes, regulations and rules, and that they have the power to settle fully and completely all claims, causes of action, demands, charges and liabilities arising out of or relating to this Agreement. Course represents and warrants to GolfNow that any intellectual property provided to GolfNow by Course (including without limitation, any photographs, drawings, or works of art) do not violate the rights of any third party. Course agrees to indemnify GolfNow for any

alleged or actual breach of this warranty. GolfNow will provide the Services and the Software in a professional and workmanlike manner and free from any unreasonable defects, and GolfNow will use all reasonable means to fix any defect in the Software or Services that may arise. GolfNow will provide Course with training on how to use the Software and Services and provide support as needed by Course. GolfNow shall notify Course in advance of any Software or Service updates and will provide appropriate training and/or materials to Course concerning all updates. Course and its authorized users shall use the Software and Services only in accordance with this Agreement. Aside from these warranties, THE GOLFNOW SOFTWARE AND SERVICES ARE PROVIDED WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. With respect to malfunctioning Software, GolfNow's entire liability and Course's exclusive remedy shall be the repair/replacement of the Software.

10. Limitation of Liability. EXCEPT FOR THIRD PARTY LIABILITITES, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY DAMAGES BASED ON LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION OR LOSS OF DATA), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATIONS SHALL APPLY REGARDLESS OF THE CAUSE OR THE FORM OF ACTION (WHETHER BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE).

11. Ownership of Property and Data. All personally-identifiable customer information supplied to GolfNow by Course (e.g., through the GolfNow booking engine or through the Software) remains the sole property of Course, cannot be copied, sold or reused by GolfNow, and will be treated as confidential business information with at least the same degree of care as GolfNow's own confidential business information. All non-personally identifiable customer information supplied to GolfNow by Course (e.g., anonymous survey results, general usage data), as well as all customer data obtained independently by GolfNow (e.g., through an end-user booking a tee time at golfnow.com or other affiliated websites) shall be GolfNow's sole property, but may be shared with Course should the Parties agree and obtain end-user consent for such an arrangement. Course acknowledges and agrees that GolfNow's sharing of personally identifiable customer information shall at all times be governed by the terms of GolfNow's then current privacy policy and terms of use. The following shall remain the sole and exclusive property of GolfNow: (a) the GolfNow Software and Services (including any of GolfNow's enhancements or upgrades thereto), and all other software and materials developed, conceived, originated, prepared, generated or furnished by GolfNow under this Agreement; and (b) all copyrights, trademarks, patents, trade secrets and any other intellectual property and proprietary rights in and to the foregoing. Nothing in this Agreement shall preclude Course from revealing any information which is deemed, pursuant to state law, to be a public record.

12. Dispute Resolution. This Agreement shall be governed, interpreted and construed under the laws of the United States and the State of Florida without regard to any conflict of law principles. The Parties shall act in good faith and use commercially reasonable efforts to promptly resolve any claim, dispute, controversy or disagreement (each a "Dispute") between the Parties under or related to this Agreement. Any Dispute arising out of this Agreement which cannot be resolved by the Parties shall be governed exclusively by binding arbitration initiated and conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association, conducted in the Orlando, Florida, metropolitan area. The arbitrator shall have the power to award reasonable attorneys' fees and costs to the prevailing Party in any arbitration, and either Party shall have the right to take appropriate action to enforce any arbitration award in any court having jurisdiction over the applicable Party.

13. Traffic Assignment. In the event that GolfNow is providing Website Hosting/Development and/or Mobile Website Hosting/Development for Course, Course hereby assigns such traffic numbers to GolfNow for comScore traffic reporting or other applicable reporting services. Course agrees to execute any and all documentation necessary to effectuate such traffic assignment to GolfNow.

14. Binding Nature; Assignment. This Agreement shall be binding upon GolfNow and Course, and their respective successors and assigns; provided, however, that neither Party shall assign this Agreement or any of its rights or obligations hereunder, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, without Course's consent, GolfNow may assign all or part of its rights and obligations under this Agreement to: (i) any of its divisions, affiliates or subsidiaries; (ii) its parent company; or (iii) any of its parent company's divisions, affiliates, or subsidiaries. A sale of substantially all of the stock or assets of a Party, or the reorganization or merger of a Party, shall not constitute an assignment of this Agreement. Any assignment or transfer in violation of this Section shall be void and of no force or effect. Any subcontractors retained by GolfNow to perform certain obligations hereunder shall be bound by and their actions are governed by this Agreement as if GolfNow itself was performing such obligations.

15. Reserved.

16. Miscellaneous. This Agreement shall constitute the entire understanding of the Parties with respect to the subject matter hereof and supersedes any and all prior understandings and agreements, written or oral, relating thereto – between Course and GolfNow. The Parties acknowledge and represent that they have carefully read and fully understand all of the terms and conditions set forth in this Agreement. The Parties further acknowledge and represent that they enter into this Agreement freely, knowingly and without coercion and based on their own judgment and investigation of this matter, and not in reliance upon any representations or promises made by any Party, its attorneys, or its agents. The Parties hereby acknowledge and agree that GolfNow is an independent contractor and not an employee, agent, joint venturer or partner of Course or any of its affiliates. Nothing in this Agreement shall be interpreted or construed as creating or establishing a joint venture, partnership, employment, or agency relationship among any of the Parties as a result of this Agreement. The headings in this Agreement are intended for convenience of reference and shall not affect its interpretation. None of the Parties shall have any power to obligate or right to bind any other Party. This Agreement may be executed in one or more counterparts, with electronic exchange of signatures (e.g., pdf and DocuSign) sufficient to bind the Parties. Notices of either Party as required herein shall be sent to the addresses provided in the attached Order Form.

EXHIBIT A – FLEXIBLE PAYMENT OPTIONS

BARTER

Standard

- GolfNow takes the risk of selling daily foursomes
- Time of foursome mutually agreed upon
- Price of foursome controlled by GolfNow
- Newly designed course booking engine included

Jointly Managed

- GolfNow and Course determine mutually agreeable price floor for daily foursome
- Monthly utilization for daily foursome is also mutually agreed upon
- Newly designed course booking engine required

Course Controlled

- GolfNow provides Course with tool to manage the sale of barter
- Course controls sale of all barter rounds (price and time) to achieve the equivalent of one foursome daily, X number of monthly playable days
- Monthly cash reconciliation required

LINEAR | COMMISSION

- GolfNow and Course determine mutually agreeable per round commission %
- Commission % prepaid at point-of-purchase by golfer; balance paid at check-in
- Rate parity required
- Inventory requirements also exist

CASH

- Calculated at value of one foursome daily, X daily APR, X number of monthly playable days
- Newly designed course booking engine included

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Resolutions

Agenda Title
RESOLUTION NO. 217-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida Approving Golf Instruction Services Agreements for the Town of Palm Beach Par 3 Golf Course Between the Town of Palm Beach and Bradford Costa, Gene George, Kellie Stenzel, Tim McCoy, John Saffold, Steve Madsen, and Authorizing the Town Manager to Execute the Same on Behalf of the Town.

Presenter
Beth Zickar, Director of Recreation

ATTACHMENTS:

- **Memorandum Dated November 29, 2016 From Beth Zickar, Director of Recreation**
- **Resolution 217-2016 Golf Instruction Services Agreements**
- **Golf Instruction Agreement - Bradford Costa**
- **Golf Instruction Agreement - Gene George**
- **Golf Instruction Agreement - Kellie Stenzel Golf**
- **Golf Instruction Agreement - Tim McCoy**
- **Golf Instruction Agreement - John Saffold**
- **Golf Instruction Agreement - Steve Madsen Golf Pro**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Beth Zickar, Director of Recreation

Re: Approval of the Agreements for Golf Instruction Services for the Town of Palm Beach Par 3 Golf Course, RFP No. 2016-16
Resolution No. 217-2016

Date: November 29, 2016

STAFF RECOMMENDATION

Staff recommends that Town Council adopt Resolution No 217-2016., authorizing the Town Manager to execute an agreement with Bradford Costa, Gene George, Kellie Stenzel Golf, Inc., Tim McCoy, John Saffold, and Steve Madsen Golf Pro, LLC Inc. to provide golf instruction services at the Town of Palm Beach Par 3 Golf Course.

GENERAL INFORMATION

At the November 8, 2016, meeting, Town Council approved the Selection Committee's ranking of respondents to RFP No. 2016-16 – Golf Instruction Services for the Town of Palm Beach Par 3 Golf Course. The Selection Committee arrived at the following ranking: Gene George, Tim McCoy, Bradford Costa, John Saffold, Steve Madsen Golf Pro, LLC, Kellie Stenzel Golf, Inc. The specific areas that were evaluated included: experience and qualifications of golf professional, quality of services, technical approach to services and compensation proposal. Town Council authorized staff to negotiate an agreement with the six (6) ranked professionals in the order of their ranking by the Selection Committee.

Staff began the negotiation process immediately upon approval of the Council. Terms of these agreements include the establishment of an administrative fee and direct contracts with each professional. It is anticipated that this model will enhance the revenue stream from the golf professionals to the PAR 3. Mutually agreeable contracts have been negotiated with each golf professional, for consideration by Town Council.

FUNDING/FISCAL IMPACT

The golf instruction services agreements are expected to result in revenue of approximately $60,000 a year. This represents an estimated increase of 24% in revenue from golf instruction.

PURCHASING REVIEW

This procurement has been reviewed and approved by the Purchasing Division of the Finance Department.

TOWN ATTORNEY REVIEW

This is a standard resolution in a form approved by the Town Attorney for legal form and sufficiency. The Professional Tennis Instruction Services Agreement has been reviewed and approved for legal form and sufficiency by the Town Attorney.

Attachments

cc: John C. Randolph, Town Attorney
Adis Pedraza, Purchasing Manager
Selection Committee Members

RESOLUTION NO. 217 -2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING GOLF INSTRUCTION SERVICES AGREEMENTS FOR THE TOWN OF PALM BEACH PAR 3 GOLF COURSE BETWEEN THE TOWN OF PALM BEACH AND BRADFORD COSTA, GENE GEORGE, KELLIE STENZEL GOLF, INC., TIM MCCOY, JOHN STAFFOLD, STEVE MADSEN PRO, LLC. AND AUTHORIZING THE TOWN MANAGER TO EXECUTE THE SAME ON BEHALF OF THE TOWN.

WHEREAS, The Town of Palm Beach requires golf instruction services professionals to provide a comprehensive golf instruction program at the Par 3 Golf Course; and

WHEREAS, The Town Council of Palm Beach approved the recommendation of the Selection Committee ranking of the golf instruction services providers responding to the Town's request for proposals on November 8, 2016; and

WHEREAS, the recommendation was approved to enter into agreements with six (6) golf professionals; and

WHEREAS, the Town of Palm Beach wishes to enter into an agreement with Bradford Costa, Gene George, Kellie Stenzel Golf, Inc., Tim McCoy, John Saffold, Steve Madsen Pro, LLC. for the provision of professional golf lessons and instructions.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1: The Golf Instruction Services Agreements for the Town of Palm Beach Par 3 Golf Course between the Town of Palm Beach and Bradford Costa, Gene George, Kellie Stenzel Golf, Inc., Tim McCoy, John Saffold, Steve Madsen Pro, LLC., attached hereto and incorporated by reference as a part of this resolution, are hereby approved.

Section 2: The Town Manager is hereby authorized to execute the attached Golf Instruction Services Agreements on behalf of the Town.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 13th day of December, 2016.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Town Council President Pro Tem
	Bobbie Lindsay, Town Council Member
ATTEST:	Danielle H. Moore, Town Council Member
Susan Owens, MMC, Town Clerk	Margaret A. Zeidman, Town Council Member

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GOLF INSTRUCTION SERVICES AGREEMENT FOR THE TOWN OF PALM BEACH PAR 3 GOLF COURSE

THIS AGREEMENT made and entered into this ____ day of_____, 2016, by and between the TOWN OF PALM BEACH, hereinafter referred to as "Town" and BRADFORD COSTA, hereinafter referred to as the "Contractor".

WITNESSETH:

WHEREAS, the Town owns and operates the Town of Palm Beach Par 3 Golf Course, situated within the Town of Palm Beach and

WHEREAS, the Town and Contractor desire an agreement wherein and whereby the Contractor shall provide golf instruction services and other related services upon the terms and conditions hereinafter set forth, to wit:

I. TERM OF AGREEMENT

The initial term of this agreement shall be in effect beginning January 1, 2017, and terminating on December 31, 2017, unless terminated sooner as hereinafter set forth. Upon mutual written consent from the Town and Contractor, this agreement may be extended for four (4) additional twelve (12) month periods beyond the initial term.

II. SCOPE OF SERVICES

1. Contractor understands and agrees that the agreement shall not be construed as an exclusive arrangement and further agrees that the Town may, at any time, secure similar or identical services from another vendor at the Town's sole option.

2. Contractor shall have use of the driving range and putting green facilities for teaching purposes (teaching restrictions may apply during peak time). Contractor shall have access to the golf course during non-peak time for limited "on-course" instruction. Use of golf course and carts for playing lessons must be scheduled in advance by instructors with the Town's Golf Course Manager or his designee.

3. Contractor shall provide comprehensive golf instruction at the Town of Palm Beach Par 3 Golf Course through group and private lessons, schools, clinics and camps.

III. CONTRACTOR RESPONSIBILITIES

1. Contractor shall report to and direct all correspondence and daily business through the Town's Golf Course Manager.

2. The Contractor will maintain consistent operating hours, as mutually agreed upon by the Contractor and the Golf Manager. The normal operating hours for golf instruction services will be from 8:00am – 5:00pm, seven days per week. The Contractor may modify teaching hours around weather and program demand. In the event of inclement weather, acts of God, disruption in service due to construction on the club house or the course, and other events out of the control of the Contractor, the normal hours of operation may be decreased.

3. Contractor shall provide teaching services through lessons, clinics, schools, and camps for adults and juniors, as part of a comprehensive year-round golf program intended to increase resident and non-resident participation and interest in the Town of Palm Beach Par 3 Golf Course. Other agreed upon related services may also be provided. Client registration forms and information sheets shall be used for the provision of teaching services.

4. Contractor shall make a good faith effort to assist the Town's Golf Course Manager with certain tasks related with the coordination of competitive town tournaments, Hook a Kid on Golf, and other activities, when schedules allow.

5. Contractor may set fees for all teaching services. Fees must be reviewed by the Golf Course Manager and be competitive within the local market.

6. Contractor shall use and log lessons in an appointment book, for the purposes of booking lessons and tracking services rendered. Daily logs should accurately reflect lessons, clinics or other teaching services provided at the Par 3 Golf Course. The master schedule must be kept at the Par 3 Golf Course.

7. Contractor shall provide all necessary supplies and signage that may be required to perform teaching services, including, but not be limited to, video equipment, training books or training aids.

8. Contractor shall provide statistical information on participants in all Contractor provided programs and activities. Statistics to be provided shall include, but not be limited to, resident/non-resident status, adult/junior status, quantity of participants, total lesson hours, or other information as requested. Town staff will provide assistance in the compilation of statistics.

9. If in the course of its duties, obligations and services, the Contractor becomes aware of any dangerous condition(s) in or on the premises where instruction is provided, Contractor shall immediately take appropriate action and cease activities, so as not to endanger persons or property. Town staff will notify Contractor if they become aware of conditions that may impact instruction and take appropriate actions to address them.

10. Contractor shall be responsible for notifying the Town of any maintenance related concerns that do not meet or satisfy the standards adopted and/or applied by the PGA or USGA.

11. In conjunction with all the concession related responsibilities, the Contractor hereby agrees to maintain a good credit rating with all suppliers, manufacturers and others, in a timely manner so as not to discredit the reputation of the Par 3 Golf Course, the Palm Beach Recreation Department and the Town of Palm Beach.

12. Contractor is an independent contractor who will be responsible for payment of federal withholding tax and social security contributions.

13. Contractor is not considered an employee or under direct control of the Town of Palm Beach; contractor is not eligible for employee benefits or compensation. Contractor is responsible for determining the manner, in which, instruction is provided to customers. Contractor's compensation is achieved through golf teaching services.

14. Contractor shall be fully responsible for the payment and maintenance of all insurance and applicable taxes related to this concession as required by the legal obligations of an independent contractor.

15. Contractor shall take proper care of and maintain work areas, ensuring all teaching aids are secured when not in use.

16. Contractor shall annually submit to a National Level 2 VECHS background check by the Town at the Town's expense.

17. Contractor shall be responsible for the reconciliation of daily teaching logs to the biweekly revenue reports to insure accurate tracking of, and payment for services they may have rendered.

IV. <u>TOWN RESPONSIBILITIES</u>

1. Town shall collect and process all fees for services provided by the Contractor. No monies shall be paid directly by customers to the Contractor for services rendered.

2. Town shall provide a revenue summary to the Contractor twice a month, on approximately the 5th and 20th day of each month. The Contractor shall provide the Town with a financial report on a similar schedule such that reconciliation may be made prior to the Contractor receiving a commission check. Town shall provide all administrative, clerical, and customer service assistance necessary for the day to day operation of the Town of Palm Beach Par 3 Golf Course. Town staff shall be assigned to the pro shop during scheduled hours of operation and will answer incoming calls regarding golf instruction and book lessons for instructors. The pro-shop will be open from 7am – 7pm from approximately May 1 to October 31 and 7am – 6pm from approximately November 1 to April 30. Hours of operation are subject to change due to weather.

3. Town staff shall be responsible for all maintenance related to the golf course, including the practice facilities. Town staff assigned to the pro-shop shall also be responsible for maintenance and housekeeping.

4. Town shall provide practice range balls for teaching services, as well as any forms necessary for daily operations and Contractor payments for services. Connections for video equipment and internet access will be provided by the Town.

5. Town shall maintain a daily log of Contractor related revenues collected including, but not limited to, such statistical data as receipt number, date, and type of service.

6. Town shall provide the forms necessary for Contractors reimbursement for services.

7. Town, at its own expense, shall have the right at all reasonable times during normal business hours to audit, examine, and make copies of the books of account and records maintained by Contractor with respect to the services permitted under this agreement. Said audit will not disrupt golf services at any time.

8. Town shall provide promotional assistance for teaching services through the website, e-mail blasts, brochures, flyers, news releases and other media sources, as available.

9. The Town shall make available golf carts for the golf professional for teaching purposes, on an as available basis. Cart usage must be approved by the Golf Manager prior to use.

V. COMPENSATION PACKAGE

1. Town shall remit to Contractor, twice a month, for funds collected for golf services. Payment shall be provided by the Town on or before the 15th and last day of each month for the two weeks' period prior.

2. Contractor shall be paid the following gross revenues from fees collected for golf instruction and related services, including lessons, clinics, camps, schools, or other such teaching services for each year of the term of this Agreement, as follows:

   80 % of gross revenues

3. Town shall receive a $3,000 administrative fee in equal installments. This payment shall be deducted from one check each month issued by the Town, from funds collected for golf professional instruction services. In the event of closure for moe than three days in one month (due to construction, flooding, Acts of God, terrorism, major road closure, etc.) the administrative fee will be prorated refelcting any and all closures.

VI. INSURANCE AND INDEMNIFICATION

The Contractor shall provide at its own cost and expense during the life of the agreement, the following insurance coverages to the Town of Palm Beach (30) thirty business days prior to the commencement of any work. All contractors including independent contractors and subcontractors must comply with these requirements. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The insurance shall

be evidenced by certificates and/or policies including premiums as determined by the Town of Palm Beach. It shall be an affirmative obligation upon the Contractor to advise the Town's Risk Manager at fax no. 561-838-5497, e-mail risk@townofpalmbeach.com, 360 S. County Road, Palm Beach, FL 33480 within 24 hours or the next business day of cancellation, non-renewal or modification of any stipulated insurance and failure to do so shall be construed to be a breach of this agreement. The Town of Palm Beach reserves the right to require additional coverages and limits based upon any change in service provided by the contractor.

If the Contractor maintains higher limits than the minimum shown below, the Town requires and shall be entitled to coverage for the higher limits maintained by the Contractor.

Insurance to be provided by the Contractor is as follows:

General Liability:

Comprehensive General Liability Insurance coverage with limits of liability not less than $1,000,000 Each Occurrence/$2,000,000 Aggregate. The Certificate of Insurance shall indicate an Occurrence Basis. The Town of Palm Beach shall be endorsed as an additional insured under the General Liability coverage. The Contractor's General Liability coverage shall be primary and noncontributory.

Auto Liability

Auto Liability coverage with limits not less than $300,000 Each Occurrence Combined Single Limit each accident. The Certificate of Insurance shall indicate coverage for Any Auto or Owned Autos/Hired Autos/Non-Owned Autos.

Umbrella or Excess Liability is required up to the minimum limit of liability if the limits of liability shown on the Certificate of Insurance under General Liability do not meet the minimum limit of liability as required.

All required insurance policies shall provide a waiver of subrogation and rights of recovery against the Town of Palm Beach, including its agents, officers, past and present employees, elected officials and representatives, the insurance policy in effect shall protect both parties and be primary and non-contributory for any and all losses covered by the above described insurance. Insurers have no recourse against the Town of Palm Beach for payment or assessments in any form on any insurance policy.

Indemnification:

To the fullest extent allowed by law the Contractor shall protect, defend, reimburse, indemnify and hold harmless the Town of Palm Beach, and the Town's officers, agents, employees free and harmless from and against any and all claims, losses, penalties, damages, settlements, costs, charges, attorneys or other professional fees, or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, cause or causes of action of every kind and character in connection with, or arising directly or indirectly out of or related to this Contract and the Work performed hereunder, by the Contractor, or his employees, subcontractors or agents. Without limiting the generality of the foregoing, Contractor's Indemnity shall include all claims, damages, losses, or expense arising out of or

related to personal injury, death, damages to property, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copyright, proprietary information, or applications of any thereof, or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or order of any court. Contractor agrees to investigate, respond, adjust, and provide a defense for, all and any such claims, demands and actions at Contractor's sole expense and agrees to bear and remain liable for all such costs and expenses related thereto, even if such claim is groundless, false or fraudulent. Notwithstanding the foregoing, Contractor's Indemnity shall not extend to liability for damages to persons or property to the extent such damage was caused by any act, omission, or default of the Town, or by the Town's officers, agents and employees. Contractor acknowledges and agrees that Town would not enter into a contract without this indemnification of Town by Contractor, and that Town's entering into a contract shall constitute good and sufficient consideration for this indemnification. These provisions shall survive the expiration or earlier termination of the Contract. Nothing in this Contract shall be construed to affect in any way the Town's rights, privileges, and immunities as set forth in Florida Statute 768.28

Compliance with the foregoing requirements shall not relieve the Contractor of liability and obligation under this Section or under any Section of the Agreement.

VII. TERMINATION

1. Termination by Owner for Cause

The Town may terminate this Contract in the event:

a. Contractor fails or refuses to prosecute the Work or any severable part, with the diligence that will insure its completion within the time specified in this Contract;
b. Contractor fails to perform the services required of the Contractor under this Contract;
c. Contractor violates laws, ordinances, rules, regulations of any governmental authority having jurisdiction;
d. Contractor materially breaches any of the provisions of this Contract.

When any single or combination of the above causes exist such cause(s) have not been cured after seven (7) days written demand by Town, the Town may, with full reservation of, and without prejudice to any other right or remedy the Town may have, upon giving Contractor and the surety five (5) days written notice, terminate the Contract. No payments shall be due to the Contractor until the work is fully and finally completed.

2. Termination for Convenience

a. The Town may terminate performance of work under this contract in whole or in part (the "Work Terminated") if the Town determines that such termination is in the Town's best interest. The Town shall terminate by delivering to the Contractor a Notice of Termination, specifying the extent of the work terminated and the effective date.
b. After receipt of a Notice of Termination, a Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
   1. Stop work as specified in the notice.

2. Complete performance of the work not terminated.

VIII. PALM BEACH COUNTY INSPECTOR GENERAL

The Contractor is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract and in furtherance thereof may demand and obtain records and testimony from the contractor and its independent contractors. The Contractor understands and agrees that in addition to all other remedies and consequences provided by law, the failure of the Contractor or its independent contractors to fully cooperate with the Inspector General when requested may be deemed by the municipality to be a material breach of this contract justifying its termination.

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

RECOMMEND APPROVAL:

_____, 2016

TOWN OF PALM BEACH

_____ _____

Beth Zickar, Director of Recreation Thomas G. Bradford, Town Manager
"Town"

ATTEST:

_____ _____

Susan Owens, Town Clerk Bradford Costa
"CONTRACTOR"

Approved as to Legal Form and Sufficiency

_____

John C. Randolph, Town Attorney

GOLF INSTRUCTION SERVICES AGREEMENT FOR THE TOWN OF PALM BEACH PAR 3 GOLF COURSE

THIS AGREEMENT made and entered into this ____ day of_____, 2016, by and between the TOWN OF PALM BEACH, hereinafter referred to as "Town" and GENE GEORGE, hereinafter referred to as the "Contractor".

WITNESSETH:

WHEREAS, the Town owns and operates the Town of Palm Beach Par 3 Golf Course, situated within the Town of Palm Beach and

WHEREAS, the Town and Contractor desire an agreement wherein and whereby the Contractor shall provide golf instruction services and other related services upon the terms and conditions hereinafter set forth, to wit:

I. TERM OF AGREEMENT

The initial term of this agreement shall be in effect beginning January 1, 2017, and terminating on December 31, 2017, unless terminated sooner as hereinafter set forth. Upon mutual written consent from the Town and Contractor, this agreement may be extended for four (4) additional twelve (12) month periods beyond the initial term.

II. SCOPE OF SERVICES

1. Contractor understands and agrees that the agreement shall not be construed as an exclusive arrangement and further agrees that the Town may, at any time, secure similar or identical services from another vendor at the Town's sole option.

2. Contractor shall have use of the driving range and putting green facilities for teaching purposes (teaching restrictions may apply during peak time). Contractor shall have access to the golf course during non-peak time for limited "on-course" instruction. Use of golf course and carts for playing lessons must be scheduled in advance by instructors with the Town's Golf Course Manager or his designee.

3. Contractor shall provide comprehensive golf instruction at the Town of Palm Beach Par 3 Golf Course through group and private lessons, schools, clinics and camps.

III. CONTRACTOR RESPONSIBILITIES

1. Contractor shall report to and direct all correspondence and daily business through the Town's Golf Course Manager.

2. The Contractor will maintain consistent operating hours, as mutually agreed upon by the Contractor and the Golf Manager. The normal operating hours for golf instruction services will be from 8:00am – 5:00pm, seven days per week. The Contractor may modify teaching hours around weather and program demand. In the event of inclement weather, acts of God, disruption in service due to construction on the club house or the course, and other events out of the control of the Contractor, the normal hours of operation may be decreased.

3. Contractor shall provide teaching services through lessons, clinics, schools, and camps for adults and juniors, as part of a comprehensive year-round golf program intended to increase resident and non-resident participation and interest in the Town of Palm Beach Par 3 Golf Course. Other agreed upon related services may also be provided. Client registration forms and information sheets shall be used for the provision of teaching services.

4. Contractor shall make a good faith effort to assist the Town's Golf Course Manager with certain tasks related with the coordination of competitive town tournaments, Hook a Kid on Golf, and other activities, when schedules allow.

5. Contractor may set fees for all teaching services. Fees must be reviewed by the Golf Course Manager and be competitive within the local market.

6. Contractor shall use and log lessons in an appointment book, for the purposes of booking lessons and tracking services rendered. Daily logs should accurately reflect lessons, clinics or other teaching services provided at the Par 3 Golf Course. The master schedule must be kept at the Par 3 Golf Course.

7. Contractor shall provide all necessary supplies and signage that may be required to perform teaching services, including, but not be limited to, video equipment, training books or training aids.

8. Contractor shall provide statistical information on participants in all Contractor provided programs and activities. Statistics to be provided shall include, but not be limited to, resident/non-resident status, adult/junior status, quantity of participants, total lesson hours, or other information as requested. Town staff will provide assistance in the compilation of statistics.

9. If in the course of its duties, obligations and services, the Contractor becomes aware of any dangerous condition(s) in or on the premises where instruction is provided, Contractor shall immediately take appropriate action and cease activities, so as not to endanger persons or property. Town staff will notify Contractor if they become aware of conditions that may impact instruction and take appropriate actions to address them.

10. Contractor shall be responsible for notifying the Town of any maintenance related concerns that do not meet or satisfy the standards adopted and/or applied by the PGA or USGA.

11. In conjunction with all the concession related responsibilities, the Contractor hereby agrees to maintain a good credit rating with all suppliers, manufacturers and others, in a timely manner so as not to discredit the reputation of the Par 3 Golf Course, the Palm Beach Recreation Department and the Town of Palm Beach.

12. Contractor is an independent contractor who will be responsible for payment of federal withholding tax and social security contributions.

13. Contractor is not considered an employee or under direct control of the Town of Palm Beach; contractor is not eligible for employee benefits or compensation. Contractor is responsible for determining the manner, in which, instruction is provided to customers. Contractor's compensation is achieved through golf teaching services.

14. Contractor shall be fully responsible for the payment and maintenance of all insurance and applicable taxes related to this concession as required by the legal obligations of an independent contractor.

15. Contractor shall take proper care of and maintain work areas, ensuring all teaching aids are secured when not in use.

16. Contractor shall annually submit to a National Level 2 VECHS background check by the Town at the Town's expense.

17. Contractor shall be responsible for the reconciliation of daily teaching logs to the biweekly revenue reports to insure accurate tracking of, and payment for services they may have rendered.

IV. <u>TOWN RESPONSIBILITIES</u>

1. Town shall collect and process all fees for services provided by the Contractor. No monies shall be paid directly by customers to the Contractor for services rendered.

2. Town shall provide a revenue summary to the Contractor twice a month, on approximately the 5th and 20th day of each month. The Contractor shall provide the Town with a financial report on a similar schedule such that reconciliation may be made prior to the Contractor receiving a commission check. Town shall provide all administrative, clerical, and customer service assistance necessary for the day to day operation of the Town of Palm Beach Par 3 Golf Course. Town staff shall be assigned to the pro shop during scheduled hours of operation and will answer incoming calls regarding golf instruction and book lessons for instructors. The pro-shop will be open from 7am – 7pm from approximately May 1 to October 31 and 7am – 6pm from approximately November 1 to April 30. Hours of operation are subject to change due to weather.

3. Town staff shall be responsible for all maintenance related to the golf course, including the practice facilities. Town staff assigned to the pro-shop shall also be responsible for maintenance and housekeeping.

4. Town shall provide practice range balls for teaching services, as well as any forms necessary for daily operations and Contractor payments for services. Connections for video equipment and internet access will be provided by the Town.

5. Town shall maintain a daily log of Contractor related revenues collected including, but not limited to, such statistical data as receipt number, date, and type of service.

6. Town shall provide the forms necessary for Contractors reimbursement for services.

7. Town, at its own expense, shall have the right at all reasonable times during normal business hours to audit, examine, and make copies of the books of account and records maintained by Contractor with respect to the services permitted under this agreement. Said audit will not disrupt golf services at any time.

8. Town shall provide promotional assistance for teaching services through the website, e-mail blasts, brochures, flyers, news releases and other media sources, as available.

9. The Town shall make available golf carts for the golf professional for teaching purposes, on an as available basis. Cart usage must be approved by the Golf Manager prior to use.

V. COMPENSATION PACKAGE

1. Town shall remit to Contractor, twice a month, for funds collected for golf services. Payment shall be provided by the Town on or before the 15th and last day of each month for the two weeks' period prior.

2. Contractor shall be paid the following gross revenues from fees collected for golf instruction and related services, including lessons, clinics, camps, schools, or other such teaching services for each year of the term of this Agreement, as follows:

   80 % of gross revenues

3. Town shall receive a $3,000 administrative fee in equal installments. This payment shall be deducted from one check each month issued by the Town, from funds collected for golf professional instruction services. In the event of closure for moe than three days in one month (due to construction, flooding, Acts of God, terrorism, major road closure, etc.) the administrative fee will be prorated refelcting any and all closures.

VI. INSURANCE AND INDEMNIFICATION

The Contractor shall provide at its own cost and expense during the life of the agreement, the following insurance coverages to the Town of Palm Beach (30) thirty business days prior to the commencement of any work. All contractors including independent contractors and subcontractors must comply with these requirements. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The insurance shall

be evidenced by certificates and/or policies including premiums as determined by the Town of Palm Beach. It shall be an affirmative obligation upon the Contractor to advise the Town's Risk Manager at fax no. 561-838-5497, e-mail risk@townofpalmbeach.com, 360 S. County Road, Palm Beach, FL 33480 within 24 hours or the next business day of cancellation, non-renewal or modification of any stipulated insurance and failure to do so shall be construed to be a breach of this agreement. The Town of Palm Beach reserves the right to require additional coverages and limits based upon any change in service provided by the contractor.

If the Contractor maintains higher limits than the minimum shown below, the Town requires and shall be entitled to coverage for the higher limits maintained by the Contractor.

Insurance to be provided by the Contractor is as follows:

General Liability:

Comprehensive General Liability Insurance coverage with limits of liability not less than $1,000,000 Each Occurrence/$2,000,000 Aggregate. The Certificate of Insurance shall indicate an Occurrence Basis. The Town of Palm Beach shall be endorsed as an additional insured under the General Liability coverage. The Contractor's General Liability coverage shall be primary and noncontributory.

Auto Liability

Auto Liability coverage with limits not less than $300,000 Each Occurrence Combined Single Limit each accident. The Certificate of Insurance shall indicate coverage for Any Auto or Owned Autos/Hired Autos/Non-Owned Autos.

Umbrella or Excess Liability is required up to the minimum limit of liability if the limits of liability shown on the Certificate of Insurance under General Liability do not meet the minimum limit of liability as required.

All required insurance policies shall provide a waiver of subrogation and rights of recovery against the Town of Palm Beach, including its agents, officers, past and present employees, elected officials and representatives, the insurance policy in effect shall protect both parties and be primary and non-contributory for any and all losses covered by the above described insurance. Insurers have no recourse against the Town of Palm Beach for payment or assessments in any form on any insurance policy.

Indemnification:

To the fullest extent allowed by law the Contractor shall protect, defend, reimburse, indemnify and hold harmless the Town of Palm Beach, and the Town's officers, agents, employees free and harmless from and against any and all claims, losses, penalties, damages, settlements, costs, charges, attorneys or other professional fees, or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, cause or causes of action of every kind and character in connection with, or arising directly or indirectly out of or related to this Contract and the Work performed hereunder, by the Contractor, or his employees, subcontractors or agents. Without limiting the generality of the foregoing, Contractor's Indemnity shall include all claims, damages, losses, or expense arising out of or

related to personal injury, death, damages to property, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copyright, proprietary information, or applications of any thereof, or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or order of any court. Contractor agrees to investigate, respond, adjust, and provide a defense for, all and any such claims, demands and actions at Contractor's sole expense and agrees to bear and remain liable for all such costs and expenses related thereto, even if such claim is groundless, false or fraudulent. Notwithstanding the foregoing, Contractor's Indemnity shall not extend to liability for damages to persons or property to the extent such damage was caused by any act, omission, or default of the Town, or by the Town's officers, agents and employees. Contractor acknowledges and agrees that Town would not enter into a contract without this indemnification of Town by Contractor, and that Town's entering into a contract shall constitute good and sufficient consideration for this indemnification. These provisions shall survive the expiration or earlier termination of the Contract. Nothing in this Contract shall be construed to affect in any way the Town's rights, privileges, and immunities as set forth in Florida Statute 768.28

Compliance with the foregoing requirements shall not relieve the Contractor of liability and obligation under this Section or under any Section of the Agreement.

VII. TERMINATION

1. Termination by Owner for Cause

The Town may terminate this Contract in the event:

a. Contractor fails or refuses to prosecute the Work or any severable part, with the diligence that will insure its completion within the time specified in this Contract;
b. Contractor fails to perform the services required of the Contractor under this Contract;
c. Contractor violates laws, ordinances, rules, regulations of any governmental authority having jurisdiction;
d. Contractor materially breaches any of the provisions of this Contract.

When any single or combination of the above causes exist such cause(s) have not been cured after seven (7) days written demand by Town, the Town may, with full reservation of, and without prejudice to any other right or remedy the Town may have, upon giving Contractor and the surety five (5) days written notice, terminate the Contract. No payments shall be due to the Contractor until the work is fully and finally completed.

2. Termination for Convenience

a. The Town may terminate performance of work under this contract in whole or in part (the "Work Terminated") if the Town determines that such termination is in the Town's best interest. The Town shall terminate by delivering to the Contractor a Notice of Termination, specifying the extent of the work terminated and the effective date.
b. After receipt of a Notice of Termination, a Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
   1. Stop work as specified in the notice.

2. Complete performance of the work not terminated.

VIII. PALM BEACH COUNTY INSPECTOR GENERAL

The Contractor is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract and in furtherance thereof may demand and obtain records and testimony from the contractor and its independent contractors. The Contractor understands and agrees that in addition to all other remedies and consequences provided by law, the failure of the Contractor or its independent contractors to fully cooperate with the Inspector General when requested may be deemed by the municipality to be a material breach of this contract justifying its termination.

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

RECOMMEND APPROVAL:

_____, 2016

TOWN OF PALM BEACH

_____ _____

Beth Zickar, Director of Recreation Thomas G. Bradford, Town Manager
"Town"

ATTEST:

_____ _____

Susan Owens, Town Clerk Gene George
"CONTRACTOR"

Approved as to Legal Form and Sufficiency

_____

John C. Randolph, Town Attorney

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GOLF INSTRUCTION SERVICES AGREEMENT FOR THE TOWN OF PALM BEACH PAR 3 GOLF COURSE

THIS AGREEMENT made and entered into this ____ day of____, 2016, by and between the TOWN OF PALM BEACH, hereinafter referred to as "Town" and KELLIE STENZEL GOLF INC., hereinafter referred to as the "Contractor".

WITNESSETH:

WHEREAS, the Town owns and operates the Town of Palm Beach Par 3 Golf Course, situated within the Town of Palm Beach and

WHEREAS, the Town and Contractor desire an agreement wherein and whereby the Contractor shall provide golf instruction services and other related services upon the terms and conditions hereinafter set forth, to wit:

I. TERM OF AGREEMENT

The initial term of this agreement shall be in effect beginning January 1, 2017, and terminating on December 31, 2017, unless terminated sooner as hereinafter set forth. Upon mutual written consent from the Town and Contractor, this agreement may be extended for four (4) additional twelve (12) month periods beyond the initial term.

II. SCOPE OF SERVICES

1. Contractor understands and agrees that the agreement shall not be construed as an exclusive arrangement and further agrees that the Town may, at any time, secure similar or identical services from another vendor at the Town's sole option.

2. Contractor shall have use of the driving range and putting green facilities for teaching purposes (teaching restrictions may apply during peak time). Contractor shall have access to the golf course during non-peak time for limited "on-course" instruction. Use of golf course and carts for playing lessons must be scheduled in advance by instructors with the Town's Golf Course Manager or his designee.

3. Contractor shall provide comprehensive golf instruction at the Town of Palm Beach Par 3 Golf Course through group and private lessons, schools, clinics and camps.

III. CONTRACTOR RESPONSIBILITIES

1. Contractor shall report to and direct all correspondence and daily business through the Town's Golf Course Manager.

2. The Contractor will maintain consistent operating hours, as mutually agreed upon by the Contractor and the Golf Manager. The normal operating hours for golf instruction services will be from 8:00am – 5:00pm, seven days per week. The Contractor may modify teaching hours around weather and program demand. In the event of inclement weather, acts of God, disruption in service due to construction on the club house or the course, and other events out of the control of the Contractor, the normal hours of operation may be decreased.

3. Contractor shall provide teaching services through lessons, clinics, schools, and camps for adults and juniors, as part of a comprehensive year-round golf program intended to increase resident and non-resident participation and interest in the Town of Palm Beach Par 3 Golf Course. Other agreed upon related services may also be provided. Client registration forms and information sheets shall be used for the provision of teaching services.

4. Contractor shall make a good faith effort to assist the Town's Golf Course Manager with certain tasks related with the coordination of competitive town tournaments, Hook a Kid on Golf, and other activities, when schedules allow.

5. Contractor may set fees for all teaching services. Fees must be reviewed by the Golf Course Manager and be competitive within the local market.

6. Contractor shall use and log lessons in an appointment book, for the purposes of booking lessons and tracking services rendered. Daily logs should accurately reflect lessons, clinics or other teaching services provided at the Par 3 Golf Course. The master schedule must be kept at the Par 3 Golf Course.

7. Contractor shall provide all necessary supplies and signage that may be required to perform teaching services, including, but not be limited to, video equipment, training books or training aids.

8. Contractor shall provide statistical information on participants in all Contractor provided programs and activities. Statistics to be provided shall include, but not be limited to, resident/non-resident status, adult/junior status, quantity of participants, total lesson hours, or other information as requested. Town staff will provide assistance in the compilation of statistics.

9. If in the course of its duties, obligations and services, the Contractor becomes aware of any dangerous condition(s) in or on the premises where instruction is provided, Contractor shall immediately take appropriate action and cease activities, so as not to endanger persons or property. Town staff will notify Contractor if they become aware of conditions that may impact instruction and take appropriate actions to address them.

10. Contractor shall be responsible for notifying the Town of any maintenance related concerns that do not meet or satisfy the standards adopted and/or applied by the PGA or USGA.

11. In conjunction with all the concession related responsibilities, the Contractor hereby agrees to maintain a good credit rating with all suppliers, manufacturers and others, in a timely manner so as not to discredit the reputation of the Par 3 Golf Course, the Palm Beach Recreation Department and the Town of Palm Beach.

12. Contractor is an independent contractor who will be responsible for payment of federal withholding tax and social security contributions.

13. Contractor is not considered an employee or under direct control of the Town of Palm Beach; contractor is not eligible for employee benefits or compensation. Contractor is responsible for determining the manner, in which, instruction is provided to customers. Contractor's compensation is achieved through golf teaching services.

14. Contractor shall be fully responsible for the payment and maintenance of all insurance and applicable taxes related to this concession as required by the legal obligations of an independent contractor.

15. Contractor shall take proper care of and maintain work areas, ensuring all teaching aids are secured when not in use.

16. Contractor shall annually submit to a National Level 2 VECHS background check by the Town at the Town's expense.

17. Contractor shall be responsible for the reconciliation of daily teaching logs to the biweekly revenue reports to insure accurate tracking of, and payment for services they may have rendered.

IV. <u>TOWN RESPONSIBILITIES</u>

1. Town shall collect and process all fees for services provided by the Contractor. No monies shall be paid directly by customers to the Contractor for services rendered.

2. Town shall provide a revenue summary to the Contractor twice a month, on approximately the 5th and 20th day of each month. The Contractor shall provide the Town with a financial report on a similar schedule such that reconciliation may be made prior to the Contractor receiving a commission check. Town shall provide all administrative, clerical, and customer service assistance necessary for the day to day operation of the Town of Palm Beach Par 3 Golf Course. Town staff shall be assigned to the pro shop during scheduled hours of operation and will answer incoming calls regarding golf instruction and book lessons for instructors. The pro-shop will be open from 7am – 7pm from approximately May 1 to October 31 and 7am – 6pm from approximately November 1 to April 30. Hours of operation are subject to change due to weather.

3. Town staff shall be responsible for all maintenance related to the golf course, including the practice facilities. Town staff assigned to the pro-shop shall also be responsible for maintenance and housekeeping.

4. Town shall provide practice range balls for teaching services, as well as any forms necessary for daily operations and Contractor payments for services. Connections for video equipment and internet access will be provided by the Town.

5. Town shall maintain a daily log of Contractor related revenues collected including, but not limited to, such statistical data as receipt number, date, and type of service.

6. Town shall provide the forms necessary for Contractors reimbursement for services.

7. Town, at its own expense, shall have the right at all reasonable times during normal business hours to audit, examine, and make copies of the books of account and records maintained by Contractor with respect to the services permitted under this agreement. Said audit will not disrupt golf services at any time.

8. Town shall provide promotional assistance for teaching services through the website, e-mail blasts, brochures, flyers, news releases and other media sources, as available.

9. The Town shall make available golf carts for the golf professional for teaching purposes, on an as available basis. Cart usage must be approved by the Golf Manager prior to use.

V. COMPENSATION PACKAGE

1. Town shall remit to Contractor, twice a month, for funds collected for golf services. Payment shall be provided by the Town on or before the 15th and last day of each month for the two weeks' period prior.

2. Contractor shall be paid the following gross revenues from fees collected for golf instruction and related services, including lessons, clinics, camps, schools, or other such teaching services for each year of the term of this Agreement, as follows:

   82 % of gross revenues

3. Town shall receive a $3,000 administrative fee in equal installments. This payment shall be deducted from one check each month issued by the Town, from funds collected for golf professional instruction services.

VI. INSURANCE AND INDEMNIFICATION

The Contractor shall provide at its own cost and expense during the life of the agreement, the following insurance coverages to the Town of Palm Beach (30) thirty business days prior to the commencement of any work. All contractors including independent contractors and subcontractors must comply with these requirements. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The insurance shall be evidenced by certificates and/or policies including premiums as determined by the Town of Palm Beach. It shall be an affirmative obligation upon the Contractor to advise the Town's

Risk Manager at fax no. 561-838-5497, e-mail risk@townofpalmbeach.com, 360 S. County Road, Palm Beach, FL 33480 within 24 hours or the next business day of cancellation, non-renewal or modification of any stipulated insurance and failure to do so shall be construed to be a breach of this agreement. The Town of Palm Beach reserves the right to require additional coverages and limits based upon any change in service provided by the contractor.

If the Contractor maintains higher limits than the minimum shown below, the Town requires and shall be entitled to coverage for the higher limits maintained by the Contractor.

Insurance to be provided by the Contractor is as follows:

General Liability:

Comprehensive General Liability Insurance coverage with limits of liability not less than $1,000,000 Each Occurrence/$2,000,000 Aggregate. The Certificate of Insurance shall indicate an Occurrence Basis. The Town of Palm Beach shall be endorsed as an additional insured under the General Liability coverage. The Contractor's General Liability coverage shall be primary and noncontributory.

Auto Liability

Auto Liability coverage with limits not less than $300,000 Each Occurrence Combined Single Limit each accident. The Certificate of Insurance shall indicate coverage for Any Auto or Owned Autos/Hired Autos/Non-Owned Autos.

Umbrella or Excess Liability is required up to the minimum limit of liability if the limits of liability shown on the Certificate of Insurance under General Liability do not meet the minimum limit of liability as required.

All required insurance policies shall provide a waiver of subrogation and rights of recovery against the Town of Palm Beach, including its agents, officers, past and present employees, elected officials and representatives, the insurance policy in effect shall protect both parties and be primary and non-contributory for any and all losses covered by the above described insurance. Insurers have no recourse against the Town of Palm Beach for payment or assessments in any form on any insurance policy.

Indemnification:

To the fullest extent allowed by law the Contractor shall protect, defend, reimburse, indemnify and hold harmless the Town of Palm Beach, and the Town's officers, agents, employees free and harmless from and against any and all claims, losses, penalties, damages, settlements, costs, charges, attorneys or other professional fees, or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, cause or causes of action of every kind and character in connection with, or arising directly or indirectly out of or related to this Contract and the Work performed hereunder, by the Contractor, or his employees, subcontractors or agents. Without limiting the generality of the foregoing, Contractor's Indemnity shall include all claims, damages, losses, or expense arising out of or related to personal injury, death, damages to property, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copyright, proprietary information,

or applications of any thereof, or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or order of any court. Contractor agrees to investigate, respond, adjust, and provide a defense for, all and any such claims, demands and actions at Contractor's sole expense and agrees to bear and remain liable for all such costs and expenses related thereto, even if such claim is groundless, false or fraudulent. Notwithstanding the foregoing, Contractor's Indemnity shall not extend to liability for damages to persons or property to the extent such damage was caused by any act, omission, or default of the Town, or by the Town's officers, agents and employees. Contractor acknowledges and agrees that Town would not enter into a contract without this indemnification of Town by Contractor, and that Town's entering into a contract shall constitute good and sufficient consideration for this indemnification. These provisions shall survive the expiration or earlier termination of the Contract. Nothing in this Contract shall be construed to affect in any way the Town's rights, privileges, and immunities as set forth in Florida Statute 768.28

Compliance with the foregoing requirements shall not relieve the Contractor of liability and obligation under this Section or under any Section of the Agreement.

VII. TERMINATION

1. Termination by Owner for Cause

   The Town may terminate this Contract in the event:

   a. Contractor fails or refuses to prosecute the Work or any severable part, with the diligence that will insure its completion within the time specified in this Contract;
   b. Contractor fails to perform the services required of the Contractor under this Contract;
   c. Contractor violates laws, ordinances, rules, regulations of any governmental authority having jurisdiction;
   d. Contractor materially breaches any of the provisions of this Contract.

When any single or combination of the above causes exist such cause(s) have not been cured after seven (7) days written demand by Town, the Town may, with full reservation of, and without prejudice to any other right or remedy the Town may have, upon giving Contractor and the surety five (5) days written notice, terminate the Contract. No payments shall be due to the Contractor until the work is fully and finally completed.

2. Termination for Convenience

   a. The Town may terminate performance of work under this contract in whole or in part (the "Work Terminated") if the Town determines that such termination is in the Town's best interest. The Town shall terminate by delivering to the Contractor a Notice of Termination, specifying the extent of the work terminated and the effective date.
   b. After receipt of a Notice of Termination, a Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
      1. Stop work as specified in the notice.
      2. Complete performance of the work not terminated.

VIII. PALM BEACH COUNTY INSPECTOR GENERAL

The Contractor is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract and in furtherance thereof may demand and obtain records and testimony from the contractor and its independent contractors. The Contractor understands and agrees that in addition to all other remedies and consequences provided by law, the failure of the Contractor or its independent contractors to fully cooperate with the Inspector General when requested may be deemed by the municipality to be a material breach of this contract justifying its termination.

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

RECOMMEND APPROVAL:

_____, 2016

TOWN OF PALM BEACH

_____ _____

Beth Zickar, Director of Recreation Thomas G. Bradford, Town Manager
"Town"

ATTEST:

_____ _____

Susan Owens, Town Clerk Kellie Stenzel Golf, Inc.
"CONTRACTOR"

Approved as to Legal Form and Sufficiency

_____

John C. Randolph, Town Attorney

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GOLF INSTRUCTION SERVICES AGREEMENT FOR THE TOWN OF PALM BEACH PAR 3 GOLF COURSE

THIS AGREEMENT made and entered into this _____ day of_____, 2016, by and between the TOWN OF PALM BEACH, hereinafter referred to as "Town" and TIM MCCOY, hereinafter referred to as the "Contractor".

WITNESSETH:

WHEREAS, the Town owns and operates the Town of Palm Beach Par 3 Golf Course, situated within the Town of Palm Beach and

WHEREAS, the Town and Contractor desire an agreement wherein and whereby the Contractor shall provide golf instruction services and other related services upon the terms and conditions hereinafter set forth, to wit:

I. TERM OF AGREEMENT

The initial term of this agreement shall be in effect beginning January 1, 2017, and terminating on December 31, 2017, unless terminated sooner as hereinafter set forth. Upon mutual written consent from the Town and Contractor, this agreement may be extended for four (4) additional twelve (12) month periods beyond the initial term.

II. SCOPE OF SERVICES

1. Contractor understands and agrees that the agreement shall not be construed as an exclusive arrangement and further agrees that the Town may, at any time, secure similar or identical services from another vendor at the Town's sole option.

2. Contractor shall have use of the driving range and putting green facilities for teaching purposes (teaching restrictions may apply during peak time). Contractor shall have access to the golf course during non-peak time for limited "on-course" instruction. Use of golf course and carts for playing lessons must be scheduled in advance by instructors with the Town's Golf Course Manager or his designee.

3. Contractor shall provide comprehensive golf instruction at the Town of Palm Beach Par 3 Golf Course through group and private lessons, schools, clinics and camps.

III. CONTRACTOR RESPONSIBILITIES

1. Contractor shall report to and direct all correspondence and daily business through the Town's Golf Course Manager.

2. The Contractor will maintain consistent operating hours, as mutually agreed upon by the Contractor and the Golf Manager. The normal operating hours for golf instruction services will be from 8:00am – 5:00pm, seven days per week. The Contractor may modify teaching hours around weather and program demand. In the event of inclement weather, acts of God, disruption in service due to construction on the club house or the course, and other events out of the control of the Contractor, the normal hours of operation may be decreased.

3. Contractor shall provide teaching services through lessons, clinics, schools, and camps for adults and juniors, as part of a comprehensive year-round golf program intended to increase resident and non-resident participation and interest in the Town of Palm Beach Par 3 Golf Course. Other agreed upon related services may also be provided. Client registration forms and information sheets shall be used for the provision of teaching services.

4. Contractor shall make a good faith effort to assist the Town's Golf Course Manager with certain tasks related with the coordination of competitive town tournaments, Hook a Kid on Golf, and other activities, when schedules allow.

5. Contractor may set fees for all teaching services. Fees must be reviewed by the Golf Course Manager and be competitive within the local market.

6. Contractor shall use and log lessons in an appointment book, for the purposes of booking lessons and tracking services rendered. Daily logs should accurately reflect lessons, clinics or other teaching services provided at the Par 3 Golf Course. The master schedule must be kept at the Par 3 Golf Course.

7. Contractor shall provide all necessary supplies and signage that may be required to perform teaching services, including, but not be limited to, video equipment, training books or training aids.

8. Contractor shall provide statistical information on participants in all Contractor provided programs and activities. Statistics to be provided shall include, but not be limited to, resident/non-resident status, adult/junior status, quantity of participants, total lesson hours, or other information as requested. Town staff will provide assistance in the compilation of statistics.

9. If in the course of its duties, obligations and services, the Contractor becomes aware of any dangerous condition(s) in or on the premises where instruction is provided, Contractor shall immediately take appropriate action and cease activities, so as not to endanger persons or property. Town staff will notify Contractor if they become aware of conditions that may impact instruction and take appropriate actions to address them.

10. Contractor shall be responsible for notifying the Town of any maintenance related concerns that do not meet or satisfy the standards adopted and/or applied by the PGA or USGA.

11. In conjunction with all the concession related responsibilities, the Contractor hereby agrees to maintain a good credit rating with all suppliers, manufacturers and others, in a timely manner so as not to discredit the reputation of the Par 3 Golf Course, the Palm Beach Recreation Department and the Town of Palm Beach.

12. Contractor is an independent contractor who will be responsible for payment of federal withholding tax and social security contributions.

13. Contractor is not considered an employee or under direct control of the Town of Palm Beach; contractor is not eligible for employee benefits or compensation. Contractor is responsible for determining the manner, in which, instruction is provided to customers. Contractor's compensation is achieved through golf teaching services.

14. Contractor shall be fully responsible for the payment and maintenance of all insurance and applicable taxes related to this concession as required by the legal obligations of an independent contractor.

15. Contractor shall take proper care of and maintain work areas, ensuring all teaching aids are secured when not in use.

16. Contractor shall annually submit to a National Level 2 VECHS background check by the Town at the Town's expense.

17. Contractor shall be responsible for the reconciliation of daily teaching logs to the biweekly revenue reports to insure accurate tracking of, and payment for services they may have rendered.

IV. <u>TOWN RESPONSIBILITIES</u>

1. Town shall collect and process all fees for services provided by the Contractor. No monies shall be paid directly by customers to the Contractor for services rendered.

2. Town shall provide a revenue summary to the Contractor twice a month, on approximately the 5th and 20th day of each month. The Contractor shall provide the Town with a financial report on a similar schedule such that reconciliation may be made prior to the Contractor receiving a commission check. Town shall provide all administrative, clerical, and customer service assistance necessary for the day to day operation of the Town of Palm Beach Par 3 Golf Course. Town staff shall be assigned to the pro shop during scheduled hours of operation and will answer incoming calls regarding golf instruction and book lessons for instructors. The pro-shop will be open from 7am – 7pm from approximately May 1 to October 31 and 7am – 6pm from approximately November 1 to April 30. Hours of operation are subject to change due to weather.

3. Town staff shall be responsible for all maintenance related to the golf course, including the practice facilities. Town staff assigned to the pro-shop shall also be responsible for maintenance and housekeeping.

4. Town shall provide practice range balls for teaching services, as well as any forms necessary for daily operations and Contractor payments for services. Connections for video equipment and internet access will be provided by the Town.

5. Town shall maintain a daily log of Contractor related revenues collected including, but not limited to, such statistical data as receipt number, date, and type of service.

6. Town shall provide the forms necessary for Contractors reimbursement for services.

7. Town, at its own expense, shall have the right at all reasonable times during normal business hours to audit, examine, and make copies of the books of account and records maintained by Contractor with respect to the services permitted under this agreement. Said audit will not disrupt golf services at any time.

8. Town shall provide promotional assistance for teaching services through the website, e-mail blasts, brochures, flyers, news releases and other media sources, as available.

9. The Town shall make available golf carts for the golf professional for teaching purposes, on an as available basis. Cart usage must be approved by the Golf Manager prior to use.

V. COMPENSATION PACKAGE

1. Town shall remit to Contractor, twice a month, for funds collected for golf services. Payment shall be provided by the Town on or before the 15th and last day of each month for the two weeks' period prior.

2. Contractor shall be paid the following gross revenues from fees collected for golf instruction and related services, including lessons, clinics, camps, schools, or other such teaching services for each year of the term of this Agreement, as follows:

   80 % of gross revenues

3. Town shall receive a $3,000 administrative fee in equal installments. This payment shall be deducted from one check each month issued by the Town, from funds collected for golf professional instruction services. In the event of closure for more than three days in one month (due to construction, flooding, Acts of God, terrorism, mjor road closure, etc.) the administrative fee will be prorated reflecting any and all closures.

VI. INSURANCE AND INDEMNIFICATION

The Contractor shall provide at its own cost and expense during the life of the agreement, the following insurance coverages to the Town of Palm Beach (30) thirty business days prior to the commencement of any work. All contractors including independent contractors and subcontractors must comply with these requirements. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The insurance shall

be evidenced by certificates and/or policies including premiums as determined by the Town of Palm Beach. It shall be an affirmative obligation upon the Contractor to advise the Town's Risk Manager at fax no. 561-838-5497, e-mail risk@townofpalmbeach.com, 360 S. County Road, Palm Beach, FL 33480 within 24 hours or the next business day of cancellation, non-renewal or modification of any stipulated insurance and failure to do so shall be construed to be a breach of this agreement. The Town of Palm Beach reserves the right to require additional coverages and limits based upon any change in service provided by the contractor.

If the Contractor maintains higher limits than the minimum shown below, the Town requires and shall be entitled to coverage for the higher limits maintained by the Contractor.

Insurance to be provided by the Contractor is as follows:

General Liability:

Comprehensive General Liability Insurance coverage with limits of liability not less than $1,000,000 Each Occurrence/$2,000,000 Aggregate. The Certificate of Insurance shall indicate an Occurrence Basis. The Town of Palm Beach shall be endorsed as an additional insured under the General Liability coverage. The Contractor's General Liability coverage shall be primary and noncontributory.

Auto Liability

Auto Liability coverage with limits not less than $300,000 Each Occurrence Combined Single Limit each accident. The Certificate of Insurance shall indicate coverage for Any Auto or Owned Autos/Hired Autos/Non-Owned Autos.

Umbrella or Excess Liability is required up to the minimum limit of liability if the limits of liability shown on the Certificate of Insurance under General Liability do not meet the minimum limit of liability as required.

All required insurance policies shall provide a waiver of subrogation and rights of recovery against the Town of Palm Beach, including its agents, officers, past and present employees, elected officials and representatives, the insurance policy in effect shall protect both parties and be primary and non-contributory for any and all losses covered by the above described insurance. Insurers have no recourse against the Town of Palm Beach for payment or assessments in any form on any insurance policy.

Indemnification:

To the fullest extent allowed by law the Contractor shall protect, defend, reimburse, indemnify and hold harmless the Town of Palm Beach, and the Town's officers, agents, employees free and harmless from and against any and all claims, losses, penalties, damages, settlements, costs, charges, attorneys or other professional fees, or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, cause or causes of action of every kind and character in connection with, or arising directly or indirectly out of or related to this Contract and the Work performed hereunder, by the Contractor, or his employees, subcontractors or agents. Without limiting the generality of the foregoing, Contractor's Indemnity shall include all claims, damages, losses, or expense arising out of or

related to personal injury, death, damages to property, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copyright, proprietary information, or applications of any thereof, or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or order of any court. Contractor agrees to investigate, respond, adjust, and provide a defense for, all and any such claims, demands and actions at Contractor's sole expense and agrees to bear and remain liable for all such costs and expenses related thereto, even if such claim is groundless, false or fraudulent. Notwithstanding the foregoing, Contractor's Indemnity shall not extend to liability for damages to persons or property to the extent such damage was caused by any act, omission, or default of the Town, or by the Town's officers, agents and employees. Contractor acknowledges and agrees that Town would not enter into a contract without this indemnification of Town by Contractor, and that Town's entering into a contract shall constitute good and sufficient consideration for this indemnification. These provisions shall survive the expiration or earlier termination of the Contract. Nothing in this Contract shall be construed to affect in any way the Town's rights, privileges, and immunities as set forth in Florida Statute 768.28

Compliance with the foregoing requirements shall not relieve the Contractor of liability and obligation under this Section or under any Section of the Agreement.

VII. TERMINATION

1. Termination by Owner for Cause

The Town may terminate this Contract in the event:

a. Contractor fails or refuses to prosecute the Work or any severable part, with the diligence that will insure its completion within the time specified in this Contract;
b. Contractor fails to perform the services required of the Contractor under this Contract;
c. Contractor violates laws, ordinances, rules, regulations of any governmental authority having jurisdiction;
d. Contractor materially breaches any of the provisions of this Contract.

When any single or combination of the above causes exist such cause(s) have not been cured after seven (7) days written demand by Town, the Town may, with full reservation of, and without prejudice to any other right or remedy the Town may have, upon giving Contractor and the surety five (5) days written notice, terminate the Contract. No payments shall be due to the Contractor until the work is fully and finally completed.

2. Termination for Convenience

a. The Town may terminate performance of work under this contract in whole or in part (the "Work Terminated") if the Town determines that such termination is in the Town's best interest. The Town shall terminate by delivering to the Contractor a Notice of Termination, specifying the extent of the work terminated and the effective date.
b. After receipt of a Notice of Termination, a Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
   1. Stop work as specified in the notice.

2. Complete performance of the work not terminated.

VIII. PALM BEACH COUNTY INSPECTOR GENERAL

The Contractor is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract and in furtherance thereof may demand and obtain records and testimony from the contractor and its independent contractors. The Contractor understands and agrees that in addition to all other remedies and consequences provided by law, the failure of the Contractor or its independent contractors to fully cooperate with the Inspector General when requested may be deemed by the municipality to be a material breach of this contract justifying its termination.

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

RECOMMEND APPROVAL:

_____, 2016

TOWN OF PALM BEACH

_____ _____

Beth Zickar, Director of Recreation Thomas G. Bradford, Town Manager
"Town"

ATTEST:

_____ _____

Susan Owens, Town Clerk Tim McCoy
"CONTRACTOR"

Approved as to Legal Form and Sufficiency

_____

John C. Randolph, Town Attorney

GOLF INSTRUCTION SERVICES AGREEMENT FOR THE TOWN OF PALM BEACH PAR 3 GOLF COURSE

THIS AGREEMENT made and entered into this _____ day of_____, 2016, by and between the TOWN OF PALM BEACH, hereinafter referred to as "Town" and JOHN SAFFOLD, hereinafter referred to as the "Contractor".

WITNESSETH:

WHEREAS, the Town owns and operates the Town of Palm Beach Par 3 Golf Course, situated within the Town of Palm Beach and

WHEREAS, the Town and Contractor desire an agreement wherein and whereby the Contractor shall provide golf instruction services and other related services upon the terms and conditions hereinafter set forth, to wit:

I. TERM OF AGREEMENT

The initial term of this agreement shall be in effect beginning January 1, 2017, and terminating on December 31, 2017, unless terminated sooner as hereinafter set forth. Upon mutual written consent from the Town and Contractor, this agreement may be extended for four (4) additional twelve (12) month periods beyond the initial term.

II. SCOPE OF SERVICES

1. Contractor understands and agrees that the agreement shall not be construed as an exclusive arrangement and further agrees that the Town may, at any time, secure similar or identical services from another vendor at the Town's sole option.

2. Contractor shall have use of the driving range and putting green facilities for teaching purposes (teaching restrictions may apply during peak time). Contractor shall have access to the golf course during non-peak time for limited "on-course" instruction. Use of golf course and carts for playing lessons must be scheduled in advance by instructors with the Town's Golf Course Manager or his designee.

3. Contractor shall provide comprehensive golf instruction at the Town of Palm Beach Par 3 Golf Course through group and private lessons, schools, clinics and camps.

III. CONTRACTOR RESPONSIBILITIES

1. Contractor shall report to and direct all correspondence and daily business through the Town's Golf Course Manager.

2. The Contractor will maintain consistent operating hours, as mutually agreed upon by the Contractor and the Golf Manager. The normal operating hours for golf instruction services will be from 8:00am – 5:00pm, seven days per week. The Contractor may modify teaching hours around weather and program demand. In the event of inclement weather, acts of God, disruption in service due to construction on the club house or the course, and other events out of the control of the Contractor, the normal hours of operation may be decreased.

3. Contractor shall provide teaching services through lessons, clinics, schools, and camps for adults and juniors, as part of a comprehensive year-round golf program intended to increase resident and non-resident participation and interest in the Town of Palm Beach Par 3 Golf Course. Other agreed upon related services may also be provided. Client registration forms and information sheets shall be used for the provision of teaching services.

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9. If in the course of its duties, obligations and services, the Contractor becomes aware of any dangerous condition(s) in or on the premises where instruction is provided, Contractor shall immediately take appropriate action and cease activities, so as not to endanger persons or property. Town staff will notify Contractor if they become aware of conditions that may impact instruction and take appropriate actions to address them.

10. Contractor shall be responsible for notifying the Town of any maintenance related concerns that do not meet or satisfy the standards adopted and/or applied by the PGA or USGA.

11. In conjunction with all the concession related responsibilities, the Contractor hereby agrees to maintain a good credit rating with all suppliers, manufacturers and others, in a timely manner so as not to discredit the reputation of the Par 3 Golf Course, the Palm Beach Recreation Department and the Town of Palm Beach.

12. Contractor is an independent contractor who will be responsible for payment of federal withholding tax and social security contributions.

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1. Town shall collect and process all fees for services provided by the Contractor. No monies shall be paid directly by customers to the Contractor for services rendered.

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2. Contractor shall be paid the following gross revenues from fees collected for golf instruction and related services, including lessons, clinics, camps, schools, or other such teaching services for each year of the term of this Agreement, as follows:

   80 % of gross revenues

3. Town shall receive a $3,000 administrative fee in equal installments. This payment shall be deducted from one check each month issued by the Town, from funds collected for golf professional instruction services. In the event of closure for moe than three days in one month (due to construction, flooding, Acts of God, terrorism, major road closure, etc.) the administrative fee will be prorated refelcting any and all closures.

VI. INSURANCE AND INDEMNIFICATION

The Contractor shall provide at its own cost and expense during the life of the agreement, the following insurance coverages to the Town of Palm Beach (30) thirty business days prior to the commencement of any work. All contractors including independent contractors and subcontractors must comply with these requirements. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The insurance shall

be evidenced by certificates and/or policies including premiums as determined by the Town of Palm Beach. It shall be an affirmative obligation upon the Contractor to advise the Town's Risk Manager at fax no. 561-838-5497, e-mail risk@townofpalmbeach.com, 360 S. County Road, Palm Beach, FL 33480 within 24 hours or the next business day of cancellation, non-renewal or modification of any stipulated insurance and failure to do so shall be construed to be a breach of this agreement. The Town of Palm Beach reserves the right to require additional coverages and limits based upon any change in service provided by the contractor.

If the Contractor maintains higher limits than the minimum shown below, the Town requires and shall be entitled to coverage for the higher limits maintained by the Contractor.

Insurance to be provided by the Contractor is as follows:

General Liability:

Comprehensive General Liability Insurance coverage with limits of liability not less than $1,000,000 Each Occurrence/$2,000,000 Aggregate. The Certificate of Insurance shall indicate an Occurrence Basis. The Town of Palm Beach shall be endorsed as an additional insured under the General Liability coverage. The Contractor's General Liability coverage shall be primary and noncontributory.

Auto Liability

Auto Liability coverage with limits not less than $300,000 Each Occurrence Combined Single Limit each accident. The Certificate of Insurance shall indicate coverage for Any Auto or Owned Autos/Hired Autos/Non-Owned Autos.

Umbrella or Excess Liability is required up to the minimum limit of liability if the limits of liability shown on the Certificate of Insurance under General Liability do not meet the minimum limit of liability as required.

All required insurance policies shall provide a waiver of subrogation and rights of recovery against the Town of Palm Beach, including its agents, officers, past and present employees, elected officials and representatives, the insurance policy in effect shall protect both parties and be primary and non-contributory for any and all losses covered by the above described insurance. Insurers have no recourse against the Town of Palm Beach for payment or assessments in any form on any insurance policy.

Indemnification:

To the fullest extent allowed by law the Contractor shall protect, defend, reimburse, indemnify and hold harmless the Town of Palm Beach, and the Town's officers, agents, employees free and harmless from and against any and all claims, losses, penalties, damages, settlements, costs, charges, attorneys or other professional fees, or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, cause or causes of action of every kind and character in connection with, or arising directly or indirectly out of or related to this Contract and the Work performed hereunder, by the Contractor, or his employees, subcontractors or agents. Without limiting the generality of the foregoing, Contractor's Indemnity shall include all claims, damages, losses, or expense arising out of or

related to personal injury, death, damages to property, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copyright, proprietary information, or applications of any thereof, or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or order of any court. Contractor agrees to investigate, respond, adjust, and provide a defense for, all and any such claims, demands and actions at Contractor's sole expense and agrees to bear and remain liable for all such costs and expenses related thereto, even if such claim is groundless, false or fraudulent. Notwithstanding the foregoing, Contractor's Indemnity shall not extend to liability for damages to persons or property to the extent such damage was caused by any act, omission, or default of the Town, or by the Town's officers, agents and employees. Contractor acknowledges and agrees that Town would not enter into a contract without this indemnification of Town by Contractor, and that Town's entering into a contract shall constitute good and sufficient consideration for this indemnification. These provisions shall survive the expiration or earlier termination of the Contract. Nothing in this Contract shall be construed to affect in any way the Town's rights, privileges, and immunities as set forth in Florida Statute 768.28

Compliance with the foregoing requirements shall not relieve the Contractor of liability and obligation under this Section or under any Section of the Agreement.

VII. TERMINATION

1. Termination by Owner for Cause

The Town may terminate this Contract in the event:

a. Contractor fails or refuses to prosecute the Work or any severable part, with the diligence that will insure its completion within the time specified in this Contract;
b. Contractor fails to perform the services required of the Contractor under this Contract;
c. Contractor violates laws, ordinances, rules, regulations of any governmental authority having jurisdiction;
d. Contractor materially breaches any of the provisions of this Contract.

When any single or combination of the above causes exist such cause(s) have not been cured after seven (7) days written demand by Town, the Town may, with full reservation of, and without prejudice to any other right or remedy the Town may have, upon giving Contractor and the surety five (5) days written notice, terminate the Contract. No payments shall be due to the Contractor until the work is fully and finally completed.

2. Termination for Convenience

a. The Town may terminate performance of work under this contract in whole or in part (the "Work Terminated") if the Town determines that such termination is in the Town's best interest. The Town shall terminate by delivering to the Contractor a Notice of Termination, specifying the extent of the work terminated and the effective date.
b. After receipt of a Notice of Termination, a Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
   1. Stop work as specified in the notice.

2. Complete performance of the work not terminated.

VIII. PALM BEACH COUNTY INSPECTOR GENERAL

The Contractor is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract and in furtherance thereof may demand and obtain records and testimony from the contractor and its independent contractors. The Contractor understands and agrees that in addition to all other remedies and consequences provided by law, the failure of the Contractor or its independent contractors to fully cooperate with the Inspector General when requested may be deemed by the municipality to be a material breach of this contract justifying its termination.

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

RECOMMEND APPROVAL:

_____, 2016

TOWN OF PALM BEACH

_____ _____

Beth Zickar, Director of Recreation Thomas G. Bradford, Town Manager
"Town"

ATTEST:

_____ _____

Susan Owens, Town Clerk John Saffold
"CONTRACTOR"

Approved as to Legal Form and Sufficiency

_____

John C. Randolph, Town Attorney

GOLF INSTRUCTION SERVICES AGREEMENT FOR THE TOWN OF PALM BEACH PAR 3 GOLF COURSE

THIS AGREEMENT made and entered into this ____ day of____, 2016, by and between the TOWN OF PALM BEACH, hereinafter referred to as "Town" and STEVE MADSEN GOLF PRO, LLC, hereinafter referred to as the "Contractor".

WITNESSETH:

WHEREAS, the Town owns and operates the Town of Palm Beach Par 3 Golf Course, situated within the Town of Palm Beach and

WHEREAS, the Town and Contractor desire an agreement wherein and whereby the Contractor shall provide golf instruction services and other related services upon the terms and conditions hereinafter set forth, to wit:

I. TERM OF AGREEMENT

The initial term of this agreement shall be in effect beginning January 1, 2017, and terminating on December 31, 2017, unless terminated sooner as hereinafter set forth. Upon mutual written consent from the Town and Contractor, this agreement may be extended for four (4) additional twelve (12) month periods beyond the initial term.

II. SCOPE OF SERVICES

1. Contractor understands and agrees that the agreement shall not be construed as an exclusive arrangement and further agrees that the Town may, at any time, secure similar or identical services from another vendor at the Town's sole option.

2. Contractor shall have use of the driving range and putting green facilities for teaching purposes (teaching restrictions may apply during peak time). Contractor shall have access to the golf course during non-peak time for limited "on-course" instruction. Use of golf course and carts for playing lessons must be scheduled in advance by instructors with the Town's Golf Course Manager or his designee.

3. Contractor shall provide comprehensive golf instruction at the Town of Palm Beach Par 3 Golf Course through group and private lessons, schools, clinics and camps.

III. CONTRACTOR RESPONSIBILITIES

1. Contractor shall report to and direct all correspondence and daily business through the Town's Golf Course Manager.

2. The Contractor will maintain consistent operating hours, as mutually agreed upon by the Contractor and the Golf Manager. The normal operating hours for golf instruction services will be from 8:00am – 5:00pm, seven days per week. The Contractor may modify teaching hours around weather and program demand. In the event of inclement weather, acts of God, disruption in service due to construction on the club house or the course, and other events out of the control of the Contractor, the normal hours of operation may be decreased.

3. Contractor shall provide teaching services through lessons, clinics, schools, and camps for adults and juniors, as part of a comprehensive year-round golf program intended to increase resident and non-resident participation and interest in the Town of Palm Beach Par 3 Golf Course. Other agreed upon related services may also be provided. Client registration forms and information sheets shall be used for the provision of teaching services.

4. Contractor shall make a good faith effort to assist the Town's Golf Course Manager with certain tasks related with the coordination of competitive town tournaments, Hook a Kid on Golf, and other activities, when schedules allow.

5. Contractor may set fees for all teaching services. Fees must be reviewed by the Golf Course Manager and be competitive within the local market.

6. Contractor shall use and log lessons in an appointment book, for the purposes of booking lessons and tracking services rendered. Daily logs should accurately reflect lessons, clinics or other teaching services provided at the Par 3 Golf Course. The master schedule must be kept at the Par 3 Golf Course.

7. Contractor shall provide all necessary supplies and signage that may be required to perform teaching services, including, but not be limited to, video equipment, training books or training aids.

8. Contractor shall provide statistical information on participants in all Contractor provided programs and activities. Statistics to be provided shall include, but not be limited to, resident/non-resident status, adult/junior status, quantity of participants, total lesson hours, or other information as requested. Town staff will provide assistance in the compilation of statistics.

9. If in the course of its duties, obligations and services, the Contractor becomes aware of any dangerous condition(s) in or on the premises where instruction is provided, Contractor shall immediately take appropriate action and cease activities, so as not to endanger persons or property. Town staff will notify Contractor if they become aware of conditions that may impact instruction and take appropriate actions to address them.

10. Contractor shall be responsible for notifying the Town of any maintenance related concerns that do not meet or satisfy the standards adopted and/or applied by the PGA or USGA.

11. In conjunction with all the concession related responsibilities, the Contractor hereby agrees to maintain a good credit rating with all suppliers, manufacturers and others, in a timely manner so as not to discredit the reputation of the Par 3 Golf Course, the Palm Beach Recreation Department and the Town of Palm Beach.

12. Contractor is an independent contractor who will be responsible for payment of federal withholding tax and social security contributions.

13. Contractor is not considered an employee or under direct control of the Town of Palm Beach; contractor is not eligible for employee benefits or compensation. Contractor is responsible for determining the manner, in which, instruction is provided to customers. Contractor's compensation is achieved through golf teaching services.

14. Contractor shall be fully responsible for the payment and maintenance of all insurance and applicable taxes related to this concession as required by the legal obligations of an independent contractor.

15. Contractor shall take proper care of and maintain work areas, ensuring all teaching aids are secured when not in use.

16. Contractor shall annually submit to a National Level 2 VECHS background check by the Town at the Town's expense.

17. Contractor shall be responsible for the reconciliation of daily teaching logs to the biweekly revenue reports to insure accurate tracking of, and payment for services they may have rendered.

IV. <u>TOWN RESPONSIBILITIES</u>

1. Town shall collect and process all fees for services provided by the Contractor. No monies shall be paid directly by customers to the Contractor for services rendered.

2. Town shall provide a revenue summary to the Contractor twice a month, on approximately the 5th and 20th day of each month. The Contractor shall provide the Town with a financial report on a similar schedule such that reconciliation may be made prior to the Contractor receiving a commission check. Town shall provide all administrative, clerical, and customer service assistance necessary for the day to day operation of the Town of Palm Beach Par 3 Golf Course. Town staff shall be assigned to the pro shop during scheduled hours of operation and will answer incoming calls regarding golf instruction and book lessons for instructors. The pro-shop will be open from 7am – 7pm from approximately May 1 to October 31 and 7am – 6pm from approximately November 1 to April 30. Hours of operation are subject to change due to weather.

3. Town staff shall be responsible for all maintenance related to the golf course, including the practice facilities. Town staff assigned to the pro-shop shall also be responsible for maintenance and housekeeping.

4. Town shall provide practice range balls for teaching services, as well as any forms necessary for daily operations and Contractor payments for services. Connections for video equipment and internet access will be provided by the Town.

5. Town shall maintain a daily log of Contractor related revenues collected including, but not limited to, such statistical data as receipt number, date, and type of service.

6. Town shall provide the forms necessary for Contractors reimbursement for services.

7. Town, at its own expense, shall have the right at all reasonable times during normal business hours to audit, examine, and make copies of the books of account and records maintained by Contractor with respect to the services permitted under this agreement. Said audit will not disrupt golf services at any time.

8. Town shall provide promotional assistance for teaching services through the website, e-mail blasts, brochures, flyers, news releases and other media sources, as available.

9. The Town shall make available golf carts for the golf professional for teaching purposes, on an as available basis. Cart usage must be approved by the Golf Manager prior to use.

V. COMPENSATION PACKAGE

1. Town shall remit to Contractor, twice a month, for funds collected for golf services. Payment shall be provided by the Town on or before the 15th and last day of each month for the two weeks' period prior.

2. Contractor shall be paid the following gross revenues from fees collected for golf instruction and related services, including lessons, clinics, camps, schools, or other such teaching services for each year of the term of this Agreement, as follows:

   80 % of gross revenues

3. Town shall receive a $3,000 administrative fee in equal installments. This payment shall be deducted from one check each month issued by the Town, from funds collected for golf professional instruction services. In the event of closure for moe than three days in one month (due to construction, flooding, Acts of God, terrorism, major road closure, etc.) the administrative fee will be prorated refelcting any and all closures.

VI. INSURANCE AND INDEMNIFICATION

The Contractor shall provide at its own cost and expense during the life of the agreement, the following insurance coverages to the Town of Palm Beach (30) thirty business days prior to the commencement of any work. All contractors including independent contractors and subcontractors must comply with these requirements. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The insurance shall

be evidenced by certificates and/or policies including premiums as determined by the Town of Palm Beach. It shall be an affirmative obligation upon the Contractor to advise the Town's Risk Manager at fax no. 561-838-5497, e-mail risk@townofpalmbeach.com, 360 S. County Road, Palm Beach, FL 33480 within 24 hours or the next business day of cancellation, non-renewal or modification of any stipulated insurance and failure to do so shall be construed to be a breach of this agreement. The Town of Palm Beach reserves the right to require additional coverages and limits based upon any change in service provided by the contractor.

If the Contractor maintains higher limits than the minimum shown below, the Town requires and shall be entitled to coverage for the higher limits maintained by the Contractor.

Insurance to be provided by the Contractor is as follows:

General Liability:

Comprehensive General Liability Insurance coverage with limits of liability not less than $1,000,000 Each Occurrence/$2,000,000 Aggregate. The Certificate of Insurance shall indicate an Occurrence Basis. The Town of Palm Beach shall be endorsed as an additional insured under the General Liability coverage. The Contractor's General Liability coverage shall be primary and noncontributory.

Auto Liability

Auto Liability coverage with limits not less than $300,000 Each Occurrence Combined Single Limit each accident. The Certificate of Insurance shall indicate coverage for Any Auto or Owned Autos/Hired Autos/Non-Owned Autos.

Umbrella or Excess Liability is required up to the minimum limit of liability if the limits of liability shown on the Certificate of Insurance under General Liability do not meet the minimum limit of liability as required.

All required insurance policies shall provide a waiver of subrogation and rights of recovery against the Town of Palm Beach, including its agents, officers, past and present employees, elected officials and representatives, the insurance policy in effect shall protect both parties and be primary and non-contributory for any and all losses covered by the above described insurance. Insurers have no recourse against the Town of Palm Beach for payment or assessments in any form on any insurance policy.

Indemnification:

To the fullest extent allowed by law the Contractor shall protect, defend, reimburse, indemnify and hold harmless the Town of Palm Beach, and the Town's officers, agents, employees free and harmless from and against any and all claims, losses, penalties, damages, settlements, costs, charges, attorneys or other professional fees, or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, cause or causes of action of every kind and character in connection with, or arising directly or indirectly out of or related to this Contract and the Work performed hereunder, by the Contractor, or his employees, subcontractors or agents. Without limiting the generality of the foregoing, Contractor's Indemnity shall include all claims, damages, losses, or expense arising out of or

related to personal injury, death, damages to property, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copyright, proprietary information, or applications of any thereof, or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or order of any court. Contractor agrees to investigate, respond, adjust, and provide a defense for, all and any such claims, demands and actions at Contractor's sole expense and agrees to bear and remain liable for all such costs and expenses related thereto, even if such claim is groundless, false or fraudulent. Notwithstanding the foregoing, Contractor's Indemnity shall not extend to liability for damages to persons or property to the extent such damage was caused by any act, omission, or default of the Town, or by the Town's officers, agents and employees. Contractor acknowledges and agrees that Town would not enter into a contract without this indemnification of Town by Contractor, and that Town's entering into a contract shall constitute good and sufficient consideration for this indemnification. These provisions shall survive the expiration or earlier termination of the Contract. Nothing in this Contract shall be construed to affect in any way the Town's rights, privileges, and immunities as set forth in Florida Statute 768.28

Compliance with the foregoing requirements shall not relieve the Contractor of liability and obligation under this Section or under any Section of the Agreement.

VII. TERMINATION

1. Termination by Owner for Cause

The Town may terminate this Contract in the event:

a. Contractor fails or refuses to prosecute the Work or any severable part, with the diligence that will insure its completion within the time specified in this Contract;
b. Contractor fails to perform the services required of the Contractor under this Contract;
c. Contractor violates laws, ordinances, rules, regulations of any governmental authority having jurisdiction;
d. Contractor materially breaches any of the provisions of this Contract.

When any single or combination of the above causes exist such cause(s) have not been cured after seven (7) days written demand by Town, the Town may, with full reservation of, and without prejudice to any other right or remedy the Town may have, upon giving Contractor and the surety five (5) days written notice, terminate the Contract. No payments shall be due to the Contractor until the work is fully and finally completed.

2. Termination for Convenience

a. The Town may terminate performance of work under this contract in whole or in part (the "Work Terminated") if the Town determines that such termination is in the Town's best interest. The Town shall terminate by delivering to the Contractor a Notice of Termination, specifying the extent of the work terminated and the effective date.
b. After receipt of a Notice of Termination, a Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
   1. Stop work as specified in the notice.

2. Complete performance of the work not terminated.

VIII. PALM BEACH COUNTY INSPECTOR GENERAL

The Contractor is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract and in furtherance thereof may demand and obtain records and testimony from the contractor and its independent contractors. The Contractor understands and agrees that in addition to all other remedies and consequences provided by law, the failure of the Contractor or its independent contractors to fully cooperate with the Inspector General when requested may be deemed by the municipality to be a material breach of this contract justifying its termination.

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

RECOMMEND APPROVAL:

_____, 2016

TOWN OF PALM BEACH

_____ _____

Beth Zickar, Director of Recreation Thomas G. Bradford, Town Manager
"Town"

ATTEST:

_____ _____

Susan Owens, Town Clerk Steve Madsen Golf Pro, LLC
"CONTRACTOR"

Approved as to Legal Form and Sufficiency

_____

John C. Randolph, Town Attorney

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 218-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Renewal of a Contract Between the Town and Florida Blue, to Provide Administrative Services for Group Health Coverage; in an Amount not to Exceed $350,000, and Authorizing the Town Manager to Take Actions Necessary to Effectuate This Contract.

Presenter

Danielle Olson, Director of Human Resources

ATTACHMENTS:

- **Memorandum dated December 2, 2016, from Danielle Olson, Director of Human Resources**
- **Resolution No. 218-2016**
- **Exhibit A&B Amendment to Administrative Services Agreement**
- **TeleDoc Proposal**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Danielle Olson, Director of Human Resources

Re: Administrative Service Agreement with Florida Blue
Resolution No. 218-2016

Date: December 2, 2016

STAFF RECOMMENDATION

Staff recommends the Town Council approve Resolution No. 218-2016 authorizing the Town Manager to renew the Town's contract with Florida Blue in an amount not to exceed $350,000.

GENERAL INFORMATION

The Town's health insurance plan administrator is Florida Blue. The current contract expires December 31, 2016. The Human Resources Department has been working with Willis of Florida, the Town's health insurance broker and Florida Blue on a renewal contract between the Town and Florida Blue.

The renewal contract extends the relationship with Florida Blue through December 31, 2019. This contract maintains no change in the administrative (ASO) fee for 2017 and it includes a contribution to the Town's wellness fund in the amount of $50,000 over the three-year period. The wellness funds can be used at the Town's discretion; although, it would require commitment from the Town via a contract extension through December 31, 2019. In addition, the Town will be contracting with Florida Blue to obtain services from Teledoc, a telemedicine service, that provides phone, video and mobile phone app access to licensed physicians in the United States, 24 hours a day, 7 days a week. This service provides efficient yet quality access to physicians for all those covered by the Town's insurance while reducing absenteeism due to physician office visits for employees and their dependents. More information on this service is attached as Exhibit B for your review.

A breakdown of the ASO fee is detailed below. In 2017 there will be no increase to the ASO fee. A two percent increase in the fee will be applied in year 2018 and another two percent increase in 2019. This the first increase to the ASO fee since 2011.

Plan Year	Florida Blue ASO Fee	Teledoc Fee	Total Svc Fee
2017	$ 48.75	$ 2.00	$ 50.75
2018	$ 49.97	$ 2.00	$ 51.97
2019	$ 51.22	$ 2.00	$ 53.22

FUNDING/FISCAL IMPACT

Sufficient funds have been budgeted in the FY17 Self Insurance Health fund and in the OPEB trust to provide for the Town's share of expenses for the healthcare plan proposed herein.

TOWN ATTORNEY REVIEW

The administrative service agreement has been reviewed by the Town Attorney and approved for legal form and sufficiency.

Attachments

DO:kw

RESOLUTION NO. 218-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING THE RENEWAL OF A CONTRACT BETWEEN THE TOWN AND FLORIDA BLUE, TO PROVIDE ADMINISTRATIVE SERVICES FOR GROUP HEALTH COVERAGE; IN AN AMOUNT NOT TO EXCEED $350,000 AND AUTHORIZING THE TOWN MANAGER TO TAKE ACTIONS NECESSARY TO EFFECTUATE THIS CONTRACT.

* * * * *

BE IT RESOLVED BY THE TOWN OF COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The renewal of the Town of Palm Beach Administrative Services Group Health Coverage contract with Florida Blue, attached as Exhibit A, is approved.

Section 2. The Town Manager is hereby authorized to execute a contract on behalf of the Town of Palm Beach for administrative services for group health coverage with RxBenefits.

Section 3. The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to effectuate this contract for administrative services for group health coverage.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 13th day of December 2016.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Council President Pro Tem
	Bobbie Lindsay, Town Council Member
ATTEST:	Danielle H. Moore, Town Council Member
Susan A. Owens, MMC, Town Clerk	Margaret A. Zeidman, Town Council Member

AMENDMENT TO ADMINISTRATIVE SERVICES AGREEMENT

This Amendment, entered into on January 1, 2017 is by and between Blue Cross and Blue Shield of Florida, Inc. (hereinafter referred to as "Florida Blue") and The Town of Palm Beach (hereinafter referred to as "Employer"). In consideration of the mutual and reciprocal promises herein contained, the Administrative Services Agreement between Florida Blue and Employer (hereinafter "Agreement") is amended as follows:

1. Section 1, subsection 1.1, is hereby amended to extend the term of the Agreement until December 31, 2019 unless the Agreement is terminated earlier in accordance with the terms of the Agreement.

2. The subsection entitled "Claims Processing" in Section III, Duties and Responsibilities of Florida Blue, is hereby amended by adding the following:

   For value-based reimbursement programs Florida Blue enters into with participating providers, an applicable per member per month charge may be included in lieu of a claim level surcharge.

3. The subsection entitled "Providers Outside the State of Florida", under Section III, Duties and Responsibilities of Florida Blue is hereby deleted in its entirety and replaced with the following:

   A. Inter-Plan Arrangements

   Florida Blue has a variety of relationships with other Blue Cross and/or Blue Shield Licensees referred to generally as "Inter-Plan Arrangements." These Inter-Plan Arrangements operate under rules and procedures issued by the Blue Cross Blue Shield Association ("Association"). Whenever members access healthcare services outside the geographic area Florida Blue serves, the claim for those services may be processed through one of these Inter-Plan Arrangements. The Inter-Plan Arrangements are described generally below.

   Typically, when accessing care outside the geographic area Florida Blue serves, members obtain care from healthcare providers that have a contractual agreement ("participating providers") with the local Blue Cross and/or Blue Shield Licensee in that other geographic area ("Host Blue"). In some instances, members may obtain care from healthcare providers in the Host Blue geographic area that do not have a contractual agreement ("nonparticipating providers") with the Host Blue. Florida Blue remains responsible for fulfilling our contractual obligations to Employer. Florida Blue payment practices in both instances are described below.

   This disclosure describes how claims are administered for Inter-Plan Arrangements and the fees that are charged in connection with Inter-Plan Arrangements. (Note that Dental Care Benefits, except when not paid as medical claims/benefits, and those Prescription Drug Benefits or Vision Care Benefits that may be administered by a third party contracted by Florida Blue to provide the specific service or services are not processed through Inter-Plan Arrangements.)

   B. BlueCard® Program

   The BlueCard® Program is an Inter-Plan Arrangement. Under this Arrangement, when

members access covered healthcare services within the geographic area served by a Host Blue, the Host Blue will be responsible for contracting and handling all interactions with its participating healthcare providers. The financial terms of the BlueCard Program are described generally below.

1. Liability Calculation Method Per Claim – In General

   a. Member Liability Calculation

      Unless subject to a fixed dollar copayment, the calculation of the member liability on claims for covered healthcare services will be based on the lower of the participating provider's billed covered charges or the negotiated price made available to Florida Blue by the Host Blue.

   b. Employer Liability Calculation

      The calculation of Employer liability on claims for covered healthcare services processed through the BlueCard Program will be based on the negotiated price made available to Florida Blue by the Host Blue (under the contract between the Host Blue and the provider). Sometimes, this negotiated price may be greater for a given service or services than the billed charge in accordance with how the Host Blue has negotiated with its participating healthcare provider(s) for specific healthcare services. In cases where the negotiated price exceeds the billed charge, Employer may be liable for the excess amount even when the member's deductible has not been satisfied. This excess amount reflects an amount that may be necessary to secure (a) the provider's participation in the network and/or (b) the overall discount negotiated by the Host Blue. In such a case, the entire contracted price is paid to the provider, even when the contracted price is greater than the billed charge.

2. Claims Pricing

   Host Blues determine a negotiated price, which is reflected in the terms of each Host Blue's provider contracts. The negotiated price made available to Florida Blue by the Host Blue may be represented by one of the following:

   (i) An actual price. An actual price is a negotiated rate of payment in effect at the time a claim is processed without any other increases or decreases; or

   (ii) An estimated price. An estimated price is a negotiated rate of payment in effect at the time a claim is processed, reduced or increased by a percentage to take into account certain payments negotiated with the provider and other claim- and non-claim-related transactions. Such transactions may include, but are not limited to, anti-fraud and abuse recoveries, provider refunds not applied on a claim-specific basis, retrospective settlements and performance related bonuses or incentives; or

   (iii) An average price. An average price is a percentage of billed covered charges in effect at the time a claim is processed representing the aggregate payments negotiated by the Host Blue with all of its healthcare providers or a similar classification of its providers and other claim- and non-claim-related transactions. Such transactions may include the same ones as noted above for an estimated

price.

The Host Blue determines whether it will use an actual, estimated or average price. The use of estimated or average pricing may result in a difference (positive or negative) between the price Employer pays on a specific claim and the actual amount the Host Blue pays to the provider. However, the BlueCard Program requires that the amount paid by the member and Employer is a final price; no future price adjustment will result in increases or decreases to the pricing of past claims.

Any positive or negative differences in estimated or average pricing are accounted for through variance accounts maintained by the Host Blue and are incorporated into future claim prices. As a result, the amounts charged to Employer will be adjusted in a following year, as necessary, to account for over- or underestimation of the past years' prices. The Host Blue will not receive compensation from how the estimated price or average price methods, described above, are calculated. Because all amounts paid are final, neither positive variance account amounts (funds available to be paid in the following year), nor negative variance amounts (the funds needed to be received in the following year), are due to or from Employer. If Employer terminates, you will not receive a refund or charge from the variance account.

Variance account balances are small amounts relative to the overall paid claims amounts and will be liquidated over time. The timeframe for their liquidation depends on variables, including, but not limited to, overall volume/number of claims processed and variance account balance. Variance account balances may earn interest at the federal funds or similar rate. Host Blues may retain interest earned on funds held in variance accounts.

3. BlueCard Program Fees and Compensation

Employer understands and agrees to reimburse Florida Blue for certain fees and compensation which Florida Blue is obligated under the BlueCard Program to pay to the Host Blues, to the Association and/or to vendors of BlueCard Program related services. The specific BlueCard Program fees and compensation that are charged to Employer are set forth in Exhibit B. BlueCard Program Fees and compensation may be revised from time to time.

Only the BlueCard Program access fee may be charged separately each time a claim is processed through the BlueCard Program. All other BlueCard Program related fees are included in the Administrative Fee.

The access fee is charged by the Host Blue to Florida Blue for making its applicable provider network available to Employer's. The access fee will not apply to non-participating provider claims. The access fee is charged on a per claim basis and is charged as a percentage of the discount/differential Florida Blue receives from the applicable Host Blue subject to a maximum of $2,000 per claim. When charged, Florida Blue passes the access fee directly on to Employer.

Instances may occur in which the claim payment is zero or Florida Blue pays only a small amount because the amounts eligible for payment were applied to patient cost sharing (such as a deductible or coinsurance). In these instances, Florida Blue will pay the Host Blue's access fee and pass it along directly to Employer as stated above even

Employer paid little or had no claim liability.

An Administrative Fee encompasses fees Florida Blue charges to Employer for administering Employer's benefit plan. They may include both local (within Florida Blue's service area) and Inter-Plan fees. For purposes of this Agreement, they include the following BlueCard Program related fees other than the BlueCard Program access fee: namely, administrative expense allowance (AEA) fee, central financial agency fee, ITS transaction fee, toll free number fee, PPO provider directory fee and BlueCard Worldwide Program Fees, if applicable.

C. Special Cases: Value-Based Programs

Value-Based Programs Definitions

Accountable Care Organization (ACO): A group of healthcare providers who agree to deliver coordinated care and meet performance benchmarks for quality and affordability in order to manage the total cost of care for their member populations.

Global Payment/Total Cost of Care: A payment methodology that is defined at the patient level and accounts for either all patient care or for a specific group of services delivered to the patient such as outpatient, physician, ancillary, hospital services and prescription drugs.

Patient-Centered Medical Home (PCMH): A model of care in which each patient has an ongoing relationship with a primary care physician who coordinates a team to take collective responsibility for patient care and, when appropriate, arranges for care with other qualified physicians.

Shared Savings: A payment mechanism in which the provider and payer share cost savings achieved against a target cost budget based upon agreed upon terms and may include downside risk.

Value-Based Program (VBP): An outcomes-based payment arrangement and/or a coordinated care model facilitated with one or more local providers that is evaluated against cost and quality metrics/factors and is reflected in provider payment.

Value-Based Programs Overview

Employer's members may access covered healthcare services from providers that participate in a Host Blue's Value-Based Program. Value-Based Programs may be delivered either through the BlueCard Program or a Negotiated Arrangement. These Value-Based Programs may include, but are not limited to, Accountable Care Organizations, Global Payment/Total Cost of Care arrangements, Patient Centered Medical Homes and Shared Savings arrangements.

Value-Based Programs under the BlueCard Program

Under Value-Based Programs, a Host Blue may pay providers for reaching agreed upon cost/quality goals in the following ways:

The Host Blue may pass these provider payments to Florida Blue, which Florida Blue will pass directly on to Employer as either an amount included in the price of the claim or an

amount charged separately in addition to the claim.

When such amounts are included in the price of the claim, the claim may be billed using one of the following pricing methods, as determined by the Host Blue:

(i) Actual Pricing: The charge to accounts for Value-Based Programs incentives/Shared Savings settlements is part of the claim. These charges are passed to Employer via an enhanced provider fee schedule.

(ii) Supplemental Factor: The charge to accounts for Value-Based Programs incentives/Shared Savings settlements is a supplemental amount that is included in the claim as an amount based on a specified supplemental factor (e.g., a small percentage increase in the claim amount). The supplemental factor may be adjusted from time to time.

When such amounts are billed separately from the price of the claim, they may be billed as follows:

- Per Member Per Month (PMPM) Billings: Per member per month billings for Value-Based Programs incentives/Shared Savings settlements to accounts are outside of the claim system. Florida Blue will pass these Host Blue charges directly through to Employer as a separately identified amount on the group billings; or,
- Where Host Blues pass on the costs of Value-Based Programs to Florida Blue as PMPM amounts not attached to specific claims, Florida Blue may elect to pass these amounts to Employer as a claim amount.

The amounts used to calculate either the supplemental factors for estimated pricing or PMPM billings are fixed amounts that are estimated to be necessary to finance the cost of a particular Value-Based Program. Because amounts are estimates, there may be positive or negative differences based on actual experience, and such differences will be accounted for in a variance account maintained by the Host Blue (in the same manner as described in the BlueCard claim pricing section above) until the end of the applicable Value-Based Program payment and/or reconciliation measurement period. The amounts needed to fund a Value-Based Program may be changed before the end of the measurement period if it is determined that amounts being collected are projected to exceed the amount necessary to fund the program or if they are projected to be insufficient to fund the program.

At the end of the Value-Based Program payment and/or reconciliation measurement period for these arrangements, Host Blues will take one of the following actions:

- Use any surplus in funds in the variance account to fund Value-Based Program payments or reconciliation amounts in the next measurement period.
- Address any deficit in funds in the variance account through an adjustment to the PMPM billing amount or the reconciliation billing amount for the next measurement period.

The Host Blue will not receive compensation resulting from how estimated, average or PMPM price methods, described above, are calculated. If Employer terminates, you will not receive a refund or charge from the variance account. This is because any resulting surpluses or deficits would be eventually exhausted through prospective adjustment to

the settlement billings in the case of Value-Based Programs. The measurement period for determining these surpluses or deficits may differ from the term of this Agreement.

Variance account balances are small amounts relative to the overall paid claims amounts and will be liquidated over time. The timeframe for their liquidation depends on variables, including, but not limited to, overall volume/number of claims processed and variance account balance. Variance account balances may earn interest, and interest is earned at the federal funds or similar rate. Host Blues may retain interest earned on funds held in variance accounts.

Note: Members will not bear any portion of the cost of Value-Based Programs except when a Host Blue uses either average pricing or actual pricing to pay providers under Value-Based Programs.

Care Coordinator Fees

Host Blues may also bill Florida Blue for care coordinator fees for provider services which we will pass on to Employer as follows:

1. PMPM billings; or

2. Individual claim billings through applicable care coordination codes from the most current editions of either Current Procedural Terminology (CPT) published by the American Medical Association (AMA) or Healthcare Common Procedure Coding System (HCPCS) published by the U.S. Centers for Medicare and Medicaid Services (CMS).

As part of this Agreement, Florida Blue and Employer will not impose member cost sharing for care coordinator fees.

D. Return of Overpayments

Recoveries from a Host Blue or its participating and nonparticipating providers can arise in several ways, including, but not limited to, anti-fraud and abuse recoveries, healthcare provider/hospital bill audits, credit balance audits, utilization review refunds and unsolicited refunds. Recoveries will be applied in general, on either a claim-by-claim or prospective basis. If recovery amounts are passed on a claim-by-claim basis from a Host Blue to Florida Blue they will be credited to Employer. In some cases, the Host Blue will engage a third party to assist in identification or collection of recovery amounts. The fees of such a third party may be charged to Employer as a percentage of the recovery.

E. Inter-Plan Programs: Federal/State Taxes/Surcharges/Fees

In some instances federal or state laws or regulations may impose a surcharge, tax or other fee that applies to self-funded accounts. If applicable, Florida Blue will disclose any such surcharge, tax or other fee to Employer, which will be Employer's liability.

F. Nonparticipating Providers Outside Florida Blue's Service Area

1. Member Liability Calculation

a. In General

When covered healthcare services are provided outside of Florida Blue's service area by nonparticipating providers, the amount(s) a member pays for such services will be based on either the Host Blue's nonparticipating healthcare provider local payment or the pricing arrangements required by applicable state law. In these situations, the member may be responsible for the difference between the amount that the nonparticipating provider bills and the payment Florida Blue will make for the covered services as set forth in this paragraph. Payments for out-of-network emergency services will be governed by applicable federal and state law.

b. Exceptions

In some exception cases, at Employer's direction, Florida Blue may pay claims from nonparticipating healthcare providers outside of Florida Blue's service area based on the provider's billed charge. This may occur in situations where a member did not have reasonable access to a participating provider, as determined by Florida Blue (in Florida Blue's sole and absolute discretion) or by applicable state law. In other exception cases, (at Employer's direction) Florida Blue may pay such claims based on the payment Florida Blue would make if Florida Blue were paying a nonparticipating provider inside of Florida Blue's service area, as described elsewhere in this Agreement. This may occur where the Host Blue's corresponding payment would be more than Florida Blue's in-service area nonparticipating provider payment. Florida Blue may choose to negotiate a payment with such a provider on an exception basis.

Unless otherwise stated, in any of these exception situations, the member may be responsible for the difference between the amount that the nonparticipating healthcare provider bills and the payment Florida Blue will make for the covered services as set forth in this paragraph.

2. Fees and Compensation

Employer understands and agrees to reimburse Florida Blue for certain fees and compensation which we are obligated under applicable Inter-Plan Arrangement requirements to pay to the Host Blues, to the Association and/or to vendors of Inter-Plan Arrangement-related services. The specific fees and compensation that are charged to Employer are set forth in Exhibit B, if applicable. Fees and compensation under applicable Inter-Plan Arrangements may be revised from time to time.

G. BlueCard Worldwide® Program

1. General Information

If members are outside the United States, (the Commonwealth of Puerto Rico and the U.S. Virgin Islands) (hereinafter: "BlueCard service area"), they may be able to take advantage of the BlueCard Worldwide Program when accessing covered healthcare services. The BlueCard Worldwide Program is unlike the BlueCard Program available in the BlueCard service area in certain ways. For instance, although the BlueCard Worldwide Program assists members with accessing a network of inpatient, outpatient and professional providers, the network is not served by a Host Blue. As such, when members receive care from providers outside the BlueCard service area, the members will typically have to pay the providers and submit the claims themselves to

obtain reimbursement for these services.

- Inpatient Services

  In most cases, if members contact the BlueCard Worldwide Service Center for assistance, hospitals will not require members to pay for covered inpatient services, except for their cost-share amounts. In such cases, the hospital will submit member claims to the BlueCard Worldwide Service Center to initiate claims processing. However, if the member paid in full at the time of service, the member must submit a claim to obtain reimbursement for covered healthcare services. Members must contact Florida Blue to obtain precertification for non-emergency inpatient services.

- Outpatient Services

  Physicians, urgent care centers and other outpatient providers located outside the BlueCard service area will typically require members to pay in full at the time of service. Members must submit a claim to obtain reimbursement for covered healthcare services.

- Submitting a BlueCard Worldwide Claim

  When members pay for covered healthcare services outside the BlueCard service area, they must submit a claim to obtain reimbursement. For institutional and professional claims, members should complete a BlueCard Worldwide International claim form and send the claim form with the provider's itemized bill(s) to the BlueCard Worldwide Service Center address on the form to initiate claims processing. The claim form is available from Florida Blue, the BlueCard Worldwide Service Center, or online at www.bluecardworldwide.com. If members need assistance with their claim submissions, they should call the BlueCard Worldwide Service Center at 1.800.810.BLUE (2583) or call collect at 1.804.673.1177, 24 hours a day, seven days a week.

2. BlueCard Worldwide Program-Related Fees

   Employer understands and agrees to reimburse Florida Blue for certain fees and compensation which we are obligated under applicable Inter-Plan Arrangement requirements to pay to the Host Blues, to the Association and/or to vendors of Inter-Plan Arrangement related services. The specific fees and compensation that are charged to Employer under the BlueCard Worldwide Program are set forth in Exhibit B, if applicable. Fees and compensation under applicable Inter-Plan Arrangements may be revised from time to time.

4. Exhibit B to the Agreement is hereby amended, effective January 1, 2017. The revised Exhibit B is attached to this Amendment and replaces the Exhibit B previously attached to the Agreement.

5. Except as otherwise specifically noted in this Amendment, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, this Amendment has been executed by the duly authorized representatives of the parties.

BLUE CROSS AND BLUE SHIELD OF FLORIDA, INC.	THE TOWN OF PALM BEACH
By: _____	By: _____
Title: VP, Sales Operations	Title: _____
Date: 11/10/16	Date: _____

EXHIBIT "B"
to the
ADMINISTRATIVE SERVICES AGREEMENT
between
BLUE CROSS AND BLUE SHIELD OF FLORIDA, INC. D/B/A FLORIDA BLUE
and
TOWN OF PALM BEACH

FINANCIAL ARRANGEMENTS

I. Effective Date

The effective date of this Exhibit is January 1, 2017.

II. Monthly Payments.

A. Each month, Florida Blue will notify the Employer of the amount due to satisfy the previous month's paid claims liability. Florida Blue also will provide the Employer with a detailed printout of the previous month's claims payments. The Employer agrees to pay the full amount of the bill within ten (10) days of the written notification. If the payment is not received by Florida Blue by the payment due date, the payment will be considered past due and subject to a late payment charge, as set forth below. Additionally, Florida Blue will immediately suspend claims until payment is received by Florida Blue.

B. The Employer agrees to pay to Florida Blue, each month during and after the term of this Agreement, an administrative fee, as set forth below. The Employer agrees to pay to Florida Blue, each month, the administrative fee within ten (10) days of the written notification of the amount due. If payment is not received by Florida Blue by the due date, the payment will be considered past due and subject to a late payment charge, as set forth below. Additionally, Florida Blue will immediately suspend claims until payment is received by Florida Blue.

III. Funding Information

A. Method of Funding Transfer: ACH

IV. Administrative Fees:

A. Administrative fees during the term of the Agreement:

$50.75 per employee per month from January 1, 2017 through December 31, 2017. This fee includes a $2.00 Teladoc Services fee.

$51.97 per employee per month from January 1, 2018 through December 31, 2018. This fee includes a $2.00 Teladoc Services fee.

$53.22 per employee per month from January 1, 2019 through December 31, 2019. This fee includes a $2.00 Teladoc Services fee.

B. Administrative fees after the termination of the Agreement: Three equal monthly payments, payable the first of the month for the first three months after termination, calculated at the present Administrative fee when the termination notice is given, times the average number of enrolled employee's for the last three months prior to termination.

C. Florida Blue will pay the Employer a one-time annual wellness contribution of $50,000, upon final execution of this Amendment to be utilized by the Employer for any wellness related initiatives or activities. The amount will be predicated upon the Employer maintaining the Agreement with Florida Blue through December 31, 2019. If the Employer terminates the Agreement without cause prior to January 1, 2020, Employer will return $50,000 of the wellness contribution to Florida Blue.

D. Access fees of up to 4.51% of Network Savings may be assessed for claims incurred in states under the BlueCard program as explained in more detail under Section III, subsection 3.9. This access fee will not exceed two thousand dollars ($2,000) for any one claim and will not apply in Florida.

Network Savings is defined as the total of the amounts computed by subtracting each "allowed amount" for a particular service under the terms of a participating provider's written agreement from each "billed amount" for such service. In no event shall the term "Network Savings" include duplicate charges or billed amounts for services or supplies not covered under the Employer's Plan. The term "allowed amount" means the amount received as payment in full by a participating provider, under that provider's written agreement, from both Florida Blue and covered individuals under Employer's Plan for claims submitted to, and paid by Florida Blue for a particular covered service, and the term "billed amount" means the amount which would be received by such provider for the same covered service utilizing that provider's charges.

V. Late Payment Penalty

A. A daily charge of .00038 times the amount of overdue payment.

VI. Expected Enrollment

A. The administrative fees referenced above are based on an expected enrollment of: 439.

B. If the actual enrollment is materially different from this expected enrollment, Florida Blue reserves the right to adjust the administrative fees as set forth in the Agreement. Administrative fees will be charged based on actual enrollment.

AMENDMENT TO ADMINISTRATIVE SERVICES AGREEMENT

This Amendment, entered into on January 1, 2017 is by and between Health Options, Inc. (hereinafter referred to as "HOI") and Town of Palm Beach (hereinafter referred to as "Employer"). In consideration of the mutual and reciprocal promises herein contained, the Administrative Services Agreement between HOI and Employer (hereinafter "Agreement") is amended as follows:

1. Section 1, subsection 1.1, is hereby amended to extend the term of the Agreement until December 31, 2019 unless the Agreement is terminated earlier in accordance with the terms of the Agreement.

2. The subsection entitled "Claims Processing" in Section III, Duties and Responsibilities of Florida Blue, is hereby amended by adding the following:

   For value-based reimbursement programs Florida Blue enters into with participating providers, an applicable per member per month charge may be included in lieu of a claim level surcharge.

3. The subsection entitled "Providers Outside the State of Florida", under Section III, Duties and Responsibilities of Florida Blue is hereby deleted in its entirety and replaced with the following:

   A. Out-of-Area Services

      Overview

      HOI has a variety of relationships with other Blue Cross and/or Blue Shield Licensees referred to generally as "Inter-Plan Arrangements." These Inter-Plan Arrangements operate under rules and procedures issued by the Blue Cross Blue Shield Association ("Association"). Whenever members access healthcare services outside the geographic area HOI serves, the claim for those services may be processed through one of these Inter-Plan Arrangements. The Inter-Plan Arrangements are described generally below.

      Typically, when accessing care outside the geographic area HOI serves, members obtain care from healthcare providers that have a contractual agreement ("participating providers") with the local Blue Cross and/or Blue Shield Licensee in that other geographic area ("Host Blue"). In some instances, members may obtain care from healthcare providers in the Host Blue geographic area that do not have a contractual agreement ("nonparticipating providers") with the Host Blue. HOI remains responsible for fulfilling our contractual obligations to you. HOI's payment practices in both instances are described below.

      HOI covers only limited healthcare services received outside of HOI's service area. As used in this Section III, "Out-of-Area Covered Services" include emergency services obtained outside the geographic area HOI serves. Any other services will not be covered when processed through any Inter-Plan Arrangements, unless authorized by member's primary care physician ("PCP")/HOI.

      Inter-Plan Arrangements Eligibility – Claim Types

All claim types are eligible to be processed through Inter-Plan Arrangements, as described above, except for all Dental Care Benefits (except when paid as medical claims/benefits), and those Prescription Drug Benefits or Vision Care Benefits that may be administered by a third party contracted by HOI to provide the specific service or services.

B. BlueCard® Program

The BlueCard® Program is an Inter-Plan Arrangement. Under this Arrangement, when members access Out-of-Area Covered Healthcare Services within the geographic area served by a Host Blue, the Host Blue will be responsible for contracting and handling all interactions with its participating healthcare providers. The financial terms of the BlueCard Program are described generally below.

Liability Calculation Method Per Claim

1. Member Liability Calculation

Unless subject to a fixed-dollar copayment, the calculation of the member liability on claims for Out-of-Area Covered Healthcare Services processed through the BlueCard Program will be based on the lower of the participating provider's billed covered charges or the negotiated price made available to HOI by the Host Blue.

2. Employer Liability Calculation

The calculation of Employer liability on claims for covered healthcare services processed through the BlueCard Program will be based on the negotiated price made available to HOI by the Host Blue under the contract between the Host Blue and the provider. Sometimes, this negotiated price may be greater for a given service or services than the billed charge in accordance with how the Host Blue has negotiated with its participating provider(s) for specific healthcare services. In cases where the negotiated price exceeds the billed charge, Employer may be liable for the excess amount even when the member's deductible has not been satisfied. This excess amount reflects an amount that is necessary to secure (a) the provider's participation in the network, and (b) the overall discount negotiated by the Host Blue. The entire contracted price is paid to the provider even when the contracted price is greater than the billed charge.

Host Blues determine a negotiated price, which is reflected in the terms of each Host Blue's provider contracts. The negotiated price made available to HOI by the Host Blue may be represented by one of the following:

(i) An actual price. An actual price is a negotiated rate of payment in effect at the time a claim is processed without any other increases or decreases; or

(ii) An estimated price. An estimated price is a negotiated rate of payment in effect at the time a claim is processed, reduced or increased by a percentage to take into account certain payments negotiated with the provider and other claim- and non-claim-related transactions. Such transactions may include, but are not limited to, anti-fraud and abuse recoveries, provider refunds not

applied on a claim specific basis, retrospective settlements and performance-related bonuses or incentives; or

(iii) An average price. An average price is a percentage of billed covered charges in effect at the time a claim is processed representing the aggregate payments negotiated by the Host Blue with all of its providers or a similar classification of its providers and other claim- and non-claim-related transactions. Such transactions may include the same ones as noted above for an estimated price.

The Host Blue determines whether or not it will use an actual price, an estimated price or an average price. The use of estimated or average pricing may result in a difference (positive or negative) between the price Employer pays on a specific claim and the actual amount the Host Blue pays to the provider.

However, the BlueCard Program requires that the amount paid by the member and HOI is a final price; no future price adjustment will result in increases or decreases to the pricing of past claims. Any positive or negative differences in estimated or average pricing are accounted for through variance accounts maintained by the Host Blue and are incorporated into future claim prices. As a result, the amounts charged to Employer will be adjusted in a following year, as necessary, to account for over- or underestimation of past years' prices. The Host Blue will not receive compensation from how the estimated price or average price methods, described above, are calculated.

Because all amounts paid are final, neither positive variance account amounts (funds available to be paid in the following year), nor negative variance amounts (the funds needed to be received in the following year), are due to or from HOI. If Employer terminates, you will not receive a refund or charge from the variance account.

Variance account balances are small amounts relative to the overall paid claims amounts and will be liquidated over time. The timeframe for their liquidation depends on variables, including, but not limited to, overall volume/number of claims processed and variance account balance. Variance account balances may earn interest at the federal funds or similar rate. Host Blues may retain interest earned on funds held in variance accounts.

Federal/State Taxes/Surcharges/Fees

In some instances, federal or state laws or regulations may impose a surcharge, tax, or other fee that applies to self-funded accounts. If applicable, HOI will disclose any such surcharge, tax or other fee to Employer, which will be Employer liability.

Return of Overpayments

Recoveries from a Host Blue or its participating and nonparticipating providers can arise in several ways, including, but not limited to, anti-fraud and abuse recoveries, provider/hospital bill audits, credit balance audits, utilization review refunds and unsolicited refunds. Recoveries will be applied so that corrections will be made, in general, on a claim-by-claim or prospective basis. If recovery amounts are passed on a claim-by-claim basis from a Host Blue to HOI, they will be credited to Employer's

account. In some cases, the Host Blue will engage a third party to assist in identification or collection of recovery amounts. The fees of such a third party may be charged to Employer as a percentage of the recovery.

BlueCard Fees and Compensation

Employer understands and agrees to reimburse HOI for certain fees and compensation which we are obligated under the BlueCard Program to pay to the Host Blues, to the Association and/or to vendors of BlueCard Program related services, as described below. BlueCard Program Fees and compensation may be revised from time to time.

HOI will charge these fees as follows:

Only the BlueCard Program access fee may be charged separately each time a claim is processed through the BlueCard Program. The access fee is charged by the Host Blue to HOI for making the applicable Host Blue's provider network available to Employer's members. The access fee will not apply if the provider does not participate in the applicable Host Blue's network. HOI passes the access fee directly on to Employer. The access fee is charged on a per claim basis and is charged as a percentage of the discount/differential HOI receives from the applicable Host Blue subject to a maximum of $2,000 per claim.

All other BlueCard Program–related fees are included in HOI's Administrative Fee.

See Exhibit B (Fee section of this Agreement for the BlueCard Program Access Fee and for HOI's Administrative Fee.

B. Nonparticipating Providers Outside HOI's Service Area

Member Liability Calculation

In General

When Out-of-Area Covered Healthcare Services are provided outside of HOI's service area by nonparticipating providers, the amount(s) a member pays for such services will generally be based on either the Host Blue's nonparticipating provider local payment or the pricing arrangements required by applicable state law. In these situations, the member may be responsible for the difference between the amount that the nonparticipating provider bills and the payment HOI will make for the Out-of-Area Covered Healthcare Services as set forth in this paragraph. Payments for out-of-network emergency services will be governed by applicable federal and state law.

In some exception cases, at Employer's direction HOI may pay claims from nonparticipating providers for Out-of-Area Covered Healthcare Services based on the provider's billed charge. This may occur in situations where a member did not have reasonable access to a participating provider, as determined by HOI in HOI's sole and absolute discretion or by applicable state law. In other exception cases, at Employer's direction HOI may pay such claims based on the payment HOI would make if HOI were paying a nonparticipating provider for the same covered healthcare services inside of HOI's service area, as described elsewhere in this Agreement. This may occur where the Host Blue's corresponding payment would be more than HOI's in-service area

nonparticipating provider payment. HOI may choose to negotiate a payment with such a provider on an exception basis.

Unless otherwise stated, in any of these exception situations, the member may be responsible for the difference between the amount that the nonparticipating provider bills and the payment HOI will make for the covered services as set forth in this paragraph.

Fees and Compensation

Employer understands and agrees to reimburse HOI for certain fees and compensation which we are obligated under applicable Inter-Plan Arrangement requirements to pay to the Host Blues, to the Blue Cross Blue Shield Association and/or to vendors of Inter-Plan Arrangement-related services. Fees and compensation under applicable Inter-Plan Arrangements may be revised from time to time.

C. BlueCard Worldwide® Program

General Information

If members are outside the United States, the Commonwealth of Puerto Rico and the U.S. Virgin Islands (hereinafter: "BlueCard service area"), they may be able to take advantage of the BlueCard Worldwide® Program when accessing covered healthcare services/Covered Services. The BlueCard Worldwide Program is unlike the BlueCard Program available in the BlueCard service area in certain ways. For instance, although the BlueCard Worldwide Program assist members with accessing a network of inpatient, outpatient and professional providers, the network is not served by a Host Blue. As such, when members receive care from providers outside the BlueCard service area, the members will typically have to pay the providers and submit the claims themselves to obtain reimbursement for these services.

- Inpatient Services

  In most cases, if members contact the BlueCard Worldwide Service Center for assistance, hospitals will not require members to pay for covered inpatient services, except for their cost-share amounts. In such cases, the hospital will submit member claims to the BlueCard Worldwide Service Center to initiate claims processing. However, if the member paid in full at the time of service, the member must submit a claim to obtain reimbursement for covered healthcare services. **Members must contact HOI to obtain precertification for non-emergency inpatient services.**

- Outpatient Services

  Physicians, urgent care centers and other outpatient providers located outside the BlueCard service area will typically require members to pay in full at the time of service. Members must submit a claim to obtain reimbursement for covered healthcare services.

- Submitting a BlueCard Worldwide Claim

  When member spay for covered healthcare services outside the BlueCard service area, they must submit a claim to obtain reimbursement. For institutional and

professional claims, members should complete a BlueCard Worldwide International claim form and send the claim form with the provider's itemized bill(s) to the BlueCard Worldwide Service Center (the address is on the form) to initiate claims processing. The claim form is available from HOI, the BlueCard Worldwide Service Center or online at www.bluecardworldwide.com. If members need assistance with their claim submissions, they should call the BlueCard Worldwide Service Center at 1.800.810.BLUE (2583) or call collect at 1.804.673.1177, 24 hours a day, seven days a week.

4. Exhibit B to the Agreement is hereby amended, effective January 1, 2017. The revised Exhibit B is attached to this Amendment and replaces the Exhibit B previously attached to the Agreement.

5. Except as otherwise specifically noted in this Amendment, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, this Amendment has been executed by the duly authorized representatives of the parties.

HEALTH OPTIONS, INC.	TOWN OF PALM BEACH
By: _____	By: _____
Title: VP Sales Operations	Title: _____
Date: 11/10/16	Date: _____

EXHIBIT "B"
to the
ADMINISTRATIVE SERVICES AGREEMENT
between
HEALTH OPTIONS, INC.
and
TOWN OF PALM BEACH

FINANCIAL ARRANGEMENTS

I. Effective Date

The effective date of this Exhibit is January 1, 2017.

II. Monthly Payments.

A. Each month, HOI will notify the Employer of the amount due to satisfy the previous month's paid claims liability. HOI also will provide the Employer with a detailed printout of the previous month's claims payments. The Employer agrees to pay the full amount of the bill within ten (10) days of the written notification. If the payment is not received by HOI by the payment due date, the payment will be considered past due and subject to a late payment charge, as set forth below. Additionally, HOI will immediately suspend claims until payment is received by HOI.

B. The Employer agrees to pay to HOI, each month during and after the term of this Agreement, an administrative fee, as set forth below. The Employer agrees to pay to HOI, each month, the administrative fee within ten (10) days of the written notification of the amount due. If payment is not received by HOI by the due date, the payment will be considered past due and subject to a late payment charge, as set forth below. Additionally, HOI will immediately suspend claims until payment is received by HOI.

III. Funding Information

A. Method of Funding Transfer: ACH

IV. Administrative Fees:

A. Administrative fees during the term of the Agreement:

$50.75 per employee per month from January 1, 2017 through December 31, 2017. This fee includes a $2.00 Teladoc Services fee.
$51.97 per employee per month from January 1, 2018 through December 31, 2018. This fee includes a $2.00 Teladoc Services fee.

$53.22 per employee per month from January 1, 2019 through December 31, 2019. This fee includes a $2.00 Teladoc Services fee.

B. Administrative fees after the termination of the Agreement: Three equal monthly payments, payable the first of the month for the first three months after termination, calculated at the present Administrative fee when the termination notice is given, times the average number of enrolled employee's for the last three months prior to termination.

C. HOI will pay the Employer a one-time annual wellness contribution of $50,000, upon final execution of this Amendment to be utilized by the Employer for any wellness related initiatives or activities. The amount will be predicated upon the Employer maintaining the Agreement with HOI through December 31, 2019. If the Employer terminates the Agreement without cause prior to January 1, 2020, Employer will return $50,000 of the wellness contribution to HOI.

D. Access fees of up to 4.51% of Network Savings may be assessed for claims incurred in states under the BlueCard program as explained in more detail under Section III, subsection 3.9. This access fee will not exceed two thousand dollars ($2,000) for any one claim and will not apply in Florida.

Network Savings is defined as the total of the amounts computed by subtracting each "allowed amount" for a particular service under the terms of a participating provider's written agreement from each "billed amount" for such service. In no event shall the term "Network Savings" include duplicate charges or billed amounts for services or supplies not covered under the Employer's Plan. The term "allowed amount" means the amount received as payment in full by a participating provider, under that provider's written agreement, from both HOI and covered individuals under Employer's Plan for claims submitted to, and paid by HOI for a particular covered service, and the term "billed amount" means the amount which would be received by such provider for the same covered service utilizing that provider's charges.

V. Late Payment Penalty

A. A daily charge of .00038 times the amount of overdue payment.

VI. Expected Enrollment

A. The administrative fees referenced above are based on an expected enrollment of: 439.

B. If the actual enrollment is materially different from this expected enrollment, HOI reserves the right to adjust the administrative fees as set forth in the Agreement. Administrative fees will be charged based on actual enrollment.

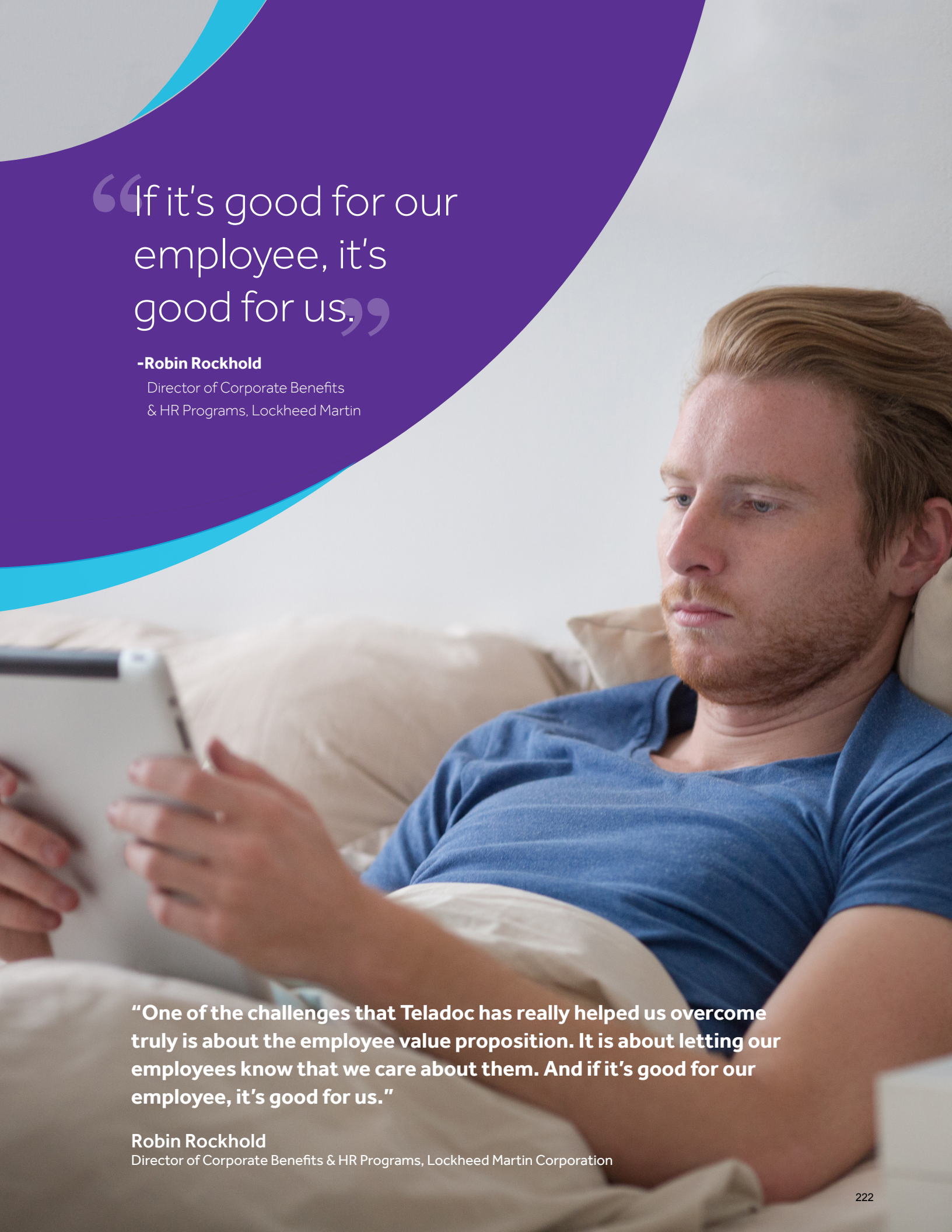
Teladoc Inc.
1945 Lakepointe Dr.
Lewisville, TX 75057

sales@teladoc.com
www.teladoc.com

Prepared for:	Proposal Issued:
Town of Palm Beach	September 22, 2016

Statement of Confidentiality

This proposal and supporting materials contain confidential and proprietary business information of Teladoc, Inc. These materials may be printed or photocopied for use in evaluating the proposal, but are not to be shared with other parties.



“If it’s good for our employee, it’s good for us.”

-Robin Rockhold
Director of Corporate Benefits
& HR Programs, Lockheed Martin

“One of the challenges that Teladoc has really helped us overcome truly is about the employee value proposition. It is about letting our employees know that we care about them. And if it’s good for our employee, it’s good for us.”

Robin Rockhold
Director of Corporate Benefits & HR Programs, Lockheed Martin Corporation

The best care, anywhere.

"Our goal is nothing short of **revolutionizing** access to **health care**. That means helping people **resolve** their issues **quickly, easily** and **affordably** - when, where and however they want. Teladoc is **pioneering better** health solutions that address the core issues of **access, cost** and **quality** that **deliver ROI** to our clients."

Jason Gorevic

CEO Teladoc

ACCESS MEETS QUALITY CARE

ABOUT TELADOC

As industry pioneers, we introduced telehealth to consumers in 2002. And we've continued to innovate ever since, ensuring our 15 million members receive superior health care and customer service anytime, anywhere. We started with the vision of tackling the three biggest issues in healthcare:

ACCESS

Patients are waiting days (sometimes months) for a doctor's appointment, and many use the ER for minor issues. Teladoc resolves this problem by providing 24/7/365 access to care.

COST

Teladoc offers care at a fraction of the cost of urgent care and ER visits, saving everyone money.

QUALITY

Doctors in our extensive physician network average 20 years of experience, and each is board-certified and state-licensed to practice medicine. Teladoc is also credentialed by the National Committee for Quality Assurance (NCQA).

Reliable Care. Always There.

At the foundation of the Teladoc service is its **national network** of **physicians**. Just like a primary care physician (PCP), Teladoc physicians are **U.S. board-certified** in **internal medicine, pediatrics** and **family medicine.** Teladoc physicians incorporate telehealth into their medical practice because they see it as a way to deliver **affordable,**

convenient access to **quality** care.

92% RESOLUTION TO PATIENT ISSUES

TELADOC PHYSICIANS

• U.S. board-certified and state-licensed with an average of 20 years experience and reside in the U.S.

• Credentialed every 3 years for medical licensure, training, education, work history and malpractice history.

• Include English and Spanish-speaking physicians. Teladoc also uses **AT&T** language line for all other languages that need facilitation or translation.

• Trained on brand protocols and "video-side" manner.

• Required to have all continuing education credits as determined by their state boards.

CLINICAL QUALITY

• NCQA-certified credentialing process.

• 125+ proprietary telehealth guidelines.

• Patient and physician educational programs for the judicious use of antibiotics.

• Physician notes ("SOAP notes") immediately available for the patient and patient's physician to review.

• No prescriptions for substances controlled by the DEA, non-therapeutic, and/or certain other drugs which may be harmful because of their potential for abuse.

Teladoc products & services

Select from the industry's most comprehensive suite of health solutions. Members receive convenient, quality care from U.S. board-certified physicians and other licensed health care providers, with the ability to diagnose and prescribe, when medically necessary.

Simple as 1,2,3

IMAGINE THIS

You wake up with flu symptoms, but can't see your PCP. Connecting with a physician 24/7/365 via your Teladoc account is easy....

1

REQUEST A CONSULT

Open the Teladoc App on your iPhone or Android smart-phone. Request a consult, provide medical history and pay for the consult. Receipts for deductible/reimbursements are accessible 24/7. Your Teladoc account is also available online at **Teladoc.com** or toll-free at **1-800-Teladoc**.

Download on the App Store | ANDROID APP ON Google play

2

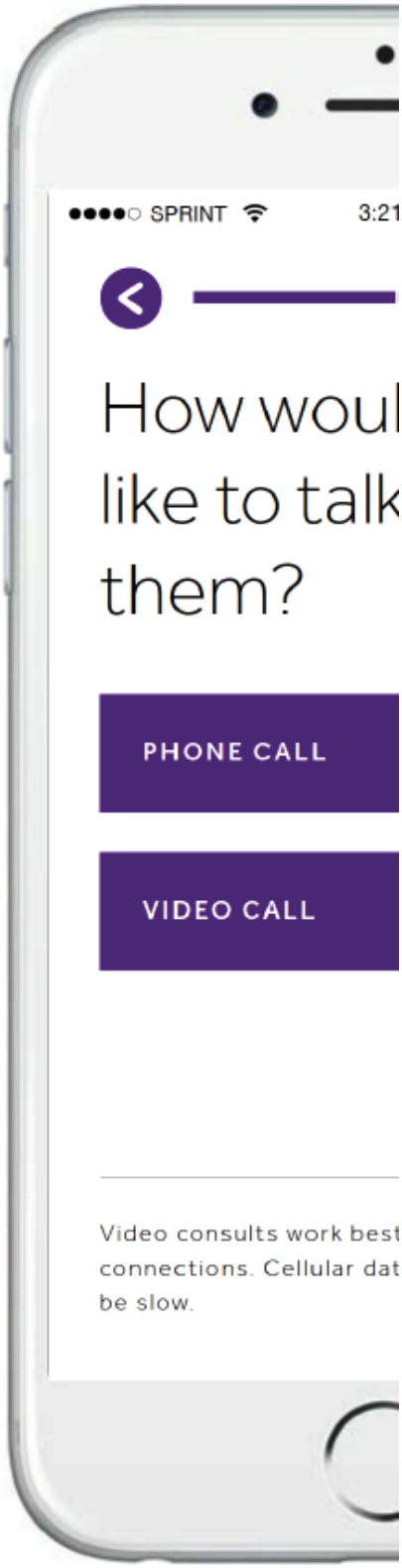
TALK TO THE DOCTOR

Within minutes, a state-licensed physician reviews your medical history and contacts you via phone or video - you decide. Teladoc consults have no time limit; you can speak to the doctor for as long as you'd like.

3

PICK UP PRESCRIPTION

The physician discusses the issue with you, answers questions and recommends next steps. If medically necessary, a prescription can be submitted to a local pharmacy. After the consult, health records are updated, payment is processed if applicable and the member is satisfied.



How it works

Teladoc is able to ensure continuity of care by having deep integration capabilities that make the experience easy and seamless for employees, members, providers and clients. This connectivity lets doctors see the history and big picture with regard to the patient's health history, ultimately delivering unsurpassed care solutions to our clients and members.

Driving utilization

Teladoc is focused on delivering a complete consumer-engagement solution that drives utilization and savings. With over thirteen years experience in marketing telehealth, we have developed a diverse range of communication strategies and tools.

DEDICATED MEMBER ENGAGEMENT

- Welcome kits and ID cards are provided to all new primary members on date of eligibility.
- Two integrated marketing campaigns with print, digital and email communications are included in pricing.
- 24/7 web access to 140+ unique, customizable marketing communications including industry-specific guidelines and content.
- Each client has a utilization marketing manager supporting on-going utilization efforts.*

*Only applies to groups of 500 members and over.

Cost Savings and ROI

Patients visiting an ER or urgent care clinic for routine medical care incur enormous expenses. Teladoc consultations are a low-cost alternative for non-emergency medical care that drives down your health-care spending, while adding convenient, 24/7 remote access to a physician.

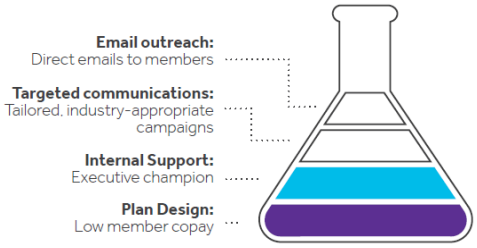
An Independent study by,

DR. NITEESH CHOUDHRY OF VERACITY HEALTHCARE ANALYTICS CONCLUDES:

AVERAGE COST PER EPISODE:* ER = $2,661 OFFICE VISIT = $191

$673	+	$44	=	$717
Average claims savings per episode of care		Average productivity savings		Total savings per consult

*Episode of care: Includes initial encounter and any subsequent utilization of follow up office visits, hospitalization, or ER utilization, resulting from initial encounter within a 30 day window for same and related diagnoses. Data is from Niteesh Choudhry of Harvard Medical School using claims data.



PUT IT TO WORK FOR YOU!

Drive utilization and success with this simple formula – low member contributions, senior executive support, personalized communications, and email outreach. **A $0 copay can generate an ROI of 400%!**

“Only 6% of Teladoc consults result in a follow-up visit (vs 20% ER).”
Independent study by:
Rand Corporation
RAND
CORPORATION

Client experience

WHAT WILL YOUR RESULTS BE?

We know that one of your first concerns is ROI. Will this program actually reduce your overall health care spending? Will it reduce absenteeism? At Teladoc, we want to provide you with meaningful ROI statistics based on real data.

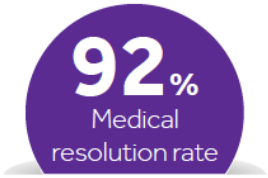
UTILIZATION ANALYSES

Teladoc provides monthly reports on actual utilization. These analyses are based on members' responses (provided prior to consultation) to the question: "Where would you have sought treatment if you had not used Teladoc?" We calculate your saving by comparing the cost of Teladoc to the national average for alternative care.

THE CLIENT EXPERIENCE

Not only do we support clients with a dedicated and experienced account management team, but we have a utilization marketing team that can help with outreach and engagement. You'll also have:

- Product training for Benefits/HR staff and employees
- 24/7 member services department



Begin saving & smiling now

Teladoc provides a simple implementation process. What's more, you can implement Teladoc any time of year, and start realizing cost savings immediately.

STEP 1	STEP 2	STEP 3	STEP 4
Design your benefit	Define enrollment process	Monthly utilization reports	Go Live
Drive ROI Define member engagement plan to drive awareness, engagement and utilization	Eligibility can be maintained via recurring files, or secure client portal Define online or member services support for completion of medical history Select welcome kit options and data variables	Registration, utilization, consultation Claims savings, top diagnosis, top prescriptions Member satisfaction Top conditions Top prescriptions	**Less than 30 days!**

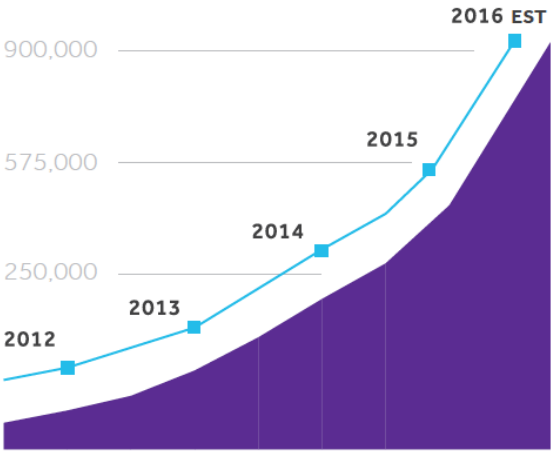
A scalable solution

In 2015, over 575,000 members received top-notch care from board-certified physicians trained to resolve their issues - usually within 10 minutes. Built for scale, Teladoc's secure and HIPAA-compliant technology platform incorporates clinical and administrative data exchange, EHR, measurable SLAs and regular reporting.

WE CAN MANAGE ANY SIZE POPULATION

- Our year-over-year exponential growth supports hundreds-of-thousands of consults a year.
- Our infrastructure has been reviewed and tested by multiple health plans, confirming the capacity to support more than 100 million members.

TOTAL ANNUAL CONSULTS



Fee design summary

STANDARD PRICING

Teladoc's price structure features a low monthly Per Employee Per Month (PEPM) administrative, Visit Fee or Case Rate where indicated. An additional PEPM applies to add Behavioral Health.

General Medicine, Behavior Health and Dermatology can be designed to apply payment responsibility to plan sponsor, member or dividend between both.

Health Pro Referral Services and the Tobacco Cessation Program can be added to your benefit offerings at no additional PEPM, however additional costs will be incurred upon use of the service. These costs will be the responsibility of the Plan Sponsor. If chosen, the appropriate costs will be invoiced according to the fee structure itemized below.

Sexual Health is included along with General Medicine. If you do not want Sexual Health, packaged within your benefit offering, you may simply opt-out. Member paid lab fees may apply when member uses the Sexual Health service.

FEE DESCRIPTION	PEPM	VISIT FEE	CASE RATE
General Medicine	$2.00	$40.00	
Total PEPM	$2.00		

PEPM price includes:

- Online registration and Medical History (MH)
- Free portable Electronic Health Record (EHR)
- 1-800 member service center support, 24/7
- Fulfillment of welcome kits to members
- Two communications per client in each of the first two years**

*The $40.00 visit fee is a fixed cost, however you may create your own plan design; for example, the member pays $10 co-pay while the plan pays the balance. Generally, the more the plan covers, the higher the utilization and eventual savings. Plan designs where member has zero cost contribution result in the highest utilization and the therefore the highest ROI.

**Marketing campaigns are specific to each client and involve member outreach by email, mail or both.

Your telehealth partner

WHEN SELECTING A PARTNER, LOOK FOR:

- ☑ NCQA-certified credentialing process
- ☑ A scalable network that aligns incentives and ensures quality
- ☑ Third-party-validated cost savings and ROI
- ☑ Integration with health plans and other industry players
- ☑ Effective resolution and member satisfaction
- ☑ True utilization and engagement, not just enrollment
- ☑ Multiple ways for member to interact (mobile, phone and video)

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Teladoc does not replace the primary care physician. Teladoc does not guarantee that a prescription will be written. Teladoc operates subject to state regulation and may not be available in certain states. Teladoc does not prescribe DEA controlled substances, non-therapeutic drugs and certain other drugs which may be harmful because of their potential for abuse. Teladoc physicians reserve the right to deny care for potential misuse of services. Teladoc phone consultations are available 24 hours, 7 days a week while video consultations are available during the hours of 7am to 9pm, 7 days a week.

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Resolutions

Agenda Title
RESOLUTION NO. 219-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving the Contractual Service Specialists Agreement Between the Town of Palm Beach and Kenneth A. Scheppke, M.D., P.A., as Medical Director and Authorizing the Town Manager to Execute the Same on Behalf of the Town.

Presenter
Kirk W. Blouin, Director of Public Safety

ATTACHMENTS:

- **Memorandum Dated November 28, 2016, from Kirk W. Blouin, Director of Public Safety**
- **Resolution No. 219-2016**
- **Contractual Service Specialist Agreement**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Kirk W. Blouin, Director of Public Safety

Re: Contractual Service Specialists Agreement for EMS Medical Direction Services
Resolution No. 219-2016

Date: November 28, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution No. 219-2016 authorizing the Town Manager to enter into a twelve (12) month agreement, with the option to renew the agreement for up to two (2) additional twelve (12) month periods, with Kenneth A. Scheppke, M.D., P.A. for the provision of Emergency Medical Services (EMS) Medical Director services for the amount of $29,000 annually.

GENERAL INFORMATION

The Town of Palm Beach provides advanced life support (ALS) emergency medical services to the citizens and visitors of the Town. Florida State Statute 401.25 requires that every person, firm, corporation, association, or governmental entity which furnishes, operates, conducts, maintains, advertises, engages in, proposes to engage in, or professes to engage in the business or service of providing prehospital advanced life support services must be licensed by the State as an advanced life support service. Florida State Statute 401.265 requires that each advanced life support service must employ or contract with a medical director meeting the requirements of that statute as well as the requirements stated in 64J-1 of the Florida Administrative Code. Dr. Kenneth Scheppke meets and exceeds the State requirements for EMS Medical Directors and has extensive experience as an EMS Medical Director. He is the current medical director for the EMS Training Program at Palm Beach State College, and the EMS Medical Director for both Boynton Beach Fire Rescue and Palm Beach Gardens Fire Rescue. He is also the Assistant Emergency Room Director for JFK Medical Center. Dr. Scheppke has been the Medical Director for Palm Beach Fire Rescue since December of 2010, providing excellent direction and progressive EMS training for the last six years. Palm Beach Fire Rescue expressed concern for a contingency plan for medical direction to ensure continuity of essential services, and through negotiations with Dr. Scheppke, he has agreed to provide additional services in the form of an Associate Medical Director. The additional service is defined in contract and the cost for all services total $29,000 per year.

FUNDING/FISCAL IMPACT

The Medical Director shall be paid the amount of $29,000.00 per year. The funds for this contract are included within Fire-Rescue's annual budget.

TOWN ATTORNEY REVIEW

The Town Attorney has reviewed Resolution No. 219-2016 and approves such as to legal form and sufficiency.

KB/dd

cc: Jane Struder, Finance Director

RESOLUTION NO. 219-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING THE CONTRACTUAL SERVICE SPECIALISTS AGREEMENT BETWEEN THE TOWN OF PALM BEACH AND KENNETH A. SCHEPPKE, M.D., P.A., AS MEDICAL DIRECTOR AND AUTHORIZING THE TOWN MANAGER TO EXECUTE THE SAME ON BEHALF OF THE TOWN.

* * *

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The Contractual Service Specialists Agreement between the Town of Palm Beach and Kenneth A. Scheppke, M.D., P.A., as Medical Director, is hereby approved.

Section 2. The Town Council of the Town of Palm Beach hereby authorizes the Town Manager to execute the Contractual Service Specialists Agreement on behalf of the Town of Palm Beach.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 13th day of December, 2016.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Town Council President Pro Tem
	Bobbie Lindsay, Town Council Member
ATTEST:	Danielle H. Moore, Town Council Member
Susan A. Owens, Town Clerk	Margaret A. Zeidman, Town Council Member

CONTRACTUAL SERVICE SPECIALISTS AGREEMENT

THIS AGREEMENT, made and entered into this 10th day of February, 2017, by and between the TOWN OF PALM BEACH, a municipal corporation under the laws of the State of Florida, (hereinafter called "TOWN") and Kenneth A Scheppke MD, PA , a Florida licensed physician, (hereinafter called "Medical Director")

WITNESSETH:

WHEREAS, the Town of Palm Beach Fire-Rescue Department provides an Emergency Medical Service system which employs Paramedics to perform advanced life support and Emergency Medical Technicians to perform basic life support; and

WHEREAS, Florida Statute 401.265 requires that the entity which provides such a service shall engage a Medical Director; and

WHEREAS, the aforementioned Statute and Chapter 64J-1 of the Florida Administrative Code set out certain criteria and requirements for said Medical Director; and

WHEREAS, the Town of Palm Beach desires to retain a licensed physician to serve as Medical Director;

NOW THEREFORE, it is mutually agreed by and between the parties hereto as follows:

1. Contract:
   The Town does hereby engage Kenneth A. Scheppke MD, PA as Medical Director for the Town's Emergency Medical Service system to undertake the duties and responsibilities of the Medical Director as described herein, along with other obligations included within this agreement.

2. Term:
   The Town agrees to retain the Medical Director and the Medical Director agrees to be retained in an independent contractor relationship for the term of twelve (12) months, commencing as of the effective date listed above and terminating twelve (12) months from the effective date unless extended hereafter by mutual agreement of the parties or cancelled in accordance with the terms of this agreement.

3. Renewal of Contract
   The Contract shall be awarded for a period of twelve (12) months, with the option to renew the contract for up to two (2) additional twelve (12) month periods. Option for renewal will only be exercised upon written mutual agreement and with all original terms, conditions, and pricing. Price adjustments in contract fees may be considered upon renewal and shall be based on the percent change in the Consumer Price Index. The Consumer Price Index shall be based upon All Urban Consumers, for the Miami-Fort Lauderdale Region, from June to June of each prior and renewal year respectively, as published by the United States Department of Labor.

   Contract renewal shall be based on satisfactory performance, mutual acceptance and determination that the contract is in the best interest of the Town. Any renewal will be subject to appropriation of funds by the Town Council.

4. Termination:
This agreement is subject to cancellation with or without cause by either party to this agreement upon thirty (30) days written notice. Such notice shall be forwarded by registered mail to the last known address of the other party.

This agreement is subject to immediate cancellation for cause. The Town may immediately be entitled to terminate this Contract in the event:

(a) Medical Director fails or refuses to prosecute the Work or any severable part with the diligence that will insure its completion within the time specified by the Town;

(b) Medical Director violates laws, ordinances, rules, regulations (excepting minor traffic violations) of any governmental authority having jurisdiction;

(c) Medical Director materially breaches any of the provisions of this Contract

5. Associate Medical Director
It shall be the obligation of the Medical Director to contract for the professional services of an Associate Medical Director for the duration of this agreement and at no additional cost to the Town, to assist the Fire Rescue Medical Director in providing Medical control for the Fire Rescue Department. The Associate Medical Director shall meet all the qualifications for a medical director as set forth in Rule 64J-1.004 F.A.C. and Section 401.265, Florida Statutes, and shall be approved by the Town's Deputy Fire Chief or his/her designee prior to being appointed by the Medical Director and commencing services. Any change in the Associate Medical Director must likewise be approved by the Town's Deputy Fire Chief or his/her designee prior to being appointed by the Medical Director. The duties of the Associate Medical Director shall be the same as those duties identified in paragraph 9 of this Contract. These services shall be in addition to those performed by the Medical Director and shall not relieve the Medical Director of his responsibilities to also perform those duties identified in paragraph 9 of this Contract, as well as all other duties established by this Contract and any applicable laws and regulations. The Medical Director shall be fully responsible to the Town for the performance of the Associate Medical Director. The Town shall look to the Medical Director to promptly remedy any deficiency of performance by the Associate Medical Director. It is further understood and agreed between the parties to this Contract that all of the legal duties and responsibilities of a medical director as set forth in Chapter 401, Florida Statutes, Rule 64J-1.004 F.A.C., and any other applicable laws and regulations, shall remain with the Medical Director for the Town, who shall remain fully and solely responsible to the Town for all such duties and responsibilities. The Associate Medical Director's performance is intended to supplement the Medical Director in providing medical control for the Fire Rescue Department and does not in any way relieve the Medical Director of his responsibilities and duties as the Medical Director for the Town. All payments to the Associate Medical Director shall be the sole responsibility of the Medical Director. In the case where the Medical Director is permanently unable to perform his/her duties for any reason, the Associate Medical Director will assume the duties of the Medical Director under the same terms of this contract.

6. Contract Fee:
The Medical Director shall be paid the amount of Twenty –Nine Thousand Dollars ($29,000.00) per annum, payable on a monthly basis, at a rate of Two Thousand Four Hundred Sixteen Dollars and Sixty-Seven Cents ($2,416.67) such amounts being all inclusive. Price adjustments may be

considered annually on the anniversary of the effective date of the contract and shall be based on the percent change in the Consumer Price Index. The Consumer Price Index shall be based upon All Urban Consumers, for the Miami-Fort Lauderdale Region, from June to June of each prior and renewal year respectively, as published by the United States Department of Labor.

7. Independent Contractor Relationship:
The Medical Director is an independent contractor who will be responsible for payment of Federal Withholding Tax and Social Security Contributions. Furthermore, the Medical Director shall not be entitled to any fringe benefits normally provided Town employees, such as Workers' Compensation Insurance Coverage, Unemployment Compensation, Retirement, Disability Leave, and any leave with pay.

8. Professional Liability Provision:
The Town agrees to provide the Medical Director and the Associate Medical Director insurance coverage for medical malpractice with liability limits no less than $1,000,000 (one million dollars) for claims arising out of the scope and performance of activities as specified in this contract and specifically as Medical Director and Associate Medical Director for the Town of Palm Beach.

Nothing in this agreement shall be construed as expanding the liability of the Medical Director or Associate Medical Director beyond that provided for in the laws of the State of Florida and such valid regulations as may be promulgated thereunder.

9. Duties and Responsibilities:
The Medical Director shall:

(a) Supervise and accept direct responsibility for the medical performance of the paramedics and EMTs working for the Town of Palm Beach Fire-Rescue Department.

(b) Develop and authorize, or review and authorize for use, medically correct standing orders and/or protocols which permit specified ALS and BLS procedures when communication cannot be established with a supervising physician or when any delay in patient care would have potential life or limb threatening consequences. Standing orders and protocols shall ensure that patients are transported to facilities that offer a type and level of care appropriate to the patient's medical condition. The medical director or his appointee shall provide continuous 24-hour-per-day availability of medical director "off-line" service for potential problems, system conflicts, and disaster events.

(c) Audit the performance of the Town's Fire-Rescue personnel by use of a quality assurance program to include, but not be limited to, a prompt review of run reports, direct observation, and comparison of performance standards for drugs, equipment, and established protocols and procedures. The Medical Director shall be responsible for participating in quality assurance programs developed by the Department.

(d) Obtain and possess proof of current registration as a Medical Director, either individually or through a hospital, with the US Department of Justice, DEA, to provide controlled substances to the Palm Beach Fire-Rescue Department. Proof of such registration shall be maintained on file with the Palm Beach Fire-Rescue Department and available for inspection.

(e) Ensure and certify that security procedures for medications, fluids and controlled substances are in compliance with Chapter 499 F.S., Chapter 893. F.S., and Section 64J-1, F.A.C.

(f) Create, authorize, and ensure adherence to detailed, written operating procedures regarding all aspects of the handling of medications, fluids, and controlled substances.

(g) Review and approve department's EMT and paramedic refresher/renewal course.

(h) Ensure that all EMTs and paramedics are trained in the use of trauma scorecard methodology as provided in Section 64J-1, F.A.C.

(i) Develop and revise, when necessary, Trauma Transport Protocols for department approval.

(j) Participate as a crew member on an EMS vehicle for a minimum of 10 hours per year and complete a minimum of 10 hours per year of continuing medical education related to prehospital care or teaching or a combination of both.

(i) At all times, meet the applicable requirements and obligations of Florida State Statute 395, 401, 499, 893 and Florida Administrative Code 64J-1.

10. Authority:

(a) The Medical Director is not authorized to obligate the expenditure of Town Funds.

(b) The Medical Director shall retain the ultimate authority to permit and/or prohibit any paramedic or EMT working for the Town's Fire-Rescue Department to utilize Advanced Life Support (ALS) and/or Basic Life Support (BLS) techniques and shall immediately notify the Town Manager or his designee of the change of eligibility of any paramedic or EMT to perform emergency medical care.

(c) The operation and administrative control of the Town's emergency medical services will be vested in the Town Manager or his designee and the Medical Director shall be responsible to the Town Manager or his designee.

(d) All persons employed by the Town who are subject to the medical supervision of the Medical Director, to include without limitation emergency medical technicians and paramedics, shall not be considered or construed to be employees of the Medical Director, but rather are and shall be considered and construed to be solely the employees of the Town. The Town shall pay all wages, workers' compensation, unemployment, and social security taxes applicable thereto.

11. Confidentiality:

The Medical Director shall carry out the obligations under this agreement in compliance with the privacy regulations pursuant to Public Law 104-191 of August 21,1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F -Administrative Simplification, Sections 261, et seq., as amended ("HIPAA") to protect the privacy of any personally identifiable protected health information that is collected, processed, or learned as a result of the services provided to the Palm Beach Fire-Rescue Department. In conformity therewith, the Medical Director agrees to abide by the conditions set forth in Appendix A.

12. Interpretation and Binding Effect:
    Except as herein otherwise provided, this agreement shall inure to the benefit of and shall be binding upon the parties hereto, their personal representative, successors, heirs, and assigns.

13. Invalidity or Unenforceability:
    Invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provisions.

14. Governing Law:
    This agreement shall be governed and construed in accordance with the laws of the State of Florida.

15. Entire Agreement:
    This agreement contains the entire understanding between the parties and may not be changed or modified except by an agreement in writing signed by all the parties.

CONTRACTUAL SERVICE SPECIALISTS AGREEMENT

TOWN OF PALM BEACH

ATTEST

_____
Thomas G. Bradford
Town Manager

_____
Susan Owens
Town Clerk

MEDICAL DIRECTOR

By:_____
Kenneth A Scheppke MD, PA
Medical Director

By:_____
John C Randolph
Town Attorney

By:_____
Kirk Blouin
Director of Public Safety

APPENDIX A

Pursuant to the Health Insurance Portability and Accountability Act of 1996, Subtitle F Administrative Simplification, Sections 261, et seq., as amended, the Medical Director agrees to:

- Not use or further disclose protected health information (PHI) except as permitted under this agreement or required by law;
- Use appropriate safeguards to prevent use or disclosure of PHI except as permitted by this agreement;
- To mitigate, to the extent practicable, any harmful effect that is known to the Medical Director of a use or disclosure of PHI by the Medical Director in violation of this agreement;
- Report to the Palm Beach Fire-Rescue Department any use or disclosure of PHI not provided for by this agreement of which the Medical Director becomes aware;
- Ensure that any agents or subcontractors to whom the Medical Director provides PHI or who have access to PHI, agree to the same restrictions and conditions that apply to the Medical Director with respect to such PHI;
- Make PHI available to the Palm Beach Fire-Rescue Department and to the individual who has a right of access as required under HIPAA;
- Incorporate any amendments to PHI when notified to do so by the Palm Beach Fire-Rescue Department;
- Provide an accounting of all uses or disclosures of PHI made by the Medical Director as required under the HIPAA privacy rule;
- Make internal practices, books, and records relating to the use and disclosure of PHI available to the Secretary of the Department of Health and Human Services for purposes of determining the Medical Director's and the Palm Beach Fire-Rescue Department's compliance with HIPAA; and
- At the termination of this agreement, return or destroy all PHI received from, or created or received by the Medical Director on behalf of the Palm Beach Fire-Rescue Department.
- Comply with all other requirements contained therein, not otherwise specified in this Appendix.

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Resolutions

Agenda Title
RESOLUTION NO. 220-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing the Purchase of the Zoll Autopulse System in the Amount of $65,687.20 from Zoll Medical Corporation Via NPP Government, RFP NO. 520.

Presenter
Kirk W. Blouin, Director of Public Safety

ATTACHMENTS:

- **Memorandum Dated November 29, 2016, from Kirk W. Blouin, Director of Public Safety**
- **Resolution No. 220-2016**
- **Zoll AutoPulse Quotation No. 211481 V:3**
- **Zoll Sole Source Document**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Kirk Blouin, Director of Public Safety

Re: Purchase of AutoPulse Automatic CPR System, Quotation 211481 V:3
Resolution No. 220-2016

Date: November 29, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution 220-2016 authorizing the purchase of the Zoll AutoPulse Automatic CPR system for Fire-Rescue in the amount of $65,687.20, from Zoll Medical Corporation, the sole source supplier for the AutoPulse system, via NPP Government (National Purchasing Partners) RFP NO. 520.

GENERAL INFORMATION

The AutoPulse device is a non-invasive cardiac support pump which moves more blood than is possible with human hands. The device is battery operated and delivers a load-distributed compression to the patient's entire chest. As a result, patients receive more consistent, high-quality compressions. The newest model of this system incorporates technology allowing the device to communicate with department cardiac defibrillators. The link will allow a more effective shock during the performance of CPR. The new lighter and smaller devices are replacing the current AutoPulse units.

The Town of Palm Beach is a member of the National Purchasing Partners Intergovernmental Cooperative. The Purchasing Division has reviewed this contract and found it to be in accordance with piggybacking requirements.

The Fire Department, as part of this procurement will trade in four (4) AutoPulse units, model 8700-9901. The total trade in amount is $8,000. Zoll's proposal No. 211481 V:3 is attached for reference.

FUNDING/FISCAL IMPACT

The current devices have reached the end of their usable life expectancy. The funds for this purchase are included in the Equipment Replacement Fund. Funds were budgeted in FY17 for this purchase. There is currently $65,687.20 in the equipment replacement account for these

items, the exact amount of the quote from the Zoll Corporation. The quote is honored through December 31, 2016, after which a price increase will be imposed.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

TOWN ATTORNEY REVIEW

Resolution No. 220-2016 has been reviewed by the Town Attorney and approved as to legal form and sufficiency.

Attachments

KB/db

cc: Jane Struder, Finance Director
Adis Pedraza, Purchasing Manager

RESOLUTION NO. 220-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE PURCHASE OF THE ZOLL AUTOPULSE SYSTEM IN THE AMOUNT OF $65,687.20 FROM ZOLL MEDICAL CORPORATION VIA NPP GOVERNMENT RFP NO. 520

WHEREAS, Staff recommends that the Town Council approve Resolution 220-2016 for the purchase of AutoPulse system, for Fire-Rescue, from Zoll Medical Corporation in the amount of $65,687.20.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1: The Town Manager is hereby authorized to execute a purchase order on behalf of the Town of Palm Beach for the Zoll AutoPulse system from Zoll Medical Corporation in the amount of $65,687.20.

Section 2: The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to effectuate the purchase of said AutoPulse systems.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 13th day of December, 2016.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Town Council President Pro Tem
	Bobbie Lindsay, Town Council Member
ATTEST:	Danielle H. Moore, Town Council Member
Susan A. Owens, Town Clerk	Margaret A. Zeidman, Town Council Member

TO: **Palm Beach Fire Rescue**

300 North County Road
Palm Beach, FL 33480
Attn: **Chief Jimmy Duane**

email: JDuane@townofpalmbeach.com
Tel: (561) 838-5420

ZOLL Medical Corporation
Worldwide HeadQuarters
269 Mill Rd
Chelmsford, Massachusetts 01824-4105
(978) 421-9655 Main
(800) 348-9011
(978) 421-0015 Customer Support
FEDERAL ID#: 04-2711626

QUOTATION 211481 V:3

DATE: December 02, 2016

TERMS: Net 30 Days

FOB: Shipping Point

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE	
1	8700-0730-01	**AutoPulse® System with Pass Thru** - Generates consistent and uninterrupted chest compressions, offering improved blood flow during cardiac arrest. Includes Backboard, User Guide, Quick Reference Guide, Shoulder Restraints, Backboard Cable Ties, Head Immobilizer, Grip Strips, In-service Training DVD, and one year warranty.	4	$10,995.00	$10,775.10	$43,100.40	*
2	8700-0752-01	**AutoPulse® Li-Ion Battery** - for use with the AutoPulse Platform.	12	$825.00	$808.50	$9,702.00	*
3	8700-0753-01	**AutoPulse SurePower Charger, U.S.** Charges and automatically conditions two (2) NiMH or Li-Ion batteries and automactically verifies battery charge level. Includes User Guide and U.S Power Cord. Standard one (1) year warranty	4	$1,795.00	$1,759.10	$7,036.40	*
4	8700-000758-01	**AutoPulse® Soft Carry Case** - with battery pocket	4	$395.00	$387.10	$1,548.40	*
5	8778-008733	**AutoPulse 3 Year Warranty** (at time of equipment sale)	4	$3,075.00	$3,075.00	$12,300.00	
6	8700-9901	**ZOLL AutoPulse Trade-in**	4		($2,000.00)	($8,000.00)	**

***Reflects National Purchasing Partners (NPP) Contract Pricing.**

Page 1 Subtotal **$65,687.20**

This quote is made subject to ZOLL's standard commercial terms and conditions (ZOLL T's + C's) which accompany this quote. Any purchase order (P.O.) issued in response to this quotation will be deemed to incorporate ZOLL T's + C's. Any modification of the ZOLL T's + C's must be set forth or referenced in the customer's P.O. No commercial terms or conditions shall apply to the sale of goods or services governed by this quote and the customer's P.O unless set forth in or referenced by either document.

Diego Mauri
Territory Manager

1. DELIVERY WILL BE MADE 60-90 DAYS AFTER RECEIPT OF ACCEPTED PURCHASE ORDER.
2. **PRICES QUOTED ARE VALID UNTIL 12/31/2016.**
3. APPLICABLE TAX WILL BE ADDED AT THE TIME OF INVOICING.
4. ALL PURCHASE ORDERS ARE SUBJECT TO CREDIT APPROVAL BEFORE ACCEPTABLE BY ZOLL.
5. FAX PURCHASE ORDER AND QUOTATION TO ZOLL CUSTOMER SUPPORT AT 978-421-0015 OR EMAIL TO ESALES@ZOLL.COM.
6. ALL DISCOUNTS OFF LIST PRICE ARE CONTINGENT UPON PAYMENT WITHIN AGREED UPON TERMS.
7. PLACE YOUR ACCESSORY ORDERS ONLINE BY VISITING www.zollwebstore.com.

ZOLL Medical Corporation
Worldwide HeadQuarters
269 Mill Rd
Chelmsford, Massachusetts 01824-4105
(978) 421-9655 Main
(800) 348-9011
(978) 421-0015 Customer Support
FEDERAL ID#: 04-2711626

TO: **Palm Beach Fire Rescue**

300 North County Road
Palm Beach, FL 33480
Attn: **Chief Jimmy Duane**

email: **JDuane@townofpalmbeach.com**
Tel: (561) 838-5420

QUOTATION 211481 V:3

DATE: December 02, 2016

TERMS: Net 30 Days

FOB: Shipping Point

FREIGHT: Free Freight

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
		"Trade in value is only guaranteed through 12/31/2016." ****Trade-In Value valid if all units purchased are in good operational and cosmetic condition, and include all standard accessories such as paddles, cables, etc. Customer assumes responsibility for shipping trade-in equipment to ZOLL Chelmsford within 60 days of receipt of new equipment. Customer agrees to pay cash value for trade-in equipment not shipped to ZOLL on a timely basis.**				

This quote is made subject to ZOLL's standard commercial terms and conditions (ZOLL T's + C's) which accompany this quote. Any purchase order (P.O.) issued in response to this quotation will be deemed to incorporate ZOLL T's + C's. Any modification of the ZOLL T's + C's must be set forth or referenced in the customer's P.O. No commercial terms or conditions shall apply to the sale of goods or services governed by this quote and the customer's P.O unless set forth in or referenced by either document.

TOTAL **$65,687.20**

1. DELIVERY WILL BE MADE 60-90 DAYS AFTER RECEIPT OF ACCEPTED PURCHASE ORDER.
2. **PRICES QUOTED ARE VALID UNTIL 12/31/2016.**
3. APPLICABLE TAX WILL BE ADDED AT THE TIME OF INVOICING.
4. ALL PURCHASE ORDERS ARE SUBJECT TO CREDIT APPROVAL BEFORE ACCEPTABLE BY ZOLL.
5. FAX PURCHASE ORDER AND QUOTATION TO ZOLL CUSTOMER SUPPORT AT 978-421-0015 OR EMAIL TO ESALES@ZOLL.COM.
6. ALL DISCOUNTS OFF LIST PRICE ARE CONTINGENT UPON PAYMENT WITHIN AGREED UPON TERMS.
7. PLACE YOUR ACCESSORY ORDERS ONLINE BY VISITING www.zollwebstore.com.

Diego Mauri
Territory Manager

ZOLL QUOTATION GENERAL TERMS & CONDITIONS

1. ACCEPTANCE. This Quotation constitutes an offer by ZOLL Medical Corporation to sell to the Customer the equipment (including a license to use certain software) listed in this Quotation and described in the specifications either attached to or referred to in this Quotation (hereinafter referred to as Equipment). Any acceptance of such offer is expressly limited to the terms of this Quotation, including these General Terms and Conditions. Acceptance shall be so limited to this Quotation notwithstanding (i) any conflicting written or oral representations made by ZOLL Medical Corporation or any agent or employee of ZOLL Medical Corporation or (ii) receipt or acknowledgement by ZOLL Medical Corporation of any purchase order, specification, or other document issued by the Customer. Any such document shall be wholly inapplicable to any sale made pursuant to this Quotation, and shall not be binding in any way on ZOLL Medical Corporation.

Acceptance of this Quotation by the Customer shall create an agreement between ZOLL Medical Corporation and the Customer (hereinafter referred to as the "Contract" the terms and conditions of which are expressly limited to the provisions of this Quotation including these Terms and Conditions. No waiver change or modification of any of the provisions of this Quotation or the Contract shall be binding on ZOLL Medical Corporation unless such waiver, change or modification (i) is made in writing (ii) expressly states that it is a waiver, change or modification of this Quotation or the Contract and (iii) is signed by an authorized representative of ZOLL Medical Corporation.

2. DELIVERY AND RISK OF LOSS. Unless otherwise stated, all deliveries shall be F.O.B. ZOLL Medical Corporation's facility. Risk of loss or damage to the Equipment shall pass to the Customer upon delivery of the Equipment to the carrier.

3. TERMS OF PAYMENT. Unless otherwise stated in its Quotation payment by Customer is due thirty (30) days after the ship date appearing on ZOLL Medical Corporation invoice. Any amounts payable hereunder which remain unpaid after the date shall be subject to a late charge equal to 1.5% per month from the due date until such amount is paid.

4. CREDIT APPROVAL. All shipments and deliveries shall at all times be subject to the approval of credit by ZOLL Medical Corporation. ZOLL Medical Corporation may at any time decline to make any shipment or delivery except upon receipt of payment or security or upon terms regarding credit or security satisfactory to ZOLL Medical Corporation.

5. TAXES & FEES. The pricing quoted in its Quotation do not include sales use, excise, or other similar taxes or any duties or customs charges, or any order processing fees. The Customer shall pay in addition for the prices quoted the amount of any present or future sales, excise or other similar tax or customs duty or charge applicable to the sale or use of the Equipment sold hereunder (except any tax based on the net income of ZOLL Medical Corporation), and any order processing fees that ZOLL may apply from time to time. In lieu thereof the Customer may provide ZOLL Medical Corporation with a tax exemption certificate acceptable to the taxing authorities.

6. WARRANTY. (a) ZOLL Medical Corporation warrants to the Customer that from the earlier of the date of installation or thirty (30) days after the date of shipment from ZOLL Medical Corporation's facility, the Equipment (other than accessories and electrodes) will be free from defects in material and workmanship under normal use and service for the period noted on the reverse side. Accessories and electrodes shall be warranted for ninety (90) days from the date of shipment. During such period ZOLL Medical Corporation will at no charge to the Customer either repair or replace (at ZOLL Medical Corporation's sole option) any part of the Equipment found by ZOLL Medical Corporation to be defective in material or workmanship. If ZOLL Medical Corporation's inspection detects no defects in material or workmanship, ZOLL Medical Corporation's regular service charges shall apply. (b) ZOLL Medical Corporation shall not be responsible for any Equipment defect failure of the Equipment to perform any specified function, or any other nonconformance of the Equipment caused by or attributable to (i) any modification of the Equipment by the Customer, unless such modification is made with the prior written approval of ZOLL Medical Corporation: (ii) the use of the Equipment with any associated or complementary equipment accessory or software not specified by ZOLL Medical Corporation, or (iii) any misuse or abuse of the Equipment: (iv) exposure of the Equipment to conditions beyond the environmental, power or operating constraints specified by ZOLL Medical Corporation, or (v) installation or wiring of the Equipment other than in accordance with ZOLL Medical Corporation's instructions. (c) Warranty does not cover items subject to normal wear and burnout during use, including but not limited to lamps, fuses, batteries, cables and accessories. (d) The foregoing warranty does not apply to software included as part of the Equipment (including software embodied in read-only memory known as "firmware"). (e) The foregoing warranty constitutes the exclusive remedy of the Customer and the exclusive liability of ZOLL Medical Corporation for any breach of any warranty related to the Equipment supplied hereunder. THE WARRANTY SET FORTH HEREIN IS EXCLUSIVE AND ZOLL MEDICAL CORPORATION EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

7. SOFTWARE LICENSE. (a) All software (the "Software" which term shall include firmware) included as part of the Equipment is licensed to Customer pursuant to a nonexclusive limited license on the terms hereinafter set forth, (b) Customer may not copy, distribute, modify, translate or adapt the Software, and may not disassemble or reverse compile the Software, or seek in any manner to discover, disclose or use any proprietary algorithms, techniques or other confidential information contained therein, (c) All rights in the Software remain the product of ZOLL Medical Corporation, and Customer shall have no right or interest therein except as expressly provided herein. (d) Customer's right to use the Software may be terminated by ZOLL Medical Corporation in the event of any failure to comply with terms of this quotation, (e) Customer may transfer the license conferred hereby only in connection with a transfer of the Equipment and may not retain any copies of the Software following such transfer. (f) ZOLL Medical Corporation warrants that the read-only memory or other media on which the Software is recorded will be free from defects in materials and workmanship for the period and on terms set forth in section 6. (g) Customer understands that the Software is a complex and sophisticated software product and no assurance can be given that operation of the Software will be uninterrupted or error-free, or that the Software will meet Customer's requirements. Except as set forth in section 7(f), ZOLL MEDICAL CORPORATION MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SOFTWARE AND IN PARTICULAR DISCLAIMS ANY IMPLIED WARRANTIES OR MERCHANTABILITY OR FITNESS OF A PARTICULAR PURPOSE WITH RESPECT THERETO. Customer's exclusive remedy for any breach of warranty or defect relating to the Software shall be the repair or replacement of any defective read-only memory or other media so that it correctly reproduces the Software. This License applies only to ZOLL Medical Corporation Software.

8. DELAYS IN DELIVERY. ZOLL Medical Corporation shall not be liable for any delay in the delivery of any part of the Equipment if such delay is due to any cause beyond the control of the ZOLL Medical Corporation including, but not limited to acts of God, fires, epidemics, floods, riots, wars, sabotage, labor disputes, governmental actions, inability to obtain materials, components, manufacturing facilities or transportation or any other cause beyond the control of ZOLL Medical Corporation. In addition ZOLL Medical Corporation shall not be liable for any delay in delivery caused by failure of the Customer to provide any necessary information in a timely manner. In the event of any such delay, the date of shipment or performance hereunder shall be extended to the period equal to the time lost by reason of such delay. In the event of such delay ZOLL Medical Corporation may allocate available Equipment among its Customers on any reasonable and equitable basis. The delivery dates set forth in this Quotation are approximate only and ZOLL Medical Corporation shall not be liable for or shall the Contract be breached by, any delivery by ZOLL Medical Corporation within a reasonable time after such dates.

9. LIMITATIONS OF LIABILITY. IN NO EVENT SHALL ZOLL MEDICAL CORPORATION BE LIABLE FOR INDIRECT SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ZOLL MEDICAL CORPORATIONS PERFORMANCE OR FAILURE TO PERFORM PURSUANT TO THIS QUOTATION OR THE CONTRACT OR THE FURNISHING, PERFORMANCE, OR USE OF ANY EQUIPMENT OR SOFTWARE SOLD HERETO, WHETHER DUE TO A BREACH OF CONTRACT, BREACH OF WARRANTY, THE NEGLIGENCE OF ZOLL MEDICAL CORPORATION OR OTHERWISE.

10. PATENT INDEMNITY. ZOLL Medical Corporation shall at its own expense defend any suit that may be instituted against the Customer for alleged infringement of any United States patents or copyrights related to the parts of the Equipment or the Software manufactured by ZOLL Medical Corporation, provided that (i) such alleged infringement consists only in the use of such Equipment or the Software by itself and not as a part of or in combination with any other devices or parts, (ii) the Customer gives ZOLL Medical Corporation immediate notice in writing of any such suit and permits ZOLL Medical Corporation through counsel of its choice, to answer the charge of infringement and defend such suit, and (iii) the Customer gives ZOLL Medical Corporation all requested information, assistance and authority at ZOLL Medical Corporation's expense, to enable ZOLL Medical Corporation to defend such suit.

In the case of a final award of damages for infringement in any such suit, ZOLL Medical Corporation will pay such award, but it shall not be responsible for any settlement made without its written consent.

Section 10 states ZOLL Medical Corporation's total responsibility and liability's, and the Customer's sole remedy for any actual or alleged infringement of any patent by the Equipment or the Software or any part thereof provided hereunder. In no event shall ZOLL Medical Corporation be liable for any indirect, special, or consequential damages resulting from any such infringement.

11. CLAIMS FOR SHORTAGE. Each shipment of Equipment shall be promptly examined by the Customer upon receipt thereof. The Customer shall inform ZOLL Medical Corporation of any shortage in any shipment within ten (10) days of receipt of Equipment. If no such shortage is reported within ten (10) day period, the shipment shall be conclusively deemed to have been complete.

12. RETURNS AND CANCELLATION. (a) The Customer shall obtain authorization from ZOLL Medical Corporation prior to returning any of the Equipment. (b) The Customer receives authorization from ZOLL Medical Corporation to return a product for credit, the Customer shall be subject to a restocking charge of twenty percent (20%) of the original list purchase price, but not less than $50.00 per product. (c) Any such change in delivery caused by the Customer that causes a delivery date greater than six (6) months from the Customer's original order date shall constitute a new order for the affected Equipment in determining the appropriate list price.

13. APPLICABLE LAW. This Quotation and the Contract shall be governed by the substantive laws of the Commonwealth of Massachusetts without regard to any choice of law provisions thereof.

14. COMPLIANCE WITH LAWS. (a) ZOLL Medical Corporation represents that all goods and services delivered pursuant to the Contract will be produced and supplied in compliance with all applicable state and federal laws and regulations, including the requirements of the Fair Labor Standards Act of 1938, as amended. (b) The Customer shall be responsible for compliance with any federal, state and local laws and regulations applicable to the installation or use of the Equipment furnished hereunder, and will obtain any permits required for such installation and use.

15. NON-WAIVER OF DEFAULT. In the event of any default by the Customer, ZOLL Medical Corporation may decline to make further shipments or render any further warranty or other services without in any way affecting its right under such order. If despite any default by Customer, ZOLL Medical Corporation elects to continue to make shipments its action shall not constitute a waiver of any default by the Customer or in any way affect ZOLL Medical Corporation's legal remedies regarding any such default. No claim or right arising out of a breach of the Agreement by the Customer can be discharged in whole or in part by waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by ZOLL Medical Corporation.

16. ASSIGNMENT. This Quotation, and the Contract, may not be assigned by the Customer without the prior written consent of ZOLL Medical Corporation, and any assignment without such consent shall be null and void.

17. TITLE TO PRODUCTS. Title to right of possession of the products sold hereunder shall remain with ZOLL Medical Corporation until ZOLL Medical Corporation delivers the Equipment to the carrier and agrees to do all acts necessary to perfect and maintain such right and title in ZOLL Medical Corporation. Failure of the Customer to pay the purchase price for any product when due shall give ZOLL Medical Corporation the right, without liability to repossess the Equipment, with or without notice, and to avail itself of any remedy provided by law.

18. EQUAL EMPLOYMENT OPPORTUNITY / AFFIRMATIVE ACTION.

VETERAN'S EMPLOYMENT - If this order is subject to Executive Order 11710 and the rules, regulations, or orders of the Secretary of Labor issued thereunder the contract clause as set forth at 41 CFR 60-250.4 is hereby included as part of this order.

EMPLOYMENT OF HANDICAPPED - if this order is subject to Section 503 of the Rehabilitation Act of 1973, as amended and the rules, regulations or orders of the Secretary of Labor as issued thereunder, the contract clause at 41 CFR 60-741.7 is hereby included as part of this order.

EQUAL OPPORTUNITY EMPLOYMENT - if this order is subject to the provisions of Executive Order 11246, as amended, and the rules, regulations or orders of the Secretary of Labor issued thereunder, the contract clause set forth at 41 CFR 60-1.4 (a) and 60-1.4 (b) are hereby included as a part of this order and Seller agrees to comply with the reporting requirements set forth at 41 CFR 60-1.7 and the affirmative action compliance program requirements set forth as 41 CFR 60-1.40.

19. VALIDITY OF QUOTATION. This Quotation shall be valid and subject to acceptance by the Customer, in accordance with the terms of Section 1 hereof for the period set forth on the face hereof. After such period, the acceptance of this Quotation shall not be binding upon ZOLL Medical Corporation and shall not create a contract, unless such acceptance is acknowledged and accepted by ZOLL Medical Corporation by a writing signed by an authorized representative of ZOLL Medical Corporation.

20. GENERAL. Any Contract resulting from this Quotation shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts. This constitutes the entire agreement between Buyer and Supplier with respect to the purchase and sale of the Products described in the face hereof, and only representations or statements contained herein shall be binding upon Supplier as a warranty or otherwise. Acceptance or acquiescence in the course of performance rendered pursuant hereto shall not be relevant to determine the meaning of this writing even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. No addition to or modification of any of the terms and conditions specified herein shall be binding upon Supplier unless made in writing and signed by a duly authorized representative of Supplier. The terms and conditions specified shall prevail notwithstanding any variance from the terms and conditions of any order or other form submitted by Buyer for the Products set forth on the face of this Agreement. To the extent that this writing may be treated as an acceptance of Buyer's prior offer, such acceptance is expressly made conditional on assent by Buyer to the terms hereof, and, without limitation, acceptance of the goods by Buyer to the terms hereof, and, without limitation, acceptance of the goods by Buyer shall constitute such assent. All cancellations and reschedules require a minimum of thirty (30) days notice.

269 Mill Road
Chelmsford, Massachusetts 01824-4105
978-421-9655 (main)
978-421-0025 (fax)
www.zoll.com

November 29th, 2016

Palm Beach Fire Rescue
Att: Dave Burke
300 N County Road
Palm Beach, FL 33480

Dear Dave Burke,

Thank you for your interest in the AutoPulse® Non-invasive Cardiac Support Pump, a revolutionary new resuscitation system that offers the promise of normal blood flow during sudden cardiac arrest.

Please be aware that ZOLL® Medical Corporation is the only company that manufactures and markets the AutoPulse. No other organization is authorized to sell the product in the United States. Further, there are no other devices on the market today that can mimic the AutoPulse's unique mechanism of action and achieve its unprecedented clinical results.

Lastly, there are multiple ancillary items that are unique to the AutoPulse and its functionality. Like the AutoPulse, no other organization is authorized to sell these products, which include but are not limited to the following:

- AutoPulse LifeBands # 8700-0706-01
- AutoPulse Lithium Ion Batteries # 8700-0752-01
- AutoPulse SurePower Charger # 8700-0753-01
- AutoPulse Soft Carry Case # 8700-000758-01
- AutoPulse Soft Stretcher # 8700-0712-01

Should you have any questions or require additional information please don't hesitate to contact me at (800) 348-9011 x 9674.

Sincerely,

Kinga Kardasinska, M.S.
Contracts Specialist

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 221-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Rescinding Resolution No. 198.2016 and Authorizing The Mayor to Execute an Agreement for Mutual Assistance and Automatic Aid Between Palm Beach County and the Town of Palm Beach for Fire-Rescue Emergency Services.

Presenter

Kirk W. Blouin, Director of Public Safety

ATTACHMENTS:

- **Memorandum Dated November 30, 2016, from Kirk W. Blouin, Director of Public Safety**
- **Resolution No. 221-2016**
- **Emergency Services Agreement for Mutual Assistance and Automatic Aid**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Kirk W. Blouin, Director of Public Safety

Re: Mutual Assistance and Automatic Aid Agreement, Palm Beach County
Resolution No. 221-2016

Date: November 30, 2016

STAFF RECOMMENDATION

Staff recommends that Town Council approve Resolution No. 221-2016 renewing the corrected Mutual Assistance and Automatic Aid Agreement for fire rescue assistance between Palm Beach County and the Town of Palm Beach.

GENERAL INFORMATION

The Mutual Assistance and Automatic Aid Agreement is a renewal of a similar agreement that expired on September 30, 2016. This Agreement is common to make the most efficient use of municipal resources by enabling jurisdictions to cooperate for their mutual protection and advantage.

TOWN ATTORNEY REVIEW

The documents have been reviewed by the Town Attorney and are approved as to legal form and sufficiency.

JD

RESOLUTION NO. 221-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RESCINDING RESOLUTION NO. 198-2016 AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR MUTUAL ASSISTANCE AND AUTOMATIC AID BETWEEN PALM BEACH COUNTY AND THE TOWN OF PALM BEACH FOR FIRE-RESCUE EMERGENCY SERVICES.

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, FLORIDA:

Section 1. The Town Council of the Town of Palm Beach hereby rescinds Resolution No. 198-2016.

Section 2. The Town Council of the Town of Palm Beach hereby adopts the Mutual Assistance and Automatic Aid Agreement between Palm Beach County and the Town of Palm Beach attached hereto as "Exhibit A".

Section 3. The Town Council of the Town of Palm Beach hereby authorizes the Mayor to execute the Mutual Assistance and Automatic Aid Agreement for Emergency Service with Palm Beach County.

PASSED AND ADOPTED in regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 13th day of December, 2016.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Town Council President Pro Tem
	Bobbie Lindsay, Town Council Member
ATTEST:	Danielle H. Moore, Town Council Member
Susan A. Owens, Town Clerk	Margaret A. Zeidman, Town Council Member

EMERGENCY SERVICES AGREEMENT FOR MUTUAL ASSISTANCE AND AUTOMATIC AID BETWEEN PALM BEACH COUNTY AND THE TOWN OF PALM BEACH

THIS EMERGENCY SERVICES AGREEMENT FOR MUTUAL ASSISTANCE AND AUTOMATIC AID (the "Agreement") is made and entered into on _____, by and between PALM BEACH COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter the "County"), by and through its Board of County Commissioners, and the TOWN OF PALM BEACH, a Florida municipal corporation located in Palm Beach County, Florida (hereinafter the "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 power 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, each of the parties to this Agreement presently maintains a fire-rescue department with fire rescue equipment, fire fighting personnel, emergency medical equipment, emergency medical personnel, and other emergency capabilities; and

WHEREAS, it is deemed mutually advantageous to enter into this Agreement providing for mutual assistance/automatic aid in times of emergency where the need created may be too great for either party to deal with unassisted or where a closest unit response is agreeable and in the public interest; and

WHEREAS, the Town and the County desire to enter into this Agreement as a means to further enhance the fire-rescue services that they currently provide within their respective jurisdictions.

NOW, THEREFORE, in consideration of the terms and conditions set forth herein and the benefits following from each to the other, the County and the Town do hereby agree as follows:

ARTICLE I: MUTUAL ASSISTANCE AND AUTOMATIC AID

Section 1. Request for Assistance/Aid. The County and the Town agree to provide emergency mutual assistance and automatic aid to each other for Fire Suppression, Emergency Medical Services, and Technical Rescue, within the terms and conditions set forth by this Agreement. The assistance/aid provided for by this Agreement shall extend to areas served by the parties through service agreements. Emergency mutual assistance/automatic aid will be given when properly requested unless the party from whom assistance is requested determines in accordance with Section 4 of this Article that

it is unable to respond. The party requesting assistance and/or aid shall provide the following information at the time the request is made:

A. The general nature, type and location of the emergency; and

B. The type and quantity of equipment and/or personnel needed; and

C. The name and rank of the person making the request.

All requests shall be directed through the County's emergency communications center. The following officials of the participating parties are authorized to request assistance and aid under this Agreement: the respective Fire Chiefs, Assistant or Deputy Fire Chiefs, or Incident Commanders.

Section 2. Command Authority. In the event of an emergency which requires additional assistance, the Fire Chief of the jurisdiction in which the incident is located, or in his absence, the Assistant or Deputy Fire Chief or the Incident Commander, will direct the activities at the scene where the emergency exists, but personnel responding to the call will remain under the command of their own officers at all times. Each party shall retain control over its personnel and the rendition of services, standards of performance, discipline of officers and employees, and other matters incidental to the performance of services. Each party authorizes its Fire Chief or designee to meet with the other party's Fire Chief or designee and develop automatic aid/closest unit response plans and procedures, including but not limited to details regarding areas to be serviced and type and/or level of response, when the Fire Chiefs have determined that improved response times or other forms of efficiency within their respective jurisdictions and/or service areas may be achieved. Such automatic aid/closest unit response plans and procedures may be set forth in a Letter(s) of Understanding between the Fire Chiefs. The County Administrator or designee (Fire Rescue Administrator) and the Town's Fire Chief are hereby authorized to enter into and amend said Letter(s) of Understanding on behalf of their respective parties, consistent with this Agreement and policies and procedures, if any, of the respective parties. The Fire Chiefs are also authorized to promulgate necessary administrative regulations and orders to implement and administer these plans and procedures.

Section 3. Remuneration. All costs associated with providing mutual assistance and automatic aid services under this Agreement shall be the responsibility of the agency rendering assistance/aid. Neither agency shall seek reimbursement of cost associated with rendering mutual assistance and/or automatic aid services from the other agency.

The parties further agree that the agency rendering assistance/aid may request reimbursement for any expenditure of goods or services directly from the persons, parties, or company involved in, causing, or responsible for, the incident at the sole discretion of the agency rendering aid or assistance. If the agency rendering assistance/aid for emergency medical services provides transport service, then that

transporting agency may request reimbursement for the transport service from the patient to the extent permitted by law. The agency rendering service will handle billing, insurance claims and collection in accordance with their policies and procedures and any applicable laws and regulations, including the latest Federal Medicare guidelines if applicable.

If the rendering agency invoices the responsible party for the incident for reimbursement of the goods and services provided, a copy of such invoice shall be forwarded to the requesting agency as a matter of courtesy, provided however that the parties shall not provide copies of transport fee invoices to the other party or otherwise use or disclose Protected Health Information ("PHI") or Electronic Protected Health Information ("e-PHI") except as permitted by the Health Insurance Portability and Accountability Act, as amended, and the regulations promulgated thereunder (collectively "HIPAA"), and any other applicable laws and regulations, all as may be amended from time to time.

Section 4. Ability to Respond. Each party may refuse to respond to a request for assistance/aid in the event it does not have the required equipment or manpower available or if, in its sole judgment, compliance with the request would jeopardize the protection of its own jurisdiction or personnel. Notwithstanding anything herein that may be construed to the contrary, the parties understand and agree that it is not the intention of the parties to subsidize the normal day-to-day operations or shortages in staffing or equipment of the other party and that the mutual assistance/automatic aid provided hereunder is intended to be mutual in nature.

ARTICLE II: GENERAL CONTRACT TERMS

Section 1. Preambles. The facts set forth in the preambles to this Agreement are true and correct and are hereby reaffirmed by the parties.

Section 2. Representative and Contract Monitor. The County representative and contract monitor during the performance of this Agreement shall be the Fire Rescue Administrator, whose telephone number is (561) 616-7001. The Town representative and contract monitor during the performance of this Agreement shall be the Assistant Chief, whose telephone number is (561) 227-6433.

Section 3. Employee Functions. No employee of either party to this Agreement shall perform any function, or service which is not within the employee's scope of duties as defined or determined by the employee's employer.

Section 4. Employee Claims, Benefits, Etc. No employee, officer, or agent of either party shall, in connection with this Agreement or the performance of services and functions hereunder, have a right to or claim any pension, workers' compensation, unemployment compensation, civil service, or other employee rights, privileges, or benefits granted by operation of law or otherwise except through

and against the entity by whom they are employed. No employee of either party shall be deemed the employee of the other, for any purpose, during the performance of services hereunder.

Section 5. No Assumption of Liability. Neither party to this Agreement nor their respective officers or employees shall be deemed to have assumed any liability for the negligent or wrongful acts or omissions of any other party. Further, nothing herein shall be construed as a waiver of sovereign immunity.

Section 6. Liability for Injury. All the privileges and immunities from liability, exemptions from law, ordinance and rules, and all pensions and relief, disability, workers' compensation and other benefits which apply to the activity of the officers or employees of either party 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 extraterritorially. Liability for injury to personnel, and for loss or damage of equipment, shall be borne by the party employing such personnel, and owning or possessing such equipment.

Section 7. Indemnification. Each party shall be liable for its own actions and negligence and, to the extent permitted by law, County shall indemnify, defend and hold harmless the Town against any actions, claims or damages arising out of the County's negligence in connection with this Agreement, and the Town shall indemnify, defend and hold harmless the County against any actions, claims or damages arising out the Town's negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions.

Section 8. Effective Date and Term. This Agreement shall take effect October 1, 2016, and continue for a term of ten years, unless sooner terminated as provided herein.

Section 9. Notice of Termination. Either party to this Agreement may, upon ninety (90) days prior written notice to the other, terminate this Agreement for any reason or for no reason at all.

Section 10. Assignment of Rights. Neither party shall assign, transfer or convey, in whole or in part, its rights, duties, or obligations without the prior written consent of the other party.

Section 11. Modification and Amendment. No modification, amendment, or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality and equality of dignity herewith.

Section 12. Entirety of Agreement. This Agreement represents the entire understanding of the parties and supersedes all other negotiations, representations, or agreements, either written or oral, relating to this Agreement.

Section 13. Nondiscrimination. Each party represents and warrants that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity and expression or genetic information.

Section 14. Annual Appropriations. Each party's performance and obligation under this Agreement is contingent upon annual budgetary appropriations by its respective governing body for the purposes hereunder.

Section 15. Remedies. This Agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in a court of competent jurisdiction located in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy and each and every 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 16. No Third Party Beneficiary. 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 but not limited to any citizens or employees of the County or the Town.

Section 17. Records. Each party shall maintain all records pertaining to the services delivered under this Agreement for a period of at least three (3) years. Each party shall maintain records associated with this Agreement, including, but not limited to, all accounts, financial and technical records, research or reports, in accordance with Florida law.

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Town, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

Section 18. Joint Preparation. The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not, solely or as a matter of judicial constraint, be construed more severely against one of the parties than the other.

Section 19. Notice of Suits. Each party agrees to notify the other of any claim, or the initiation of any legal proceeding against it, which relates in any manner to the services provided by the other party. Each party will cooperate with the other in the defense of any suit or action arising out of, or related to, the services rendered under this Agreement.

Section 20. Notices. All written notices required under this Agreement shall be sent by certified mail, return receipt requested, and if sent to the County shall be mailed to:

Palm Beach County Fire Rescue
Fire Rescue Administrator
405 Pike Road
West Palm Beach, FL 33411

and if sent to the Town shall be mailed to:

Town of Palm Beach
Fire Chief
300 North County Road
Palm Beach, FL 33480

Each party may change its address upon notice to the other party.

Section 21. Captions. The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

Section 22. Filing. A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

Section 23. Delegation of Duty. This Agreement is an Interlocal agreement for the provision of services, as authorized by Section 163.01, Florida Statutes, and shall not in any way or manner whatsoever be deemed to constitute a transfer of powers or functions. Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or municipal officers.

Section 24. HIPAA Compliance. All parties acknowledge and agree that their respective fire-rescue departments are covered entities under HIPAA, as may be amended from time to time. Should any provision of this Agreement be determined to be inconsistent with the requirements of HIPAA, then the parties shall promptly amend such provision as necessary to comply with HIPAA.

Should the parties fail to promptly do so, then either party may terminate this Agreement upon written notice to the other, without any recourse, penalty, or damages of any type against the terminating party arising from such termination.

Section 25. Severability. In the event that any section, paragraph, sentence, clause, or provision hereof is held invalid by a court of competent jurisdiction, such holding shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

Section 26. Survivability. Any provision of this Agreement that is of a continuing nature, or which by its language or nature imposes an obligation or right that extends beyond the term of this Agreement, shall survive the expiration or earlier termination of this Agreement.

Section 27. Renewal of Letters of Understanding. Notwithstanding anything herein to the contrary, any existing duly authorized Letters of Understanding entered into between the Fire Chiefs that are in effect immediately prior to the effectiveness of this Agreement shall be deemed to be renewed and continued by the parties' Fire Chiefs upon the effectiveness of this Agreement. Said Letters of Understanding shall continue and remain in effect until amended or rescinded by the parties' Fire Chiefs.

Section 28. Conflict Resolution. Any dispute or conflict between the parties that arises from the provision of services under this Agreement shall be presented in writing to the respective Contract Monitors. The Contract Monitors shall then meet to discuss the disputed issues and attempt in good faith to resolve the dispute or conflict prior to either party initiating the intergovernmental conflict resolution process provided for by Chapter 164, Florida Statutes.

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IN WITNESS WHEREOF, the undersigned parties have caused these presents to be signed by their duly authorized officers on the day and year first written above.

ATTEST:
SHARON R. BOCK,
Clerk & Comptroller

By:_____
Deputy Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:_____
County Attorney

PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

By:_____
Mary Lou Berger, Mayor

APPROVED AS TO TERMS AND CONDITIONS

By:_____
Fire-Rescue

ATTEST:

By:_____
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:_____
Town Attorney

TOWN OF PALM BEACH, FLORIDA, BY ITS TOWN COUNCIL

By:_____
Gail L. Coniglio, Mayor

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Resolutions

Agenda Title
RESOLUTION NO. 222-2016 A Resolution of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Repealing Section 112, of The Town's Administrative Amendments To The Florida Building Code, Chapter 1, Which Establishes A Building Board of Adjustment And Appeals.

Presenter
John S. Page, Director of Planning, Zoning, & Building

ATTACHMENTS:

- **Memorandum Dated December 2, 2016 From John S. Page, Director of Planning, Zoning & Building**
- **Resolution No. 222-2016**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: John S. Page, Director of Planning, Zoning & Building

Re: **Resolution No. 222-2016**, Repealing the Building Board of Adjustment & Appeals, and **Ordinance No. 28-2016**, Repealing the Building Board of Adjustment & Appeals

Date: December 2, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council repeal all references in Town Code referencing the "Building Board of Adjustment and Appeals." In order to do so, a Resolution must be adopted repealing Section 112 of the Town's Administrative Amendments to the Florida Building Code, and an Ordinance must be adopted repealing Section 18-241 of Chapter 18, Building and Building Regulations.

GENERAL INFORMATION

The Town, through both its Administrative Amendments to the Florida Building Code as well as Chapter 18 of the Code of Ordinances, makes provision for a Building Board of Adjustment and Appeals. The purpose of this Board is to allow an aggrieved party to appeal any decision of the Building Official regarding interpretations of the Florida Building Code and to grant, when justified, variances to the provisions of the Florida Building Code for the particular situation being reviewed.

At the October 10, 2016 meeting, the Town Council gave consensus to proceed with an alternative provision for this Board that was arrived at in consultation with the Town Attorney. Florida statutes, Section 553.775, titled "Interpretations," sets forth a process whereby an aggrieved party may appeal to the Florida Building Commission to settle interpretation issues with local Building Officials, and such interpretations rendered by the Commission shall be binding on the parties (553.775 (7).

It is the proposal of Town staff to repeal Section 112 of the Town's Administrative Amendments to the Florida Building Code in its entirety, and to also repeal Section 18-241 of Chapter 18 of the Code of Ordinances (each of which references the Building Board of Adjustment & Appeals), thereafter allowing aggrieved parties to follow the process outlined in the Florida Statutes.

SPECIAL CIRCUMSTANCES

As a matter of information relating to this issue, the current Building Board of Adjustment and Appeals has not met on an issue since 1996. Town staff is seeking to change the process due to the logistical trouble of maintaining an active Board that hasn't experienced the need to meet in so many years (training, financial disclosures, etc.). In addition, some members of the Board have passed away or relocated since the last meeting and new appointments would have to be made in order to convene a functioning Board.

TOWN ATTORNEY REVIEW

The Town Attorney has reviewed and approved Resolution No. 222-2016 and Ordinance No. 28-2016 for legal form and sufficiency.

Attachments

cc: John C. Randolph, Town Attorney
Bill Bucklew, Building Official

RESOLUTION NO. 222-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, REPEALING SECTION 112, OF THE TOWN'S ADMINISTRATIVE AMENDMENTS TO THE FLORIDA BUILDING CODE, CHAPTER 1, WHICH ESTABLISHES A BUILDING BOARD OF ADJUSTMENT AND APPEALS.

WHEREAS, the Town Council of the Town of Palm Beach directed and authorized Town Staff to review Section 112 of the Town Administrative Amendments to the Florida Building Code, Chapter 1, which establishes a Building Board of Adjustment and Appeals; and

WHEREAS, Town Staff conducted the requested review and presented this review and recommendation for this repeal to the Town Council at its October 10, 2016 meeting; and

WHEREAS, it has been determined by the Town Council that a Building Board of Adjustment and Appeals is no longer necessary, as alternatives for aggrieved parties are otherwise available pursuant to Florida Statutes; and

WHEREAS, The Town, therefore, wishes to repeal Section 112 of the Town's Administrative Amendments to the Florida Building Code; and

WHEREAS, The current Town Administrative Amendments to the Florida Building Code specifies that amendments may be made, as needed, by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 112 of the Town of Palm Beach Administrative Amendments to the Florida Building Code, Chapter 1, is hereby repealed in its entirety.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 13th day of December 2016.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Town Council President Pro Tem
	Danielle H. Moore, Town Council Member
ATTEST:	Bobbie Lindsay, Town Council Member
Susan Owens, MMC, Town Clerk	Margaret Zeidman, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Consent - Other

Agenda Title

Request to Consider Ordinance Nos. 24-2016 and 25-2016 Prior to 5:00 p.m. at a Public Hearing

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

- **Memorandum Dated November 29, 2016 From John S. Page, Director of Planning, Zoning & Buildig**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: John S. Page, Director of Planning, Zoning & Building

Re: Request to Consider Ordinance Nos. 24-2016 and 25-2016 Prior to 5:00 p.m. at a Public Hearing

Date: November 29, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council conduct the public hearings on Ordinance Nos. 24-2016 and 25-2016 at the Town Council meetings at which the proposed Ordinances are to be heard prior to 5:00 p.m. The proposed Ordinances will be heard on first reading at the December 14, 2016 meeting, and it is anticipated that the second reading will be on January 11, 2017. This item is on the Consent Agenda. If the Town Council adopts the Consent Agenda the Staff recommendation will be effectuated.

GENERAL INFORMATION

Florida Statutes require the Town Council to hold at least one of two public hearings to adopt a comprehensive plan amendment or zoning amendment ordinance after 5:00 p.m. However, the Statute provides that the time can be changed if a majority plus one of the local governing body elect to have a hearing at another time. Staff is requesting that the Town Council elect to conduct the public hearings on Ordinance Nos. 24-2016 and 25-2016 during the course of the normal Council business. The first reading of the proposed Ordinances will be on December 14, 2016, and it is anticipated that the second reading will be on January 11, 2017. Both public hearings may occur before 5:00 p.m.

TGB:jsp:pc

cc: Jay Boodheshwar, Deputy Town Manager
John C. Randolph, Town Attorney
Susan A. Owens, Town Clerk
Veronica B. Close, AICP, Asst. Director of Planning, Zoning and Building
Paul W. Castro, AICP, Zoning Administrator
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TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Consent - Other

Agenda Title

Workweek Modification for Firefighters Holding the Rank of Lieutenant

Presenter

Thomas G. Bradford, Town Manager

ATTACHMENTS:

- **Memorandum Dated December 5, 2016, from Thomas G. Bradford, Town Manager**
- **Memorandum Dated November 17, 2016, from Darrel Donatto, Deputy Fire Rescue Chief**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

From: Thomas G. Bradford, Town Manager

Re: Workweek Modification for Firefighters Holding the Rank of Lieutenant

Date: December 5, 2016

STAFF RECOMMENDATION

Staff recommends the Town Council approve modification of the current 56-hour work week for Fire-Rescue Lieutenants to a proposed 50.4-hour workweek to become more competitive in the local job market in order to recruit and retain our quality public safety personnel for this important frontline supervisory position.

GENERAL INFORMATION

Virtually every fire – rescue department from St. Lucie County to Key West provides for a 48-hour work week for lieutenants, with the exception of Boca Raton which provides for a 42-hour workweek. This geographical area constitutes the primary market within which the Town of Palm Beach competes. The Town's Fire – Rescue Lieutenants work 56 hours per week. Lieutenants are the Town's front-line supervisors in the Fire – Rescue Department. In the Police and Fire- Rescue Compensation and Benefits Survey underwritten by the Palm Beach Civic Association and Palm Beach Police Foundation conducted by Mercer and issued on March 22, 2016, Mercer reported that 10 out of the 11 fire – rescue entities surveyed reported working 48 hours in a standard work week. One entity reported working 42 hours in a standard workweek. This competitive disadvantage needs to be addressed.

I requested that Deputy Fire Rescue Chief Darrell Donato provide me the cost of modifying the Lieutenant workweek to 50.4 hours per week. Chief Donato's report is attached hereto. Why 50.4 hours per week? By converting to a 50.4-hour work week for our lieutenants the Town will become more competitive and lieutenants will receive an average of one unpaid day off per month. While not as lucrative as our neighbors, this is nonetheless a significant improvement and is very close to that offered by virtually every other local department. The result of the change in workweek means that three (3) additional Lieutenant positions must be added to the workforce.

This item appears on the Consent Agenda. Approval of the Consent Agenda will be considered as an affirmation of the recommendation contained herein including the funding stated below and the hiring of three additional full-time fire – rescue lieutenants in order to accommodate the proposed workweek modification.

FUNDING/FISCAL IMPACT

The estimated cost to make this change for the remainder of this fiscal year, commencing on January 1, 2017 is $171,901.04, say $171,902. Making this change requires the addition of three new fire – rescue Lieutenant full-time equivalents (FTE). Commencing on October 1, 2017 (FY 2018) the Fire – Rescue budget will increase an estimated $282,577.03 in order to accommodate the proposed modified workweek for lieutenants. If approved, funding for FY 2017 in the amount of $171,902 will be covered by a transfer of said funds from the FY 2017 General Fund Contingency to the operating budget of the Town's Fire – Rescue Department.

Cc: Kirk Blouin, Director of Public Safety
Darrell Donato, Deputy Fire Rescue Chief
Danielle Olson, Director of Human Resources
Jane Struder, Finance Director

Town of Palm Beach Fire-Rescue

TO: Thomas G. Bradford, Town Manager

THROUGH Kirk Blouin, Director of Public Safety

FROM: Darrel Donatto, Deputy Fire Rescue Chief

SUBJECT: 50.4 Hour Work Week for Fire-Rescue Lieutenants

DATE: November 17, 2016

Pursuant to your request, to provide a work-week modification for the Fire-Rescue Lieutenant position reducing the current average of 56 hours per week to an average of 50.4 hours per week would require the addition of three (3) new Fire-Rescue Lieutenant FTEs. The FY2017 cost is as follows:

For the period of January 1, 2017 to September 30, 2017 (75% of full fiscal year)

Salaries and Wages	$158,324.38
FICA	$12,111.81
Health Insurance	$25,464.85
Reduction in FLSA Overtime	($24,000.00)
Total FY2017 Budget Increase	$171,901.04

The FY2018 estimated costs would be for a full fiscal year and would include the cost for pension not required for FY2017. The FY2018 full year estimated costs would be:

Salaries and Wages	$211,099.17
FICA	$16,149.09
Health Insurance	$36,329.85
Retirement	$18,998.93
Total FY2018 Budget Increase	$282,577.03

A reduction in the current average of 56 hours per week to an average of 50.4 hours per week would mean Fire-Rescue Lieutenants would work 2620.8 hours per year versus the current 2912 hours per year. (Note: 40 hour employees work 2080 hours per year.)

cc: Danielle Olson, Director of Human Resources
Jane Struder, Director of Finance

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Consent - Other

Agenda Title
Authorization of Ordinance, Rules and Standards Committee to Study Amending Section 42-199 of the Town Code of Ordinances, Relative to Construction Work

Presenter
Jay Boodheshwar, Deputy Town Manager

ATTACHMENTS:

- **Memorandum Dated December 5, 2016, from Jay Boodheshwar, Deputy Town Manager**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Jay Boodheshwar, Deputy Town Manager

Re: Authorization of Ordinance, Rules and Standards Committee to Study Amending Section 42-199 of the Town Code of Ordinances, Relative to Construction Work

Date: December 5, 2016

STAFF RECOMMENDATION

Staff recommends Town Council authorize the Ordinance, Rules and Standards (ORS) Committee of the Town Council to study the potential amendment of the Town Code of Ordinances at Section 42-199, relative to modifications to regulations pertaining to construction work.

GENERAL INFORMATION

Per Chapter 42 of the Town Code of Ordinances, Section 42-199. - Hours for Construction Work, during the months of December through April of each year, construction work or other work resulting in noise tending to disturb the people in the vicinity thereof shall not begin until the hour of 8:00 a.m., and shall cease at the hour of 5:00 p.m., except Saturday, Sunday and legal holidays, when all construction work is prohibited. Heavy equipment or other construction-related noise is not permitted before 9:00 a.m. At all other times (May through November) such work may commence at 8:00 a.m. and cease at the hour of 6:00 p.m., except Sunday and legal holidays, including the Friday immediately after Thanksgiving, when all construction work is prohibited. However, the permitted hours for construction work in the C-WA zoning district shall be only 8:00 a.m. until 8:00 p.m. during the months commencing May 1 and ending on October 31, except Sunday and legal holidays, when all construction work is prohibited.

Section 42-199 provides for exceptions to the limitations outlined above, including the allowance of interior work not resulting in noise tending to disturb people in the vicinity thereof, during the hours of 9:00 a.m. and 5:00 p.m. on Saturdays during the period commencing on December 1 and ending on April 30.

Staff has received concerns about the length of the "construction season" and requests to consider modifications to shorten the season in response to the changing seasonality of Palm Beach, in which residents are spending longer periods in residence if not making Palm Beach their year-round home. Therefore, it is recommended that ORS study this matter to determine if it is appropriate to consider modifications to the currently defined "construction season."

cc: John C. Randolph, Town Attorney
H. Paul Brazil, P.E., Director of Public Works

John Page, Director of Planning, Zoning & Building

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Consent - Other

Agenda Title
Update of Bradley Park Improvements Approval

Presenter
H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- **Memorandum dated November 30, 2016, from H. Paul Brazil, P.E., Director of Public Works**
- **Image**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Update of Bradley Park Improvements Approvals

DATE: November 30, 2016

STAFF RECOMMENDATION

The Bradley Park improvements, as presented to the Landmarks Preservation Commission on November 16, 2016, have been approved. This memorandum is to serve as an overall update of the project as approved. This item appears on the Consent Agenda. If approved, the location with the fountain and basin will be approved, conditional upon receipt of a letter from the Diocese of Palm Beach accepting the modifications of the fountain and Tea House patio.

GENERAL INFORMATION

The Town of Palm Beach is continuing its efforts to conduct improvements to Bradley Park which is located at the Northwest corner of the Royal Poinciana Way and Bradley Place intersection and is to be funded by the Preservation Foundation of Palm Beach. At the October 13, 2016 Town Council Meeting, Council approved Special Exception #24-2016 with Site Plan Review. On October 19, 2016, the Landmarks Preservation Commission formally gave a conditional approval based on evaluating the relocation of the fountain.

The Landmarks Preservation Commission requested the Preservation Foundation evaluate moving the fountain from the patio in front of the Tea House to the lawn in front of the patio or to an area that is northwest of the Tea House. It is important to note that in a letter dated October 4, 2016, the Diocese of Palm Beach has provided approval of the existing plan with the fountain located on the patio.

At the November 16, 2016 meeting of the Landmarks Preservation Commission, the Committee gave final approval to the last remaining issue of the location of the fountain. The Committee concurred with the Town Council recommendation of October 11, 2016, to locate the fountain on the patio in front of the Tea House. The final plan includes the basin and fountain situated in front of the Tea House as seen on the enclosed attachment. These approvals are contingent upon written approval from the Diocese of Palm Beach accepting the modifications of the fountain and Tea House Patio. While staff has not received written notice as of today, we have spoken with the Diocese Council, who has indicated a letter of approval will be coming soon.

FUNDING/FISCAL IMPACT

There is no fiscal impact associated with this approval. Funding is anticipated through a full donation from the Preservation Foundation of Palm Beach.

TOWN ATTORNEY REVIEW

Review and approval by the Town Attorney for legal form and sufficiency is not necessary. The Town Attorney will be available at the meeting to answer any questions concerning the need for approval of a revised site plan by the Diocese of Palm Beach.

Attachment

cc: Eric B. Brown, P.E., Assistant Director of Public Works
Patricia Strayer, P.E., Town Engineer
Jeffrey Sanon, P.E., Project Engineer
Adis Pedraza, Purchasing Manager

SMI
LANDSCAPE ARCHITECTURE

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Board/Commission Annual Report

Agenda Title
Shore Protection Board Annual Report

Presenter
E. Llwyd Ecclestone, Jr., Chair

ATTACHMENTS:

- **Memorandum dated November 2, 2016, from E. Llwyd Ecclestone, Jr., Chair**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: E. Llwyd Ecclestone, Shore Protection Board Chairperson
Robert Weber, Coastal Program Manager

RE: Shore Protection Board Annual Report

DATE: November 28, 2016

The Shore Protection Board (SPB) is comprised of seven (7) members appointed by the Town Council for three (3) year terms. A recommendation for implementing term limits for this permanent board appears later in your agenda.

A chairperson and vice-chairperson are selected by the members. The 2016 SPB membership was as follows:

2016 Shore Protection Board Member	Position	Current Term Expires
E. Llwyd Ecclestone	Chairperson	12/2017
Gerald Frank	Vice-chairperson	12/2016
Kane Baker	Regular Member	12/2018
James C. Gavigan	Regular Member	12/2018
Lee David Goldstein	Regular Member	12/2016
Reuben B. Johnson, III	Regular Member	12/2018
Lewis Katz	Regular Member	12/2017

The Board met five (5) times in the 2016 calendar year.

2016 Shore Protection Board Member	Meetings Attended	Absences	Jan. 21	Feb. 25	Apr.14	Oct. 27	Nov. 21
E. Llwyd Ecclestone	5	0	P	P	P	P	P
Gerald Frank	5	0	P	P	P	P	P
Kane Baker	5	0	P	P	P	P	P
James C. Gavigan	5	0	P	P	P	P	P
Lee David Goldstein	5	0	P	P	P	P	P
Reuben B. Johnson, III	5	0	P	P	P	P	P
Lewis Katz	5	0	P	P	P	P	P

P=Present
E=Excused
U=Unexcused

CURRENT SHORELINE CONDITION

The Town's proactive on-going coastal management efforts have resulted in improved storm protection. No buildings are in imminent danger. Sand from the 2015 USACE Inlet Maintenance Dredging in Reach 1, 2015 Mid-Town Beach Renourishment Project in Reaches 3 and 4, and 2016 Phipps Ocean Park Beach Nourishment Project in Reach 7, have fed sand into Reaches 2, 5 and 8 respectively to enhance shoreline stability.

Rough weather in October 2016, starting with Hurricane Matthew and including several nor'easters, caused sand to move from some locations. This short term movement of sand resulted in the seasonal change from the wider and higher beaches in the summer, to the narrower and lower beaches in the winter. The impacts from hurricane Matthew are being measured. The Town will submit project worksheets to FEMA for possible future reimbursement of the sand losses identified within both the Mid-Town and Phipps project areas.

2016 COASTAL PROTECTION PROJECTS

The following coastal protection projects were completed in 2016:

- Phipps Ocean Park/Reach 7 Beach Nourishment project (from Phipps Ocean Park to Kreusler Park) including more than 1,000,000 cubic yards of sand;
- Dune Restoration at Sloan's Curve, including approximately 10,000 cubic yards of sand;
- Reach 3 Dune Restoration (from approximately El Mirasol to Sunset Avenue), including approximately 15,000 cubic yards of sand;
- Reach 8 Dune Restoration (from Bellaria Condominium to La Bonne Vie Condominium), including approximately 10,000 cubic yards of sand; and
- North Ocean Boulevard Seawall Replacement in Reach 2.

Dune vegetation was planted along each of the above listed beach nourishment and dune restoration areas. In total, more than 84,000 plants were installed along more than four (4) miles of shoreline in Reaches 3, 4, 7, and 8.

Monitoring work continued as required by State's Beach Management Agreement (BMA) and/or Federal permits and was previously approved by Town Council.

The Town continues to await completion of the U.S. Army Corps of Engineers (USACE) Environmental Impact Statement (EIS) for Reach 8. The USACE is expected to publish a Record of Decision (ROD) for the EIS sometime in the spring of 2017. Results from this study will identify possible solutions to be considered for Reach 8. The ROD is the last action that the USACE needs to take to finalize the EIS before the Town can resume State and Federal permitting for a project in Reach 8.

Groin Rehabilitation permitting has continued through the 2016 calendar year. Federal permitting is expected to be completed sometime in the spring of 2017. Although the BMA serves as the State permit and Groin Rehabilitation is included within the BMA, the Town will need to request an Individual Project Approval (IPA) prior to the work beginning. Because the IPA process is relatively short, the IPA request will not be submitted to the Florida Department of Environmental Protection until the federal permitting process has been completed, or is near completion.

2016 SHORE PROTECTION BOARD ACTIONS

FY 2017 Coastal Management Program Budget. In April 2016, the Board unanimously recommended a FY17 Coastal Management Program Budget of $9.8 million. The Shore Protection Board recommended FY17 budget include nearly $5.8 million for a beach project with mitigation in Reach 8. With the Final EIS published by the USACE in June 2016 and, with the USACE informing that a ROD would not be issued in 2016, Town Council removed the $5.8 million Reach 8 project from the FY17 Coastal Management Program Budget. The SPB will revisit the Reach 8 project following USACE issuance of the ROD. If construction can be anticipated to occur in FY18, the SPB will consider recommending that the Town Council include the project costs within the FY18 Coastal Management Program Budget. Should the shoreline condition necessitate a storm protective action before a project is added for FY18, Town Council appropriated $1.3 million in FY17 for a Reach 8 dune restoration project.

Sand Forepassing. Sand forepassing is a proposed project that includes mechanically moving excess dredged sand from inlet maintenance in Reach 1 to the beaches in Reach 2. In April 2016, the Board unanimously recommended Town staff to proceed with the permitting process for sand forepassing in Reach 2 in coordination with the next USACE inlet maintenance dredging event. Since that time, Town staff has regularly discussed the details of the next USACE event with USACE staff as a sand forepassing project would most appropriately occur with the next dry beach placement of inlet maintenance dredged sand. The next USACE inlet maintenance dredging event is tentatively scheduled for the winter of 2017. The schedule of the next event may be adjusted if winter weather causes channel shoaling. Once the schedule has been more defined by the USACE, Town staff will be taking the Board's recommendation to a future Town Council meeting for direction.

Coastal Vulnerability Evaluation. The Town Council adopted a 10-Year Plan in 2013 which included several Town-wide recommendations. One of the items in the 10-Year Plan, as recommended by Woods Hole Group in their peer review of the long-term Coastal Management Program, was to perform a flooding vulnerability assessment. On April 13, 2016, the Board unanimously recommended that Town staff work with Woods Hole Group to refine the scope of work to include specific emphases on the lagoon bulkhead and coastal flooding from the lagoon. On October 27, 2016, Town staff presented a revised scope of work from Woods Hole Group and the SPB recommended that the Town Council authorize a Coastal Vulnerability Evaluation to supplement the Town's Comprehensive Coastal Management Plan.

The Breakers/Clarke Beach Shore Protection Alternatives. Following a presentation by The Breakers and their consultant in February 2016, the Shore Protection Board recommended that both Town staff and Town consultants continue to work directly with The Breakers and their consultant with the design and permitting of a shore protection solution for The Breakers/Clarke Beach vicinity. The initial design work is ongoing. The Breakers and Town staff are expected to continue working together in January 2017.

cc: H. Paul Brazil, P.E., Director of Public Works

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Committee Reports

Agenda Title

Report of the Finance and Taxation Committee Meeting of November 3, 2016

Presenter

Michael J. Pucillo, Chair

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda
Committee Reports

Agenda Title
Report of the Ordinances, Rules, & Standards Committee Meeting of November 10, 2016

Presenter
Bobbie Lindsay, Chair

ATTACHMENTS:

No Attachments Available

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Public Hearings

Agenda Title

RESOLUTION NO. 223-2016 A Resolution of the Town Council, of the Town of Palm Beach, Palm Beach County, Florida, Electing to Use the Uniform Method of Collecting Non-Ad Valorem Special Assessments Levied Within the Incorporated Area of the Town; Stating a Need for Such Levy; Providing for the Mailing of this Resolution; and Providing for an Effective Date.

Presenter

Jane Struder, Director of Finance

ATTACHMENTS:

- **Memorandum Dated November 30, 2016, from Jane Struder, Director of Finance**
- **Resolution No. 223-2016**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Jane Struder, Director of Finance

Re: Public Hearing to Adopt a Proposed Resolution of Intent to Create an Assessment Program for the Cost of Providing Utility Underground and Sidewalk Services, Facilities and Programs to Property Within the Incorporated Area of the Town of Palm Beach **Resolution No. 223-2016**

Date: November 30, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council consider all public comments at the public hearing on December 13, 2016, and thereafter adopt Resolution No. 223-2016. Adoption of this resolution at this time only preserves the Town's right to create the assessment areas in time for the property tax bills to be mailed on or about November 1, 2017. The Town Council may decide for any reason not to proceed with the assessments between now and September 12, 2017, and notify the Property Appraiser and Tax Collector of such change of intent.

GENERAL INFORMATION

As directed through previous approvals from Town Council a public hearing has been scheduled for December 13, 2016, pursuant to F.S. 197.3632(3)(a) to consider adopting a resolution of intent to use the uniform method of assessment to create an assessment program for the cost of providing underground utility services, facilities and programs to property located within the incorporated area of the Town of Palm Beach. Up to three (3) separate assessments programs may be implemented, including one for Town-wide undergrounding of utilities (with the exception of the already assessed Everglades Island and Via Fontana assessment areas), Lake Towers underground utilities, and the Nightingale/La Puerta underground utilities.

The uniform method of assessment is the process used whereby the assessment appears on each benefitting property owner's annual property tax bill. This is the same assessment process that has been previously approved by Town Council for the Town's Solid Waste collection, the Worth Avenue and Peruvian streetscape projects, and Everglades Island and Via Fontana neighborhood underground utility projects and the Town Hall Square sidewalk program. If approved and ultimately implemented, the proposal to form assessment areas will result in all costs of making the various improvements to be borne by those properties benefitting from the improvements.

As of this writing, design and construction for the projects described above are in varying stages of completion. The final cost of the potential projects, along with the proposed assessment methodology will be presented to the Town Council when considering the initial assessment resolutions at a future Town Council meeting.

The proposed method of funding for the Town-wide undergrounding utility project is general obligation bonds paid by non ad valorem assessments. The proposed method of funding for the Lake Towers and Nightingale/La Puerta projects is the use of internal financing as we have done in the past with Everglades Island and Via Fontana assessment districts paid for by non ad valorem assessments.

The next step in this process is to consider the proposed resolution of intent. The Town's notice appeared in the Palm Beach Daily News for four (4) consecutive weeks beginning on November 16 and ending on December 7. At this juncture, the Town Council should conduct the public hearing on proposed Resolution No. 223-2016, seeking comments from all interested parties relative to the resolution and the payment and collection concepts that it portends for the affected properties in the proposed assessment areas.

The order of business for the public hearing process can be as follows:

- Town Attorney reads the Resolution by Title
- Town Council Receives Public Comments
- Town Council deliberates, including asking staff and attorney any questions concerning any issues they may have or that were raised by the public
- Town Council entertains a motion to adopt or reject the Resolution

If the Town Council decides later in the upcoming year that it does not wish to proceed with one or more of the assessments for any reason, the process is stopped, the Property Appraiser and Tax Collector are notified, and an assessment will not appear on the affected tax bills.

If the Town Council approves this first step, the tentative process to bring this matter to fruition hereafter will approximate the following:

- By no later than mid to late July to comply with the Property Appraiser TRIM Deadlines- Adoption of the initial assessment resolutions. All costs and estimated assessments of the projects will be provided and made public at this time.
- August 20, 2017 (on or about) – Mail notice to each affected property owner within the proposed boundaries of the assessment areas advising of the tentative assessment amount and the date, time and place of adoption of the final resolution.
- September 12, 2017 (on or about) – Adoption of final assessment resolution.

FUNDING/FISCAL IMPACT

As these are special assessment projects, all costs will be borne by the benefitting property owners.

TOWN ATTORNEY REVIEW

The Resolution of Intent was approved by Heather Encinosa, Esq. of the law firm Nabors, Giblin & Nickerson in Tallahassee. Ms. Encinosa specializes in special assessment programs and the law associated therewith.

Attachments

cc: H. Paul Brazil, P.E., Director of Public Works
Jane Struder, Director of Finance
John C. Randolph, Town Attorney
Heather Encinosa, Esq.
Susan A. Owens, Town Clerk

RESOLUTION NO. 223-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA ELECTING TO USE THE UNIFORM METHOD OF COLLECTING NON-AD VALOREM SPECIAL ASSESSMENTS LEVIED WITHIN THE INCORPORATED AREA OF THE TOWN; STATING A NEED FOR SUCH LEVY; PROVIDING FOR THE MAILING OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Palm Beach, Florida (the "Town") is contemplating the imposition of special assessments for the provision of the utility undergrounding project, as further defined herein; and

WHEREAS, the Town intends to use the uniform method for levying, collecting, and enforcing non-ad valorem special assessments within the incorporated area of the Town to fund the cost of utility undergrounding improvements, including, but not limited to, removal of overhead utility lines and facilities, construction of underground utility lines and related facilities, landscaping, and other utility and utility related improvements (collectively referred to herein as the "Utility Undergrounding Project") as authorized by section 197.3632, Florida Statutes, as amended, because this method will allow such special assessments to be collected annually commencing in November 2017, in the same manner as provided for ad valorem taxes; and

WHEREAS, the Town held a duly advertised public hearing prior to the adoption of this Resolution, proof of publication of such hearing being attached hereto as Exhibit A.

NOW, THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA:

1. Commencing with the Fiscal Year beginning on October 1, 2017 and continuing until discontinued by the Town, and with the tax statement mailed for such Fiscal Year, the Town intends to use the uniform method of collecting non-ad valorem assessments authorized in section 197.3632, Florida Statutes, as amended, for the cost of providing the Utility Undergrounding Project. Such non-ad valorem assessments shall be levied within the incorporated area of the Town. A legal description of such area subject to the assessment is attached hereto as Exhibit B and incorporated by reference.

2. The Town hereby determines that the levy of the assessments is needed to fund the cost of the Utility Undergrounding Project within those areas identified in Exhibit B.

3. Upon adoption, the Town Clerk is hereby directed to send a copy of this Resolution by United States mail to the Florida Department of Revenue, the Palm Beach County Tax Collector, and the Palm Beach County Property Appraiser by January 10, 2017.

4. This Resolution shall be effective upon adoption.

PASSED AND ADOPTED in regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 13th day of December, 2016.

_____	_____
Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	_____
	Richard M. Kleid, Council President Pro Tem
	_____
	Bobbie Lindsay, Town Council Member
ATTEST:	_____
	Danielle H. Moore, Town Council Member
_____	_____
Susan A. Owens, MMC, Town Clerk	Margaret A. Zeidman, Town Council Member

EXHIBIT A

PROOF OF PUBLICATION

[INSERT PROOF OF PUBLICATION]

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Smaller rec center design unveiled

By ALEESE KOPF
Daily News Staff Writer

About 80 residents attended a Tuesday afternoon meeting to hear revised plans for rebuilding Palm Beach's recreation center.

Architect Nelo Freijomel's new design focused on two key areas: preserving the green/open space and reducing the scale of the building.

New renderings presented Tuesday preserve the north lawn and south multipurpose field. The town also proposed saving half the existing outdoor basketball court by reducing the size of the proposed indoor court.

The ground floor interior space was reduced by 28 percent from the originally proposed design by eliminating a large multipurpose room and office space, and reducing the size of the lobby and concession stand. The layout was rearranged so the offices are on the interior and a game room now faces the south field.

The second-floor interior space was reduced by 10 percent from the previous design by reducing the size of the men's and women's locker rooms and the fitness area.

Parking would remain at 33 spaces, as exists today, rather than increasing to 60.

Read more Thursday in the *Palm Beach Daily News*.

— akopf@pbdailynews.com
Twitter: @aleesekopf

Design by Nelo Freijomel, AIA Architects + Planners, Inc.

An artist's rendering of the new design for the Palm Beach Recreation Center.

Today

SHINY SHOTS

Claudia Kirk Barto and Marina Barto attend the Junior Achievement event Thursday at the Par 3. **For more Shiny Shots, see PalmBeachDailyNews.com**

Meghan McCarthy / Shiny Shots

PICKS OF THE DAY

Night-time show on during day too: *The Curious Incident of the Dog in the Night-Time* goes on stage at 2 and 8 p.m. today at the Kravis Center, 701 Okeechobee Blvd., West Palm Beach: 832-7469 or kravis.org.

Author lunch: Jane L. Rosen, author of *Nine Women, One Dress*, will discuss her work at 11 a.m. today in the Cohen Pavilion at the Kravis Center, 701 Okeechobee Blvd., West Palm Beach: 832-7469 or kravis.org.

THE WEATHER

Today will be mostly sunny with a high of 77 degrees and a low of 69, according to the National Weather Service in Miami. North winds will gust as high as 21 mph.

The marine forecast calls for north to northeast winds of 10 to 15 knots. Seas will be 2-5 feet.

Lake Worth Inlet: High tide will be at 9:11 a.m. and 9:25 p.m. Low tide will be at 3:24 p.m.

Sunrise: 6:40 a.m.

Sunset: 5:29 p.m.

TOWN MEETINGS

Landmarks Preservation Commission: Town Hall, 360 S. County Road. **9:30 a.m.**

KNOW BEFORE YOU GO

Roadwork, closures this week

Construction and traffic highlights for the week of Nov. 14, according to the town:

Flagler Memorial Bridge: Construction continues on the Flagler Memorial Bridge. For more information about the project, visit flaglerbridge.com.

Southern Boulevard water main relocation: Work on underground utilities continues from Washington Road in West Palm Beach to South Ocean Boulevard in Palm Beach. Night work will continue between the tidal relief bridge and west of the Southern Boulevard roundabout.

Town Square: Outside northbound and inside southbound lanes on South County Road will be closed as part of the Town Square Phase II Project.

North County Road: Lane closures at Sunset Avenue and North County Road. Intermittent lane closures in the 100 block of both Sunrise and Sunset avenues. Milling and resurfacing will take place at night.

Street light replacement on North County Road, working south to Royal Poinciana Way. The contractor will also be working on Park Avenue, Seaview Avenue, Worth Avenue, Peruvian Avenue, Cocoanut Row, Island Drive and Island Road. One lane of traffic will be maintained on these streets.

Drainage improvements: Work is drawing to completion on Ridgeview Drive, West Indies Drive and North County Road. Cherry Lane construction will continue into December.

Cherry Lane, between North Lake Way and North County Road, will see curb work preparation.

North County Road (west side of the road between Ridgeview Drive and West Indies Drive): No access to the asphalt path today through Thursday.

Nightingale Trail and La Puerta Way: Underground utility work will continue on La Puerta Way, between North Lake Way and North Ocean Way. The roadway will be closed on both streets; open only to residents on La Puerta Way.

Installation of holiday lights and decorations at Bradley Park, Town Square, Worth Avenue, Royal Poinciana Way, Royal Palm Way and South County Road to bring some single lane closures. Hibiscus Avenue will be closed during installation of the holiday tree starting Friday; Worth Avenue will remain open.

Traffic help-line: 838-5410, between 8:30 a.m. and 5 p.m. weekdays. Report after-hour concerns to police, 838-5454.

Accident causes loss of power near Seaspray

A power outage was reported near Seaspray Avenue Tuesday afternoon.

A landscaping truck struck a "power wire" around 5 p.m., according to the town.

Florida Power & Light officials were on the scene Tuesday night but as of presstime, power had not been restored.

NOTICE OF INTENT TO USE UNIFORM METHOD OF COLLECTING NON-AD VALOREM ASSESSMENTS

The Town of Palm Beach, Florida (the "Town") hereby provides notice, pursuant to section 197.3632(3)(a), Florida Statutes, of its intent to use the uniform method for levying, collecting, and enforcing annual non-ad valorem special assessments to fund the cost of utility undergrounding improvements, including, but not limited to, removal of overhead utility lines and facilities, construction of underground utility lines and related facilities, landscaping, and other utility and utility related improvements within the incorporated area of the Town for the Fiscal Year beginning on October 1, 2017 and continuing thereafter. The Town will consider the adoption of a resolution electing to use the uniform method of collecting such assessments authorized by section 197.3632, Florida Statutes, at a public hearing to be held at 9:30 a.m. on December 13, 2016 in the Town of Palm Beach Town Council Chambers, Town Hall, 360 South County Road, Palm Beach, Florida. Such resolution will state the need for the levy and will contain a legal description of the boundaries of the real property subject to the levy. Copies of the proposed form of resolution, which contains the legal description of the real property subject to the levy, are on file at the Town Manager's office in Town Hall, located at 360 South County Road, Palm Beach, Florida. All interested persons are invited to attend. In the event any person decides to appeal any decision by the Town with respect to any matter relating to the consideration of the resolution at the above-referenced public hearing, a record of the proceeding may be needed and in such an event, such person may need to ensure that a verbatim record of the public hearing is made, which record includes the testimony and evidence on which the appeal is to be based. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the Town Manager's Office at (561) 838-5410, at least two (2) days prior to the date of the hearing. Hearing impaired persons can access the foregoing telephone number by contacting the Florida Relay Service at (800) 955-8770.

DATED this 16th day of November, 2016.
By Order of:
TOWN OF PALM BEACH, FLORIDA
Thomas G. Bradford, Town Manager
Palm Beach Daily News:
November 16, 2016
November 23, 2016
November 30, 2016
December 7, 2016

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HOW TO REACH US

The Palm Beach Daily News offices are at 400 Royal Palm Way, Suite 100, Palm Beach, Fla. 33480-4117. Office hours are from 9:00 a.m. to 3:00 p.m. Monday through Friday. After hours, messages may be left on our voice-mail system and will be returned as soon as possible.

Here is a list of telephone numbers. All are in Area Code 561. If you don't see the one you need, please call our receptionist at **820-3800.**

CIRCULATION..... 820-4663
Home delivery..... 820-4663
Toll-free in Florida .....(800) 488-8627
Mail Service..... 820-4663

Customer service assistance is available at 820-4663 from 6:30a.m. until 4 p.m. Monday through Friday, from 7:30 a.m. until 11:30 a.m. Saturday, and from 7:30 a.m. until noon Sunday.

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Display.....820-3815

EDITORIAL
News..... 820-3867
Editorial fax..... 655-4594
Society..... 820-3859

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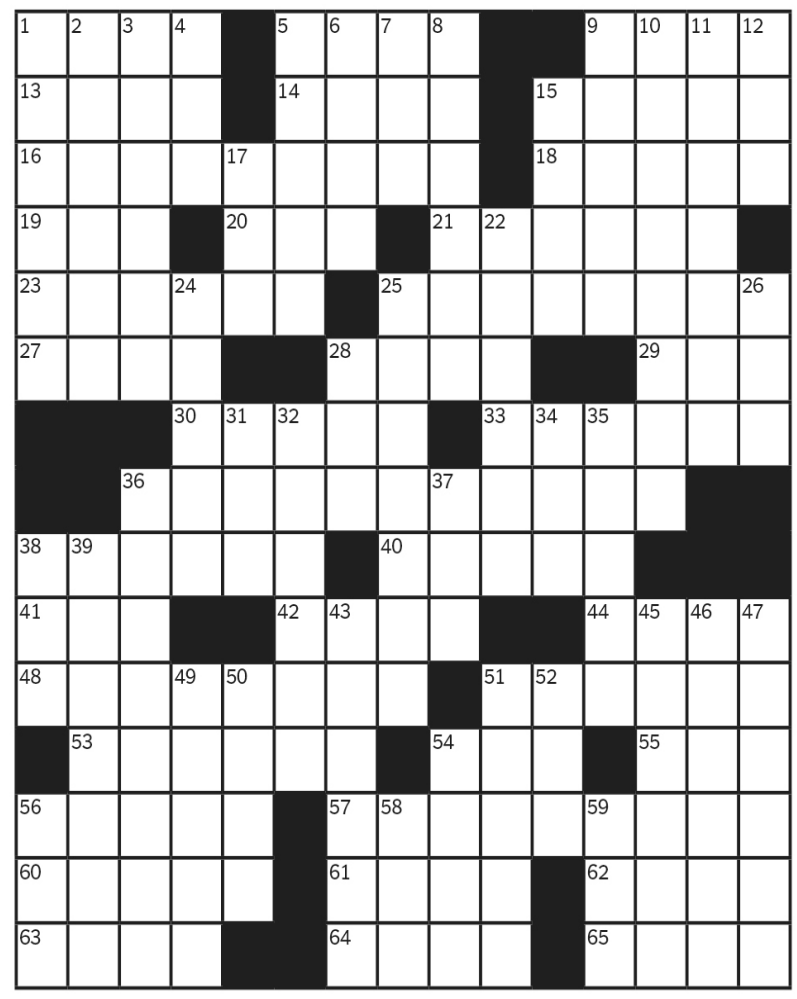
THANKSGIVING CLOSINGS

In observance of Thanksgiving, all town offices will be closed Thursday and Friday.

- Landscaping or construction work will not be allowed Thursday. Landscaping will be allowed from 8 a.m. to 6 p.m. Friday.
- Some town recreational facilities will be open, but the Recreation Center will be closed. Public beaches will have lifeguards on duty from 9 a.m. to 5 p.m.
- On Thursday, the Par 3 Golf Course will be open from 7 a.m. to 4 p.m.; Phipps Ocean Park Tennis, 8 a.m. to 12:30 p.m.; and the Town Docks, 8 a.m. to 5 p.m.
- Seaview Tennis hours will be 7:30 a.m. to 12:30 p.m. Thursday and 7:30 a.m. to 8 p.m. Friday.
- Residential garbage will not be collected Thursday but will resume Friday; commercial garbage (seven-day service) will be collected.
- Residential and commercial recycling will not be collected Thursday. That route will resume Dec. 4.
- There will be no residential yard trash collection Thursday and Friday. Monday's and Tuesday's routes will be serviced Monday, Wednesday's route will be serviced on Tuesday and Thursday's and Friday's routes will be serviced on Wednesday.
- For more information, call the Town Manager's Office at 838-5410.
- Palm Beach Daily News offices will be closed Thursday and Friday. To report news, call 820-3835.

CROSSWORD

Edited by Will Shortz



ACROSS

1 Twosome on TMZ, e.g.
5 Level
9 Put down for the count
13 Touch emotionally
14 Bakery employee
15 Mazatlán mister
16 SAT administrator, by trade?
18 City where Galileo taught
19 Cremains holder
20 "I did it!"
21 Game one
23 Fiddle (with)
25 Doctor, by trade?
27 Biblical garden
28 Word before bump or pump
29 Great Lakes canal name
30 Dizzying designs
33 Marzipan component
36 Apt title for this puzzle
38 Sweetie pie
40 Politico Perot
41 With 10-Down, lead vocalist and flutist for rock's Jethro Tull
42 Perlman of "Cheers"
44 Beige-ish
48 Model, by trade?
51 Boozehounds
53 Claptrap
54 Candy in a dispenser
55 Farm mama
56 Last word of "The Star-Spangled Banner"
57 Manicurists and tax preparers, by trade?
60 Bit of gossip
61 Green shade
62 Jacob's womb-mate
63 One of a Latin trio
64 Risqué, maybe
65 Captain Sparrow portrayer

DOWN

1 Attribute (to)
2 Hot and then some
3 Goolagong who won seven Grand Slam singles event titles
4 Ran into
5 Choir's support
6 Doesn't just talk
7 Waltz ending?
8 Using "effect" for "affect" and vice versa
9 "The Matrix" star Reeves
10 See 41-Across
11 "I'll take that bet!"
12 "… man ___ mouse?"
15 Something a journalist may work on
17 Feature of a 22-Down
22 Something to make a hash of?
24 Bouillon brand name
25 Pub purchase for the table
26 Implement for an angler
28 To's opposite
31 Dish baked in an imu
32 Disinclined (to)
34 Fleur-de-___
35 Person who had a major part in the Bible?
36 View through a wide-angle lens
37 Coach Parseghian
38 Bad news in the polls
39 Part of the body studied by otolaryngologists
43 "S O S"
45 Word that brings a smile
46 Fix, as a bandage
47 Consumes
49 Cagey debater's tactic
50 "Your turn to talk," on radio
51 Liberal, disparagingly
52 Israeli gun
54 Beer ___
56 Commercial ending with Wonder
58 Dispose (of)
59 Was like Fred Astaire to Ginger Rogers

PUZZLE BY TOM PEPPER

ANSWER TO PREVIOUS PUZZLE

C	L	O	G		A	Q	A	B	A		D	E	S	C
A	E	R	O		V	O	C	A	B		R	E	B	A
V	I	E	T	N	A	M	E	R	A		A	R	A	L
			H	I	S			B	A	D	G	I	R	L
A	N	T	I	C		T	A	R		U	S	E	R	S
B	A	R	C	E	L	O	N	A	M	E	T	R	O	
R	I	O			A	G	E		R	T	E			
A	R	I	Z	O	N	A	M	E	M	O	R	I	A	L
			I	N	K		O	V	O			D	R	E
	C	A	P	T	A	I	N	A	M	E	R	I	C	A
W	A	L	D	O		O	E	N		S	W	O	O	P
O	N	E	R	E	E	D			I	M	A			
R	O	T	I		M	I	D	D	L	E	N	A	M	E
S	L	A	V		A	N	N	U	L		D	O	U	G
T	A	P	E		J	E	A	N	S		A	L	S	O

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No. 1019

PALM HOUSE

From Page A1

dealing with the project completion aspects, completely independent of whether they were good actors or bad actors or who did what and when," he said. "My marching orders from the court as they stand today, are to complete the hotel, and to secure construction financing and what other financing is required to complete the project."

Receiver seeks expanded authority

That's why Glickstein said he's filed a separate request for the court to "expand the authority" of the receiver so he can sell the property. A hearing is scheduled on Dec. 30.

"That's the only thing that's going to get this project completed," he said. "There's not financing out there as long as the current ownership remains intact."

Glickstein, who also is the mayor of Delray Beach, acknowledged the frustration involved with the Palm House saga.

"It's a very complicated matter, to say the least," he said. "Calling this a mess would be an understatement. I've been in this industry for over 30 years and I've never seen such an egregious example of project mismanagement."

Fines not terminated

Glickstein said he's seeking an amended court order to use the court-held funds to reimburse the town and address other ongoing maintenance problems.

"As it stands right now, we don't have the resources to do anything, which is why your town had to do some of the initial work it did, which consisted of some pre-storm preparation in anticipation of Hurricane Matthew," Glickstein told the code board.

The town spent $12,000 securing building materials and storm-proofing at the Palm House in October.

Glickstein said he also wants to "thwart the efforts" of others seeking to deplete the funds.

"There are lawyers that will be seeking, we expect, permission from the court for payment of their legal fees in connection with those funds," he said.

Town Attorney John Randolph said the fines won't be terminated.

"It's not forgiving any fines, it's just abating it for a period of time," Randolph said of the code board motion.

Glickstein said the town still will have a chance to collect money for the fines.

"The fines are substantial," he said. "They're certainly warranted. At some point, when this gets sorted out, the town will have a seat at the table as to some portion of payment of these fines."

But Glickstein said mortgage lenders also want to collect, so while the fines are accruing, "it's not a sure thing for payment by any stretch."

— akopf@pbdailynews.com
Twitter: @aleesekopf

Melanie Bell / Daily News

Construction on the Palm House has ceased at 160 Royal Palm Way. A receiver said he's seeking an amended court order to use court-held funds to reimburse the town for pre-hurricane work and address other maintenance problems.

'It's a very complicated matter, to say the least. Calling this a mess would be an understatement.'

CARY GLICKSTEIN
Receiver

NOTICE OF INTENT TO USE UNIFORM METHOD OF COLLECTING NON-AD VALOREM ASSESSMENTS

The Town of Palm Beach, Florida (the "Town") hereby provides notice, pursuant to section 197.3632(3)(a), Florida Statutes, of its intent to use the uniform method for levying, collecting, and enforcing annual non-ad valorem special assessments to fund the cost of utility undergrounding improvements, including, but not limited to, removal of overhead utility lines and facilities, construction of underground utility lines and related facilities, landscaping, and other utility and utility related improvements within the incorporated area of the Town for the Fiscal Year beginning on October 1, 2017 and continuing thereafter. The Town will consider the adoption of a resolution electing to use the uniform method of collecting such assessments authorized by section 197.3632, Florida Statutes, at a public hearing to be held at 9:30 a.m. on December 13, 2016 in the Town of Palm Beach Town Council Chambers, Town Hall, 360 South County Road, Palm Beach, Florida. Such resolution will state the need for the levy and will contain a legal description of the boundaries of the real property subject to the levy. Copies of the proposed form of resolution, which contains the legal description of the real property subject to the levy, are on file at the Town Manager's office in Town Hall, located at 360 South County Road, Palm Beach, Florida. All interested persons are invited to attend. In the event any person decides to appeal any decision by the Town with respect to any matter relating to the consideration of the resolution at the above-referenced public hearing, a record of the proceeding may be needed and in such an event, such person may need to ensure that a verbatim record of the public hearing is made, which record includes the testimony and evidence on which the appeal is to be based. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the Town Manager's Office at (561) 838-5410, at least two (2) days prior to the date of the hearing. Hearing impaired persons can access the foregoing telephone number by contacting the Florida Relay Service at (800) 955-8770.

DATED this 16th day of November, 2016.
By Order of:
TOWN OF PALM BEACH, FLORIDA
Thomas G. Bradford, Town Manager
Palm Beach Daily News:
November 16, 2016
November 23, 2016
November 30, 2016
December 7, 2016

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Meghan McCarthy / Daily News

A distinguishing feature of the U-shaped house at 434 Seaspray Ave. is the "Romanesque-style compound arch entryway" recessed within the center block of the front of the house, according to the designation report.

Seaspray home nears landmark status

Commission urges council to designate circa-1924 home designed by William B. Eckler.

By DAVID ROGERS
Daily News Staff Writer

A Mediterranean Revival-style home with a multi-layered entryway might become the town's next landmark.

The Landmarks Preservation Commission has unanimously recommended that the Town Council designate the circa-1924 home at 434 Seaspray Ave. as a landmark. It was designed by architect and builder William B. Eckler.

"It's a solid example of '20s Mediterranean (real estate) boom architecture," Landmarks Chairman Ted Cooney said after the vote earlier this month. "It's a good part of the historic fabric of that neighborhood."

Property records list the owners as Christopher and Andrea Kaufmann. Last summer, Florida Attorney General Pam Bondi filed a civil suit requesting that Christopher Kaufmann be permanently prohibited from consigning jewelry in the state. He has been the subject of several lawsuits the past few years that allege he didn't pay people for jewelry they consigned or gave partial payments.

His Worth Avenue shop closed around the time Bondi filed suit.

Reached this week, Christopher Kaufmann called the recommendation "wonderful."

"We've been living in the house for 18 years. Not a day went by that we didn't realize we were living in a true paradise of a property," Kaufmann said.

A distinguishing feature of the U-shaped house is the "Romanesque-style compound arch entryway" recessed within the center block of the front of the house, according to the designation report.

Another key element is a heavy stone cornice above the three-bay front facade.

Other news

Also, at the Nov. 16 meeting, the landmarks board deferred at the owner's request a designation hearing on 132 Clarke Ave. John Volk designed the 1957 British Colonial home with "Jamaican plantation influences," according to the designation report.

— drogers@pbdailynews.com

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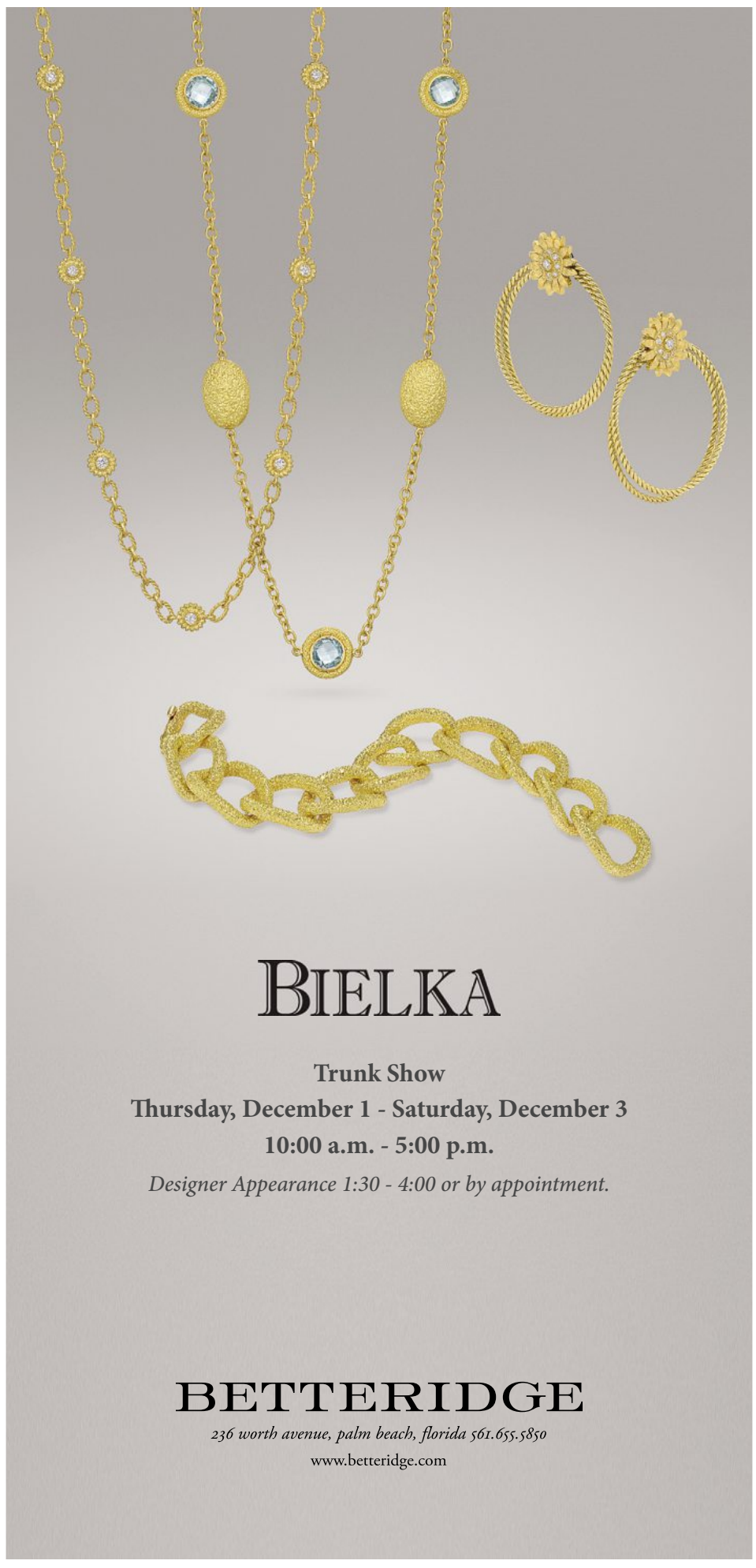

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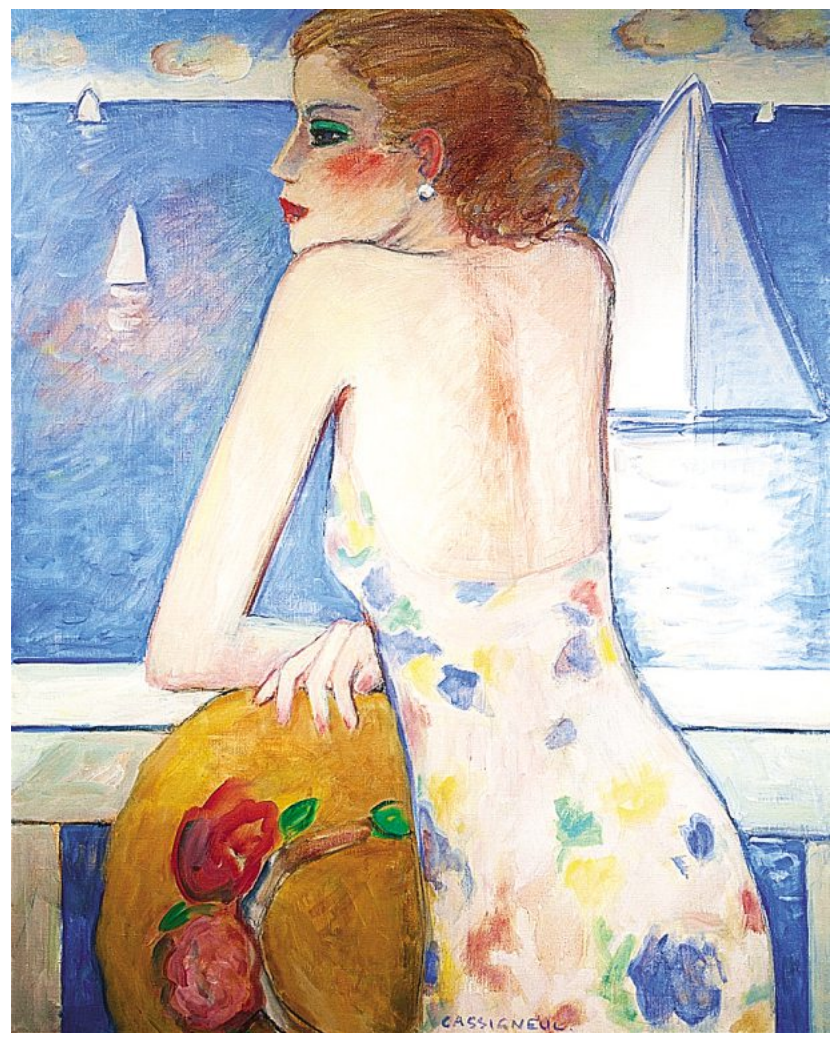

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Today

SHINY SHOTS

Mike Pumo and Rebecca Robinson attend the Autism Project of Palm Beach County's Renaissance Dinner Sunday at the Mar-a-Lago Club. **For more Shiny Shots, see PalmBeachDailyNews.com**

Melanie Bell / Shiny Shots

PICKS OF THE DAY

Inspired by the masters: Tony Arruza's "15 Surfboards by 15 Shapers" and "The Tina Kraft Solo Exhibition" are on view from 10 a.m. to 5 p.m. at the Cultural Council of Palm Beach County, 601 Lake Ave., Lake Worth. Call 471-2901.

Wartime experience revisited: Hildegarde Mahoney will speak on "Journey Interrupted: A Family Without a Country in a World at War," at 2:30 p.m. at The Society of the Four Arts, Four Arts Plaza. Call 655-2776 or see fourarts.org.

Capote revisited: *Tru* by Jay Presson Allen will go on stage at 2 and 8 p.m. at Palm Beach Dramaworks, 201 Clematis St., West Palm Beach. Call 514-4042 or see palmbeachdramaworks.org.

New exhibition: "Our Body: The Universe Within" is on view from 9 a.m. to 5 p.m. at the South Florida Science Center and Aquarium, 4801 Dreher Trail N., West Palm Beach. Tour three-dimensional human bodies, specimens and organs. Call 832-1988 or see sfsciencecenter.org.

THE WEATHER

Today, expect mostly cloudy skies and a 30 percent chance of showers, according to the National Weather Service. The high will be near 81 and the low around 73. Northwest winds will be around 5 mph, becoming light and variable.

The marine forecast calls for north-northwest winds around 5 knots. Seas will be around 2 feet. Intracoastal waters will be smooth.

Lake Worth Inlet: High tide will occur at 1:44 p.m.; low tide will occur at 7:31 a.m. and 8:07 p.m.

Sunrise: 6:56 a.m. **Sunset:** 5:28 p.m.

ROAD WATCH

Flagler Drive: Both directions, from the Flagler Memorial Bridge south to Fourth Street in West Palm Beach, are closed while an "at-grade" intersection with the new bridge is built.

TOWN MEETINGS

Annual Beach Management Agreement Meeting: Town Hall, 360 S. County Road. **1 p.m.**

REVIEW

Full 'Egmont' music finds champions in PB Symphony, Tebar

By KEN KEATON
Special to the Daily News

Monday evening at the Four Arts, The Palm Beach Symphony, under conductor Ramón Tebar, provided a rare treat — the complete incidental music to Beethoven's *Egmont*.

The concert, the opening of the symphony's 2016-17 season, began with Franz Schubert's *Symphony No. 2 in B-flat*. The work was composed when Schubert was 17. The composer had just started his job as a public school teacher — for which he was completely unsuited — and was still taking lessons with Antonio Salieri, Mozart's old nemesis.

Though patterned after Joseph Haydn's late symphonies, even at this early age, Schubert had his own voice — the first movement is filled with quirky harmonic turns that surely gave his conservative teacher fits. And of course, the music has glorious melodies. Schubert was perhaps the greatest songwriter of all time, and melodies flowed from him like water from a fountain.

The other three movements made less of an impression, with the exception of the pure energy flowing from Tebar and the Palm Beach band. Their precision and technical finish has improved markedly over the past few years.

But the night's discovery was Beethoven's entire incidental music for Goethe's drama *Egmont*. Audiences all know the overture, but few know anything beyond that.

Think of "incidental music" like film music before films. Music has been used to enhance drama since ancient Greece, and many composers furnished music to accompany plays — an overture, music between acts to facilitate scene changes, interpolated songs, even melodramas, which combine speaking parts and music.

Egmont is set in medieval Flanders, where Count Egmont is leading the revolt against Spanish occupiers. The themes surely rang powerfully with Beethoven — just the year before, Vienna had been occupied by Napoleon's army, and his fierce resentment against his former hero was becoming ever stronger.

> *The performance was enhanced greatly by the English-language narration, delivered by Dale McNulty, president of the symphony's board of directors.*

The overture itself is Beethoven's greatest, and Tebar caught the essential spirit of this magnificent work. His fiery conclusion was as hair-raisingly exciting as anyone's. A good thing, since the concluding section of the set, the *Siegssymphonie (Symphony of Victory)*, was just a repeat of the overture's allegro conclusion.

The performance was enhanced greatly by the English-language narration, delivered by Dale McNulty, president of the symphony's board of directors. His resonant voice, with just the right level of dignity and intensity, brought the experience to a higher level.

The rest of the music, frankly, is not Beethoven's greatest — effects, whether pastoral, militaristic, or melodramatic, are rather predictable. The two lieder inserted, sung with admirable intensity and sensitivity by soprano Laura Martinez León, are set to fairly obvious music.

But Tebar and the Palm Beach Symphony don't seem to share that opinion. They treated it all like truly great music, and played with precision and intensity where needed, subtlety and lyricism where that was called for. We who shared that experience are better for it.

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EXHIBIT B

ARTICLE II. CORPORATE LIMITS - POLICE JURISDICTION
(TOWN OF PALM BEACH CODE)

SEC. 2.01. DESCRIPTION OF CORPORATE LIMITS.

THE BOUNDARIES OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA SHALL BE, AND REMAIN THE SAME AS THEY PRESENTLY EXIST AS SET FORTH IN LAWS OF FLA., CH. 18762 (1937), AS AMENDED BY LAWS OF FLA., CH. 21518 (1941), AND LAWS OF FLA., CH. 24649 (1947), WITH EXTENDED POLICE JURISDICTION AS SET FORTH IN LAWS OF FLA. CH. 72-646.

EDITOR'S NOTE - LAWS OF FLA. 1972, CH. 72-646, IS SET OUT IN THE APPENDIX TO THIS CHARTER, § A-1. THE OPERATIVE PROVISIONS OF THE 1937, 1941 AND 1947 SPECIAL LAWS TO WHICH REFERENCE IS MADE IN § 2.01 READ AS FOLLOWS:

1937 CHAPTER 18762

THE BOUNDARIES OF THE TOWN OF PALM BEACH, IN PALM BEACH COUNTY, FLORIDA, SHALL BE, AND THE SAME ARE HEREBY FIXED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTH LINE OF TOWNSHIP 42 SOUTH OF RANGE 43 EAST, WHERE THE SAME INTERSECTS THE CENTER OF THE CHANNEL OF THE EAST COAST CANAL; THENCE SOUTHERLY ALONG THE CENTER OF THE CHANNEL OF THE FLORIDA EAST COAST CANAL AND LAKE WORTH TO A POINT OF INTERSECTION WITH THE NORTH LINE OF LAKE AVENUE IN THE CITY OF LAKE WORTH, FLORIDA, IF EXTENDED; THENCE EAST ON SAID EXTENDED LINE OF LAKE AVENUE TO A POINT TEN (10) FEET DISTANT FROM THE WATERS EDGE OF THE ATLANTIC OCEAN AT MEAN HIGH TIDE; THENCE SOUTHERLY PARALLELING THE WATERS EDGE OF THE ATLANTIC OCEAN ON A LINE TEN (10) FEET WESTERLY THEREOF, MEASURED AT MEAN HIGH TIDE, TO A POINT THREE HUNDRED FIFTY (350) FEET SOUTH FROM THE INTERSECTION OF THE CENTER LINE OF LAKE AVENUE IN THE CITY OF LAKE WORTH, PALM BEACH COUNTY, FLORIDA, PRODUCED, AND THE CENTER LINE OF THE OCEAN BOULEVARD, WHICH IS THE SOUTH BOUNDARY LINE OF THE CASINO PROPERTY OF SAID CITY OF LAKE WORTH AS AT PRESENT LAID OUT AND CONSTITUTED; THENCE DUE WEST ON THE SOUTH LINE OF SAID CASINO PROPERTY AND SAID LINE EXTENDED TO THE CHANNEL OF LAKE WORTH; THENCE SOUTH ALONG THE CENTER OF THE CHANNEL OF LAKE WORTH AND THE FLORIDA EAST COAST CANAL TO WHERE THE SAME INTERSECTS A PROLONGATION WESTERLY OF THE NORTH LINE OF GOVERNMENT LOT 2, SECTION 35, TOWNSHIP 44 SOUTH OF RANGE 43 EAST; THENCE RUN EASTERLY ALONG SAID PROLONGATION AND ALONG THE NORTH LINE OF GOVERNMENT LOT 2, SECTION 35, TOWNSHIP 44 SOUTH OF RANGE 43 EAST, TO WHERE THE SAME INTERSECTS THE MEAN LOW WATER MARK OF THE ATLANTIC OCEAN; THENCE IN A NORTHERLY DIRECTION ALONG THE MEAN LOW WATER MARK OF THE ATLANTIC OCEAN, INCLUDING THE LAKE WORTH INLET AND ALL STRUCTURES EXTENDING INTO THE WATERS OF THE ATLANTIC OCEAN TO A POINT WHERE THE SAME INTERSECTS THE NORTH LINE OF TOWNSHIP 42 SOUTH OF RANGE 43 EAST; THENCE IN A WESTERLY DIRECTION ALONG THE NORTH LINE OF TOWNSHIP 42 SOUTH OF RANGE 43 EAST TO THE POINT OF BEGINNING.

ALL OF THE ABOVE DESCRIBED LANDS BEING WITHIN THE COUNTY OF PALM BEACH AND STATE OF FLORIDA.

SAID PROPERTY IS ALSO DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTH LINE OF TOWNSHIP 42 SOUTH OF RANGE 43 EAST, WHERE THE SAME INTERSECTS THE CENTER OF THE CHANNEL OF THE EAST COAST CANAL; THENCE IN AN EASTERLY DIRECTION ALONG THE NORTH LINE OF TOWNSHIP 42 SOUTH OF RANGE 43 EAST TO A POINT WHERE THE SAME INTERSECTS THE MEAN LOW WATER MARK OF THE ATLANTIC OCEAN; THENCE IN A SOUTHERLY DIRECTION ALONG THE MEAN LOW WATER MARK OF THE ATLANTIC OCEAN, INCLUDING THE LAKE WORTH INLET, AND ALL STRUCTURES EXTENDING INTO THE WATERS OF THE ATLANTIC OCEAN, TO A POINT WHERE THE NORTH LINE OF GOVERNMENT LOT 2, SECTION 35, TOWNSHIP 44 SOUTH OF RANGE 43 EAST INTERSECTS THE LOW WATER MARK OF THE ATLANTIC OCEAN; THENCE WESTERLY ALONG THE NORTH LINE OF GOVERNMENT LOT 2, SECTION 35, TOWNSHIP 44 SOUTH OF RANGE 43 EAST AND A PROLONGATION THEREOF WESTWARDLY TO THE CENTER OF THE CHANNEL OF LAKE WORTH; THENCE NORTHERLY ALONG THE CENTER OF THE CHANNEL OF LAKE WORTH AND THE FLORIDA EAST COAST CANAL TO THE POINT OF BEGINNING. EXCEPTING FROM THE ABOVE DESCRIPTION ANY PORTION OF HYPOLUXO ISLAND CONTAINED THEREIN, AND FURTHER EXCEPTING THEREFROM THAT PORTION OF THE ABOVE LANDS KNOWN AS THE LAKE WORTH CASINO AND WITHDRAWN FROM THE ABOVE CORPORATE LIMITS OF THE TOWN OF PALM BEACH, FLORIDA, UNDER AND BY VIRTUE OF CHAPTER 17579 (SENATE BILL 837) SPECIAL ACTS OF THE LEGISLATURE OF THE STATE OF FLORIDA, 1935.

ALL ORDINANCES HERETOFORE PASSED AND ALL ACTIONS PERFORMED, STEPS TAKEN AND THINGS DONE, OR CAUSED TO BE DONE AND PERFORMED BY THE TOWN OF PALM BEACH AND THE OFFICERS THEREOF, EXTENDING THE LIMITS OF SAID TOWN TO THE BOUNDARIES SET FORTH IN SECTION 1 (THE PRECEDING PARAGRAPH) HEREOF BE, AND THE SAME ARE HEREBY VALIDATED AND CONFIRMED AND DECLARED TO BE LAWFUL AND BINDING FROM THE RESPECTIVE DATES THEREOF.

1941 CHAPTER 21518

SECTION 1. THAT THE FOLLOWING DESCRIBED PROPERTY, LOCATED WITHIN THE TERRITORIAL LIMITS OF THE TOWN OF PALM BEACH IN PALM BEACH COUNTY, FLORIDA, AS PRESENTLY DEFINED AND MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT:

ALL THAT PART OF THE TOWN OF PALM BEACH AS PRESENTLY DEFINED, WHICH LIES NORTHERLY OF THE NORTHERLY SIDE OF THE SHIP CHANNEL OF THE PORT OF PALM BEACH.

BE AND THE SAME IS HEREBY EXCLUDED FROM THE TERRITORIAL LIMITS OF SAID TOWN OF PALM BEACH.

1947 CHAPTER 24649

SECTION 1. THE BOUNDARIES OF THE CITY OF LAKE WORTH, A MUNICIPAL CORPORATION IN PALM BEACH COUNTY, FLORIDA SHALL BE AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE NORTHEAST ONE QUARTER (1/4) OF SECTION THIRTY-THREE (33), TOWNSHIP FORTY-FOUR (44) SOUTH, RANGE FORTY-THREE (43) EAST; THENCE WEST FOLLOWING THE EAST AND WEST CENTER LINE OF SAID SECTION (THIRTY-THREE) (33) TO THE SOUTHWEST CORNER OF THE NORTHWEST ONE-QUARTER (1/4) OF SAID SECTION THIRTY-THREE (33); THENCE NORTH FOLLOWING THE SECTION LINE BETWEEN SECTIONS THIRTY-TWO (32) AND THIRTY-THREE (33), AND BETWEEN SECTIONS TWENTY (20) AND TWENTY-ONE (21), AND BETWEEN SECTIONS SIXTEEN (16) AND SEVENTEEN (17), ALL IN TOWNSHIP FORTY-FOUR (44) SOUTH, RANGE FORTY-THREE (43) EAST, TO A POINT FIVE HUNDRED (500) FEET SOUTH OF THE NORTHEAST CORNER OF SECTION SEVENTEEN (17) IN TOWNSHIP FORTY-FOUR (44) SOUTH, RANGE FORTY THREE (43) EAST; THENCE EASTERLY AND PARALLEL TO THE NORTH LINE OF SECTION SIXTEEN (16), IN TOWNSHIP FORTY-FOUR (44) SOUTH, RANGE FORTY THREE (43) EAST, TO THE CENTER OF THE LAKE WORTH DRAINAGE DISTRICT CANAL E-4; THENCE NORTHEASTERLY FOLLOWING THE CENTER LINE OF SAID CANAL TO THE CENTER LINE OF THE WEST PALM BEACH CANAL; THENCE EASTERLY FOLLOWING THE CENTER LINE OF THE WEST PALM BEACH CANAL TO THE WATERS OF LAKE WORTH; THENCE EAST TO THE MIDDLE OF THE CHANNEL OF LAKE WORTH; THENCE SOUTHERLY FOLLOWING THE MIDDLE OF THE CHANNEL OF LAKE WORTH TO THE NORTH SIDE OF THE BRIDGE CROSSING LAKE WORTH AT THE CITY OF LAKE WORTH; THENCE EASTERLY FOLLOWING THE NORTH SIDE OF SAID BRIDGE TO THE CAUSEWAY; THENCE EAST TO A POINT TEN (10) FEET WEST OF THE WATERS EDGE OF THE ATLANTIC OCEAN AT MEAN HIGH TIDE; THENCE SOUTHERLY FOLLOWING A LINE TEN (10) FEET WEST OF THE WATERS EDGE OF THE ATLANTIC OCEAN AT MEAN HIGH TIDE TO THE SOUTH BOUNDARY OF THAT OCEANFRONT PROPERTY NOW OWNED BY THE SAID CITY OF LAKE WORTH; THENCE WESTERLY FOLLOWING SAID SOUTH BOUNDARY LINE TO THE SOUTHEAST CORNER OF THAT PROPERTY DEEDED TO THE LAKE WORTH BROADCASTING CORPORATION AS DESCRIBED IN DEED BOOK 631 AT PAGE 155 PALM BEACH COUNTY RECORDS; THENCE NORTHERLY FOLLOWING THE EAST BOUNDARY OF SAID LAKE WORTH BROADCASTING PROPERTY TO THE NORTHEAST CORNER THEREOF; THENCE WESTERLY FOLLOWING THE NORTH BOUNDARY OF SAID LAKE WORTH BROADCASTING PROPERTY TO THE WATERS OF LAKE WORTH; THENCE WEST TO THE MIDDLE OF THE CHANNEL OF LAKE WORTH; THENCE SOUTHERLY FOLLOWING THE MIDDLE OF THE CHANNEL OF LAKE WORTH TO THE EAST AND WEST CENTER LINE OF SECTION THIRTY-FOUR (34) IN TOWNSHIP FORTY-FOUR (44) SOUTH, RANGE FORTY-THREE (43) EAST; THENCE WEST FOLLOWING SAID CENTER LINE TO THE POINT OF BEGINNING.

STATE LAW REFERENCE-MUNICIPAL ANNEXATION AND CONTRACTION OF BOUNDARIES F.S. CH. 171

NOTES:

1) THIS MAP HAS BEEN PREPARED WITH REFERENCE INFORMATION AND/OR ASSISTANCE FROM THE US ARMY CORPS OF ENGINEERS, THE PALM BEACH COUNTY SURVEY SECTION, THE TOWN OF PALM BEACH AND THE PALM BEACH COUNTY PROPERTY APPRAISER.

2) THE NORTHERLY CORPORATE LIMIT OF THE TOWN OF PALM BEACH IS THE "NORTHERLY SIDE OF THE SHIP CHANNEL OF THE PORT OF PALM BEACH". SAID NORTHERLY LIMIT IS BASED ON THE US ARMY CORPS OF ENGINEERS REAL ESTATE MAP FOR THE PALM BEACH HARBOR PROJECT, PROJECT NO. C-461, SHEET 1 OF 1, DATED JUNE 22, 1951, WITH LAST REVISION DATED OCTOBER 12, 1972, AND THE US ARMY CORPS OF ENGINEERS, PALM BEACH HARBOR, FLORIDA, 33 FOOT PROJECT CONTROL DATA SHEET, D.O. FILE NO. 16-28,608, SHEET 1 OF 1, DATED MARCH 1964.

3) THE WESTERLY CORPORATE LIMIT OF THE TOWN OF PALM BEACH IS THE "CENTER OF THE CHANNEL OF LAKE WORTH AND THE FLORIDA EAST COAST CANAL." SAID WESTERLY LIMIT IS BASED ON THE US ARMY CORPS OF ENGINEERS REAL ESTATE MAP FOR THE INTRACOASTAL WATERWAY, JACKSONVILLE TO MIAMI, PROJECT NO. C-452, DRAWING NO. RE-C12,214, SHEETS 65 THROUGH 70, INCLUSIVE, OF 97, WITH LAST REVISION DATED MARCH 31, 1965, AND THE US ARMY CORPS OF ENGINEERS, INTRACOASTAL WATERWAY, JACKSONVILLE TO MIAMI, FLORIDA, MELBOURNE TO MIAMI 10 FT. PROJECT CONTROL DATA SHEETS, D.O. FILE NO. 8B-24,258, SHEETS 8, 9 AND 10 OF 20, DATED AUGUST 1961.

4) THE EXCLUDED PORTION OF THE ISLAND, SHOWN AS THE CITY OF LAKE WORTH WAS DETERMINED BASED ON INFORMATION OBTAINED FROM THE PALM BEACH COUNTY SURVEY SECTION AND THE PALM BEACH COUNTY PROPERTY APPRAISER.

5) THE SOUTHERLY CORPORATE LIMIT OF THE TOWN OF PALM BEACH IS THE "NORTH LINE OF GOVERNMENT LOT 2, SECTION 35, TOWNSHIP 44 SOUTH OF RANGE 43 EAST AND A PROLONGATION THEREOF WESTWARDLY TO THE CENTER OF THE CHANNEL OF LAKE WORTH." SAID SOUTHERLY LIMIT IS BASED UPON INFORMATION OBTAINED FROM THE PALM BEACH COUNTY SURVEY SECTION AND THE PALM BEACH COUNTY PROPERTY APPRAISER. THE SOUTHERLY LINE IS FURTHER MODIFIED "EXCEPTING FROM THE ABOVE DESCRIPTION ANY PORTION OF HYPOLUXO ISLAND...." **NOTE:** THE LIMITS OF THE EXCLUDED PORTION OF THE NORTH END OF HYPOLUXO ISLAND, AS SHOWN HEREON, ARE ARBITRARILY PLACED 200 FEET TOWARD THE TOWN OF PALM BEACH FROM THE PLATTED LOT LINES OF THE PLAT OF LAKE SHORES AS RECORDED IN PLAT BOOK 23, PAGE 216 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

6) THE EASTERLY CORPORATE LIMIT OF THE TOWN OF PALM BEACH IS THE "MEAN LOW WATER MARK OF THE ATLANTIC OCEAN." SAID EASTERLY LIMIT, AS SHOWN HEREON, IS APPROXIMATE AND HAS BEEN DIGITIZED FROM DIGITAL AERIAL PHOTOGRAPHS PROVIDED BY THE TOWN OF PALM BEACH OFFICE OF INFORMATION SYSTEMS. NOTE: THE MEAN LOW WATER MARK (LINE) IS DEFINED AS "THE INTERSECTION OF THE TIDAL PLANE OF MEAN LOW WATER WITH THE SHORE". AS THE BEACH ACCRETES OR RELICTS THE HORIZONTAL LOCATION OF THE MEAN LOW WATER LINE VARIES. THE PROCESS OF LOCATING THE MEAN LOW WATER LINE IS ESTABLISHED BY RULE OF THE STATE OF FLORIDA AND IS BEYOND THE SCOPE OF THIS MAP.

7) THE OWNERSHIP PARCELS SHOWN HEREON WERE PROVIDED BY THE PALM BEACH COUNTY APPRAISERS OFFICE THROUGH THE TOWN OF PALM BEACH OFFICE OF INFORMATION SYSTEMS AND ARE AS COMPLETE AND ACCURATE AS THE INFORMATION PROVIDED.

8) THIS MAP IS NOT A BOUNDARY SURVEY AS DEFINED IN CHAPTER 61G17 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472 FLORIDA STATUTES. ALL LINES SHOWN HEREON ARE BASED UPON A COMPILATION OF THE INFORMATION SOURCES REFERENCED HEREIN FOR THE PURPOSE OF PROVIDING A GRAPHIC REPRESENTATION (MAP) OF THE CORPORATE LIMITS-POLICE JURISDICTION OF THE TOWN OF PALM BEACH AND DO NOT REPRESENT THE RESULTS OF A FIELD SURVEY.

REVISIONS:

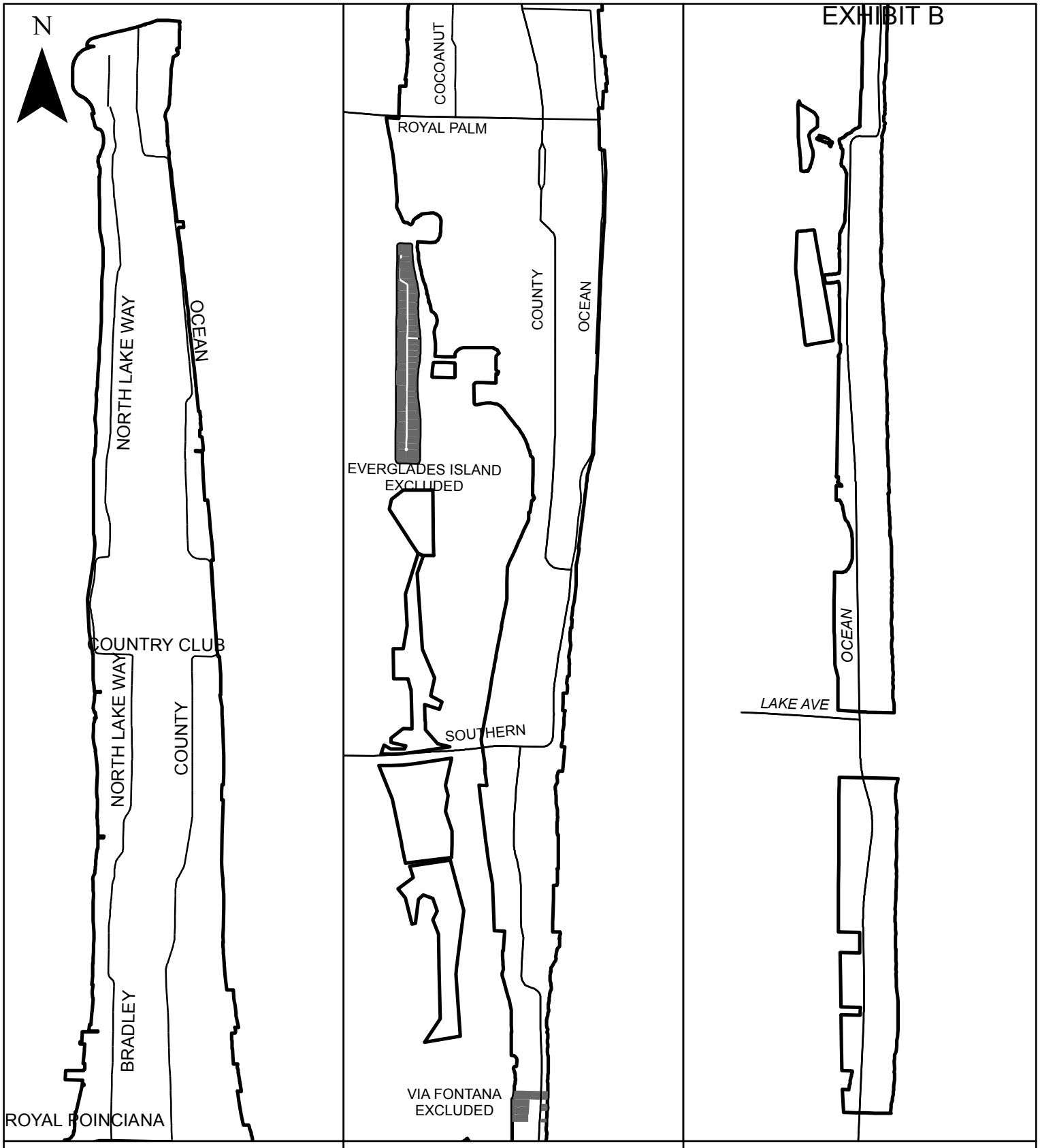
NOT VALID WITHOUT EMBOSSED SURVEYORS' SEAL

BOUNDARY MAP OF THE
TOWN OF PALM BEACH
CORPORATE LIMITS –
POLICE JURISDICTION
TOWN OF PALM BEACH, PALM BEACH CO., FL.

W.L.FISH & COMPANY
PROFESSIONAL SURVEYORS AND MAPPERS
105 S. Narcissus Ave., Suite 712, West Palm Beach, Florida 33401
Phone: (561)833-5001 Fax: (561)659-6745
E-mail: mappers@wlfish.com

DRAWN: W. HAAS
CHECKED: W. L. FISH
DATE: 01/02/2001
JOB NO. 2000-136
SHEET NO. 1 OF 9

EXHIBIT B



Legend

MAJOR ROAD

TOWN LAND BOUNDARY

ASSESSED PARCELS NOT INCLUDED

EVERGLADES ISLAND

VIA FONTANA

0 4,000 Feet

PROJECT BOUNDARY MAP

PALM BEACH COUNTY, FLORIDA

TOWN OF PALM BEACH
PROJECT AREA

THIS IS NOT A SURVEY

Date: 12/1/2015

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Consideration of Modifications to Street Scape at the Northeast Corner of South County Road and Chilean Avenue as Part of the Town Hall Square Project.

Presenter

H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- **Memorandum dated November 22, 2016, from H. Paul Brazil, P.E., Director of Public Works**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Consideration of Modifications to Street Scape at the Northeast Corner of South County Road and Chilean Avenue as Part of the Town Hall Square Project

DATE: November 22, 2016

STAFF RECOMMENDATION

Town staff requests guidance in the tenants request to remove the Paradise tree located at the northeast corner of South County Road and Chilean Avenue.

GENERAL INFORMATION

Town Council and the Landmarks Preservation Commission reviewed and approved the site plan and landscaping plan for the Town Hall Square Renovation Project. The project was awarded for construction at the September 2015 Town Council meeting. During the construction process, there have been a few requests for modifications to the landscaping, which have been presented to the Planning Zoning and Building Department for the Landmark Preservation staff to review and approve. These requests have included increasing the height of the Palm Trees by two (2) feet, relocating a Royal Palm tree, and eliminating a Paradise tree at the southwest corner of South County Road and Brazilian Avenue. These changes have primarily been made at the guidance and/or request by the landscape architect for the project design. Most recently, a tenant at 369 South County Road, Scotti Wine and Liquor, has requested the Paradise tree located in front of this business be removed. The property owner of 365 South County Road, The Palm Beach Historic Inn, supports this request. The design team does not recommend this change.

Staff was aware of the tenant's concerns prior to planting the tree in the present location. Public Works has ensured the tree does not block the signage for Scotti Wine and Liquor, but the tenant and property owner have requested the tree be eliminated from the project. Staff often seeks to achieve harmony with adjacent businesses and property owners as we construct and implement projects. In the past couple of months, we have had a few of these kinds of request that impact a project that was specifically approved by Town Council. At this point in time, we believe it would be appropriate to seek guidance from Town Council on how to proceed with this specific request. This understanding will serve as a precedent for how staff resolves similar requests for modifications to approved projects in the future.

FUNDING/FISCAL IMPACT

There are no funding impacts.

TOWN ATTORNEY REVIEW

Review and approval by the Town Attorney for legal form and sufficiency is not necessary, since the contract and purchase order are already in place.

Attachments

cc: Eric B. Brown, P.E., Assistant Director of Public Works
Jane Struder, Director of Finance
Patricia Strayer, P.E., Town Engineer
Jeffrey Sanon, P.E., Project Engineer
Adis Pedraza, Purchasing Manager

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Update on Proposed Recreation Center and Improvements to Seaview Park

Beth Zickar, Director of Recreation

TIME CERTAIN: 11:00 A.M.

a. Report Regarding Outcome of ARCOM, Recreation Advisory Commission, and Public Input Meetings.

b. Presentation of Updated Architectural and Site Plans

c. Consideration of the Recreation Commission's Recommendation Regarding an Additional Community Survey

d. Resolution No. 230-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order in the Amount of $24,539, to Hedrick Brothers Construction, Inc., for Pre-Construction Phase Services for the Seaview Park and Palm Beach Community Center Improvements and Establishing a Preliminary Pre-Construction Phase Budget of $25,000.

H. Paul Brazil, P.E., Director of Public Works

Presenter

ATTACHMENTS:

- **a. Memorandum dated December 5, 2016, from Beth Zickar, Director of Recreation**
- **b. Letter from Ballard King dated November 22, 2016**
- **c. Statistical Validity of Town's Community Survey**
- **c. Letter from Barth Associates dated November 29, 2016**
- **d. Memorandum dated November 17, 2016, from H. Paul Brazil, P.E., Director of Public Works**
- **d. Resolution No. 230-2016**
- **d. Final Ranking Memo - RFQ No. 2016-45**

- **d. Draft Preconstruction**
- **d. Pre-Construction Services Agreement**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Beth Zickar, Director of Recreation

Re: Review of Proposed Recreation Center and Improvements to Seaview Park

Date: December 5, 2016

STAFF RECOMMENDATION

Staff requests that Town Council review the following status report regarding the proposed recreation center and improvements to Seaview Park project and provide direction to staff as necessary.

GENERAL INFORMATION

The proposed new recreation center and improvements to Seaview Park were initially presented at the October 26, 2016, ARCOM meeting. At this meeting the following issues were discussed: demolition report and concerns, access to playing field during demolition, plans for preserving the oak tress currently on the site, new construction plans, landscaping plans, parking, and the scale/size of the proposed building. A motion for the demolition, with a request to hear an update from the Town regarding safety and security and to sod and irrigate the property within 30 days, was made and passed by the Commission. A motion to defer the project for one month was also approved with direction to restudy, with attention to reducing the mass and addressing the elimination of the north field. Public comment concerning this project included concerns about security, north lawn elimination, mass and size of the proposed facility.

Public meetings were held on November 1, 2016, and November 15, 2106, to receive additional input on the proposed project. The feedback received from the public included concerns regarding building size, loss of green space, ensuring the facility remains town-serving, the needs assessment survey and opinions regarding renovation versus reconstruction.

A Special Recreation Advisory Commission meeting was held on November 17, 2016, to review the modified project plans, which incorporated ARCOM's and the public's input. A motion to support the modified project plans failed with a vote of 3-4. A motion was approved 4-3 to recommend to Town Council that an additional survey be implemented to help the Town verify that the plans being contemplated are consistent with the desires of the community.

At the November 30, 2016, ARCOM meeting, the modified design was presented, which included a reduction in total square footage by 22%, preservation of the north lawn, resizing and repositioning of the gymnasium, addition of exterior accessible restrooms, enlarged outdoor basketball court/play space, relocation/reduction of office spaces, and a dedicated game room. A motion to approve the variances and special exceptions was approved by a vote 4-3. The review of the architecture resulted in a vote to defer with recommendations to continue to restudy the project, seeking ways to further

reduce the mass and height, study window and tower placement and the addition of artistically driven architectural features.

Feedback received from residents, ARCOM and the Recreation Advisory Commission have been important in the continuing development of the project plans. The wide range of input from the community varied from full support of the project (as presented to ARCOM) to concerns regarding loss of open space, operational subsidy, non-resident usage and unease regarding the scope and size of the building.

Ballard*King Associates, Ltd. has been hired, by the Friends of Recreation, to assist staff in the completion of a business plan for the proposed new center, at no cost to the Town. This plan will include a market review, operations analysis, which includes the identification of revenue sources and operating cost projections and a benchmark study. The business plan will assist Town Council in considering the proposed project in full context, relative to design, finances and usage.

With regard to securing a CM at-risk contractor to assist with pre-construction services, the Town Council is being asked to consider the ratification of the Selection Committee's recommendation for a Construction Manager At-Risk. The services of this firm will permit several early planning steps to begin, which include the ability to generate a project budget and a project schedule, once the scope of the project is defined.

To assist staff in their work with the Friends of Recreation, staff is requesting input/guidance with regard to the scale and size of proposed recreation center and the implementation of an additional community survey. To assist in Council's decision making, please see attached letters from the project's consultants. If Council would like further time to consider the survey recommendation, staff can return at a future meeting with cost estimates and schedule impact information.

To allow sufficient time to complete a business plan and fine tune the project design, staff will formally request to defer the project at the December 14 Town Council Development Review Meeting to a future meeting.

FUNDING/FISCAL IMPACT

The development of the business plan and the pre-construction phase services, will be funded by the Friends of Recreation.

Attachments

cc: Recreation Advisory Commission
Jay Boodheshwar, Deputy Town Manager
H. Paul Brazil, Director of Public Works
Jane Struder, Director of Finance
Rod Gardiner, Assistant Director of Recreation
Morton and Barbara Mandel Family Foundation
Friends of Recreation, Inc.

BALLARD*KING
& ASSOCIATES LTD
Recreation Facility Planning and Operation Consultants

November 22, 2016

Ms. Beth Zickar
Director of Recreation
Town of Palm Beach
340 Seaview Avenue
Palm Beach, FL 33480

Dear Beth,

As you are well aware, Ballard*King & Associates is in the midst of working on an operations plan for the proposed new recreation center. This effort requires a great deal of information to develop an accurate plan.

With the material that you have supplied us regarding current center operations as well as your work on a possible new operating budget, we have a clear understanding of the operations requirements of the new facility. In addition, we have a detailed program for the center and a concept plan that identifies the spaces in the building and their relationship to each other. With all of this, the information that is required for our work is now in place.

As a result, we are moving forward with our operations budget for the new center with a goal of having our work completed by December 23, 2016.

Sincerely,

Ken Ballard
President

ETC INSTITUTE
MARKETING RESEARCH, DEMOGRAPHY, STATISTICAL APPLICATIONS
725 W. FRONTIER CIRCLE, OLATHE, KANSAS 66061
(913) 829-1215 FAX: (913) 829-1591

November 20, 2016

Beth Zickar, Recreation Director
Town of Palm Beach
Recreation Department
P.O. Box 2029
340 Seaview Avenue
Palm Beach, FL 33480
Phone: 561-227-6457

Subject: Statistical Validity of the Town's 2016 Community Survey

Dear Ms. Zickar:

It is my understanding that some residents in your community are questioning the statistical validity of the survey ETC Institute conducted for the Town of Palm Beach earlier this year. I am writing to reassure you and others that the results are truly representative of the community.

Overview of the Survey Methodology
The survey was mailed to 7,271 of the 9,091 housing units in the Town. Housing units that were owned by part-time residents living overseas were not included in the sample. In addition, home owners who had multiple housing units were only sent one survey, to prevent people from responding more than once.

In most cases, surveys were mailed to attention of the "current resident" at the property address in Palm Beach to be sure renters were included in the sample. Altogether, 80% of housing units in the Town were mailed a survey.

The survey packets contained a cover letter, a copy of the survey, and a postage-paid, return envelope. A few days after the surveys were mailed; ETC Institute sent emails and placed phone calls to households for whom email addresses and phone numbers were available to encourage participation. The emails contained a link to the on-line version of the survey, to make it easy for residents to complete the survey. Respondents who completed the survey on-line were required to enter their home address prior to submitting the survey. ETC Institute then matched the addresses that were entered on-line with the addresses that were originally selected for the random sample. If the address from a survey completed on-line did not match one of the addresses selected for the

sample, the on-line survey was not counted. This was done to prevent people who were not residents of the Town from completing the survey. It was also done to prevent people from completing the survey multiple times.

The goal was to obtain surveys from at least 600 households. The actual number of households that responded to the survey was 1,029. Since a high percentage of the Town's housing units are not occupied full-time, the response rate of 14.1% was considered to be very good, since the survey took the average respondent more than 15 minutes to complete.

Assessment of the Composition of the Sample

One in seven households in the Town of Palm Beach completed the Town's 2016 survey. This is very high considering the fact that U.S. Census Bureau used to select one in six households to receive the long version of the Census until 2000. The Census Bureau discontinued the practice of having a "long-form" for the 2010 survey because it was replaced by the American Community Survey, which is administered to a much smaller sample of U.S. residents each year.

Some of the evidence that the 2016 Survey is representative of the Town's population include the following:

- ETC Institute mapped the location of respondents to the survey and compared the location of survey respondents to the location of all households in the Town. This exercise showed that the distribution of survey respondents mirrored the physical distribution of the Town's housing units.

- There were a total of 2,117 people living in the 1,029 households that completed the survey. This means that 24% of the Town's 8,812 residents were represented in the households that completed the survey. This is a very very high percentage of the Town's population given the length of the survey.

- 61% of the respondents to the survey were age 65 or older, which is almost identical to the 2015 U.S. Census estimate. According to the U.S. Census Bureau, among adults age 18 and older in the Town of Palm Beach, 60% are age 65 and older.

- 53% of the respondents to the survey were female and 47% were male. This is within the margin of error for the survey when compared to the U.S. Census estimates of 55% female and 45% male

Given that (1) a very high percentage of residents were represented in the survey, (2) the age and gender distributions of the survey are similar to the U.S. Census estimates, and (3) the geographic composition of the sample mirrors the distribution of the Town's actual population, **it is very reasonable for the Town to conclude that the results of the survey are representative of the Town's population within the margin of error for the survey, which is +/-2.9% at the 95% level of confidence.**

Potential Limitations of the Survey
While the results of the survey are certainly representative of the Town's population, the 2016 Survey did not specifically ask residents if they would use recreation facilities at the location that is currently being considered. Instead, the conclusions from the 2016 survey were based on an assessment of unmet needs and the importance that residents place on a wide range of facilities and programs.

Based on my 20+ years of experience in the field of community-based market research, I would expect to have found a similar set of priorities if we had asked residents about their willingness to use facilities/programs at a specific location, but this conclusion cannot be reached based on the survey data alone because the question was not posed in this manner.

Next Steps

As I already mentioned, I do not think a follow-up survey is needed because the Town will probably get the same results. But if the Town needs to be certain that this location is viable, ETC Institute would be willing to submit a bid to conduct a follow-up survey.

Sincerely,

Christopher Tatham
CEO

Barth Associates
PUBLIC REALM PLANNING, DESIGN, AND FACILITATION

November 29, 2016

Beth Zickar, Director of Recreation
Town of Palm Beach
PO Box 2029
Palm Beach, FL 33480

Re: Seaview Park Development Program

Dear Beth,

In response to your request I reviewed our Palm Beach Community Center & Seaview Park Needs Assessment and Master Plan (the Plan) to assess whether it is sufficient to create a development program for the park and community center. Following are my conclusions.

First, the planning process/ methodology was intended to help the Town create a development program for Seaview Park and other Town parks. As stated on p. 5 of the Plan, our objectives for the study included:

- "Determine the recreation needs/ interests/ wants of Town residents and other facility users
- Identify potential facility and program improvements to be made to Seaview Park and Recreation Center and/or other Town parks and recreation facilities
- Prioritize potential improvements based on resident's feedback and available funding"

Second, the findings from the various needs assessment techniques were consistent in identifying residents' top priority needs as they related to Seaview Park and Recreation Center. As noted on p. 51, we "incorporated a multi-pronged approach to identifying needs, meaning that various types of qualitative and quantitative techniques were used to identify top priorities from different perspectives." Key findings from the various techniques included:

- Level-of-Service Analysis: "the Facilities and Access LOS Analysis indicate that the Town is potentially deficient in indoor pools, indoor recreation center space, gymnasiums, playgrounds, dog parks, basketball courts, multi-purpose fields, public golf courses, and boat ramps." (p. 22)
- Park Visits: "Seaview Recreation Center scored low in the Buildings/Architecture category due to the dated appearance of the building, its interior finishes, and equipment. The building's systems are also aged (e.g. mechanical, electrical, plumbing, etc.) and do not provide the efficiency that a modern system provides." (p. 34)

- Park Operations, Programs, and Maintenance: "Most recreation programs and services are delivered from the Seaview Park and Recreation Center, tennis courts and athletic field. In general, the Center is not adequate to serve existing and projected needs. The building needs upgrades and expansion, parking and access should be improved and its relationship to surrounding park and recreation facilities should be redesigned to be more inclusive and supportive to users." (p. 42)
- RAC/ Steering Committee Meeting: "One major theme was that the Seaview Park and Recreation Center is a keystone facility for the Town and should be improved and expanded." (p. 52)
- Public Outreach Meeting: "Top priority facility needs include indoor fitness facility, leisure/ lap pool, playground, outdoor fitness stations, and pickleball courts. Top priority program needs include youth swim lessons, adult personal fitness, and adult pilates. Proposed improvements to Seaview Park and Recreation Center include outdoor fitness stations, leisure/ lap pool, pickleball courts, fitness center, indoor spaces, snack bar/ cafe, playground, central tennis pro shop, 2nd floor observation deck, gym, teen lounge and parking." (p.55)
- Interviews: "Maintaining and improving the Seaview Park and Recreation Center, the Seaview Park Tennis Center and the Town Docks were seen as the Town's top priorities in that order. Recommendations specific to the Center included expanding the physical structure and programs to better meet existing and future residents including younger families." (p. 57)
- Statistically-valid Mail/ Telephone Survey: "Indoor fitness and exercise facilities, tennis courts, playgrounds, and sailing and rowing facilities were most needed by the respondents. Yoga, educational lecture series, tennis, pilates and personal fitness instruction were the top five most important adult programs/ activities. The top five most important youth programs/ activities were tennis lessons/clinics, soccer, camps (summer/ school break), after school programs and art classes. Specific to the Seaview Park and Recreation Center, seventy-nine percent (79%) of households indicated it was important for the Town of Palm Beach to have a modern recreation center." (p. 64)

Finally, during the Conceptual Master Plan phase of the planning process, "two alternative Development Programs were created in response to the findings from the Needs Assessment" (p. 70). We also considered alternative locations to meet residents' priority indoor recreation needs and concluded that Seaview Park and Community Center was the most logical site, based on the findings above. As a result, as stated on p. 92, a "Proposed Master Plan was developed, incorporating elements from both Preliminary Concepts…based on feedback from the Recreation Advisory Commission and the Project Steering Committee… Ultimately, a two-story reconstruction option was found to be most appropriate to facilitate the target budget & proposed program."

In conclusion, I believe that the Palm Beach Community Center & Seaview Park Needs Assessment and Master Plan is sufficient to create a development program for the park and the community center. Please let me know if you have any questions or need additional information.

Sincerely,

David Barth, PhD
RLA, AICP, AICP
Principal

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Ratification of Selection Committee Recommendations for Construction Manager At-Risk (CMAR) Services for Seaview Park and Palm Beach Community Center Improvements - RFQ No. 2016-45
Resolution No. 230-2016

Date: November 17, 2016

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 230-2016 and ratify the recommendations and ranking of the selection committee for RFQ No. 2016-45 for CMAR services for the Seaview Park and Palm Beach Community Center Improvements, and authorize the Town Manager to approve a Purchase Order with Hedrick Brothers Construction Inc., in an amount of $24,539 for initial pre-construction phase services, and establishing a pre-construction phase budget of $25,000.

GENERAL INFORMATION

The Town has used several different contracting methods to accomplish construction projects. These procurement methods typically consist of public bid, establishment of pre-qualified contractors that competitively bid projects, and Construction Manager At-Risk (CMAR).

We have completed numerous complex projects in the past using the CMAR approach and those projects have been very successful. This particular project to be accomplished includes significant impacts to residents, use and occupancy of two (2) adjacent schools, an ongoing tennis facility operation, very tight site constraints and traffic impacts, and a need for close coordination to mitigate conflicts between construction work and all these other factors. Given the overall existing project workload, the complexity of this project, and the importance of this project to the community, staff recommends using and retaining a construction management firm as early as possible in the project process. A significant portion of the project budget will be donated and the donors have stated a preference for this contracting method.

Staff issued a request for qualifications (RFQ 2016-45) and received responses from seven (7) construction management firms. The selection committee consisted of Jay Boodheshwar, Deputy Town Manager, Jane Struder, Finance Director; Beth Zickar, Recreation Director; Matthew Smith, Friends of Receation Chairman; Eric Brown, P.E., Assistant Director of Public Works; Michael Roach P.E., Project Engineer; Patricia Strayer, P.E., Town Engineer (non-voting); Nelo Freijomel, Architect (non-voting); Ilyse Triestman, Assistant Purchasing Manager (non-voting); Adis Pedraza, Purchasing Manager (non-voting); and John Cmar, Purchasing Coordinator (non-voting).

The selection committee met on November 7, 2016 to review the submittals, and three (3) firms were short-listed by the committee to be finalists. The selection committee met with the three (3) finalists on November 16, 2016 separately to conduct interviews (presentations and question/answer). These three (3) firms were ranked as follows based on those interviews:

- Hedrick Brothers Construction, Inc.
- The Weitz Company, LLC
- Kaufman Lynn Construction Inc.

The selection committee recommended that the RFQ/contract be awarded to Hedrick Brothers Construction, Inc. Staff approached the top ranked firm, Hedrick Brothers Construction, Inc., and requested a proposal to participate in the development of the final plans and specifications, provide value engineering services, and assist with constructability reviews. The remainder of the pre-construction services would be accomplished at an appropriate time once the project scope has been finalized based on community input. Those future services would include preparing a construction schedule, prequalifying contractors and vendors, soliciting bids, and providing a guaranteed maximum price for the project. Staff recommends approval of only the necessary services now, in an amount not to exceed $25,000 and entering into a pre-construction agreement with Hedrick Brothers Construction Inc.

It is also anticipated that the Town Council will accept donated funds to pay for these pre-construction services.

FUNDING/FISCAL IMPACT

Sufficient funds are being donated to pay for these pre-construction phase services by the Friends of Recreation.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

TOWN ATTORNEY REVIEW

The pre-construction agreement has been reviewed and approved by the Town Attorney for legal form and sufficiency.

Attachment

cc: Beth Zickar, Director of Recreation
Jane Struder, Director of Finance
Eric Brown, Assistant Director, Public Works
Adis Pedraza, Purchasing Manager

RESOLUTION NO. 230-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A PURCHASE ORDER IN THE AMOUNT OF $24,539, TO HEDRICK BROTHERS CONSTRUCTION, INC., FOR PRE-CONSTRUCTION PHASE SERVICES FOR THE SEAVIEW PARK AND PALM BEACH COMMUNITY CENTER IMPROVEMENTS AND ESTABLISHING A PRELIMINARY PRE-CONSTRUCTION PHASE BUDGET OF $25,000.

* * * * * *

BE IT RESOLVED BY THE TOWN COUNCIL of the Town of Palm Beach, Palm Beach County, Florida as follows:

Section 1. The Town Council of the Town of Palm Beach hereby approves a purchase order in the amount of $24,539 to Hedrick Brothers Construction, Inc., for pre-construction phase services for the Seaview Park and Palm Beach Community Center Improvements and establishes a pre-construction phase services budget of $25,000.

Section 2. The Town Manager is hereby authorized to execute this contract on behalf of the Town of Palm Beach for this improvement.

Section 3. The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to effectuate the completion of the said project work, including any necessary change order work as recommended by the Public Works Director.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 13th day of December 2016.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Council President Pro Tem
	Bobbie Lindsay, Town Council Member
ATTEST:	Danielle H. Moore, Town Council Member
Susan A. Owens, MMC, Town Clerk	Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

MEMORANDUM

DATE: November 17, 2016

TO: H. Paul Brazil – Director of Public Works

FROM: Adis Pedraza - Purchasing Manager

SUBJECT: Final Ranking – RFQ No. 2016-45 – Seaview Park and Palm Beach Community Center Improvements - Construction Manager at Risk Services

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The Town received proposals from seven (7) contractors. The Selection Committee met on November 7, 2016, to review the submittals. All members of the committee listed below were present. Three companies were finalists, shortlisted by the Committee – Hedrick Brothers Construction Co., INC; Kaufman Lynn Construction, Inc.; and, The Weitz Company, LLC. The Selection Committee met on November 16, for presentations and interviews with the shortlisted companies. All members of the committee listed below were present except for Adis Pedraza (Non-Voting):

Jay Boodheshwar – Deputy Town Manager
Michael A. Roach, P.E. – Project Engineer
Eric Brown, P.E. – Assistant Director of Public Works
Jane Struder – Director of Finance
Beth Zickar – Director of Recreation
Matthew Smith – Friends of Recreation Chairman
Patricia Strayer, P.E. – Town Engineer (Non-Voting)
Nelo Freijomel – Architect (Non-Voting)
Adis Pedraza – Purchasing Manager (Non-Voting)
Ilyse Triestman – Assistant Purchasing Manager (Non-Voting)
John Cmar – Purchasing Coordinator (Non-Voting)

After thorough consideration of the three (3) finalists' proposals, the Selection Committee arrived at a final ranking as follows:

1. Hedrick Brothers Construction Co., INC
2. The Weitz Company, LLC
3. Kaufman Lynn Construction, Inc.

It is the recommendation of the Selection Committee to award a contract to Hedrick Brothers Construction Co. for the Seaview Recreation Center Construction Manager at Risk Services.

Cc: File: RFP No. 2016-45
John Randolph, Town Attorney
Selection Committee Members

DRAFT PRECONSTRUCTION

PHASE I - Plan Review/Constructability Review	Qty.	U	Unit Cost	Total
Project Executive	8.0	hrs	$140.00	$1,120
Project Manager	50.0	hrs	$91.00	$4,550
Chief Estimator	40.0	hrs	$101.00	$4,040
Estimator No. 1	50.0	hrs	$81.00	$4,050
Estimator Coordinator	40.0	hrs	$45.00	$1,800
Project Superintendent	20.0	hrs	$71.00	$1,420
Burkhardt Construction	1.0	ls	$4,950.00	$4,950
Reproductions of Drawings	1.0	ls	$500.00	$500
Postage - USPS	1.0	ls	$0.00	$0
Postage - Fed-X	1.0	ls	$0.00	$0
Legal Notices	1.0	ls	$0.00	$0
Total PHASE I Plan Review/Constructibility Review				**$22,430**

Phase II - Pre-Construction Progress Meetings/DD Estimtae	Qty.	U	Unit Cost	Total
Design Review Meetings - 1 every 2 weeks for 4 Months - Included Below	0.0	ea	$0.00	$0
Project Executive	0.0	hrs	$140.00	$0
Project Manager	0.0	hrs	$91.00	$0
Chief Estimator	0.0	hrs	$101.00	$0
Estimator No. 1	0.0	hrs	$81.00	$0
Estimator Coordinator	0.0	hrs	$45.00	$0
Project Superintendent	0.0	hrs	$71.00	$0
Burkhardt Construction	0.0	ls	$0.00	$0
Reproductions of Drawings	0.0	ls	$0.00	$0
Postage - USPS	0.0	ls	$0.00	$0
Postage - Fed-X	0.0	ls	$0.00	$0
Legal Notices	0.0	ls	$0.00	$0
Total PHASE II - Pre-Construction Progress Meetings/DD Estimate				**$0**

TBD

PHASE II - 90% Construction Docs / GMP	Qty.	U	Unit Cost	Total
Project Executive	0.0	hrs	$140.00	$0
Project Manager	0.0	hrs	$91.00	$0
Chief Estimator	0.0	hrs	$101.00	$0
Estimator No. 1	0.0	hrs	$81.00	$0
Estimator Coordinator	0.0	hrs	$45.00	$0
Project Superintendent	0.0	hrs	$71.00	$0
Burkhardt Construction	0.0	ls	$0.00	$0
Reproductions of Drawings	0.0	ls	$0.00	$0
Postage - USPS	0.0	ls	$100.00	$0
Postage - Fed-X	0.0	ls	$100.00	$0
Legal Notices	0.0	ls	$800.00	$0
Total PHASE II - 90% Construction Docs / GMP				**$0**

TBD

Total PHASE I - Plan Review/Constructibility Review				**$22,430**
Total PHASE II - Pre-Construction Progress Meetings/DD Estimate				**$0**
Total PHASE II - 90% Construction Docs / GMP				**$0**
Total Preconstruction Subtotal				**$22,430**
Insurance			**1.30%**	**$292**
Constractors Fee			**8.00%**	**$1,818**
Total Preconstruction				**$24,539**

PRE-CONSTRUCTION SERVICES AGREEMENT

This Pre-Construction Services Agreement ("AGREEMENT") dated as of _____, 2016, is made by and between The Town of Palm Beach, Florida ("OWNER") and Hedrick Brothers Construction Company, Inc., a Florida corporation, with its principal place of business located at 2200 Centrepark West Drive, Suite 100, West Palm Beach, Florida, 33409 ("CONTRACTOR").

RECITALS

A. Owner is the owner of the building and site housing the Palm Beach Recreation Center and Seaview Park, located at 340 Seaview Avenue, Palm Beach, ("Property" or "Site") and is planning to do a new Community Center and Seaview Park Improvements Project thereon ("Project") under contractual modality known as Construction Manager (CM); and,

B. Contractor has certified that it is licensed to do business in Palm Beach County, Florida, licensed as general contractor in the State of Florida, and has represented to Owner that Contractor has extensive experience and expertise in building construction, and construction management; and,

C. In reliance upon Contractor's representations and expertise, Owner/Owners' Rep, subject to Florida law, shall assist in pre-construction activities in order to provide a GMP and other services as described herein, with the intention that, at the parties' discretion, Owner and Contractor will make a good faith attempt to negotiate and execute a mutually acceptable contract for Contractor to construct the building in accordance with construction documents produced by Owner's design professionals in a CM format, subject to Town Council approval.

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Recitals**. The foregoing recitals are incorporated herein by this reference and made a part hereof.

2. **Relationship of the Parties**. Contractor acknowledges and accepts the relationship of trust and confidence established with the Owner by this Agreement, and covenants with the Owner to furnish Contractor's best, reasonable skill and judgment, and to cooperate with the Architect/Engineer in furthering the interests of the Owner. Contractor shall furnish pre-construction services and use its best efforts to perform those services in an expeditious and economical manner consistent with the interests of the Owner. The Owner shall endeavor to promote harmony and cooperation among the Owner, Architect, Contractor, and other persons or entities employed by the Owner for the Project. Information under the Owner's control, or responses or actions required from the Owner, shall be furnished by the Owner with reasonable promptness to avoid delay in Contractor's performance of the pre-construction services. The parties agree that Contractor is an independent contractor and not an employee of Owner, and nothing in this Agreement shall be construed to create an employer/employee relationship between the parties.

3. **Services**. Subject to the terms and conditions hereinafter set forth, Contractor agrees to provide the services set forth in all Articles of this Agreement ("Services") for a fee not to exceed $24,539 for the initial phase all in accordance with all local, state, and federal law, codes, regulations, standards and orders ("Applicable Law"):

(a) Pre-Construction Progress Meetings:
This scope includes the CM conducting bi-weekly team progress meetings attended by CM, design professionals, Owner, and others as requested. The CM shall provide agendas and produce meeting notes from each meeting documenting the issues of the project, assigning responsibility for issue resolution, and tracking the timelines for issue resolution.

(b) Pre-Construction Scheduling:
This scope includes initial data collection with design professionals providing necessary permit~~s~~ applications as required and timelines for applications and securing all permits. Permits may not be issued prior to GMP issued to Owner.

Based on the provided information, CM will develop a master Pre-Construction Phase Bar Chart schedule incorporating design development, permitting, plan review, cost estimate preparation, guaranteed maximum price preparation, submittal review and approval, long lead item identification and procurement, kickoff informational meeting, and project ground-breaking.

The Pre-Construction schedule shall be presented to the Owner for review & comment and shall be updated monthly to track Pre-Construction progress.

(c) Plan Review/Constructability Review:
The scope includes review of the plans as provided by Design Team. The review shall advise the Owner as to substantive changes from the plan which may materially affect budget or time. The review shall also report to the Owner as to any design criteria which may present considerable constructability challenges. Value engineering ideas should be provided to the Architect and Owner for incorporation into the final plans and specifications. Information on materials, equipment, etc., suggested should be provided to help with the development of a specifications book. This scope shall not include a complete cost estimate presentation.

(d) Guaranteed Maximum Price (GMP) 90% Plans:
The scope consists of CM preparing the Guaranteed Maximum Price (GMP) and the final construction budget based on the 90% construction documents provided by the Design Team. The GMP shall consist of a detailed line item quantity survey for all major items of work to be performed. The direct construction cost for all labor, equipment, material, and subcontracts shall be assessed. The CM general conditions shall be detailed as well as the construction phase fee. The GMP shall also include the Owner along with all supporting documentation for review and approval. This agreed upon document shall become the basis of the Construction Services Phase of the project and shall conclude the Pre-Construction Services phase of the project. Final construction budget GMP will be issued four (4) weeks after receipt of the 90% construction documents from the designers.

A contingency will be put in place for the permitting comments to 100% construction documents.

(e) Alternative Task
Should the Owner desire additional services for investigation, design review, and constructability review; shall be billed at the attached hourly rates guaranteed "not to exceed."

Total Pre-Construction Services: $ 24,539 (Initial Phase Only) *

*Initial phase to include only preliminary meetings, plan review and scheduling. GMP and full budget/schedule development to be done in subsequent phase at fee TBD as mutually agreed by both parties.

4. **Fees.** (a) The Contractor shall perform the above-referenced Services on a stipulated, actual-cost basis, not-to-exceed, in any event, without the express written consent of Owner first being obtained, the amounts set forth in Article 3 above. Contractor represents to Owner that Contractor has carefully reviewed the pre-construction services necessary to fulfill each services work scope without exaggeration and to the best of Contractor's knowledge and belief, the labor, personnel and other expenses reasonably necessary to complete and discharge each such scope. Except for Additional Services, in the event Contractor's estimates are exceeded, Contractor understands and agrees that its compensation is limited to the assigned stipulated, actual-cost not-to-exceed amounts in Article 3 above, on a stand-alone basis. (b) Sums paid under this Agreement shall be credited to the contract sum under the future construction contract, if any, for the Project in the event Owner awards Contractor the CM Contract.

5. **Additional Services**. The Owner reserves the right to request the Contractor to provide Additional Services. The Contractor shall provide Owner with a written proposal to perform said Additional Services, and Contractor shall perform such Additional Services after receiving a signed copy of the proposal from Owner indicating Owner's written permission to proceed. This Agreement shall be modified to reflect such Owner-approved agreements regarding the cost and time to complete said Additional Services.

6. **Term**. This Agreement shall commence as of the date first written above ("Effective Date") and shall remain in effect until the GMP is accepted or a future date TBD in 2017; whichever comes first. Any preconstruction services required by the CM after the period identified shall be billed at the attached hourly rates. Work is complete or four (4) months thereafter, with the Owner having the option, upon five (5) business days written notice, to extend the term for up to two (2) individual, additional one (1) month terms. In no event, however, shall the term of this Agreement continue for more than six (6) months from the Effective Date. Time is of the essence as to all deadlines set forth in this Agreement. This Agreement shall terminate as of the effective date of the CM contract executed by the parties, if any. Contractor specifically understands and agrees that its performance, in whole or in part, of this Agreement, does not in any manner obligate Owner to later award and execute any contract, of any nature whatsoever, with Contractor.

7. **Payment**. (a) Fees and expenses described in Article 4 shall be billed monthly in arrears. Provided an application for payment and all detailed supporting documentation reasonably required by Owner is received by the last day of a month, payments shall be made no later than the fifteenth (15th) day of the following month. Otherwise, payments shall be made within twenty (20) days of receipt of the Contractor's application and all required supporting documentation thereto. No payment, however, shall be made unless and until Contractor provides Owner with all documentation supporting

and evidencing the hours and other amounts billed, and partial or final releases, as the case may be, from itself and all subcontractors and other entities, if any, providing labor, materials, equipment and/or services to the Project, inform satisfactory to Owner. Certified payroll records for all employees for which reimbursement is sought, shall be supplied to Owner upon request, and made available to the Owner for inspection or audit at the Owner's option at any time during the life of this Agreement, and for a period of three (3) years after final payment. (b) In the event this Agreement is terminated, as provided hereunder, Owner shall, in conformance with Article 14 below, pay Contractor the fees and expenses referenced in Article 4, for all Services completed as of the termination date, minus any substantiated set-offs that Owner may have against Contractor.

8. **Final Payment and Release**. Upon satisfactory completion by the Contractor and acceptance by the Owner of all Services required pursuant to this Agreement, or all Services performed prior to the termination of said Agreement if so terminated, and upon receipt of all required supporting documentation and final releases and claim waivers (in the form satisfactory to Owner) from Contractor and its subcontractors and other entities, if any, providing labor, materials, equipment and/or services to the Project, final payment shall be made to the Contractor. Acceptance by the Contractor of final payment hereunder shall operate as, and shall be a release to the Owner from all claims and liability to the Contractor and its successors, legal representatives, and assigns for anything done or furnished under or arising out of the provisions of this Agreement. No payment, final or otherwise, shall release the Contractor from any obligation under this Agreement.

9. **Confidentiality**. Owner may disclose to Contractor or allow Contractor access to certain information and materials of Owner that are confidential, including without limitation, security and other data that are exempt from public access under Chapter 119, Florida Statutes. Confidential information shall not include information which is within the public domain, or that may lawfully be obtained by Contractor from a third party without an obligation of confidentiality. At all times, both during and after the Term, Contractor shall use said confidential information, if any, with a reasonable degree of care to prevent the unauthorized use, dissemination and publication thereof, so long as such information is clearly identified by Owner as being "Confidential." Notwithstanding the foregoing, Contractor may disclose information that may be considered confidentially exempt to a Court of Law if so ordered by a Court of Competent Jurisdiction.

10. **Standard of Care**. Contractor shall diligently and in good faith carry out its duties under this Agreement. The standard of performance expected of Contractor hereunder is that reasonably and diligently adhered to by a construction company representing itself as experienced in the building construction and construction management, the recommendations and advice of Contractor concerning design alternatives shall be subject to the review and approval of the Owner and the Owner's professional consultants. It is not Contractor's responsibility to ascertain that the Architect's drawings and specifications are in accordance with Applicable Law. However, if Contractor recognizes that portions of the drawings and/or specifications are obviously at variance with Applicable Law, Contractor shall promptly notify the Architect and Owner in writing; provided however, Contractor shall have no liability as to non-compliance of the drawings and specifications with Applicable Law. Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering.

11. **CM Contract**. Concurrently with the performances of Services hereunder, the parties shall negotiate, in good faith, a CM contract. If the parties are able to agree on contract terms, the proposed contract shall be presented to the Town Council for its review and approval. It is understood and agreed by Contractor that the Town Council, at its sole discretion, and without limiting the generality hereof, may reject, in whole or part, any of the previously negotiated CM contract provisions, and instruct the parties to renegotiate, suspend, or cancel the Project itself, authorize negotiations with another bidder, change the contract format to another project delivery modality. If the Town Council does not award a

contract, the Contractor is limited to the compensation addressed herein, without further recourse. Contractor shall not be entitled to any compensation whatsoever for its costs, expenses, and legal fees incurred during the negotiation process.

12. **Notices**. All notices, requests, demands and other papers shall be deemed to have been duly given in writing if delivered personally or if deposited in the United States mail, properly addressed and postage prepaid, (a) if to Owner, at Town of Palm Beach, 360 South County Road, P.O. Box 2029, Palm Beach, FL 33480, Att: Town Manager-Mr. Tom Bradford, and (b) if to Contractor, at Hedrick Brothers Construction, Inc., 2200 Centrepark West Drive, Suite 100, West Palm Beach, Florida, 33409, Att: Mr. Gene Parker, or any other address as may be given by either party by written notice. Such notices, if sent by registered or certified mail, return receipt requested, shall be deemed to have been given at the time of mailing.

13. **Choice of Law, Venue, and Attorney's Fees**. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida. Any litigation arising out of or in connection with this Agreement shall be maintained in a Court of appropriate jurisdiction in Palm Beach County, Florida. In the event of any lawsuit in connection with this Agreement initiated by either Owner or Contractor, the prevailing party shall be entitled to its reasonable attorney's fees and costs at the trial and appellate levels.

14. **Indemnity**. Contractor shall defend and hold Owner harmless against any action, claim, damage, judgment, liability, obligation, penalty, settlement or suit (including but not limited to reasonable fees and disbursements of attorneys and other professionals and para professionals and court costs) arising out of, resulting from or related to this Agreement or the performance of any activities on or for the Property or otherwise related to this Agreement to the extent caused by the fault or negligent acts or omissions of Contractor or its contractors, subcontractors, consultants or anyone for whose actions Contractor or its subcontractors or consultants is legally responsible. Contractor's liability and/or duty under this Article will not be subject to any limit on types or amounts of damages, compensation or benefits payable under worker's compensation, disability benefits or other employee benefit laws, provided, however, that contractor shall not be responsible for indemnifying the owner to the extent that any damage was caused by the negligence, gross negligence, or intentional acts of owner.

15. **Power and Authority**. Contractor certifies that it has the power to enter into this Agreement, to perform its obligations under this Agreement, and to complete the work contemplated by this Agreement. Contractor has taken all partnership, corporate or other actions required to authorize Contractor to execute and deliver this Agreement, to perform its obligations under this Agreement, and to complete the transactions contemplated by this Agreement.

16. **Termination**. If at any time during the term, either party hereto is in default under this Agreement, the non-defaulting party shall have the right to terminate this Agreement upon not less than fifteen (15) days prior written notice to the other party of such termination. Such notice shall specify with particularity the failure(s) to perform and the acts the defaulting party must undertake to remedy such failure(s). If at the conclusion of such fifteen (15) day period, such failure(s) are not cured, then this Agreement shall terminate immediately upon receipt of a second written notice from the non-defaulting party declaring such termination. In addition, as set forth above, Owner may, in its sole discretion, terminate this Agreement for its convenience and without cause, upon written notice to the Contractor, and such termination shall be effective immediately. As set forth above, in the event the Agreement is terminated, Owner shall pay Contractor only the then earned but unpaid fees and expenses, described in Article 4, for all work completed as of the termination date, minus any substantiated set-offs that Owner may have against Contractor. Contractor shall not be entitled, under any circumstances, to its costs, legal fees, or other expenses arising out of or in connection with the negotiating of the construction contract.

17. **Entire Agreement and Assignment**. This Agreement embodies the entire agreement and understanding between the parties with respect to the subject matter hereof, and to the extent inconsistent therewith, supersedes all other prior agreements, understandings, representations, covenants, oral or written. This Agreement and the obligations of the parties under th is Agreement may be amended, waived or discharged only by an instrument in writing executed by the party against which enforcement of the amendment, waiver or discharge is sought. The provisions of this Agreement shall be binding upon the parties hereto and shall inure to the benefit of their respective successors and permitted assigns. Neither party shall assign this Agreement nor its rights under this Agreement nor delegate responsibility for performance of its obligations under this Agreement absent the prior written consent of the other party.

18. **Ownership of Documents**. All drawings, designs, architectural revisions, take-offs, estimates, schedules, specifications, and any other materials prepared by Architect or Contractor shall be the property of Owner. It is the intention of the parties that the plans and specifications shall be the sole property of Owner whether the Project is completed or not.

19. **Performance and Payment Bonds**. In accordance with 255.05(l) (a), Owner exempts Contractor with respect to this Agreement from the requirement of providing Performance and Payment Bonds.

20. **Insurance**. The Contractor shall obtain and maintain, at its own expense, insurance coverages acceptable to Owner insuring the Owner, Contractor, and their employees, agents, consultants and designees as required herein, which insurance shall incorporate a provision requiring the giving of written Notice to Owner at least thirty (30) calendar days prior to the cancellation, non-renewal or material modification of any such policies as evidenced by return receipt of United States certified mail. The types and policy limits are set forth in Exhibit "B" hereto attached and made a part hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date written above.

WITNESS and ATTEST: **OWNER's REPRESENTIVE**

_____ **By:**_____

Printed Name:

Title: _____

WITNESS and ATTEST: **HEDRICK BROTHERS CONSTRUCTION**

_____ **By:**_____

Printed Name_____

Title_____

Approved as to form: **Recommended by:**

_____ _____

Town Attorney **Director of Public Works**

Exhibit B

INSURANCE REQUIREMENTS

General Liability coverage with limits not less than $5,000,000 per occurrence/$5,000,000 aggregate. Certificate of Insurance shall indicate coverage on an Occurrence Basis only. Claims Made policies will not be accepted. *The Town shall be endorsed as an additional insured* under the General Liability coverage with respects to the job(s) being performed.

Auto Liability coverage, with limits not less than $1,000,000 Each Occurrence Combined Single Limit each accident. Certificate of Insurance shall indicate coverage for Any Auto or Owned Autos/Hired Autos/Non-Owned Autos.

Worker's Compensation coverage with statutory limits.

Employers Liability coverage with limits not less than $100,000 for each accident, $100,000 disease (each employee), and $500,000 disease (policy limit).

A 30-day written notice of cancellation, non-renewal, or modification of any stipulated insurance shall be mailed to the hiring department via registered, return receipt requested mail. Note: 10-day Notice of Non-Payment is acceptable if Certificate of Insurance indicates 30-day notice for cancellation, non-renewal, or modifications.

Umbrella or Excess Liability is required up to the minimum limit of liability if the limits of liability shown on the Certificate of Insurance under General Liability do not meet the minimum limits of liability as required.

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Regular Agenda - Old Business

Agenda Title

Consideration of Modifications to Pedestrian Signalization of the Sunset Avenue and North County Road Intersection.

Presenter

H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- **Memorandum dated November 22, 2016, from H. Paul Brazil, P.E., Director of Public Works**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Consideration of Modifications to Pedestrian Signalization of the Sunset Avenue and North County Road Intersection

DATE: November 22, 2016

STAFF RECOMMENDATION

Town staff requests guidance in the request to modify the approved pedestrian signalization mechanisms for the Sunset Avenue and North County Road intersection.

GENERAL INFORMATION

Town Council approved and awarded the construction contract for the signalization and mast arm improvements at the intersections of Sunrise Avenue and Sunset Avenue with North County Road at the February 9, 2016 Town Council meeting. These improvements include replacing the existing mast arms, upgrading the signalization, installing pedestrian poles with buttons and countdown heads, upgrading curb ramps to current ADA standards, drainage improvements, and curb and sidewalk improvements between the two (2) intersections. The project also includes milling, resurfacing, striping of both the intersections of Sunrise Avenue and Sunset Avenue intersections, and along North County Road from just south of Sunset Avenue to just north of Sunrise Avenue.

Each intersection includes two (2) pedestrian poles at each corner. On top of each pedestrian pole is a signal countdown light that lets the pedestrians know how much time is left for crossing the street or left before the light will change to allow crossing the street. The Palm Beach Synagogue is prominently located at the northwest corner of Sunset Avenue and North County Roads. The primary entrance directly faces the intersection and the pedestrian poles are located across the sidewalk at each corner of the entrance way. Just inside the doors of the Synagogue is the main sanctuary. Michael Scharf, as a representative of the Synagogue, originally requested that the pedestrian poles not be installed, but has been willing to compromise and has agreed to a modified pole to reduce the aesthetic impact to the entrance of the Synagogue.

Staff has developed an alternative that is acceptable to Mr. Scharf. This alternative includes using a shorter pedestrian pole which is 5.5 feet instead of 8 feet and eliminating the pedestrian signal. Originally, staff recommended only removing the pedestrian signalization at the one corner, but upon guidance from the engineer of record, the alternative will require eliminating the pedestrian signals from all four (4) corners of the intersection. Staff has ensured that even though this alternative does not include the installation of the pedestrian signals, each pedestrian pole has been constructed and wired with the ability to install the pedestrian signals at any time in the future.

Staff developed this alternative in an effort to achieve a solution that would be acceptable to the community that these improvements will serve. Inevitably, by modifying what was approved and what was expected, the solution does not meet everyone's expectations. Therefore, staff is looking to Town Council for direction on how to proceed. It is important to note that there are often times that staff seeks to achieve harmony with adjacent businesses and property owners as we construct and implement projects. We anticipate that the resolution of this issue will serve as a precedent for how staff resolves similar request for modifications to approved projects in the future.

FUNDING/FISCAL IMPACT

The only funding/fiscal impact is the additional cost of two (2) 5.5 feet poles, which can be purchased within the approved budget of the existing contract.

TOWN ATTORNEY REVIEW

Review and approval by the Town Attorney for legal form and sufficiency is not necessary, since the contract and purchase order are already in place.

cc: Eric B. Brown, P.E., Assistant Director of Public Works
Jane Struder, Director of Finance
Patricia Strayer, P.E., Town Engineer
Jeffrey Sanon, P.E., Project Engineer
Adis Pedraza, Purchasing Manager

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Regular Agenda - New Business

Agenda Title

Appointment of Town Manager Thomas G. Bradford Pursuant to Section 4.02(b)of the Town Charter from December 14, 2016 through December 12, 2017

Presenter

Thomas G. Bradford, Town Manager

ATTACHMENTS:

- **Memorandum Dated December 5, 2016, from Thomas G. Bradford, Town Manager**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

From: Thomas G. Bradford, Town Manager

Re: Consideration of Re-Appointment of Town Manager Thomas G. Bradford to a New One-Year Term Pursuant to Section 4.02 (b) of the Town Charter from December 14, 2016 through December 12, 2017

Date: December 5, 2016

STAFF RECOMMENDATION

Consider re-appointment of Thomas G. Bradford to serve an additional one – year term as Town Manager from December 14, 2016 through December 12, 2017.

GENERAL INFORMATION

Section 4.02 (b) of the Town Charter requires the annual appointment of a Town Manager for a one – year term. Last year I was re-appointed to a one-year term through December 13, 2016. Therefore, if you are so inclined my re-appointment this time would be from December 14, 2016 through December 12, 2017. December 12, 2017 is the tentative date of the December 2017 Town Council meeting.

I consider it to be an honor and a privilege to be Town Manager in Palm Beach. I wish to continue serving in this capacity. I have provided you with an evaluation form to rate performance relative to the myriad of things that we deal with year in and year out as well as rating performance of the goals you established for this evaluation period. I will be prepared to address any aspect of this at your meeting on December 13. The establishment of new goals for 2017 will commence after the municipal election.

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Regular Agenda - New Business

Agenda Title

Appointment to the Planning and Zoning Commission

Presenter

John S. Page, Planning, Zoning & Building

ATTACHMENTS:

- **Memorandum Dated December 6, 2016 from John S. Page, Director of Planning, Zoning & Building**
- **Ballot for Appointment of Alternate member to the Planning & Zoning Commission**
- **Attendance & Voting Conflict Information for Planning & Zoning Commission**
- **PZC Roster**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas B. Bradford, Town Manager

From: John S. Page, Director of Planning, Zoning & Building

Re: Planning and Zoning Commission Appointment

Date: December 6, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council appoint one (1) alternate member to the Planning and Zoning Commission to fill the seat being vacated as a result of the resignation by **Susan Watts**.

GENERAL INFORMATION

Ms. Watts resigned on 10/20/16.

Pursuant to the news release notifying the public of the vacancy on the Planning and Zoning Commission, **Julie Araskog, Eric Christu, Kim Coleman,** and **Richard Lynn** have submitted Applications for Service on the Planning and Zoning Commission together with other appropriate qualifying information.

The applicants listed on the attached ballot are registered voters in the Town of Palm Beach, as required by Section 2-329 of the Town of Palm Beach Code of Ordinances.

Attachments
JP: kmc

cc: Susan A. Owens, Town Clerk
Veronica B. Close, Assistant Director of Planning, Zoning & Building
Paul Castro, Zoning Administrator

BALLOT FOR APPOINTMENT OF ALTERNATE MEMBER
TO THE PLANNING & ZONING COMMISSION
Town Council Meeting on December 13, 2016

Positions to be filled:

__1__ Alternate Member Term to expire 9/30/19
(due to resignation of Susan Watts)

Please circle _1_ from the list of names appearing below

Individuals Who Have Submitted Applications
(Listed alphabetically)

Julie Araskog

Eric Christu

Kim Coleman

Richard Lynn

Signature of Town Council Member: _____

Ballot Form 12/13/16

TOWN OF PALM BEACH **ATTENDANCE RECORD 2016**

PLANNING & ZONING COMMISSION

MEMBERS	1/19/2016	2/16/2016	3/22/2016	4/19/2016	5/17/2016	6/21/2016	7/19/2016	8/16/2016	9/20/2016	10/18/2016	11/15/2016	12/20/2016
Martin I. Klein, Chair**	P	P	P	P	X	X	P	X	P	P	P	
Lewis Crampton, Vice Chair**	P	P	P	P	X	X	P	X	P	P	P	
Susan Markin, Chair*	P	P	P	U	X	X	U	X	R	R	R	R
Michael Scharf, Vice-Chair*	U	P	P	P	X	X	P	X	P	&	&	&
Carol Mack	P	P	E	P	X	X	P	X	P	E	E	
Michael Ainslie	P	P	P	P	X	X	P	X	U	P	P	
Alan Golboro	P	P	P	P	X	X	P	X	P	P	P	
Kenneth Walker	-	-	-	-	-	-	-	-	%	P	P	
Carol LeCates	-	-	-	-	-	-	-	-	%	E	P	
ALTERNATE MEMBERS												
Michael Spaziani	P	P	P	P	X	X	U	X	P	P	P	
Susan Watts	P	P	P	P	X	X	P	X	U	R	R	R
Rick Pollock	P	P	E	P	X	X	E	X	U	P	P	

LEGEND P=PRESENT

E=EXCUSED

U-UNEXCUSED

A=ABSENT PENDING CLASSIFICATION AS "EXCUSED" OR "UNEXCUSED"

X=COMMISSION DID NOT MEET

* Chair and Vice Chair until 3/16

** Began Chair and Vice Chair 3/16

R= Resigned

&= Term Expired

% = appointed 10/10/16

TOWN OF PALM BEACH **ATTENDANCE RECORD 2015**
PLANNING & ZONING COMMISSION

MEMBERS	1/20/2015	2/17/2015	3/17/2015	4/21/2015	5/19/2015	6/16/2015	7/21/2015	8/18/2014	9/15/2015	10/20/2015	11/17/2015	12/15/2015
Susan Markin, Chair	P	P	P	P	P	P	X	X	X	P	P	P
Michael Scharf, Vice-Chai	P	P	P	P	P	E	X	X	X	E	P	P
Carol Mack	P	P	P	P	P	U	X	X	X	U	P	P
Martin I. Klein	-	-	-	P	P	P	X	X	X	P	P	P
Lewis Crampton	P	P	P	P	P	P	X	X	X	P	P	P
Michael Ainslie -	-	-	-	-	-	-	-	-	-	P	P	P
Alan Golboro	-	-	-	-	-	-	-	-	-	P	P	P
Jeffrey Cloninger	P	P	U	P	P	P	X	X	X	-	-	-
Floyd Wideman	P	P	P	P	P	E	X	X	X	-	-	-
ALTERNATE MEMBERS												
Michael Spaziani	P	P	P	P	P	P	X	X	X	P	P	P
Susan Watts	P	P	P	P	P	P	X	X	X	P	P	P
Rick Pollock	P	P	P	E	P	P	X	X	X	P	E	P

LEGEND P=PRESENT
E=EXCUSED
U-UNEXCUSED
A=ABSENT PENDING CLASSIFICATION AS "EXCUSED" OR "UNEXCUSED"
X=COMMISSION DID NOT MEET

TOWN OF PALM BEACH **ATTENDANCE RECORD 2015**

PLANNING & ZONING COMMISSION

MEMBERS	1/20/2015	2/17/2015	3/17/2015	4/21/2015	5/19/2015	6/16/2015	7/21/2015	8/18/2014	9/15/2015	10/20/2015	11/17/2015	12/15/2015
Susan Markin, Chair	P	P										
Michael Scharf, Vice-Chair	P	P										
Carol Mack	P	P										
Danielle Moore	P	X	X	X	X	X	X	X	X	X	X	X
Lewis Crampton	P	P										
Jeffrey Cloninger	P	P										
Floyd Wideman	P	P										
ALTERNATE MEMBERS												
Michael Spaziani	P	P										
Susan Watts	P	P										
Rick Pollock	P	P										

LEGEND P=PRESENT

E=EXCUSED

U-UNEXCUSED

A=ABSENT PENDING CLASSIFICATION AS "EXCUSED" OR "UNEXCUSED"

X=Elected to Council

TOWN OF PALM BEACH
PLANNING & ZONING COMMISSION

ATTENDANCE RECORD 2014

MEMBERS	8/19/2014	9/23/2014	10/21/2014	11/18/2014	12/16/2014
Susan Markin, Chair	P	P	P	P	*
Michael Scharf, Vice-Chair	P	P	P	P	*
Carol Mack	P	P	P	P	*
Danielle Moore	P	P	P	P	*
Lewis Crampton	P	P	P	P	*
Jeffrey Cloninger	P	P	P	P	*
Floyd Wideman	P	P	P	P	*
ALTERNATE MEMBERS					
Michael Spaziani	P	P	P	P	*
Susan Watts	P	P	U	P	*
Randolph Guthrie	U	U	UR	x	x
Rick Pollock	x	x	x	x	*

LEGEND P=PRESENT
E=EXCUSED
U-UNEXCUSED
A=ABSENT PENDING CLASSIFICATION AS "EXCUSED" OR "UNEXCUSED"
* Meeting cancelled
**Additional Meeting
***Meeting resceduled from _____ to _____

4/8/2014 Council took action to remove all seated P&ZC (and LPC members). New Commissions appointed May 13, 2014.
First meeting of newly appointed Commission was 8/19/14.

10/22/14: UR=As a result of 3 unexcused absences, Mr. Guthrie was removed from the Commission.

12/9/2014: Mr. Pollock appointed to fill Guthrie's vacancy.

TOWN OF PALM BEACH
PLANNING & ZONING COMMISSION

ATTENDANCE RECORD 2014

MEMBERS	1/21/2014	2/18/2014	3/18/2014	4/15/2014	5/20/2014	6/17/2014
C. Tanner Rose	P	*	*	*	*	*
Floyd Wideman	P	*	*	*	*	*
Martin Klein	P	*	*	*	*	*
Lewis Crampton	P	*	*	*	*	*
Barbara Lindsay Buck	P	*	*	*	*	*
Bruce M. Langmaid	P	*	*	*	*	*
Alan S. Golboro	P	*	*	*	*	*
ALTERNATE MEMBERS						
Thomas Greenbaum	P	*	*	*	*	*
Kevin J. Kenny	P	*	*	*	*	*
Danielle H. Moore	P	*	*	*	*	*

LEGEND P=PRESENT
E=EXCUSED
U-UNEXCUSED
A=ABSENT PENDING CLASSIFICATION AS "EXCUSED" OR "UNEXCUSED"
* Meeting cancelled
**Additional Meeting
***Meeting rescheduled from _____ to _____

4/8/2014 Council took action to remove all seated P&ZC (and LPC members). New Commissions appointed May 13, 2014.

TOWN OF PALM BEACH
PLANNING & ZONING COMMISSION

VOTING CONFLICTS 2016

MEMBERS	1/19/2016	2/16/2016	3/22/2016	4/19/2016	5/17/2016	6/21/2016	7/19/2016	8/16/2016	9/20/2016	10/18/2016	11/15/2016	12/20/2016
Susan Markin, Chair*	x	x	x	x	%	%	x	%	x	x	x	%
Michael Scharf, Vice Chair*	x	x	x	x	%	%	x	%	x	x	x	%
Carol Mack	x	x	x	x	%	%	x	%	x	x	x	%
Lewis Crampton, Vice Chair**	x	x	x	x	%	%	x	%	x	x	x	%
Martin Klein, Chair**	x	x	x	x	%	%	x	%	x	x	x	%
Michael Ainslie	x	x	x	x	%	%	x	%	x	x	x	%
Alan Golboro	x	x	x	x	%	%	x	%	x	x	x	%
ALTERNATE MEMBERS												
Michael Spaziani	x	x	x	x	%	%	x	%	x	x	x	%
Susan Watts	x	x	x	x	%	%	x	%	x	r	r	%
Rick Pollock	x	x	x	x	%	%	x	%	x	x	x	%

LEGEND:

x	No conflict		
V	1 Voting Conflict during meeting	V2	Two Voting Conflicts during a meeting
V3	3 Voting Conflicts during a meeting	VPD	Voting Conflict Previously Declared (This category to be used when a conflict has been declared at a previous meeting, and the changes being reviewed are part of an ongoing project. Only count original declared voting conflict for ongoing projects per JCR.
%	Meeting cancelled		
\	Term ended		
X	New Appointments		
**	Began Chair and Vice Chair 3/16		
*	Chair and Vice Chair until 3/16		
r	Resigned		

TOWN OF PALM BEACH

PLANNING & ZONING COMMISSION

VOTING CONFLICTS 2015

MEMBERS	1/20/2015	2/17/2015	3/17/2015	4/21/2015	5/19/2015	6/16/2015	7/21/2015	8/18/2014	9/15/2015	10/20/2015	11/17/2015	12/15/2015
Susan Markin, Chair	x	x	x	x	x	x	*	*	*	x	x	x
Michael Scharf, Vice-Chair	x	x	x	x	x	x	*	*	*	x	x	x
Carol Mack	x	x	x	x	x	x	*	*	*	x	x	x
Danielle Moore	x	x	x	x	x	x	*	*	*	x	x	x
Lewis Crampton	x	x	x	x	x	x	*	*	*	x	x	x
Jeffrey Cloninger	x	x	x	x	x	x	*	*	*	x	x	x
Floyd Wideman	x	x	x	x	x	x	*	*	*	x	x	x
ALTERNATE MEMBERS												
Michael Spaziani	x	x	x	x	x	x	*	*	*	x	x	x
Susan Watts	x	x	x	x	x	x	*	*	*	x	x	x
Rick Pollock	x	x	x	x	x	x	*	*	*	x	x	x

LEGEND:

x	No conflict		
V	1 Voting Conflict during meeting	V2	Two Voting Conflicts during a meeting
V3	3 Voting Conflicts during a meeting	VPD	Voting Conflict Previously Declared (This category to be used when a conflict has been declared at a previous meeting, and the changes being reviewed are part of an ongoing project. Only count original declared voting conflict for ongoing projects per JCR.
*	Meeting cancelled		
\	Term ended		
X	New Appointments		

TOWN OF PALM BEACH
PLANNING & ZONING COMMISSION

VOTING CONFLICT RECORD 2014

MEMBERS	8/19/2014	9/23/2014	10/21/2014	11/18/2014	12/16/2014
Susan Markin, Chair	-	-	-	-	*
Michael Scharf, Vice-Chair	-	-	-	-	*
Carol Mack	-	-	-	-	*
Danielle Moore	-	-	-	-	*
Lewis Crampton	-	-	-	-	*
Jeffrey Cloninger	-	-	-	-	*
Floyd Wideman	-	-	-	-	*
ALTERNATE MEMBERS					
Michael Spaziani	-	-	-	-	*
Susan Watts	-	-	-	-	*
Randolph Guthrie	-	-	\	\	\

LEGEND:

-	No conflict
V	1 Voting Confl
V3	3 Voting Confl
*	Meeting cancelled
\	Term ended
x	New Appointments
V2	Two Voting Conflicts during a meeting
VPD	Voting Conflict Previously declared (This category to be used when a conflict has been declared at a previous meeting, and the changes being reviewed are part of an ongoing project. Only count original declared voting conflict for ongoing projects per JCR.

TOWN OF PALM BEACH
PLANNING & ZONING COMMISSION

VOTING CONFLICT RECORD 2014

MEMBERS	1/21/2014	2/18/2014	3/18/2014	4/15/2014	5/20/2014	6/17/2014
C. Tanner Rose	-	*	*	*	*	*
Floyd Wideman	-	*	*	*	*	*
Martin Klein	-	*	*	*	*	*
Lewis Crampton	-	*	*	*	*	*
Barbara Lindsay Buck	-	*	*	*	*	*
Bruce M. Langmaid	-	*	*	*	*	*
Alan S. Golboro	-	*	*	*	*	*
ALTERNATE MEMBERS						
Thomas Greenbaum	-	*	*	*	*	*
Kevin J. Kenny	-	*	*	*	*	*
Danielle H. Moore	-	*	*	*	*	*

LEGEND:

-	No conflict		
V	1 Voting Conflict	V2	Two Voting Conflicts during a meeting
V3	3 Voting Confl	VPD	Voting Conflict Previously declared (This category to be used when a conflict has been declared at a previous meeting, and the changes being reviewed are part of an ongoing project. Only count original declared voting conflict for ongoing projects per JCR.
*	Meeting cancelled		
\	Term ended		
x	New Appointments		

PLANNING & ZONING COMMISSION MEMBERS

NAME AND ADDRESS	APPOINTED	TERM EXPIRES
Martin I. Klein, **Chairman**	4/14/2015 (3 yr term)	9/30/2017 (Term 1)**
	**to complete the remainder of D.Moore's unexpired 3 yr term which is greater than 50% and as such will count as Term 1.	
Lewis Crampton, **Vice Chairman**	10/10/2016 (3 yr term)	9/30/2019 (Term 2)
	5/14/2014 (2 yr term)	9/30/2016 (Term 1)
Carol Mack	5/14/2014 (3 yr term)	09/30/2017 (Term 1)
Michael L. Ainslie	10/13/2015 (3 yr term)	9/30/2018 (Term 1)
Alan S. Golboro	10/13/15 (3 yr term)	9/30/2018 (Term 1)
Kenneth Walker	10/10/16 (3 yr term)	9/30/19 (Term 1)
Carol M. LeCates	10/10/2016 (3 yr term)	9/30/2017 (Term 0)**
	**to complete the remainder of S. Markin's unexpired 3 yr term which is less than 50% and as such will count as Term 0.	

Alternate Commission Members

Michael Vincent John Spaziani	5/14/2014 (3 yr term)	9/30/2017 (Term 1)
Rick Pollock	12/9/2014 (3 yr term)	9/30/2017 (Term 1)**
	**to complete the remainder of Guthrie's unexpired term which is greater than 50% and as such will count as Term 1.	Palm Beach, FL 33480
VACANT		

Rev. 11/21/2016 - kmc

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Regular Agenda - New Business

Agenda Title

Appointments to the Shore Protection Board

Presenter

Thomas G. Bradford, Town Manager

ATTACHMENTS:

- **Memorandum Dated December 6, 2016, from H. Paul Brazil, P.E., Director of Public Works**
- **Memorandum Dated December 5, 2016, from Thomas G. Bradford, Town Manager**
- **Ballot**
- **Current Roster**
- **Attendance Record**
- **Voting Conflicts Record**

TOWN OF PALM BEACH
Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P. E., Director of Public Works

RE: Shore Protection Board Applicants

DATE: December 6, 2016

STAFF RECOMMENDATION

- Staff recommends that the Town Council appoint a member to the Shore Protection Board in order to fill Gerald Frank's vacant seat resulting from his current term expiration.

- Staff recommends that the Town Council appoint a member to the Shore Protection Board in order to fill Lee Goldstein's vacant seat resulting from his current term expiration.

GENERAL INFORMATION

Mr. Frank has completed a three-year term as a member of the Shore Protection Board **and is eligible** for reappointment. Mr. Frank has served on the Shore Protection Board since 2008. Mr. Frank has submitted a written verification of his interest in continuing to serve.

Mr. Goldstein has completed a three-year term as a member of the Shore Protection Board **and is eligible** for reappointment. Mr. Frank has served on the Shore Protection Board since 2008. Mr. Goldstein has submitted a written verification of his interest in continuing to serve.

Pursuant to the news release notifying the public of the Shore Protection Board vacancies, one (1) other citizen submitted an Application for Service on the Shore Protection Board together with appropriate qualifying information. The resident is:

Ms. Melissa Ceriale, of 230 South Ocean Blvd., has submitted written verification of his interest to serve on the Shore Protection Board. Ms. Ceriale has indicated that she will be available for all meetings.

Attachments

cc: Shore Protection Board
Robert Weber, Coastal Program Manager
Susan A. Owens, Town Clerk

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

From: Thomas G. Bradford, Town Manager

Re: Appointments to the Shore Protection Board (SPB); Recommendations for Implementation of Term Limits

Date: December 5, 2016

STAFF RECOMMENDATION

Staff recommends the Town Council confirm by motion the results of your ballots for the two open seats on the SPB. In addition, for the reasons stated below, it is recommended that the Town Council give consideration to the implementation of term limits for the SPB.

GENERAL INFORMATION

As of this writing it is not known who you have appointed to the SPB. As we think about the SPB a couple of things are evident. At the time of SPB reestablishment in 2008 it was thought that the life of the SPB would be temporary in nature. It has not turned out to be that way. The town's coastal management program is extremely important and likely will never go away. Such is life on a barrier island. That being the case, the SPB stands out from the other permanent town boards in that it does not have term limits.

In the time leading up to the appointments for the seats currently held by Messrs. Frank and Goldstein it became evident that there are a number of town residents who are interested in serving on the SPB. The town maintains term limits for its permanent boards in order to facilitate civic involvement by its citizens.

It is often awkward to implement term limits after a board has been in effect for some time. However, wherever this has taken place most often term limits have been implemented prospectively, meaning going forward into the future. For incumbent board members it could mean that the term they are currently in counts as term number one towards whatever term limit may have been implemented.

Four of the seven SPB members were appointed in 2008. Mr. Baker came along after the original board, but I believe he too is in his second three-year term. Mr. Gavigan and Mr. Johnson are in their first terms, although I believe Mr. Johnson filled the unexpired term for a couple of months for a previous SPB member.

If you concur that the town should implement term limits for the SPB I would recommend the following:

1)For any board member, including Messrs. Frank and Goldstein, if reappointed on December 13, 2016, they be allowed to seek re-appointment to one an additional three-year term when their current term expires. **Since I am writing this in advance of your SPB appointment decision, Messrs. Frank and Goldstein are in their current terms. If you re-appoint Messrs. Frank and Goldstein on December 13 that will become their final three-year term.**

2) The current term Mr. Ecclestone and Mr. Katz expires in December 2017. The terms of Messrs. Baker, Gavigan and Johnson expire in December 2018. SPB member terms are staggered as originally intended in 2008. Each one of these people will be allowed to seek re-appointment to one more successive three-year term.

3) Adopt an ordinance modifying the section of the code pertaining to the SPB so that term limits are codified and implemented. I recommend term limits of two successive 3-year terms.

4) I recommend we use the term language from the ARCOM section of the code which reads as follows:

"Sec. 18 – 168. Terms.

(a) Members of the architectural commission shall be appointed for terms of three years from and after the expiration of each term. If a vacancy shall occur otherwise than by the expiration of a term, it shall be filled by the town council for the unexpired term.

(b) No member of the commission may serve more than two consecutive terms; but this subsection shall not preclude any person from being appointed to a successive term, subsequent to the serving of two consecutive three – year terms, if such person has ceased to be a member of the commission for a period of time not less than nine months. Further, if a member has been appointed to fill a vacant term of office, which term is for a period of time less than 50% of a full three – year term, that person shall not be precluded from serving for two successive three – year terms. ~~Additionally, although an alternate member may not serve more than two 3-year terms as an alternate, the alternate member may be appointed to serve as a regular member of the commission and shall be entitled to serve to full three – year terms thereafter."~~

Since SPB has no alternate members I struck through the inapplicable portions of subsection b above.

Cc: Shore Protection Board Members
H. Paul Brazil, P.E., Director of Public Works
Robert Weber, Coastal Program Manager
John C. Randolph, Town Attorney

BALLOT FOR APPOINTMENT OF MEMBERS
TO THE SHORE PROTECTION BOARD
Town Council Meeting on December 13, 2016

Position(s) to be filled: **2** Regular Members (Term to expire 12/2019)

Please circle two (2) names from the list of names appearing below.

Applications Received Applying for Regular Member

Gerald Frank (Completed second full term)

Lee Goldstein (Completed second full term)

Others Who Have Submitted Application

Melissa Ceriale

Signature of Town Council Member: _____

SHORE PROTECTION BOARD MEMBERS

Updated 12/6/2016

(appointed for 3 year terms)

	Appointed	Term Expires
E. Llwyd Ecclestone, Jr., Chair	12/2008 12/2011 12/2014	12/2017 (third full term)
Gerald Frank, Vice Chair	12/2008 12/2010 12/2013	12/2016 (second full term)
Kane K. Baker	12/2009 12/2012 12/2015	12/2018 (second full term)
James Gavigan	12/2015	12/2018 (first full term)
Lee David Goldstein	12/2008 12/2010 12/2013	12/2016 (second full term)
Reuben B. Johnson III	09/2015 12/2015	12/2018 (first full term)
Lewis Katz	12/2008 12/2011 12/2014	12/2017 (third full term)

TOWN OF PALM BEACH
SHORE PROTECTION BOARD
ATTENDANCE RECORD 2016

MEMBERS	1/21/2016	2/25/2016	4/14/2016	10/27/2016	11/21/2016
Ecclestone	P	P	P	P	P
Frank	P	P	P	P	P
Katz	P	P	P	P	P
Johnson	P	P	P	P	P
Goldstein	P	P	P	P	P
Gavigan	P	P	P	P	P
Baker	P	P	P	P	P

Legend:
S=Special Meeting, P=Present, E-Excused, U=Unexcused,
A=Abscense pending classification as excused or unexcused

Allowed 2 unexcused absences per calendar year

TOWN OF PALM BEACH
SHORE PROTECTION BOARD

VOTING CONFLICTS RECORD 2016

MEMBERS	1/21/2016	2/25/2016	4/14/2016	10/27/2016	11/21/2016
E. Llwyd Ecclestone, Chairman	*	V	V	*	*
Gerald Frank, Vice Chair	*	*	*	*	*
Kane Baker	*	*	*	*	*
James C. Gavigan	*	*	*	*	*
Lee David Goldstein	*	*	*	*	*
Reuben B. Johnson	*	*	*	*	*
Lewis Katz	*	*	*	*	*

LEGEND V=One voting conflict during a meeting
V2=two voting conflicts during a meeting
VPD=voting conflict previously declared
*=no voting conflict

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Regular Agenda - New Business

Agenda Title

Update on Newly Approved One Cent Surtax (Sales Tax).

Presenter

Thomas G. Bradford, Town Manager

ATTACHMENTS:

- **Memorandum dated December 6, 2016, from Thomas G. Bradford, Town Manager**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

From: Thomas G. Bradford, Town Manager

Re: One Cent surtax (sales-tax) recommendation for use of funds and oversight committee

Date: December 6, 2016

STAFF RECOMMENDATION

Staff recommends the Town Council allocate the proceeds from the newly approved one cent sales tax to the townwide underground utilities project and consider creation of a required oversight committee.

GENERAL INFORMATION

As you are aware, the voters approved the one – cent sales surtax on November 8, 2016. This new sales-tax commences on January 1, 2017 and will automatically sunset on December 31, 2026, unless sunset earlier pursuant to the terms of County ordinance number 2016 – 032.

The first order of business for the Town is determining where to direct this new funding source. Allocating the proceeds of the newly approved one cent sales tax to the townwide underground utilities project will either reduce the project costs or be used to reduce the annual debt service and resulting assessments. Annual assessments can be reduced by approximately 10% during the life of the sales tax or approximately $5 million over 10 years can be used to directly pay for project costs. Based on what I know today; this is where I think the town should spend this new forthcoming revenue source. Fortunately, should circumstances change the town can allocate all or a portion of the new sales tax revenues to one or more other capital projects at a later date.

Pursuant to the county ordinance and the ballot language approved by the voters, municipal expenditures of surtax proceeds shall be subject to independent oversight by citizen committees. The county ordinance further provides that each municipality must participate in a citizen's oversight committee. A municipality has the choice of either creating its own oversight committee or participating in one created by the Palm Beach County League of Cities. Traditionally, the Town has avoided entanglements with other entities relative to financial and other matters. However, depending upon the content of the final Palm Beach County League of Cities resolution it may be advantageous to participate in this oversight committee as opposed to creating a town oversight committee, particularly if the process is as perfunctory as turning in to the League a monthly report of 1-cent revenues and expenditures for their committee to consider and approve.

The county ordinance provides the following requirements for citizen oversight committees:

1) the citizen oversight committee must be created as soon as possible after the surtax becomes effective (January 1, 2017), but not later than the date on which surtax funds are first expended. It is anticipated that municipalities may start receiving funds in February or March 2017.

2) the citizen oversight committee shall serve as advisory and reporting bodies to the creating entity. Each creating entity shall establish specific duties and membership requirements governing committee operations and participation.

3) each committee shall have the responsibility to review the expenditure of surtax proceeds by the entity which created.

4) the committee shall meet monthly, or as otherwise needed to fulfill their duties and responsibilities.

5) each committee shall provide an annual report to the governing board of the entity which created it.

6) committee members shall receive no compensation for the performance of their duties.

7) the committees, their members, and all proceedings shall be governed by and comply with the provisions of the Florida Sunshine Law, Chapter 286, Florida Statutes, the Florida public records law, Chapter 119, Florida Statutes, and the Florida Ethics Code, Chapter 112, Florida Statutes, and all other applicable local or state statutes, ordinances, or rules.

8) if a municipality enters into an Interlocal Agreement with the county and the school board there may be additional requirements that must be met (i.e. Create a project list that would be funded from the surtax proceeds, subject to future revisions by the governing board of each applicable entity).

The Palm Beach County League of Cities currently is working on a draft resolution creating its Citizen Oversight Committee. The Board of County Commissioners will be discussing its own citizen oversight committee on December 20. The Palm Beach County League of Cities plans to present its proposed resolution creating a citizen's oversight committee to the League Board of Directors on January 25, 2017 for approval. Appointments to the League oversight committee are tentatively scheduled to be made by the Board of Directors at their February 22, 2017 meeting.

In the event that you wish to keep this newly required citizen's oversight committee with the Town I recommend that this oversight function be given to the Town's Investment Advisory Committee so long as requirement number four above does not make it mandatory for the committee to meet monthly. The Investment Advisory Committee meets on a quarterly basis and provides an annual report to the Town Council. The duties and responsibilities of the Investment Advisory Committee relative to the surtax would most likely need to be spelled out by an ordinance amending their current responsibilities. I will seek a formal opinion from the Town Attorney relative to requirement number four.

The Palm Beach County League of Cities wishes for each municipality to notify it by January 31, 2017, as to whether the municipality is creating its own oversight committee or wishes to participate in the League's committee.

Cc: Jane Struder, Finance Director
John C. Randolph, Town Attorney

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Regular Agenda - New Business

Agenda Title

RESOLUTION NO. 224-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving Petitions Exempting the Church of Bethesda-by-the-Sea from the Residential Permit Parking Requirements within the Neighborhood and Directing the Town Manager or his Designee to Post Appropriate Regulatory Signage Reflecting Residential Permit Parking with Church Exemption.

Presenter

Thomas G. Bradford, Town Manager

ATTACHMENTS:

- **Memorandum dated December 5, 2016, from Thomas G. Bradford, Town Manager**
- **Res. No. 224-2016**
- **Exhibit A 200 Blk Barton Petition**
- **Exhibit B 300 Blk Barton Ave**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

From: Thomas G. Bradford, Town Manager

Re: Resolution No. 224 – 2016 Approving petitions exempting Bethesda by the Sea Church from the Residential Permit Parking (RPP) requirements within their neighborhood and directing posting of appropriate regulatory signage

Date: December 5, 2016

STAFF RECOMMENDATION

Staff recommends the Town Council approve petitions received from the residents of the 200 and 300 blocks of Barton Avenue requesting an exemption for Bethesda by the Sea Church from the RPP regulations within their neighborhood in order to facilitate the operations, programs and services of Bethesda by the Sea Church without the need to construct an off-site parking lot. In addition, staff recommends that if in the future residents of Pendleton Avenue or the 100 block of Barton Avenue seek implementation of RPP with a similar exemption for the Church that staff be allowed to implement the same on those blocks in order to provide for neighborhood parking continuity without reducing the Church's access to the parking on those blocks.

GENERAL INFORMATION

The residents of the 200 block and 300 block of Barton Avenue have reached out to the Bethesda by the Sea Church in an effort to find a compromise that meets the needs of both the Church and the residents. The residents have proposed by way of a petition executed by an overwhelming majority of the residents residing in these blocks that parking in conjunction with the operations, programs and services of the Church be exempt from the residential permit parking restrictions currently in effect on these blocks. The residents realized that their need for RPP was hampering the operations of the Church when Bethesda applied to convert the two vacant lots it owns on the east end of Barton 200 block and Pendleton Avenue to a church parking lot. A compromise was reached which, if approved by the Town Council, provides for the same parking privileges which Bethesda has historically had access to since its inception in return for Bethesda agreeing not to apply for or construct a parking lot on the vacant parcels owned by the church located west of South County Road. Bethesda by the Sea Church has accepted the compromise. If approved, new signage will be purchased and installed by the town indicating continued residential permit parking

with an exemption for the Church. The Church will withdraw its zoning application for a parking lot.

Cc: Kirk Blouin, Director of Public Safety
Jay Boodheshwar, Deputy Town Manager
H. Paul Brazil, P.E., Director of Public Works
Benjamin Alma, Parking and Code Enforcement Manager
Brett Madison, Facilities Program Manager

RESOLUTION NO. 224-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING PETITIONS EXEMPTING THE CHURCH OF BETHESDA BY THE SEA FROM THE RESIDENTIAL PERMIT PARKING REQUIREMENTS WITHIN THE ADJACENT NEIGHBORHOOD ON THE 200 AND 300 BLOCKS OF BARTON AVENUE AND DIRECTING THE TOWN MANAGER OR HIS DESIGNEE TO POST APPROPRIATE REGULATORY SIGNAGE DESIGNATING RESIDENTIAL PERMIT PARKING WITH A CHURCH EXEMPTION

WHEREAS, the residents of the 200 block of Barton Avenue and the 300 block of Barton Avenue have petitioned the town to amend the previously approved residential permit parking plan put in place for each block by exempting from such plan the Bethesda by the Sea Church which is located in its entirety within the same residential zoning district as the single family homes located on the respective blocks of Barton Avenue; and

WHEREAS, the petitions of the residents of the 200 and 300 blocks of Barton Avenue are conditioned by Bethesda by the Sea's agreement not to apply for or construct a parking lot on the vacant parcels owned by the church located west of County Road as long as the exemption applied for by the petitions remain in effect; and

WHEREAS, Bethesda by the Sea Church has agreed to accept the condition of the petitions of the residents requesting a parking exemption for the church in return for the church's agreement not to pursue construction of a parking lot on the vacant parcels owned by the church located west of County Road as long as the exemption applied for within the petitions remain in effect.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL of the Town of Palm Beach, Palm Beach County, Florida as follows:

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

Section 2. The petition of the residents of the 200 block of Barton Avenue attached hereto as Exhibit A and the petition of the residents of the 300 block of Barton Avenue attached hereto as Exhibit B are hereby accepted and approved by the Town Council of the Town of Palm Beach.

Section 3. The Town Manager or his designee is hereby directed to post appropriate regulatory signage indicating residential permit parking within the 200 and 300 blocks of Barton Avenue with a Bethesda by the Sea Church exemption.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 13th day of December 2016.

_____
Gail L. Coniglio, Mayor

_____
Michael J. Pucillo, Town Council President

_____
Richard M. Kleid, Council President Pro Tem

_____
Bobbie Lindsay, Town Council Member

ATTEST:

Danielle H. Moore, Town Council Member

Susan A. Owens, MMC, Town Clerk

Margaret A. Zeidman, Town Council Member

EXHIBIT A

PETITION
200 BLOCK OF BARTON AVENUE
TOWN OF PALM BEACH, FLORIDA

COME NOW the undersigned Petitioners, representing a majority of the residents on the 200 block of Barton Avenue in the Town of Palm Beach, Florida, and hereby petition the Town to amend the previously approved residential permit parking plan put in place for the 200 block of Barton Avenue by exempting from such plan the Bethesda-by-the-Sea Church which is located in its entirety within the same residential zoning district as the single family homes located on the 200 block of Barton Avenue.

This request is made in recognition of: (1) Bethesda-by-the-Sea's continued location on its present site for a period of ninety years, prior to the development of the surrounding residential neighborhood; (2) Bethesda-by-the-Sea's historical lack of parking on its property and its inability to accommodate all of its parking needs on its own property; (3) Bethesda-by-the-Sea's usage from its inception of the on street parking within the R-B Residential Zoning District located in proximity to the Church; (4) Bethesda-by-the-Sea's location entirely within the R-B Residential Zoning District; and (5) Bethesda-by-the Sea's agreement not to apply for or construct a parking lot on the vacant parcels owned by the Church located west of County Road as long as the exemption applied for by this petition remains in effect.

The Petitioners have become aware that the previously approved parking permit plan has adversely affected the day to day operations of Bethesda-by-the-Sea. On the basis of the above, Petitioners request that Bethesda-by-the-Sea be exempted from the permit parking plan so that Bethesda-by-the-Sea may enjoy the same parking privileges which the Church has historically enjoyed since its inception.

WHEREFORE, by virtue of this Petition, the undersigned residents of the 200 block of Barton Avenue request that the permit parking only system exempt Bethesda-by-the Sea Church from the permit parking plan instituted within the 200 Block of Barton Avenue for all Church related functions so as to allow members and visitors of the Church to park in the permit parking spaces designated on the block.

TOWN OF PALM BEACH
NOV 07 2016
Town Manager's Office

✓ - petitions signed and attached:

EXHIBIT A

PROPERTY ADDRESS	NAME	PROPERTY OWNER OR RESIDENT SIGNATURE
✓ 1. 200 Barton Ave	DWD Florida Properties LLC	
✓ 2. 208 Barton Ave	Louise & Barry Snyder	
✓ 3. 209 Barton Avenue	Maureen and Alec Hicks Jr.	
✓ 4. 218 Barton Ave	Natalie and Daniel G. Lazarek	
✓ 5. 224 Barton Avenue	Dianne and Ryan Walter	
✓ 6. 225 Barton Avenue	Kim S. Fennebresque	
✓ 7. 229 Barton Avenue	Margaret and Mark S. Zeidman	
8. 230 Barton Avenue	RPI Corporation	
✓ 9. 233 Barton Avenue	233 Barton LLC	
10. 239 Barton Avenue	Philip M. Byrne	
✓ 11. 245 Barton Avenue	Carol McCracken	
12. 250 Barton Avenue	Brenda T. Callaway	

EXHIBIT A

PROPERTY ADDRESS	NAME	PROPERTY OWNER OR RESIDENT SIGNATURE
1. 200 Barton Ave	DWD Florida Properties LLC	
2. 208 Barton Ave	Louise & Barry Snyder	
3. 209 Barton Avenue	Maureen and Alec Hicks Jr.	
4. 218 Barton Ave	Natalie and Daniel G. Lazarek	
5. 224 Barton Avenue	Dianne and Ryan Walter	W. Rod Ryan
6. 225 Barton Avenue	Kim S. Fennebresque	
7. 229 Barton Avenue	Margaret and Mark S. Zeidman	
8. 230 Barton Avenue	RPI Corporation	
9. 233 Barton Avenue	233 Barton LLC	
10. 239 Barton Avenue	Philip M. Byrne	
11. 245 Barton Avenue	Carol McCracken	Carol McCracken
12. 250 Barton Avenue	Brenda T. Callaway	

EXHIBIT A

PETITION
200 BLOCK OF BARTON AVENUE
TOWN OF PALM BEACH, FLORIDA

COME NOW the undersigned Petitioners, representing a majority of the residents on the 200 block of Barton Avenue in the Town of Palm Beach, Florida, and hereby petition the Town to amend the previously approved residential permit parking plan put in place for the 200 block of Barton Avenue by exempting from such plan the Bethesda-by-the-Sea Church which is located in its entirety within the same residential zoning district as the single family homes located on the 200 block of Barton Avenue.

This request is made in recognition of: (1) Bethesda-by-the-Sea's continued location on its present site for a period of ninety years, prior to the development of the surrounding residential neighborhood; (2) Bethesda-by-the-Sea's historical lack of parking on its property and its inability to accommodate all of its parking needs on its own property; (3) Bethesda-by-the-Sea's usage from its inception of the on street parking within the R-B Residential Zoning District located in proximity to the Church; (4) Bethesda-by-the-Sea's location entirely within the R-B Residential Zoning District; and (5) Bethesda-by-the Sea's agreement not to apply for or construct a parking lot on the vacant parcels owned by the Church located west of County Road as long as the exemption applied for by this petition remains in effect.

The Petitioners have become aware that the previously approved parking permit plan has adversely affected the day to day operations of Bethesda-by-the-Sea. On the basis of the above, Petitioners request that Bethesda-by-the-Sea be exempted from the permit parking plan so that Bethesda-by-the-Sea may enjoy the same parking privileges which the Church has historically enjoyed since its inception.

WHEREFORE, by virtue of this Petition, the undersigned residents of the 200 block of Barton Avenue request that the permit parking only system exempt Bethesda-by-the Sea Church from the permit parking plan instituted within the 200 Block of Barton Avenue for all Church related functions so as to allow members and visitors of the Church to park in the permit parking spaces designated on the block.

PROPERTY ADDRESS	NAME	PROPERTY OWNER OR RESIDENT SIGNATURE
1. 200 Barton Ave	DWD Florida Properties LLC	William A [illegible] - Manag + DWD Florida Properties LLC
2. 203 Barton Ave	Louise & Barry Snyder	
3. 209 Barton Avenue	Maureen and Alec Hicks Jr.	
4. 218 Barton Ave	Natalie and Daniel G. Lazarok	
5. 224 Barton Avenue	Dianne and Ryan Walter	
6. 225 Barton Avenue	Kim S. Fennebresque	

From: **Dan Lazarek** danlazarek1@gmail.com
Subject: 218 Barton Avenue Signed Petition 1
Date: October 27, 2016 at 12:14 PM
To: Louise Snyder louisesnyder@aol.com, Dan Lazarek Danlazarek1@gmail.com, nataliecheng1@gmail.com

EXHIBIT A

Louise - Thank you for all your follow up on this issue. !

Attached please find the signed petition from Dan and Natalie Lazarek

Barton Parking Petition Signature Page Oct 2016.jpeg

Page 1 of 1

PROPERTY ADDRESS	NAME	PROPERTY OWNER OR RESIDENT SIGNATURE
1. 207 Barton Ave	DWD Florida Properties LLC	
2. 208 Barton Ave	Louise & Barry Snyder	
3. 209 Barton Avenue	Maureen and Alec Hicks Jr.	
4. 218 Barton Ave	Natalie and Daniel G. Lazarek	10/27/16.
5. 224 Barton Avenue	Dianne and Ryan Walter	
6. 225 Barton Avenue	Kim S. Fennebresque	
7. 229 Barton Avenue	Margaret and Mark S. Zeidman	
8. 230 Barton Avenue	RPI Corporation	
9. 233 Barton Avenue	233 Barton LLC	
10. 239 Barton Avenue	Philip M. Byrne	
11. 245 Barton Avenue	Carol McCracken	
12. 250 Barton Avenue	Brenda T. Calloway	

EXHIBIT A
HICKS

PROPERTY ADDRESS	NAME	PROPERTY OWNER OR RESIDENT SIGNATURE
1. 200 Barton Ave	DWD Florida Properties LLC	
2. 208 Barton Ave	Louise & Barry Snyder	
3. 209 Barton Avenue	Maureen and Alec Hicks Jr.	Maureen Hicks 10/31/16 Alec Hicks Jr. 10/31/16
4. 218 Barton Ave	Natalie and Daniel G. Lazarek	
5. 224 Barton Avenue	Dianne and Ryan Walter	
6. 225 Barton Avenue	Kim S. Fennebresque	
7. 229 Barton Avenue	Margaret and Mark S. Zeidman	
8. 230 Barton Avenue	RPI Corporation	
9. 233 Barton Avenue	233 Barton LLC	
10. 239 Barton Avenue	Philip M. Byrne	
11. 245 Barton Avenue	Carol McCracken	
12. 250 Barton Avenue	Brenda T. Callaway	

EXHIBIT A

PROPERTY ADDRESS	NAME	PROPERTY OWNER OR RESIDENT SIGNATURE
1. 200 Barton Ave	DWD Florida Properties LLC	
2. 208 Barton Ave	Louise & Barry Snyder	
3. 209 Barton Avenue	Maureen and Alec Hicks Jr.	
4. 218 Barton Ave	Natalie and Daniel G. Lazarek	
5. 224 Barton Avenue	Dianne and Ryan Walter	
6. 225 Barton Avenue	Kim S. Fennebresque	Margaret Anne Zeidman
7. 229 Barton Avenue	Margaret and Mark S. Zeidman	Mark Zeidman
8. 230 Barton Avenue	RPI Corporation	
9. 233 Barton Avenue	233 Barton LLC	
10. 239 Barton Avenue	Philip M. Byrne	
11. 245 Barton Avenue	Carol McCracken	
12. 250 Barton Avenue	Brenda T. Callaway	

EXHIBIT A

From: **Kim S. Fennebresque** kim.fennebresque@gmail.com
Subject: thank you very much...please confirm receipt
Date: November 2, 2016 at 11:00 PM
To: louisesnyder@aol.com

PROPERTY ADDRESS	NAME	PROPERTY OWNER OR RESIDENT SIGNATURE
1 [illegible]	[illegible]	
2 [illegible]	[illegible]	
3 [illegible]	[illegible]	
4 [illegible]	[illegible]	
5 [illegible]	[illegible]	
6 [illegible]	[illegible]	
7 [illegible]	[illegible]	
8 [illegible]	[illegible]	
9 [illegible]	[illegible]	
10 [illegible]	[illegible]	
11 [illegible]	[illegible]	
12 [illegible]	[illegible]	

6. 225 Barton

Kristi True
233 Barton, LLC

EXHIBIT A

PROPERTY ADDRESS	NAME	PROPERTY OWNER OR RESIDENT SIGNATURE
1. 200 Barton Ave	DWD Florida Properties LLC	
2. 208 Barton Ave	Louise & Barry Snyder	
3. 209 Barton Avenue	Maureen and Alec Hicks Jr.	
4. 218 Barton Ave	Natalie and Daniel G. Lazarek	
5. 224 Barton Avenue	Dianne and Ryan Walter	
6. 225 Barton Avenue	Kim S. Fennebresque	
7. 229 Barton Avenue	Margaret and Mark S. Zeidman	
8. 230 Barton Avenue	RPI Corporation	
9. 233 Barton Avenue	233 Barton LLC	for 233 Barton LLC
10. 239 Barton Avenue	Philip M. Byrne	
11. 245 Barton Avenue	Carol McCracken	
12. 250 Barton Avenue	Brenda T. Callaway	

EXHIBIT B

PETITION
300 BLOCK OF BARTON AVENUE
TOWN OF PALM BEACH, FLORIDA

COME NOW the undersigned Petitioners, representing a majority of the residents on the 300 block of Barton Avenue in the Town of Palm Beach, Florida, and hereby petition the Town to amend the previously approved residential permit parking plan put in place for the 300 block of Barton Avenue by exempting from such plan the Bethesda-by-the-Sea Church which is located in its entirety within the same residential zoning district as the single family homes located on the 300 block of Barton Avenue.

This request is made in recognition of: (1) Bethesda-by-the-Sea's continued location on its present site for a period of ninety years, prior to the development of the surrounding residential neighborhood; (2) Bethesda-by-the-Sea's historical lack of parking on its property and its inability to accommodate all of its parking needs on its own property; (3) Bethesda-by-the-Sea's usage from its inception of the on street parking within the R-B Residential Zoning District located in proximity to the Church; (4) Bethesda-by-the-Sea's location entirely within the R-B Residential Zoning District; and (5) Bethesda-by-the Sea's agreement not to apply for or construct a parking lot on the vacant parcels owned by the Church located west of County Road as long as the exemption applied for by this petition remains in effect.

The Petitioners have become aware that the previously approved parking permit plan has adversely affected the day to day operations of Bethesda-by-the-Sea. On the basis of the above, Petitioners request that Bethesda-by-the-Sea be exempted from the permit parking plan so that Bethesda-by-the-Sea may enjoy the same parking privileges which the Church has historically enjoyed since its inception.

WHEREFORE, by virtue of this Petition, the undersigned residents of the 300 block of Barton Avenue request that the permit parking only system exempt Bethesda-by-the Sea Church from the permit parking plan instituted within the 300 Block of Barton Avenue for all Church related functions so as to allow members and visitors of the Church to park in the permit parking spaces designated on the block.

TOWN OF PALM BEACH
NOV 10 2016
Town Manager's Office

EXHIBIT B

PROPERTY ADDRESS	NAME	PROPERTY OWNER OR RESIDENT SIGNATURE
1. 300 Barton Avenue	Peter E. Madden	
2. 309 Barton Avenue	Camille and Edward M. Kassatly	
3. 315 Barton Avenue	Marilyn and James C. Wynns	
4. 320 Barton Avenue	C. Edward Carter Jr.	
5. 321 Barton Avenue	Leah and Gerald W. Harris	
6. 324 Barton Avenue	Linda and Leverette S. Miller	
7. 327 Barton Avenue	William C. Ameringer Kevin G. Byrne	
8. 334 Barton Avenue	Elizabeth M. Summers	

EXHIBIT B

PROPERTY ADDRESS	NAME	PROPERTY OWNER OR RESIDENT SIGNATURE
1. 300 Barton Avenue	Peter E. Madden	
2. 309 Barton Avenue	Camille and Edward M. Kassatly	
3. 315 Barton Avenue	Marilyn and James C. Wynns	
4. 320 Barton Avenue	Edward C. Carter Jr.	
5. 321 Barton Avenue	Leah and Gerald W. Harris	
6. 324 Barton Avenue	Linda and Leverett S. Miller	Linda B. Miller
7. 327 Barton Avenue	William C. Ameringer Kevin G. Byrne	
8. 334 Barton Avenue	Elizabeth M. Summers	

EXHIBIT B

PROPERTY ADDRESS	NAME	PROPERTY OWNER OR RESIDENT SIGNATURE
1. 300 Barton Avenue	Peter E. Madden	
2. 309 Barton Avenue	Camille and Edward M. Kassatly	
3. 315 Barton Avenue	Marilyn and James C. Wynns	James C. Wynns
4. 320 Barton Avenue	Edward C. Carter Jr.	
5. 321 Barton Avenue	Leah and Gerald W. Harris	
6. 324 Barton Avenue	Linda and Leverette S. Miller	
7. 327 Barton Avenue	William C. Ameringer Kevin G. Byrne	
8. 334 Barton Avenue	Elizabeth M. Summers	

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Regular Agenda - New Business

Agenda Title

Recommendation in Regard to Modification of General Employee Pension Benefits

TIME CERTAIN 2:00 P.M.

Presenter

Michael J. Pucillo, Chair

ATTACHMENTS:

- **Informal Report of the December 1, 2016, FInance and Taxation Committee Meeting**
- **Potential Pension Scenarios**

Informal Report of the Finance and Taxation Committee Meeting of December 1, 2016

Danielle Olson, Human Resource Director, reported on the items she had been asked to look into at the last committee meeting. First the average age at retirement is currently 58. That is a slight increase from 57 in 2012. The effects of the 2012 pension changes have not yet had a significant impact on the retirement age, but it clearly is rising. Second, Ms. Olson surveyed municipalities around the State of Florida to see if general employee plans broke down into job classes. The inquiry was to see if Public Works employees such as sanitation works or other physically demanding jobs were carved out of the general employees' category. She reported that she found no such job category classification or carve outs.

Finally, Ms. Olson summarized the current fees imposed for managed accounts through ICMA, the current consultant retained by the Retirement Trustees for the Defined Contribution Plan. Currently employees pay 4 basis points for the first $1,000 under management, 3.5 for the next $1,000 and 2.5 for $2,000 to $500,000. Anything above $5000,000. is not charged a fee. She then reported that if the Town were to cover the cost of management for all accounts that wanted it, the cost would be 3 basis points. There ensued a discussion of the current default investment under the DC plan if the employee makes no selection or does not retain ICMA to manage their assets. The default option is a retirement target date fund which is an allocation of equities and fixed income investments. She was asked to provide further information as to the allocation into these funds vs. the self-directed or managed funds. That information was provided at the end of the meeting. There is approximately $6.6 million invested in the Defined Contribution plan, so the cost of providing management services to all general employees would not exceed approximately $19,000 assuming 100% participation.

The next presentation was by Finance Director Struder. She summarized several additional options that the committee had asked for at the last meeting which were published in the meeting back up. Most of these involved a 1.75 multiplier for the DB plan, a 4.00 % contribution from the Town to the DC Plan and various payments from 2.00 to 4.00% from employees into the DB plan, with the total employee contribution remaining at 6.47%. Mr. Pucillo focused on option 6 which used a 1.75 multiplier, a 4.47% employee contribution to the DB Plan, and 2.00 % to the DC Plan, with the Town contributing 4.00% to the DC Plan. This would result in a budget cost savings of $359,565., and increase the unfunded liability by $1,148,472. The savings would, assuming a 7% return, eliminate the increase in unfunded liability in 3.19 years.

Bret Madison spoke on behalf of the general employees when asked for a reaction to these Scenarios. Mr. Madison indicated he preferred Scenario 7 which called for a 2% employee contribution into the DB Plan and 4.47% into the DC Plan with the 1.75 multiplier. He indicated that there are various levels of interest in the matter by employees, with greater attention being paid as employees near retirement age. He also indicated employees will look at the 4.47% contribution as paying for 1.75% multiplier and question the value. He suggested a 3.00 or 3.50% contribution as more acceptable, the remaining going into the DC Plan.

The Committee discussed the fact that the increase in the multiplier to 1.75% will provide a retirement benefit that will allow lower wage employees to live off retirement plus social security. However, the reduced Town payments into the DC Plan will be less attractive to the higher paid employees and those who value the DC Plan and its potential returns if invested well. There followed a discussion of possibly adding an additional 2% voluntary contribution to the DC plan by employees who chose to do so with a match from the Town at either dollar for dollar or 50% of the amount contributed. The actuary was asked to comment on the cost of this and was able to give rough estimates depending on the level of participation. These estimated

additional costs were still below the $359,565 savings generated by Scenario 6. Peter Strong, Actuary, was asked to further explore these calculations, including using a 3.5% employee contribution to the DB plan rather than 4%.

The Committee next discussed the timing of bringing these matters to the full Council for discussion. It was suggested that the next discussion be at the Council level, in December if possible, and staff indicated the additional calculations could be done in time for the December Council meeting.

Finally, Danielle Olson reported back on some additional information as to how widespread the participation was in the "default" option of the DC Plan which was a retirement date fund. The reports showed greater participation in the default option by newer employees and suggested long term employees either managed their own funds of chose the managed option for the fees noted above. The vast majority of funds were invested in some form of equity or fixed income fund and large amounts were not in cash.

At that point the meeting was adjourned, with further discussion to take place at the Town Council Meeting.

Prepared by Finance and Taxation Committee Chair Michael J. Pucillo on December 2, 2016.

General Employee and Lifeguard Pension Benefits

POTENTIAL PENSION SCENARIOS

DECEMBER 13, 2016

General Employee Pension Scenarios

	Current Benefits with 7% Return Assumption	New F&T Recommended Option A	New F&T Recommended Option B
Retirement Age	65	62	62
Service - 30 and out		none	none
Multiplier	1.25%	1.75%	1.75%
Employee Contribution	2.47%	3.50%	3.50%
DC Contriubtion	4.00%	3.00%	3.00%
Town DC Contribution	8.00%	4.00%	4.00%
Optional Employee Contribution		2.00%	2.00%
Optional Town DC Contribution		2.00%	1.00%
Town Contribution (DB and DC) FY17	$ 3,955,529	$ 3,916,457	$ 3,799,289
UAAL	$ 34,585,503	$ 35,885,572	$ 35,885,572
Combined Funded Ratio	59.5-70.1%	68.80%	68.80%
Savings at 7% Return Assumption		$ 39,072	$ 156,240
UAAL Difference		$ 1,300,069	$ 1,300,069
Payback period		33.27	8.32

General Employee Pension
Default ICMA-RC Target Date Fund Composition

- Default:
  Vanguard Target Retire funds
- ICMA-RC initially offered the Town 0.3% for employer paid fees; however, with only active 401(a) accounts being considered, ICMA-RC has retracted that offer pending further analysis.

Fund	Balances		Participant Count	Percentage of Total Accounts
	Dollars	Percent		
Vanguard Target Retire 2050	$164,981.96	2.47%	29	10.47%
Vanguard Target Retire 2045	$262,777.30	3.94%	20	7.22%
Vanguard Target Retire 2040	$548,586.11	8.23%	26	9.39%
Vanguard Target Retire 2035	$647,941.79	9.72%	27	9.75%
Vanguard Target Retire 2030	$896,084.23	13.44%	35	12.64%
Vanguard Target Retire 2025	$665,414.44	9.98%	28	10.11%
Vanguard Target Retire 2020	$780,191.19	11.70%	34	12.27%
Vanguard Target Retire 2015	$119,506.76	1.79%	6	2.17%

Vanguard Target Retirement 2030 Fund [1,2]

Fund Facts	
Inception Date:	Jun 7, 2006
Ticker Symbol:	VTHRX
Morningstar Category: ‡	Target-Date 2030
As of Sep 30, 2016	
Fund Net Assets † (Smillions)	$24,966

Documents for Fund or Underlying Fund(s)

Prospectus

Fact Sheet

Description | Performance & Expenses | Distributions | Morningstar Information | Characteristics | Statistics

Characteristics

Allocation of Assets †	As of Aug 31, 2016
Asset Class	Percent
Domestic Stock	44.0%
Foreign Stock	28.5%
Domestic Bond	16.7%
Foreign Bond	8.9%
Preferred	0.0%
Convertible	0.0%
Cash	1.0%
Other	0.9%

Due to rounding, percentages shown may not add up to 100%.

Credit Quality †	As of Jul 31, 2016
Quality Level	Percent
AAA	54.3%
AA	10.1%
A	16.6%
BBB	18.9%
BB	0.0%
B	0.0%
Below B	0.0%
Not Rated	0.0%

Due to rounding, percentages shown may not add up to 100%. Exposure reflects fixed income securities only.

Fixed Income Sector †	As of Aug 31, 2016
Sector	Percent
Government	14.2%
Corporate	6.5%
Securitized	4.3%
Cash & Equivalents	1.0%
Municipal	0.2%

Exposure reflects fixed income securities only and will sum to the fixed income exposure of the fund.

Top Ten Holdings †	As of Aug 31, 2016
Holding Name	Percent
Vanguard Total Stock Mkt Idx Inv	43.8%
Vanguard Total Intl Stock Index Inv	29.3%
Vanguard Total Bond Market II Idx Inv	19.0%
Vanguard Total Intl Bd Idx Investor	7.9%

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Regular Agenda - New Business

Agenda Title

Consideration of Proposed Method to Address Right-of-Way Ownership Issues Along North Ocean Boulevard Between Sunrise Avenue and Wells Road.

Presenter

H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- **Memorandum dated November 29, 2016, from H. Paul Brazil, P.E., Director of Public Works**
- **Images**

TOWN OF PALM BEACH
Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P. E., Director of Public Works

RE: Consideration of Proposed Method to Address Right-of-Way Ownership Issues Along North Ocean Boulevard Between Sunrise Avenue and Wells Road

DATE: November 29, 2016

STAFF RECOMMENDATION

Town staff requests guidance on the resolution of right-of-way ownership along North Ocean Boulevard between Sunrise Avenue and Wells Road.

GENERAL INFORMATION

The Town recently considered restoration of the seawall immediately east of North Ocean Boulevard between Wells Road and Sunrise Avenue. It became apparent during that process that portions of the roadway are physically outside of the road's right-of-way in some places. Also, some private improvements have been constructed within the right-of-way. The Town has permitted these improvements.

There is an ongoing trip and fall lawsuit filed by Pro Se Plaintiff Emmett Caldwell. In response to this lawsuit, it is recommended that the clear ownership of roadway and property be identified and defined. This work will delineate the Town of Palm Beach right-of-way along North Ocean Boulevard, and also the actual location of the sidewalk and adjacent property owners and their property lines. Staff believes it would be in everyone's best interest to memorialize what is actually being used as right-of-way and what is being used as private property.

Staff has completed a survey of the roadway and associated right-of-way. The survey identified portions of North Ocean Boulevard, which are located on private property, and portions of private improvements that are within the North Ocean Boulevard right-of-way. In preparation for this meeting, staff has shared the survey information with the impacted residents. The residents agree with the thought of memorializing the current use of the property. This was previously done for at least one other property along this roadway.

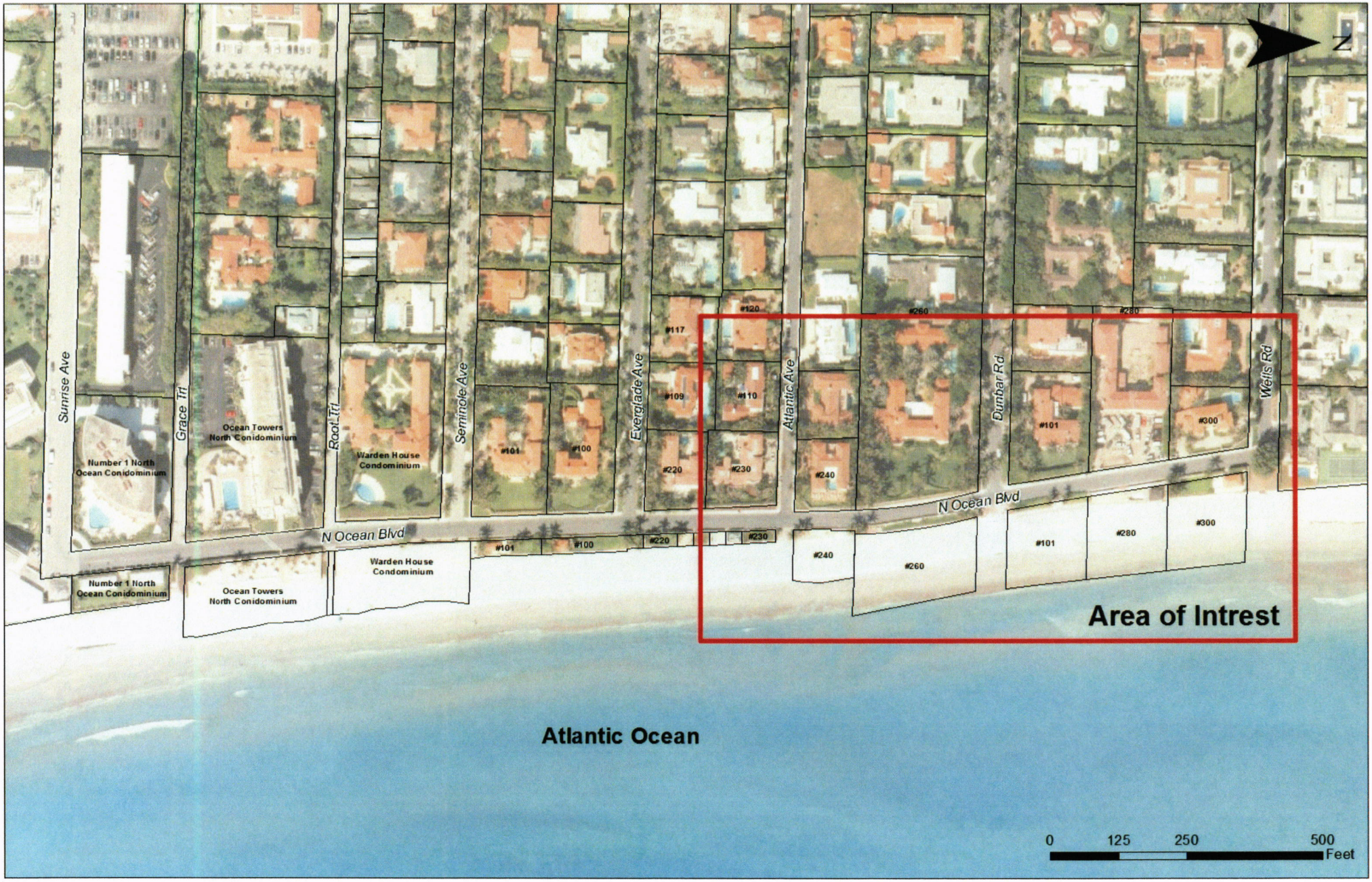
Staff is requesting Town Council's guidance on options for both accepting lands that will become road right-of-way and vacating existing road right-of-way. If the Town Council chooses to move forward with accepting property and vacating existing right-of-way, staff will work with legal counsel and the effected residents to draft the appropriate agreements. Public hearings to abandon right-of-way may be required. We will then return to Town Council for final approval.

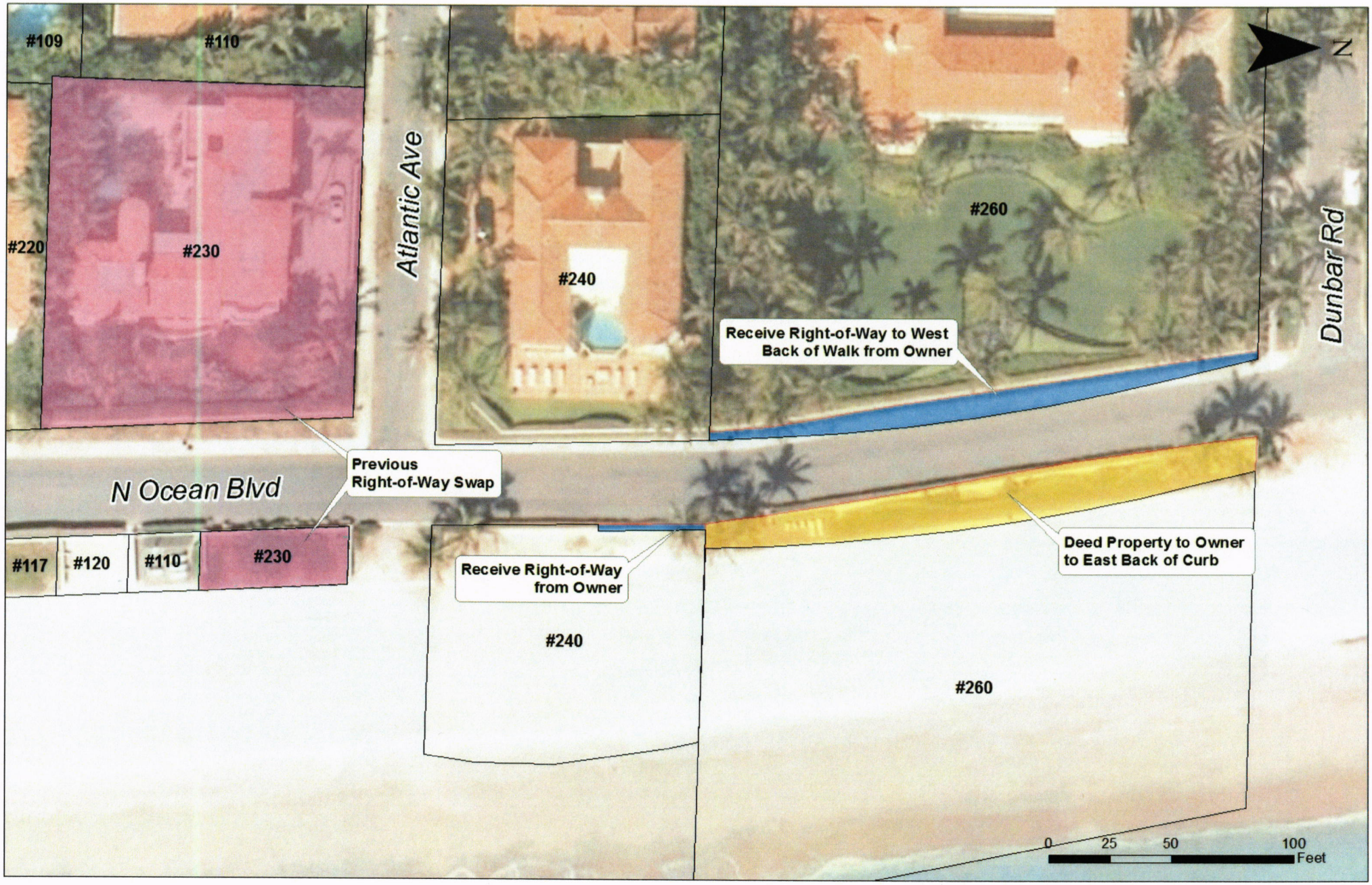
FUNDING/FISCAL IMPACT

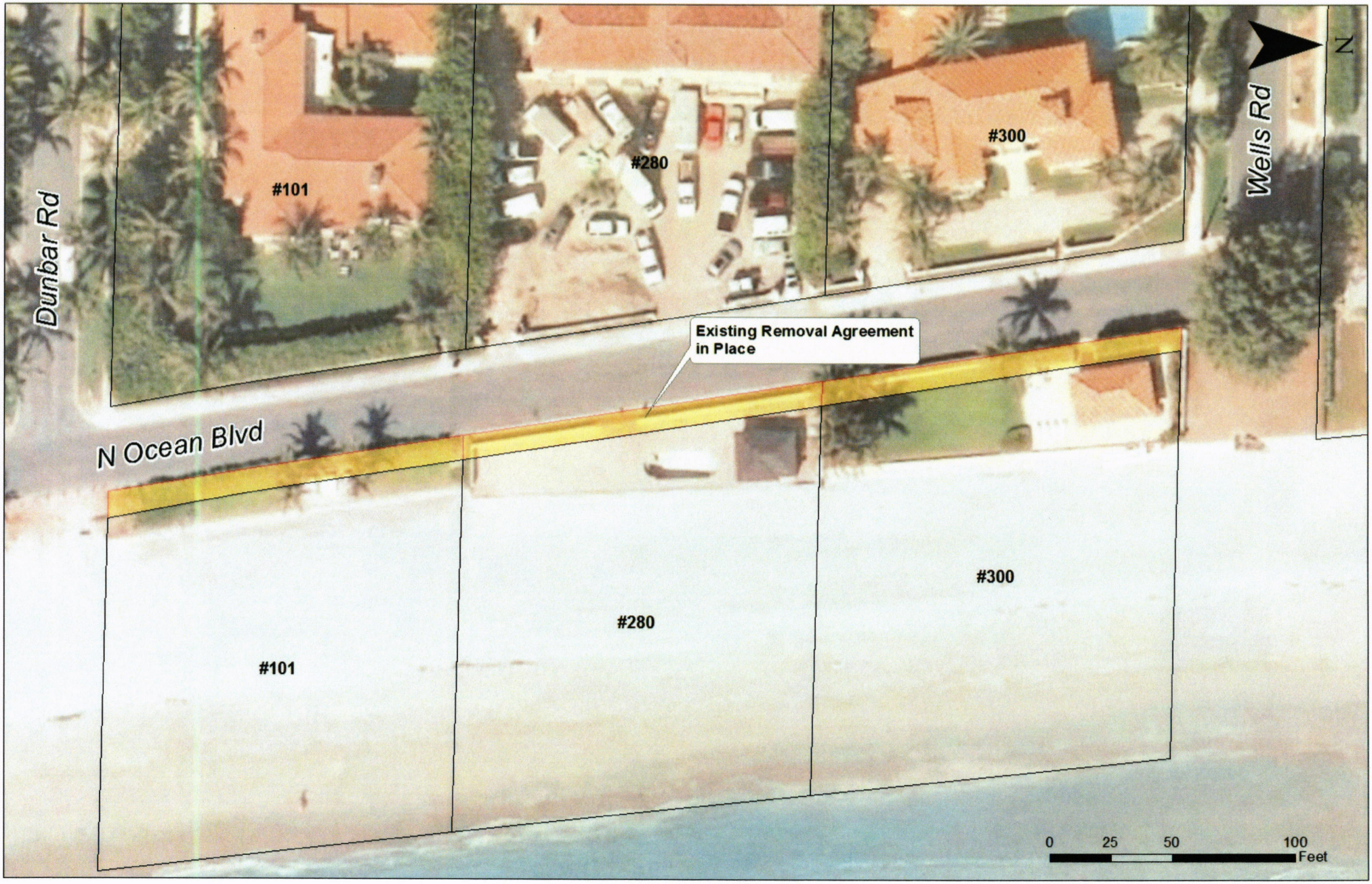
No funding is required for this item, at this time. Additional engineering and surveying services will be required if Town Council chooses to move forward as recommended by staff.

Attachments

cc: Eric Brown, P.E., Assistant Director of Public Works
Jane Struder, Director of Finance
Patricia Strayer, P.E., Town Engineer
Adis Pedraza, Purchasing Manager
John C. Randolph, Town Attorney


N
Sunrise Ave
Grace Trl
Root Trl
Seminole Ave
Everglade Ave
Atlantic Ave
Dunbar Rd
Wells Rd
N Ocean Blvd
N Ocean Blvd
Number 1 North Ocean Conidominium
Ocean Towers North Conidominium
Warden House Condominium
Number 1 North Ocean Conidominium
Ocean Towers North Conidominium
Warden House Condominium
#101
#100
#220
#230
#240
#260
#101
#280
#300
#101
#100
#109
#110
#117
#120
#220
#230
#240
#260
#280
#300
Area of Intrest
Atlantic Ocean
0
125
250
500
Feet


#109
#110
#220
#230
Atlantic Ave
#240
#260
Dunbar Rd
N
Receive Right-of-Way to West
Back of Walk from Owner
N Ocean Blvd
Previous
Right-of-Way Swap
#117
#120
#110
#230
Receive Right-of-Way
from Owner
#240
Deed Property to Owner
to East Back of Curb
#260
0
25
50
100
Feet


Dunbar Rd
#101
#280
#300
Wells Rd
N
Existing Removal Agreement in Place
N Ocean Blvd
#101
#280
#300
0
25
50
100
Feet

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Regular Agenda - New Business

Agenda Title

Adoption of the 2017 Town Council Meeting Schedule

Presenter

Thomas G. Bradford, Town Manager

ATTACHMENTS:

- **Memorandum dated December 5, 2016, from Thomas G. Bradford, Town Manager**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

From: Thomas G. Bradford, Town Manager

Re: Adoption of the 2017 Town Council Meeting Schedule

Date: December 5, 2016

STAFF RECOMMENDATION

Staff recommends the Town Council adopt the 2017 meeting schedule as modified below, along with any other modifications that may be acceptable to the majority.

GENERAL INFORMATION

Staff requests Town Council approval relative to the dates to conduct the following 2017 Town Council meetings. The standard schedule, with no modifications would be as follows:

JANUARY 10 AND 11	JULY 11 AND 12
FEBRUARY 14 AND 15	AUGUST 8 AND 9
MARCH 14 AND 15	SEPTEMBER 12 AND 13
APRIL 11 AND 12	OCTOBER 10 AND 11
MAY 9 AND 10	NOVEMBER 14 AND 15
JUNE 13 AND 14	DECEMBER 12 AND 13

Staff recommends the standard schedule be amended as follows:

1) The Tuesday, April 11, 2017, (regular municipal business) Town Council meeting is in conflict with the first day of Passover. Staff recommends rescheduling the Tuesday, April 11 Town Council meeting to be held Thursday, April 13, 2017, to begin at 9:30 a.m. The Wednesday, April 12, 2017, (development review matters) Town Council meeting will take place with no change to the standard schedule.

2) In July, staff needs to have proposed FY2018 budget matters considered to be state TRIM law compliant. Staff recommends the July 11 meeting be a special meeting devoted only to the budget or budget related matters. Staff recommends that the July 12 meeting be devoted to remaining municipal business matters that require action and to development review matters.

TGB:cek

cc: Department Directors
John C. Randolph, Town Attorney

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Regular Agenda - New Business

Agenda Title

Approval of the Scheduling of the 2017 Town Caucus for January 3, 2017, at 7:00 p.m., and the Scheduling of a Special Town Council Meeting to Declare the Results of the Caucus for January, 6, 2017, at 9:30 a.m.

Presenter

Susan A. Owens, MMC, Town Clerk

ATTACHMENTS:

- **o Memorandum dated December 2, 2016, from Susan A. Owens, MMC, Town Clerk**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Susan A. Owens, MMC, Town Clerk

Re: Scheduling of the 2017 Town Caucus and Special Town Council Meeting to Either Call or Cancel the 2017 Town of Palm Beach General Election

Date: December 2, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council schedule the 2017 Town Caucus for January 3, 2017, at 7:00 p.m., and, if required, the Special Town Council meeting to call the 2017 election for January, 6, 2017, at 9:30 a.m.

GENERAL INFORMATION

Sec. 5.03(a) of the Charter of the Town of Palm Beach sets the date of the 2017 Town Caucus for Tuesday, January 3, 2017. Historically the Town Caucus has commenced at 8:00 p.m.; however, after several preferences for an earlier start time were received, the Town Council scheduled the 2015 Town Caucus for 7:00 p.m. (In order to accommodate the deadlines for the 2016 Presidential Preference Primary the Town held its last Caucus in December 2015 instead of January 2016.) Staff received positive feedback regarding the earlier start time and is seeking direction regarding the Town Council's preferred start time for the 2017 and future Town Caucuses.

Sec. 34-116 of the Town Code of Ordinances requires that the Town Council meet and either call for, or cancel, the 2017 general election within three days after Qualifying closes, which is Wednesday, January 4, 2017 at 5:00 p.m. This brief special meeting has historically been held at 9:30 a.m. on the Friday after the Caucus, which would be Friday, January, 6, 2017. Holding the special meeting any earlier does not allow enough time to certify petitions submitted on Qualifying Day, prepare the Caucus Minutes and get them signed by the Caucus Chair and Secretary, provide adequate legal notice, or make the appropriate meeting arrangements. If the special meeting is scheduled for the third day after Qualifying closes, then it would fall on Saturday, January 7, 2017. Staff is seeking direction from the Town Council regarding the scheduling of the special Town Council meeting to either call for, or cancel, the 2017 Town of Palm Beach general election.

FUNDING/FISCAL IMPACT

There are no funding or fiscal impacts relative to these matters.

TOWN ATTORNEY REVIEW

This item has been reviewed by the Town Attorney.

cc: Jay Boodheshwar, Deputy Town Manager
Kathleen Dominguez, Deputy Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Regular Agenda - New Business

Agenda Title

Waiver to Town Code 42-196 Through 199 and 42-226 Through 229 for Extended Construction Hours and Work During Season by the Winthrop House for Use of Cranes on Hammond Avenue.

Presenter

H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- **Memorandum dated November 29, 2016, from H. Paul Brazil, P.E., Director of Public Works**
- **Winthrop House Condominium Letter**
- **Winthrop House Crane Lifting Plan**
- **Images**

TOWN OF PALM BEACH
Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Waiver to Town Code 42-196 through 199 and 42-226 through 229 for Extended Construction Hours and Work During Season by the Winthrop House for Use of Cranes on Hammond Avenue

DATE: November 29, 2016

STAFF RECOMMENDATION

Town staff recommends that the Town Council approve the waiver to Town Code 42-196 through 199 and 42-226 through 229 for extended construction hours and work during season by the Winthrop House for use of crane on Hammond Avenue.

GENERAL INFORMATION

The Winthrop House is currently updating the pool and pool deck. The contractor has run into a number of unforeseen structural conditions due to the age of the building. Although the contractor has resolved those structural issues, the progress of the project has been delayed. The contractor is now moving forward at a rapid pace and is anticipating their work to be completed by late February or early March 2017.

In order to complete their work, they will need to be able to use a crane to lift large landscape material for their pool deck from Hammond Avenue. One travel lane will be closed daily during work hours for as much as 15 days. Flagmen will be provided.

The contractor and owner understand the Town's limitations for work within season and are respectfully requesting a waiver to the Town's Code so that work can be completed before Easter. The contractor and owner will work with the Town to minimize impacts to the Public and to the Winthrop House's neighbors. Town staff does not have the authority to approve this request.

FUNDING/FISCAL IMPACT

There is no funding/fiscal impact related to this item.

Attachments

cc. Kirk Blouin, Director of Public Safety
Patricia Strayer, P.E., Town Engineer
Allen Powery, Right-of-Way Inspector

Winthrop House Condominium Association, Inc
100 Worth Avenue Office
Palm Beach, Florida 33480
561-655-2730, Fax 561-832-2341
thewinthrophouse@aol.com

November 28, 2016

Town of Palm Beach
360 South County Road
Palm Beach, Florida 33480

Re: Winthrop House

Dear Town of Palm Beach Council:

The Winthrop House Condominium is respectfully requesting Town of Palm Beach approval for 15 days of single lane closure for portion of Hammon Avenue between January 15th, 2017 and March 1st, 2017. The lane closure will facilitate use of a mobile crane to lift construction and landscape materials.

The Winthrop House Condominium project to renovate the interior pool deck has been progressing but not as originally planned. More than anticipated deterioration of the 50-year-old pool and pool deck have extended our construction schedule. Our contractor, The Marker Group, has been diligently pursuing the work while our professional team has designed structural solutions allowing work to proceed.

The detailed MOT (Maintenance of Traffic) plan for this referenced, requested crane lift plan are attached. The plan will include flagmen to ensure public safety. The window of time being requested provides for weather and/or wind delays. If weather precludes use of the crane, the crane will be removed and brought back when conditions are favorable. The contractor will be monitored closely during this work, and all efforts will be made to reduce the number of days to less than the 15 being requested. We are confident that all work will be completed within this request.

Thank you in advance for your continued assistance and support.

Sincerely,

Thomas Grudovich, Vice President
Winthrop House Condominium Association, Inc.

Winthrop House Crane Lifting Plan

Days 1 - 6

- Crane pick of the trees and setting the trees in place.
- Majority of this time is (12) coconuts and the (4) Tabebuias including installation of the supports.
- Day 5-6 crane dirt in.

Days 7 - 8

- Crane pick of smaller trees.
- Balance of dirt and mixes for trees.

Days 9-12

- Craning up of diamond zoysia.
- Craning up of 80/20 mix.
- Craning up of plants.

Days 13-15

- Excess materials are removed off the roof.
- Final modifications by Landscape architect.

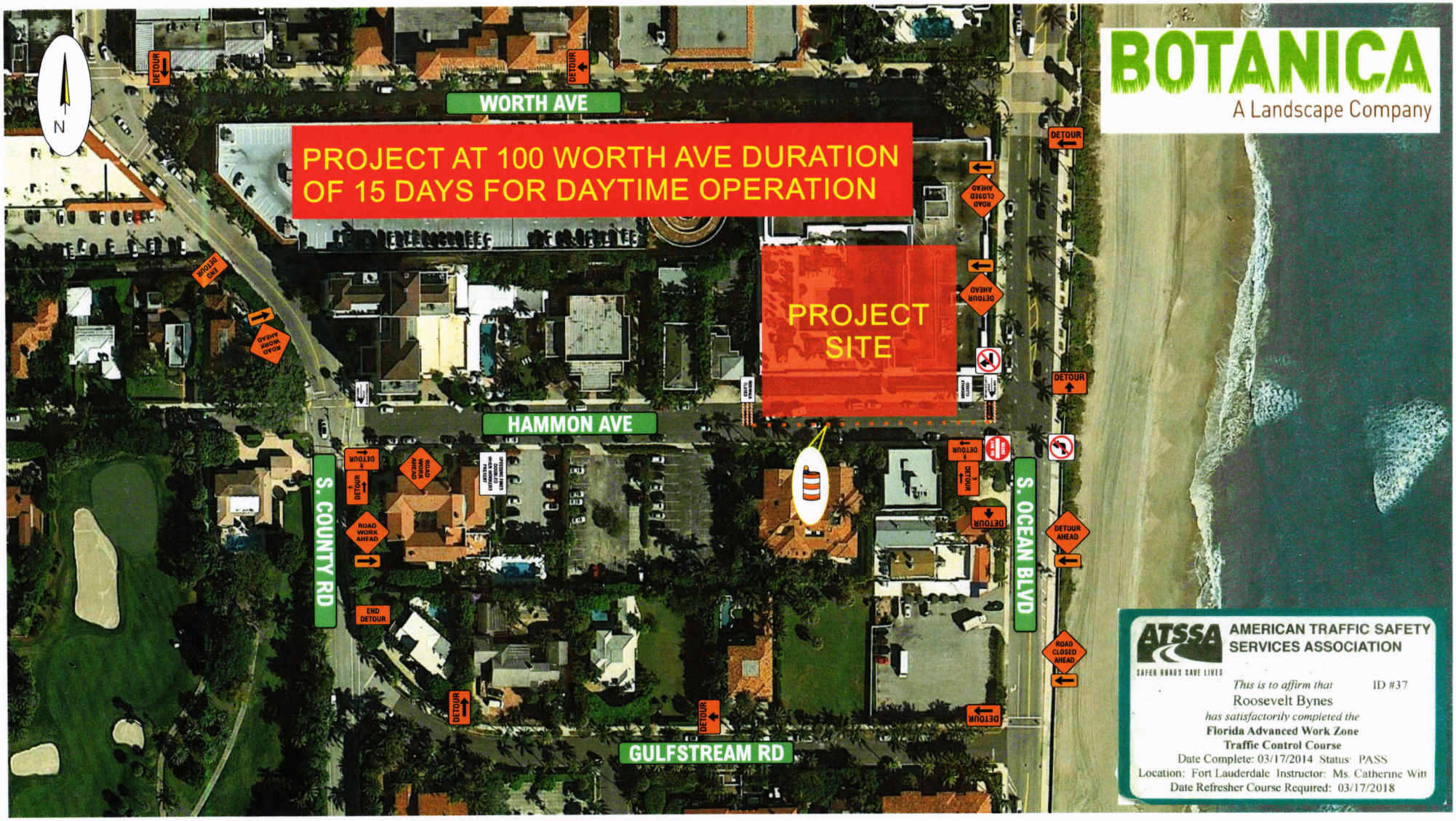
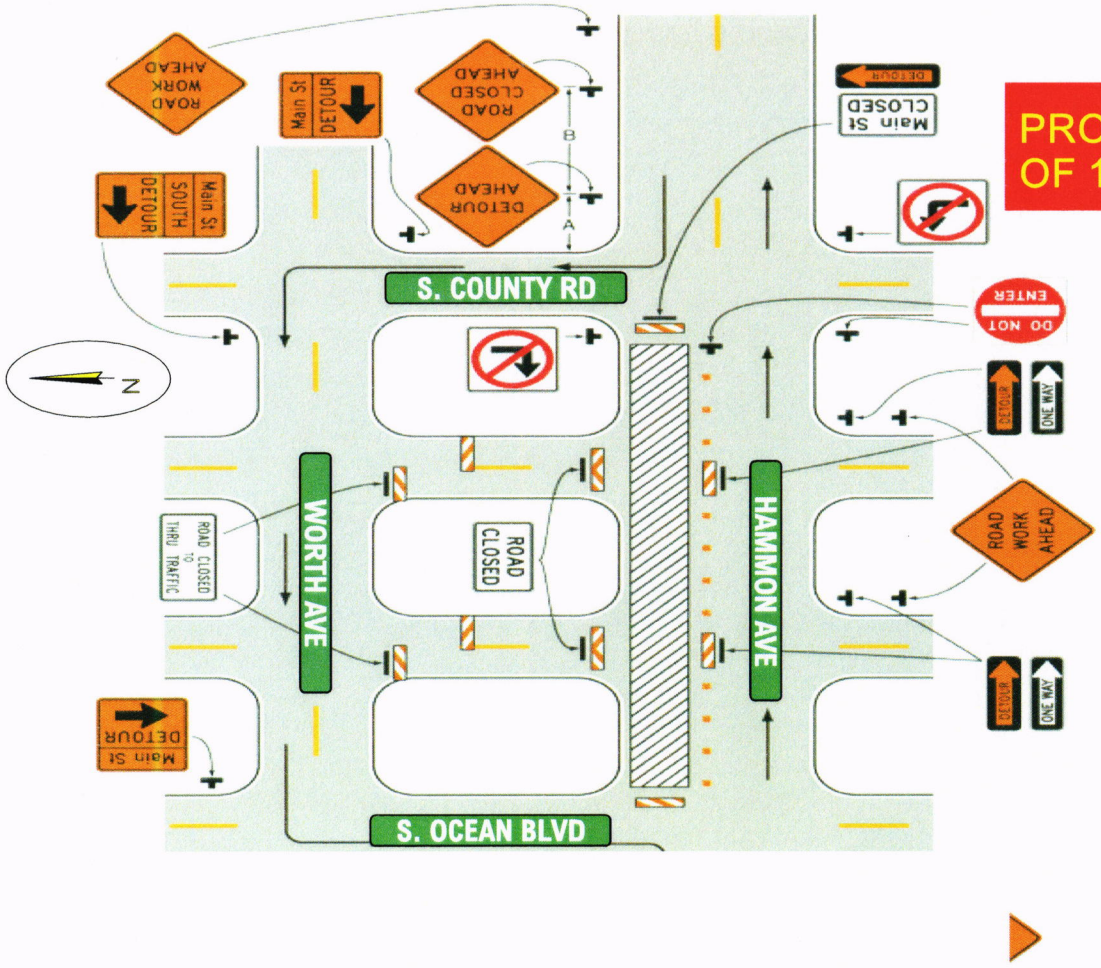

BOTANICA
A Landscape Company
PROJECT AT 100 WORTH AVE DURATION OF 15 DAYS FOR DAYTIME OPERATION
PROJECT SITE
WORTH AVE
HAMMON AVE
GULFSTREAM RD
S. COUNTY RD
S. OCEAN BLVD
N
DETOUR
ROAD WORK AHEAD
END DETOUR
ROAD CLOSED AHEAD
DETOUR AHEAD
ATSSA
AMERICAN TRAFFIC SAFETY SERVICES ASSOCIATION
SAFER ROADS SAVE LIVES
This is to affirm that
ID #37
Roosevelt Bynes
has satisfactorily completed the
Florida Advanced Work Zone
Traffic Control Course
Date Complete: 03/17/2014 Status: PASS
Location: Fort Lauderdale Instructor: Ms. Catherine Witt
Date Refresher Course Required: 03/17/2018

Figure 6H-19. Detour for One Travel Direction (TA-19)



Note: See Tables for the meaning of the symbols and/or letter codes used in this figure.

Typical Application 19

PROJECT AT 100 WORTH AVE DURATION OF 15 DAYS FOR DAYTIME OPERATION

BOTANICA
A Landscape Company

ATSSA AMERICAN TRAFFIC SAFETY SERVICES ASSOCIATION
SAFER ROADS SAVE LIVES

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Date Complete: 03/17/2014 Status: PASS
Location: Fort Lauderdale Instructor: Ms. Catherine Witt
Date Refresher Course Required: 03/17/2018

SYMBOLS

- Work Area
- Channelizing Device (See Index 600)
- Work Zone Sign
- (CR) Required Locations For Either Temporary Or Permanent Curb Ramps.
- Lane Identification + Direction of Traffic
- Pedestrian Longitudinal Channelizing Device (LCD) with Mounted Work Zone Sign
- Pedestrian Longitudinal Channelizing Device (LCD)

PROJECT AT 100 WORTH AVE DURATION OF 15 DAYS FOR DAYTIME OPERATION

GENERAL NOTES

3. Use delineators on longitudinal channelizing devices separating the work area from vehicular traffic.
4. Cover or deactivate pedestrian traffic signal display(s) controlling closed crosswalks.
5. Post mounted signs located near or adjacent to a sidewalk must have a 7' minimum clearance from the bottom of sign to the surface of the sidewalk.
6. When construction activities involve sidewalks on both sides of the street, stage the construction so that one sidewalk is in service at all times. If this is not feasible and both sidewalks must be closed, as determined by the Engineer, provide a detour to guide pedestrians around the construction zone.
7. Provide a 5' w a minimum wid less than 5' in
8. Provide a cros walkways.
9. Temporary walk kept free of a construction equip
10. Remove temporary otherwise noted in
11. Meet the requirem
12. Place pedestrian l closed sidewalk. F place LCD's to deli

BOTANICA
A Landscape Company

ATSSA
SAFER ROADS SAVE LIVES
AMERICAN TRAFFIC SAFETY SERVICES ASSOCIATION

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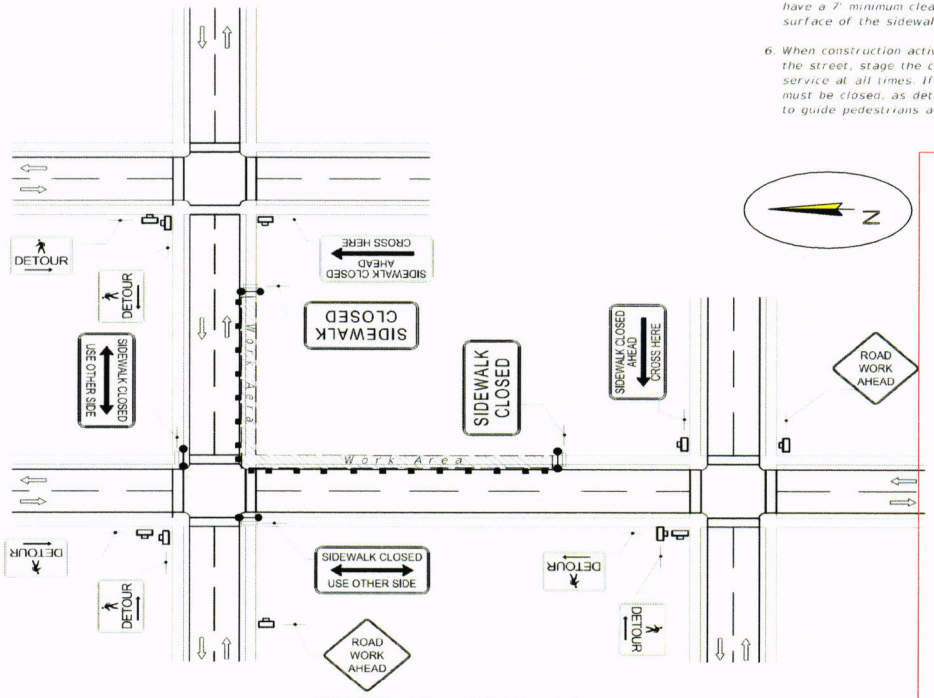
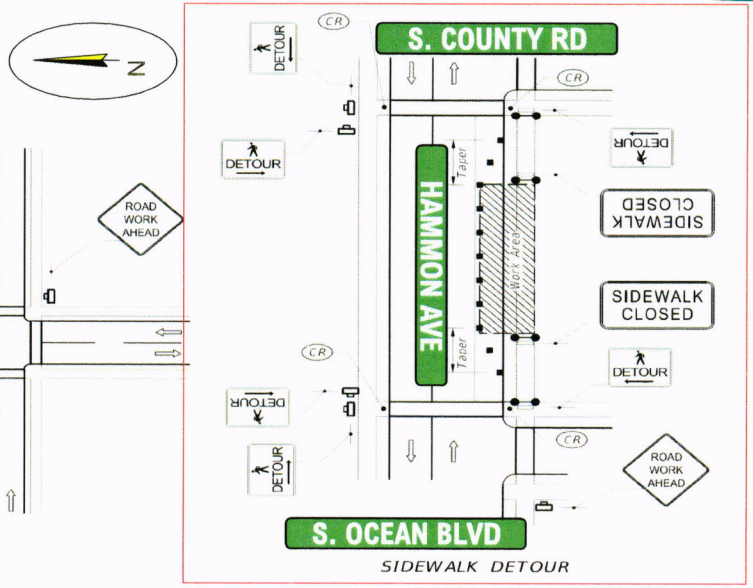
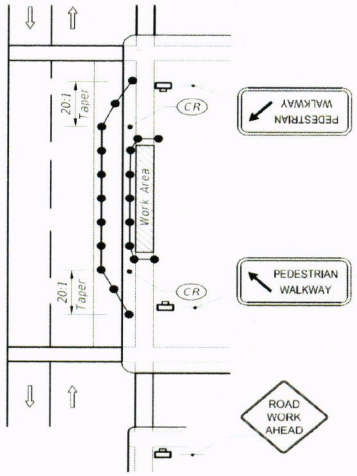


CROSSWALK CLOSURE AND PESESTRIAN DETOUR



SIDEWALK DETOUR



SIDEWALK DIVERSION

LAST REVISION	REVISION	DESCRIPTION:	FDOT	FY 2016-17 DESIGN STANDARDS	PEDESTRIAN CONTROL FOR CLOSURE OF SIDEWALKS	INDEX NO.	SHEET NO.
07/01/15						660	1 of 1

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Regular Agenda - New Business

Agenda Title

Landmarks Preservation Commission - Unexcused Absenses

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

- **Memorandum Dated November 21, 2016 from John S. Page Director of Planning, Zoning & Building**
- **Letter Dated November 21, 2016 From Tim Gannon**
- **E-mail Dated November 14, 2016 From Nikita Zukov**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: John S. Page, Director of Planning, Zoning & Building

Re: Landmarks Preservation Commission
Unexcused Absences

Date: November 21, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council review the communications received from Nikita Zukov and Tim Gannon relative to excessive meeting absences, and to thereafter determine if extenuating circumstances justify their continued service to the Landmarks Preservation Commission.

GENERAL INFORMATION

Chapter 54 of the Palm Beach Code of Ordinances, Historical Preservation, contains Section 54-38 titled "Removal provisions; absences; conflicts of interest." Per Code, "Members of the commission shall be automatically removed for lack of attendance, which is defined as failure to attend three regularly scheduled meetings in any one calendar year. Excused absences due to illness, a death in the family, religious holidays and requirements of legal process shall not constitute lack of attendance." PZB keeps attendance records. Both Mr. Zukov and Mr. Gannon were absent from the most recent Commission meeting on November 16, constituting the 3rd unexcused absence for each gentleman. Per the last sentence of the Code section quoted above, "A member may petition the town council, in the event of extenuating circumstances, to excuse an absence otherwise not automatically excused pursuant to the provisions of this article."

Both Mr. Zukov and Mr. Gannon hope to continue service to the Town as continuing members of the Landmarks Preservation Commission. Each has sent statements, attached, explaining the circumstances that led to obtaining three unexcused absences (outlined separately below).

Nikita Zukov. Mr. Zukov received unexcused absences for Commission meetings on February 17 and May 18 this year. His third unexcused absence on November 16 would normally constitute automatic removal, however he is hereby petitioning the Council "to excused an absence otherwise not automatically excused pursuant to the provisions of this article." Email was received by Mr. Zukov on November 15 (attached), within which he explains that he was in Zagreb tending to family documentation of missing cemetery records, his effort to prevent the

sale of grave sites and possible interment of ancestors buried there, and the necessity to meet with cemetery officials.

Tim Gannon. Mr. Gannon received unexcused absences for Commission meetings on March 16 and June 13. His third unexcused absence on November 16 would normally constitute automatic removal, however he is hereby petitioning the Council "to excused an absence otherwise not automatically excused pursuant to the provisions of this article." The attached letter from Mr. Gannon cites the rescheduled meeting of June 15 (normal 3rd Wednesday) to June 13 (Monday) as a conflict with a prearranged out-of-town business meeting that could not be rescheduled. The Commission meeting was bumped forward several days to avoid a conflict with the normally scheduled Town Council meeting.

Attachments

cc: John C. Randolph, Town Attorney
Nikita Zukov
Tim Gannon

PALM BEACH RESTAURANT PARTNERS LLC

November 21, 2016

To: Town Council

Re: Landmarks Commission

From: Tim Gannon
1300 N Ocean Blvd, Palm Beach, FL 33480

This letter is to petition the Town Council due to extenuating circumstances to excuse my absence for the meeting that was moved from June 15th to June 13th. I could not attend due to a long planned business meeting out of town that I could not reschedule.

I believe that my background and the time I have spent with the Landmarks Commission has helped preserve Palm Beach's historic properties.

I am hoping that the Council will excuse this absence.

Sincerely,

Tim Gannon

625 N. Flagler Dr., Ste. 402 • West Palm Beach, FL 33401 • 561.623.1241 • Fax: 561.459.2898

John Page

From: Nikita ZUKOV <npzukov@msn.com>
Sent: Tuesday, November 15, 2016 4:47 AM
To: John Page
Subject: Re: Landmarks Preservation Commission Attendance and Continued Service

Dear JP,
Thank you for the e mail of yesterday and I would appreciate if you would ask the Town Council in my name to consider giving me an excused absence for the 11/16/2016 meeting.
My grandfather died and was buried in Zagreb in 1939. My grandmother paid for the grave in perpetuity. Since then other friends/family members have been buried in the grave. Over time, documentation of the Zukov family grave was lost by the administration of the cemetery. In order to prevent the sale of this grave and subsequent removal of those interred there I must meet tomorrow with the cemetery officials. This meeting has been arranged solely to resolve my dilemma.
For this reason I am requesting an excused absence from the Landmark Preservation Commission meeting.
Respectfully,
Nikita Zukov FAIA

Sent from my iPad

On Nov 14, 2016, at 11:27 PM, John Page <JPage@TownofPalmBeach.com> wrote:

> Nikita:
>
> I know you are traveling the world at the moment. I hope that you have access to email and that you can respond.
>
> As we discussed just before your departure, you have two previous unexcused absences from the Landmarks nistrationPreservation Commission earlier this calendar year. Your expected absence on Wed. 11/16, also unexcused, results in an automatic removal from the Commission per Town Code. Town Code does, however, also include this statement....."A member may petition the Town Council, in the event of extenuating circumstances, to excuse an absence otherwise not automatically excused pursuant to the provisions of this article." In other words, the Council has the discretion of making an exception and keeping you on the Commission.
>
> I wanted you to know of this option. Please, if you decide to pursue that course, I will need email or a letter from you explaining the particulars of your situation. It would then be up to the Council to decide if an extenuating circumstance justifies your continued service as a continuing Commissioner. I will need your email or letter, including any justifications you can outline, not later than Tuesday, November 22 so that I can submit this particular Agenda title to the Manager's office in accordance with our internal processing requirements.
>
> Please feel free to reach out with any questions you may have. I trust your trip is going well. Sorry to bother you with this business, but timing is fairly critical here. JP
>
> John S. Page
> Planning, Zoning & Building Director

Town of Palm Beach
PZB Department
360 S. County Road
Palm Beach, FL 33480
Phone: 561-227-6405
Fax: 561-835-4621
www.townofpalmbeach.com

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Regular Agenda - New Business

Agenda Title

Coastal Update

H. Paul Brazil, P.E., Director of Public Works

a. Shore Line Protection Update

b. Waivers to Town Code for Construction Dates, Hours, and Noise for Reach 4 Dune Restoration.

c. RESOLUTION NO. 225-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Awarding Bid No. 2016-28 and Approving a Construction Contract to Coston Marine Services, Inc. for the Construction of the Lake Worth Lagoon Waterway Access Maintenance Dredging, in the Amount of $1,063,500, and Establishing a Construction Phase Budget of $1,200,000, Contingent Upon the Necessary Permit Modification and Upon Receipt of Donations to Fully Fund this Project.

d. RESOLUTION NO. 226-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing State Grant of FDEP Contract No. 16PB4, Between the State of Florida Department of Environmental Protection and the Town of Palm Beach Under the Florida Beach Management Funding Assistance Program for the Beach Management Agreement, Specifically Physical Monitoring Reimbursement, in the amount of $124,777.50, and Authorizing the Town Council President to Execute Same on Behalf of the Town.

e. RESOLUTION NO. 227-2016 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving a Purchase Order in the Amount of $100,000 to Woods Hole Group, for a Coastal Vulnerability Assessment, and Establishing a Task Budget of $110,000.

Presenter

ATTACHMENTS:

- **b. Memorandum dated November 23, 2016, from H. Paul Brazil, P.E., Director of Public Works**
- **b. 3550 Palm Beach Holdings LLC**
- **c. Memorandum dated November 28, 2016, from H. Paul Brazil, P.E., Director of Public Works**
- **c. Resolution No. 225-2016**
- **c. Bid Tab**
- **c. Palm Beach Intracoastal Neighbors Letter**
- **d. Memorandum dated November 28, 2016, from H. Paul Brazil, P.E., Director of Public Works**
- **d. Resolution No. 226-2016**
- **d. Lake Worth Inlet Management Plan Agreement**
- **e. Memorandum dated November 23, 2016, from H. Paul Brazil, P.E., Director of Public Works**
- **e. Resolution No. 227-2016**
- **e. Woods Hole Group Proposal**

TOWN OF PALM BEACH
Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Waivers to Town Code for Construction Dates, Hours, and Noise for Reach 4 Dune Restoration

DATE: November 23, 2016

STAFF RECOMMENDATION

Town staff recommends that the Town Council approve a waiver to Sections 42-198, 42-199, and 42-226 through 229 for 3550 Palm Beach Holdings, LLC, and their construction manager, Craft Construction Company, as identified in the 3550 Palm Beach Holdings' request.

GENERAL INFORMATION

A new hotel is currently under development at 3550 South Ocean Boulevard in the Town of South Palm Beach. The developer, 3550 Palm Beach Holdings, LLC, has been in the process of obtaining a Coastal Construction Control Line (CCCL) permit from the Florida Department of Environmental Protection (FDEP). Consistent with issuance of previous CCCL permits, FDEP is requiring that the 6,300 cubic yards of excavated sand remain seaward of the CCCL in the general vicinity of the project area where the sand would not be "sacrificial" or immediately subjected to coastal processes. Being that there is a limited number of locations on Palm Beach Island where sand would not be considered "sacrificial", FDEP has expressed that the placement of excavated sand within the Mid-Town Beach Renourishment project area would be allowed. Moffat & Nichol, agent for 3550 Palm Beach Holdings, has informed us that FDEP issuance of the CCCL permit is expected in late December 2016.

On July 12, 2016, Town Council authorized the acceptance of a donation from the 3550 South Ocean Boulevard property to entirely fund construction for a Reach 4 Dune Restoration project consisting of approximately 6,370 cubic yards.

A project area with a shoreline length of approximately 1,300 feet has been identified between Hammon Avenue and Via Marina as the receiver site for the excavated sand from the Town of South Palm Beach.

Because the sand to be excavated from the 3550 South Ocean Boulevard property does not meet the standards set forth within the Beach Management Agreement (BMA), the sand to be excavated from the 3550 South Ocean Boulevard property will not be placed in Reach 4. Instead, a volume of equal value to that excavated will be hauled from an upland mine and placed in Reach 4. The sand from the upland mine will meet the BMA sand characteristics.

Moffat & Nichol is expected to identify a contractor in the coming weeks. This contractor will use the access point at Peruvian Avenue for heavy equipment beach access and deposit the sand onto the berm. Approximately 400 truck loads of sand will be delivered to Peruvian Avenue. The sand would then be loaded into off-road trucks and dumped in place. Final shaping of the dune would be performed by a bulldozer. Construction is expected to begin in mid-January 2017 and take approximately 2-4 weeks to complete. A similar activity was performed at the Peruvian Avenue beach access with the Mid-Town Beach Renourishment Project in 2015.

Like other dune restoration projects constructed in the Town of Palm Beach, the Reach 4 Dune Restoration project will require waivers to the Town Code of Ordinances. 3550 Palm Beach Holdings, LLC requests waivers of the following sections of the Town Code:

> Section 42-198 – prohibits operation of equipment or machinery during winter, Sundays, and legal holidays (commencing on December 1 and ending May 1).
>
> Section 42-199 – prohibits work between 5:00 p.m. and 8:00 a.m.
>
> Sections 42-226 through 229 – regulates noise, equipment operation, work hours, and the standard Town requirement to "stand down for the season".

Also, due to the construction taking place in January 2017, Town Council is requested to authorize staff to issue a right-of-way permit. Once a contractor has been identified, staff will work with the contractor to ensure that a maintenance of traffic plan will be developed consistent with previous truck haul projects that successfully utilized the Peruvian Avenue access point.

Representatives from Moffat & Nichol will attend the December 13, 2016 Town Council meeting and will be prepared to present information directly to the Town Council, if necessary.

FUNDING/FISCAL IMPACT

There is no funding/fiscal impact related to this item. All construction costs, including mobilization, demobilization, sand, transport, and placement are to be funded by 3550 Palm Beach Holdings, LLC, owner of the 3550 South Ocean Boulevard property in the Town of South Palm Beach.

Attachment

cc. Kirk Blouin, Director of Public Safety
Patricia Strayer, P.E., Town Engineer
Robert Weber, Coastal Program Manager
Laura Shepherd, Moffat & Nichol
Christy Brush, Moffat & Nichol

3550 Palm Beach Holdings LLC

November 16, 2016

Mr. Robert Weber
Coastal Program Manager
Town of Palm Beach
P.O. Box 2029
Palm Beach, FL 33480

Dear Mr. Weber:

This letter is in regards to the 3550 S Ocean Blvd development project's donation of 6,379 cy of beach quality sand to the Town of Palm Beach (Town) for placement within approximately 73,750 square feet of area within Reach 4. The contractor plans to mobilize the project in early January 2017, with the construction spanning approximately four (4) weeks. 3550 Palm Beach Holdings, LLC (Developer) is requesting the approval from the Town Council for the contractor to have the ability to stage within the jurisdictional limits of the Town on the sandy beach between Hammon Avenue and Gulfstream Road (the northern terminus of the beach fill template). Additionally, the Developer is requesting variances on the below Town Code of Ordinances for the upcoming Reach 4 Beach fill Project:

- Section 42-198 - prohibits operation of equipment or machinery during winter, Sundays, and legal holidays;
- Section 42-199 - prohibits work between 5:00pm and 8:00am; and
- Sections 42-226 through 229 - regulates noise, equipment operations and work hours and the standard Town requirement to "stand down for the season".

The Developer will work with the contractor to limit the hours of active construction time to occur during the hours of 8am and 6pm. additionally, no work will be conducted on designated holidays (i.e. New Year's Day, President' Day, Good Friday, etc.).

The Developer discussed the limitations outlined above with Craft Construction, the construction manager, who agrees to adhere to these limitations. Please see the signature below by Brian A. Vogt acknowledging these limitations and agreeing to abide by them.

The Developer appreciate your consideration for the completion of the Reach 4 Beach Fill Project. Please do not hesitate to call or email me with any questions or concerns you may have regarding this request.

Craft Construction Company

Brian A.Vogt
Vice President of Operations

3550 Palm Beach Holdings, LLC

Ryan P. Taylor
Managing Member

TOWN OF PALM BEACH
Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P. E., Director of Public Works

RE: Award Bid No. 2016-28 and Approve a Construction Contract for Lake Worth Lagoon Waterway Dredging
Resolution No. 225-2016

DATE: November 28, 2016

STAFF RECOMMENDATION

Town staff recommends that the Town Council approve Resolution No. 225-2016 awarding Bid No. 2016-28, and approving a construction contract with Coston Marine Services, Inc., for Lake Worth Lagoon Waterway Access Maintenance Dredging, in the amount of $1,063,500, and establishing a construction phase budget of $1,200,000, including contingency, contingent upon the necessary permit modification and upon receipt of donations and applicable permit modification.

GENERAL INFORMATION

In 2013, a group of lagoon-front residents established a Form 501C3 non-profit organization named Palm Beach Intracoastal Neighbors (PBIN). The purpose of the organization was to develop, permit, and fund a project to dredge a set of access channels in the Lake Worth Lagoon.

The dredging work includes improving three (3) unmarked east-west channels extending from the Intracoastal Waterway that will provide residential boating access to three (3) separate sections within the eastern portions of the lagoon. These sections have been labeled as North, Central, and South. The North waterway is located between Everglades Island and the Southern Boulevard Causeway. The Central waterway is located south of the Southern Boulevard Causeway, through the Bingham Islands, to the Widener's Curve vicinity. The South waterway is located south of Widener's Curve and north of Sloan's Curve. In total, approximately 50,000 cubic yards of material is to be dredged to re-establish channel depths of -5 ft. mean low water (MLW).

On June 11, 2013, Town Council approved Resolution No. 97-2013, authorizing the Town Manager to approve a purchase order to Applied Technology & Management, Inc. (ATM) for professional engineering services related to the Lake Worth Lagoon Waterway dredging project. This purchase order was funded by donations received by PBIN.

On June 9, 2015, Town Council approved Resolution No. 77-2015, authorizing the Town Manager to approve a purchase order to ATM to develop construction plans and specifications in support of a bid solicitation. Town Council also authorized the receipt of donations from PBIN to entirely fund construction of the project.

Bid No. 2016-28 was publicly solicited on February 28, 2016, and bids were opened on March 29, 2016. Since the bid solicitation, PBIN worked to obtain the funds to cover construction costs. The lowest responsive bidder, Coston Marine Services, Inc., agreed to extend their bid validity thru December 2016 to allow PBIN the time to perform fundraising efforts so this item may be presented to Town Council for its consideration at the December 13, 2016 meeting.

To date, State permits and Federal permitting exemptions have been received, however, there is a permit modification that has been requested to allow for placement of the dredged material in a historical dredge hole on the western side of the Lake Worth Lagoon north of the C-51 canal. The Florida Department of Environmental Protection, in consultation with the Florida Fish & Wildlife Conservation Commission, expects to have the permit modification issued early in 2017.

Lagoon dredging is to be delayed until after April 30, 2017 so work will occur outside of the Town's "season". Waivers to Town Code for dates, hours, and noise will not be necessary. Because the work is being performed in the lagoon and not on the beaches, the work can occur year-round and not be confined to the winter months.

Should Town Council award the bid for the lagoon dredging project to Coston Marine Services, the award should be contingent upon Town receipt of the $1,200,000 from PBIN and the Town's Notice to Proceed will be contingent upon receipt of the permit modification. PBIN has informed the Town that all funds would be sent to the Town's donation account prior to December 13, 2016.

A representative from PBIN is expected to be at the Town Council meeting on December 13, 2016.

FUNDING/FISCAL IMPACT

This project has no funding/fiscal impact to the Town as all work is performed through donation from residents.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and approved as recommended.

TOWN ATTORNEY REVIEW

This resolution has been reviewed by the Town Attorney and approved as to legal form and sufficiency.

Attachments

cc: Jane Struder, Director of Finance
Adis Pedraza, Purchasing Manager
Robert Weber, Coastal Program Manager
Rick Asnani, PBIN
Michael Jenkins, Ph.D., P.E., Applied Technology & Management, Inc.

RESOLUTION NO. 225-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING BID NO. 2016-28 AND APPROVING A CONSTRUCTION CONTRACT TO COSTON MARINE SERVICES, INC. FOR THE CONSTRUCTION OF THE LAKE WORTH LAGOON WATERWAY ACCESS MAINTENANCE DREDGING, IN THE AMOUNT OF $1,063,500, AND ESTABLISHING A CONSTRUCTION PHASE BUDGET OF $1,200,000, CONTINGENT UPON THE NECESSARY PERMIT MODIFICATION AND UPON RECEIPT OF DONATIONS TO FULLY FUND THIS PROJECT.

* * * *

BE IT RESOLVED BY THE TOWN OF COUNCIL of the Town of Palm Beach, Palm Beach County, Florida as follows:

Section 1. The Town Council of the Town of Palm Beach hereby awards Bid No. 2016-28, and approves a construction contract to Coston Marine Services, Inc. in the amount of $1,063,500 for construction of the Lake Worth Lagoon Waterway Access Maintenance Dredging, and establishes a construction phase budget of $1,200,000, contingent upon the necessary permit modification and upon receipt of donations to fully fund this project. Absent the receipt of these funds, this award shall be null and void.

Section 2. The Town Manager is hereby authorized to execute this contract on behalf of the Town of Palm Beach.

Section 3. The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to effectuate the completion of the said project work, including any necessary change order work as recommended by the Public Works Director.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 13th day of December 2016.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Council President Pro Tem
	Bobbie Lindsay, Town Council Member
ATTEST:	Danielle H. Moore, Town Council Member
Susan A. Owens, MMC, Town Clerk	Margaret A. Zeidman, Town Council Member

TOWN OF PALM BEACH

BID NO. 2016-28
LAKE WORTH LAGOON WATERWAY
ACCESS MAINTENANCE DREDGING
PRELIMINARY TABULATION

			Vendor:	**Arbor Tree & Land, Inc**		**Brance Diversified Inc**		**Coston Marine Services, Inc**	
			Address:	5796 Western Way		15110 Normandy Blvd		228 Hibiscus St.	
				Lake Worth, FL 33463		Jacksonville, FL 32234		Jupiter, FL 33458	
			Telephone:	(561) 965-2198		(904) 742-7562		(561) 747-4382	
			Fax:	(561) 965-9777		(904) 748-0049		(561) 745-2387	
			Contact:	William Hodges		David May		Daniel Coston	
Line	**Description**	**Qty**	**Unit**	**Price per Unit**	**Total**	**Price per Unit**	**Total**	**Price per Unit**	**Total**
1	Mobilization and Demobilization	1	LS		$ 30,000.00		$ 100,000.00		$ 45,000.00
2	General Conditions	1	LS		$ 17,800.00		$ 80,000.00		$ 135,000.00
3	North Waterway Section Dredging and Placement	1,500	CY	$ 26.00	$ 39,000.00	$ 18.05	$ 27,075.00	$ 17.17	$ 25,755.00
4	North Waterway Section Dredging and Placement	10,500	CY	$ 26.00	$ 273,000.00	$ 18.05	$ 189,525.00	$ 17.17	$ 180,285.00
5	North Waterway Section Dredging and Placement	38,000	CY	$ 26.00	$ 988,000.00	$ 18.05	$ 685,900.00	$ 17.17	$ 652,460.00
6	North Waterway Section Dredging and Placement	800	ft	$ 1.50	$ 1,200.00	$ 12.00	$ 9,600.00	$ 31.25	$ 25,000.00
			Total	$	1,349,000.00	$	1,092,100.00	$	1,063,500.00

Bid Opened on March 29, 2016 at 2:00 PM
Opened by: Angel Lopez
Witnessed by: Dora Dixon

TOWN OF PALM BEACH

BID NO. 2016-28
LAKE WORTH LAGOON WATERWAY
ACCESS MAINTENANCE DREDGING
PRELIMINARY TABULATION

			Vendor:	**Custom Bulit Marine Construction, Inc**		**Pac Comm**		**The Vance Construction Co.**		**Waterfront Property Services, LLC dba Gator Dredging**			
			Address:	1288 SE Industrial Blvd		4226 SW 70th Court		225 Southern Blvd, Suite 201		13630 50th Way N			
				Port St.Lucie, FL 34952		Miami, FL 33155		West Palm Beach, FL 33405		Clearwater, FL 33760			
			Telephone:	(772) 333-2383		(305) 381-5157		(561) 855-8195		(727) 527-1300			
			Fax:	(772) 333-2390		(305) 357-7978		(561) 354-5978		(727) 527-1303			
			Contact:	Lee Corrigan		Emmanuel Pacin		James Vance III		William Coughlin III			
Line	**Description**	**Qty**	**Unit**	**Price per Unit**	**Total**	**Price per Unit**	**Total**	**Price per Unit**	**Total**	**Price per Unit**	**Total**		
1	Mobilization and Demobilization	1	LS		$ 169,775.00		$ 180,000.00		$ 172,000.00		$ 141,500.00		
2	General Conditions	1	LS		$ 200,348.09		$ 335,000.00		$ 67,200.00		$ 50,000.00		
3	North Waterway Section Dredging and Placement	1,500	CY	$ 18.21	$ 27,315.00	$ 68.00	$ 102,000.00	$ 28.50	$ 42,750.00	$ 30.00	$ 45,000.00		
4	North Waterway Section Dredging and Placement	10,500	CY	$ 15.61	$ 163,905.00	$ 32.00	$ 336,000.00	$ 28.50	$ 299,250.00	$ 23.42	$ 245,910.00		
5	North Waterway Section Dredging and Placement	38,000	CY	$ 14.31	$ 543,780.00	$ 11.00	$ 418,000.00	$ 28.50	$ 1,083,000.00	$ 18.00	$ 684,000.00		
6	North Waterway Section Dredging and Placement	800	ft	$ 7.33	$ 5,864.00	$ 27.00	$ 21,600.00	$ 19.75	$ 15,800.00	$ 20.00	$ 16,000.00		
			Total	$	1,110,987.09	$	1,392,600.00	$	1,680,000.00	$	1,182,410.00		
				Extendeded total as submitted was $27,319.11 (Unit price prevail)									
				Extendeded total as submitted was $163,921.16 (Unit price prevail)									
				Extendeded total as submitted was $543,794.18 (Unit price prevail)									
				Extendeded total as submitted was $5,867.41 (Unit price prevail)									
				Grand Total as submitted was $1,111,024.95 (Unit price prevail)									

Bid Opened on March 29, 2016 at 2:00 PM
Opened by: Angel Lopez
Witnessed by: Dora Dixon

NOV 09 2016
Town Manager's Office

November 7, 2016

Mr. Tom Bradford
Town Manager
Town of Palm Beach
P.O. Box 2029
Palm Beach, FL 33480

11/9/16
XC: MTC
HPC
R. Weber
File DPW

Dear Mr. Bradford,

On behalf of Palm Beach Intracoastal Neighbors (PBIN) and our board of directors, residents and staff I wish to thank you for your assistance with our dredging project.

I appreciate you agreeing to assist us by extending our project timeline into December and approving to ask the winning bidder to do the same. This extension gave us additional time to complete our fundraising.

This project is important to the residents of the Town that have been working on this over three years in a public-private partnership with the Town Council, staff and Public Works.

We look forward to presenting an update to you in late November and plan to come to the December Town Council to see final approval.

Sincerely,

John Scarpa
Chairman, PBIN

CC: Joel Pashcow, Secretary
Susan Miller, Treasurer
Rick Asnani, Executive Director

PBIN Mailing Address: 6917 Vista Parkway North, Suite 1, West Palm Beach, FL 33411
Phone: (561) 689-9787 Email: Info@PBINeighbors.com

TOWN OF PALM BEACH
Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Authorization for State Grant No. 16PB4 – Beach Management Agreement Physical Monitoring Reimbursement
Resolution No. 226-2016

DATE: November 28, 2016

STAFF RECOMMENDATION

Town staff recommends that Town Council approve Resolution No. 226-2016 authorizing the Town Council President to sign Florida Department of Environmental Protection (FDEP) Agreement 16PB4 for State cost sharing participation in the amount of $124,777.50 for Beach Management Agreement Physical Monitoring.

GENERAL INFORMATION

Each year, the Town provides a Local Government Funding Request (LGFR) to the FDEP for projects that are eligible for State cost sharing. The request includes project planning, permitting, construction, and monitoring tasks. Since the Beach Management Agreement (BMA) was signed in September 2013, FDEP has cost shared $459,117.92 for various monitoring efforts as required through the BMA.

FDEP has identified additional State funds in the amount of $124,777.50 to be utilized for partial reimbursement of eligible 2015 and 2016 physical monitoring tasks. FDEP will be entering into a new grant agreement, 16PB4, for the physical monitoring tasks.

FUNDING/FISCAL IMPACT

State funds will reimburse the Town an additional $124,777.50 for partial costs incurred through the 2015 and 2016 annual Physical Monitoring efforts, as required through the FDEP Beach Management Agreement.

TOWN ATTORNEY REVIEW

This resolution has been reviewed and approved by the Town Attorney for legal form and sufficiency. In addition, the Town Attorney will review the FDEP contract and approve it for legal form and sufficiency prior to execution.

Attachments

cc: Shore Protection Board
Jane Struder, Director of Finance
Robert Weber, Coastal Program Manager

RESOLUTION NO. 226-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING STATE GRANT OF FDEP CONTRACT NO. 16PB4, BETWEEN THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE TOWN OF PALM BEACH UNDER THE FLORIDA BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM FOR THE BEACH MANAGEMENT AGREEMENT, SPECIFICALLY PHYSICAL MONITORING REIMBURSEMENT, IN THE AMOUNT OF $124,777.50, AND AUTHORIZING THE TOWN COUNCIL PRESIDENT TO EXECUTE SAME ON BEHALF OF THE TOWN.

* * * * *

WHEREAS, the Town of Palm Beach (Town) and the Florida Department of Environmental Protection (FDEP), have worked cooperatively by executing cost-sharing agreements related to implementing the Town's Comprehensive Coastal Management Plan; and

WHEREAS, the FDEP has agreed to a partial cost-share on eligible project elements related to Biological Monitoring.

NOW, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

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

Section 2. The Town Council hereby authorizes the State of Florida Department of Environmental Protection (FDEP) Contract No. 16PB4, to partially reimburse the Town for Physical Monitoring costs in the amount of $124,777.50.

Section 3. The Town Council President is hereby authorized to execute FDEP Contract No. 16PB4, on behalf of the Town.

Section 5. This Resolution shall be provided to the FDEP, at 3900 Commonwealth Blvd., Mail Station 3601, Tallahassee, Florida 32399-3000, in accompaniment with an executed original of FDEP Contract No. 14PB7, Amendment No. 4.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 13th day of December 2016.

_____	_____
Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	_____
	Richard M. Kleid, Council President Pro Tem
	_____
	Bobbie Lindsay, Town Council Member
	_____
ATTEST:	Danielle H. Moore, Town Council Member
_____	_____
Susan A. Owens, MMC, Town Clerk	Margaret A. Zeidman, Town Council Member

AGREEMENT No: 16PB4

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER RESTORATION ASSISTANCE
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
STATE OF FLORIDA
GRANT AGREEMENT FOR
LAKE WORTH INLET MANAGEMENT PLAN IMPLEMENTATION

THIS AGREEMENT is entered into between the FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (hereinafter referred to as the "DEPARTMENT" or "DEP"), whose address is 3900 Commonwealth Boulevard, MS 3601, Tallahassee, Florida 32399, and the TOWN OF PALM BEACH, a local government (hereinafter referred to as the "LOCAL SPONSOR"), whose address is Post Office Box 2029, Palm Beach, Florida, 33480-2029, for the project described herein.

WHEREAS, the DEPARTMENT, pursuant to Section 161.091 - Section 161.161, Florida Statutes, provides financial assistance to eligible governmental entities for beach erosion control and inlet management activities under the Florida Beach Management Funding Assistance Program; and

WHEREAS, pursuant to 62B-36.005(2)(d), Florida Administrative Code, the LOCAL SPONSOR has resolved to support and serve as local sponsor, has demonstrated a financial commitment, and has demonstrated the ability to perform the tasks associated with the for the beach erosion control project as described herein; and,

WHEREAS, pursuant to s. 161.143(5)(c), Florida Statutes, the DEPARTMENT shall make available all statewide beach management funds that remain unencumbered or are allocated to non-specific activities for projects on legislatively approved inlet management project lists; and,

WHEREAS, excess FY 2015-16 funds remain unencumbered in the amount of $124,777.50; and,

WHEREAS, the Lake Worth Inlet Management Plan Implementation project was the next unfunded project on the FY 2016-17 Local Government Funding Request prioritized list of Inlet Management Projects;

NOW, THEREFORE, in consideration of the mutual benefits to be derived here from, the DEPARTMENT and the LOCAL SPONSOR do hereby agree as follows:

1. The DEPARTMENT does hereby retain the LOCAL SPONSOR to implement the inlet management project known as the **LAKE WORTH INLET MANAGEMENT PLAN IMPLEMENTATION**, (hereafter referred to as the PROJECT), as defined in **Attachment A (Grant Work Plan)**, attached hereto and made a part hereof. The LOCAL SPONSOR does hereby agree to perform such services as are necessary to implement the PROJECT in accordance with the terms and conditions set forth in this Agreement, and all attachments and exhibits named herein that are attached hereto and incorporated by reference. For purposes of this Agreement, the terms "Grantee", "Recipient" and "Local Sponsor" are used interchangeably.

2. This Agreement shall begin on the last date executed and end on **July 1, 2018**. Pursuant to Section 161.101 (18), Florida Statutes (F.S.), and 62B-36.009, Florida Administrative Code (F.A.C.), work conducted on this PROJECT by the LOCAL SPONSOR or its subcontractor and approved by the DEPARTMENT beginning on or after July 1, 2015, may be eligible for reimbursement by the DEPARTMENT.

3. The LOCAL SPONSOR shall implement the PROJECT and complete said PROJECT upon the terms and conditions set forth in this Agreement and all present and future requisite authorizations and environmental permits. The PROJECT consists of permit-required physical monitoring surveys within the boundaries of the Beach Management Agreement (BMA) permit.

4. For tasks specified in Table 1 in Attachment A, the LOCAL SPONSOR shall develop a detailed Scope of Work, which shall include a narrative description of each task, a corresponding detailed budget for each deliverable under that task and a schedule for completion of each task and deliverable. Each Scope of Work shall be approved by the DEPARTMENT as to content, deliverables, and schedule prior to incorporating into Attachment A, as an amendment or change order to this Agreement pursuant to paragraph 39.

5. The DEPARTMENT has determined that 100 percent of the non-federal PROJECT cost is eligible for state cost sharing. Therefore, the DEPARTMENT's financial obligation shall not exceed the sum of $124,777.50 for this PROJECT or up to 75 percent of the non-federal PROJECT cost, if applicable, for the specific eligible PROJECT items listed, whichever is less. Any indicated federal cost sharing percentage is an estimate and shall not affect the cost sharing percentages of the non-federal share.

6. The DEPARTMENT and the LOCAL SPONSOR agree that any and all activities associated with the PROJECT that are not shown in the Grant Work Plan in Attachment A are the responsibility of the LOCAL SPONSOR and are not a part of this Agreement. The LOCAL SPONSOR agrees that any costs for the specific eligible PROJECT tasks that exceed the estimated PROJECT costs for that task shall be the responsibility of the LOCAL SPONSOR. Any modifications to the estimated TOTAL PROJECT COSTS shown in Attachment A, Table 1, shall be provided through formal amendment to this Agreement.

7. All notices and written communication between the parties shall be sent by electronic mail, United States Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient. Any notices between the parties shall be delivered to the contact person at the addresses below:

<u>LOCAL SPONSOR</u>
Robert Weber
Town of Palm Beach
Post Office Box 2029
Palm Beach, Florida, 33480-2029
(561) 838-5440
rweber@townofpalmbeach.com

<u>DEPARTMENT</u>
Dena VanLandingham, Program Grant Administrator
Department of Environmental Protection
Beach Management Funding Assistance Program
3900 Commonwealth Blvd, MS 3601
Tallahassee, Florida 32399
(850) 245-2970
Dena.Vanlandingham@dep.state.fl.us

Any changes to the contact information for DEPARTMENT personnel shown above or in paragraph 8 must be reduced to writing in the form of an email notification from the DEPARTMENT.

8. The LOCAL SPONSOR's Project Manager for all matters is Robert Weber, Phone: (561) 838-5440. The DEPARTMENT's Project Manager for all technical matters is Rob Buda, Phone: (850) 245-2975 and the DEPARTMENT's Program Grant Administrator for all administrative matters is Dena VanLandingham, Phone: (850) 245-2970.

9. The LOCAL SPONSOR shall perform as an independent contractor and not as an agent, representative, or employee of the DEPARTMENT.

10. The LOCAL SPONSOR shall perform the services in a proper and satisfactory manner as determined by the DEPARTMENT.

11. Any and all equipment, products or materials necessary to perform these services, or requirements as further stated herein, shall be supplied by the LOCAL SPONSOR.

12. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature of the State of Florida and subject to the release of funds appropriated to the DEPARTMENT. The parties hereto understand that this Agreement is not a commitment of future appropriations. Authorization for continuation and completion of work and payment associated therewith may be rescinded with proper notice at the discretion of the DEPARTMENT if Legislative appropriations are reduced or eliminated.

13. Paragraph reserved.

14. Paragraph reserved.

15. As consideration for the satisfactory completion of the eligible work identified in **Attachment A** and approval of the work by the DEPARTMENT, the DEPARTMENT agrees to compensate the LOCAL SPONSOR on a cost-reimbursement basis. All requests for reimbursement shall be made in accordance with **Attachment B (Contract Payment Requirements)**, attached hereto and made a part hereof, and State guidelines for allowable costs found in the Department of Financial Services' Reference Guide for State Expenditures at http://www.fldfs.com/aadir/reference%5Fguide. The LOCAL SPONSOR shall submit a request for reimbursement of funds on the forms provided as **Attachment C (Request for Payment, PARTS I – IV)**, attached hereto and made a part hereof. These forms are to be submitted upon completion of deliverables identified in the approved Grant Work Plan. These forms shall be certified as accurate by the LOCAL SPONSOR's Project Manager and the LOCAL SPONSOR's Project Financial Officer and submitted to the DEPARTMENT as a payment request. All bills for amounts due under this Agreement shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. All requests for the reimbursement of travel expenses shall be based on the travel limits established in Section 112.061, F.S. A final invoice shall be due no later than thirty (30) calendar days following the completion date of this Agreement. The DEPARTMENT will not release funds for construction activities until such time as all requisite authorizations, environmental permits, and variances, including those required pursuant to Chapters 161, 253, 258 and 373, F.S., have been obtained. The final payment will not be processed until the match requirement has been met.

16. The DEPARTMENT's Project Manager shall have thirty (30) calendar days after receipt of each request for payment to determine that the work has been accomplished in accordance with the terms and conditions of this Agreement prior to approving the request for payment. It is understood and agreed that any request for payment that requires the DEPARTMENT to request additional information of the LOCAL SPONSOR shall stop time for the DEPARTMENT's review period and will reset when such information is received as requested by the DEPARTMENT. Upon approval of the request for payment, the DEPARTMENT shall disburse the funds due the LOCAL SPONSOR. Retainage of 10% of the disbursement may be held on account for each deliverable in

the disbursement that represents a portion of the complete subtask. The cumulative amount retained for each eligible deliverable item shall be disbursed to the LOCAL SPONSOR after the DEPARTMENT has certified that the LOCAL SPONSOR has complied with all the terms and conditions of the Agreement. The DEPARTMENT will periodically request proof of a transaction (invoice, payroll register, etc.) to evaluate the appropriateness of costs to the Agreement pursuant to State and Federal guidelines (including cost allocation guidelines), as appropriate. When requested, this information must be provided within thirty (30) calendar days of such request. If applicable, the LOCAL SPONSOR may also be required to submit a cost allocation plan to the DEPARTMENT in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits).

17. For the duration of this Agreement, the LOCAL SPONSOR shall submit to the DEPARTMENT's Project Manager on a quarterly basis, **Attachment C (Project Progress Report, Part III** of the **Request for Payment** package**),** as updates to the PROJECT schedule, no later than thirty (30) calendar days following the completion date of the quarterly reporting period in which the PROJECT is underway. The term "quarterly" shall reflect the calendar quarters ending March 31, June 30, September 30, and December 31. Progress reports are to be submitted electronically in Microsoft Word ® (.doc) or Adobe Acrobat ® (.pdf). Information provided shall be the best available and shall represent the most accurate forecast of future events. Specific information to be included in the quarterly report: tasks to be completed, start and finish dates, task duration, and actual start and finish dates with actual task duration. In cases where no reimbursement is sought for a given quarter, all applicable portions of the progress report must still be completed and submitted. The timely submittal of these quarterly reports will result in points for the ranking of future projects under the Beach Management Funding Assistance Program (PROGRAM).

18. Upon completion of a task or the PROJECT, the LOCAL SPONSOR shall submit to the DEPARTMENT a certification of completion, attached hereto as **Attachment D (Project Completion Certification)**. A final PROJECT certification inspection shall be made by the DEPARTMENT within sixty (60) calendar days after the PROJECT is certified complete by the LOCAL SPONSOR.

19. The LOCAL SPONSOR shall, at a minimum, comply with monetary limits for competitive acquisition of both materials and services as required by Chapters 287 and 255, F.S., as applicable, and Subsection 161.101(17), F.S. which are expressly made a part of this Agreement and incorporated herein by reference as if fully set forth.

    A. Pursuant to Section 255.0991, F.S., for a competitive solicitation for construction services in which 50 percent or more of the cost will be paid from state-appropriated funds which have been appropriated at the time of the competitive solicitation, a state, college, county, municipality, school district, or other political subdivision of the state may not use a local ordinance or regulation that provides a preference based upon:

        1) The contractor's maintaining an office or place of business within a particular local jurisdiction;
        2) The contractor's hiring employees or subcontractors from within a particular local jurisdiction; or
        3) The contractor's prior payment of local taxes, assessments, or duties within a particular local jurisdiction.

    B. For any competitive solicitation that meets the criteria in Paragraph A., a state college, county, municipality, school district, or other political subdivision of the state *shall disclose in the solicitation document* that any applicable local ordinance or regulation does not include any preference that is prohibited by Paragraph A.

20. The applicable provisions of Chapter 161, F.S., entitled "Dennis L. Jones Beach and Shore Preservation Act", and any rules promulgated therefrom, are expressly made a part of this Agreement and are incorporated herein by reference as if fully set forth.

21. Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, F.S. Further, nothing herein shall be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract or this Agreement.

22. A. The DEPARTMENT may terminate this Agreement at any time in the event of the failure of the LOCAL SPONSOR to fulfill any of its obligations under this Agreement. Prior to termination, the DEPARTMENT shall provide ten (10) calendar days' written notice of its intent to terminate and shall provide the LOCAL SPONSOR an opportunity to consult with the DEPARTMENT regarding the reason(s) for termination.

B. The DEPARTMENT may terminate this Agreement without cause and for its convenience by giving thirty (30) calendar days' written notice to the LOCAL SPONSOR. Notice shall be sufficient if delivered pursuant to paragraph 7 as set forth in this Agreement.

C. The DEPARTMENT may terminate this Agreement in the event that all tasks identified in **Attachment A, Grant Work Plan** have been certified complete and approved by the DEPARTMENT, and all eligible reimbursements have been provided to the LOCAL SPONSOR. Prior to termination, the DEPARTMENT shall provide ten (10) calendar days' written notice of its intent to terminate and shall provide the LOCAL SPONSOR an opportunity to consult with the DEPARTMENT to verify that all eligible items have been completed and reimbursed.

23. No payment will be made for deliverables deemed unsatisfactory by the DEPARTMENT. In the event that a deliverable is deemed unsatisfactory by the DEPARTMENT, the LOCAL SPONSOR shall perform the services again as needed for submittal of a satisfactory deliverable, at no additional cost to the DEPARTMENT, within ten (10) calendar days of being notified of the unsatisfactory deliverable. If a satisfactory deliverable is not submitted within the specified timeframe, the DEPARTMENT may, in its sole discretion, either: 1) terminate this Agreement for failure to perform, or 2) the DEPARTMENT'S Project Manager may, by letter specifying the failure of performance under this Agreement, request that a proposed Corrective Action Plan (CAP) be submitted by the LOCAL SPONSOR to the DEPARTMENT. All CAPs must be able to be implemented and performed in no more than sixty (60) calendar days.

A. A CAP shall be submitted within ten (10) calendar days of the date of the letter request from the DEPARTMENT. The CAP shall be sent to the DEPARTMENT's Project Manager for review and approval. Within ten (10) calendar days of receipt of a CAP, the DEPARTMENT shall notify the LOCAL SPONSOR in writing whether the CAP proposed has been accepted. If the CAP is not accepted, the LOCAL SPONSOR shall have ten (10) calendar days from receipt of the DEPARTMENT letter rejecting the proposal to submit a revised proposed CAP. Failure to obtain the DEPARTMENT approval of a CAP as specified above shall result in the DEPARTMENT'S termination of this Agreement for cause as authorized in this Agreement.

B. Upon the DEPARTMENT'S notice of acceptance of a proposed CAP, the LOCAL SPONSOR shall have ten (10) calendar days to commence implementation of the accepted plan. Acceptance of the proposed CAP by the DEPARTMENT does not relieve the LOCAL SPONSOR of any of its obligations under the Agreement. In the event the CAP fails to

correct or eliminate performance deficiencies by LOCAL SPONSOR, the DEPARTMENT shall retain the right to require additional or further remedial steps, or to terminate this Agreement for failure to perform. No actions approved by the DEPARTMENT or steps taken by the LOCAL SPONSOR shall preclude the DEPARTMENT from subsequently asserting any deficiencies in performance. The LOCAL SPONSOR shall continue to implement the CAP until all deficiencies are corrected. Reports on the progress of the CAP will be made to the DEPARTMENT as requested by the DEPARTMENT's Project Manager.

C. Failure to respond to the DEPARTMENT's request for a CAP or failure to correct a deficiency in the performance of the Agreement as specified by the DEPARTMENT may result in termination of this Agreement.

The remedies set forth above are not exclusive and the DEPARTMENT reserves the right to exercise other remedies in addition to or in lieu of those set forth above, as permitted by this Agreement.

24. Records made or received in conjunction with this Agreement are public records. This Agreement may be unilaterally canceled by the DEPARTMENT for unlawful refusal by the LOCAL SPONSOR to allow public access to all documents, papers, letters, or other material made or received by the LOCAL SPONSOR in conjunction with this Agreement and subject to disclosure under Chapter 119, F.S. and Section 24(a) of Article I of the State Constitution.

IF THE GRANTEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE GRANTEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE DEPARTMENT'S CUSTODIAN OF PUBLIC RECORDS by telephone at (850) 245-2118, by email at ombudsman@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, Mail Slot 49
Tallahassee, FL 32399

25. A. The LOCAL SPONSOR shall maintain books, records and documents directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles consistently applied. The DEPARTMENT, the State, or their authorized representatives shall have access to such records for audit purposes during the term of this Agreement and for five (5) years following the completion date of this Agreement. In the event any work is subcontracted, the LOCAL SPONSOR shall similarly require each subcontractor to maintain and allow access to such records for audit purposes.

B. The LOCAL SPONSOR understands its duty, pursuant to Section 20.055(5), F.S., to cooperate with the DEPARTMENT's Inspector General in any investigation, audit, inspection, review, or hearing. The LOCAL SPONSOR will comply with this duty and ensure that its subcontracts issued under this Grant, if any, impose this requirement, in writing, on its subcontractors.

26. A. In addition to the requirements of the preceding paragraph, the LOCAL SPONSOR shall comply with the applicable provisions contained in **Attachment E (Special Audit Requirements)**, attached hereto and made a part hereof. **Exhibit 1 to Attachment E** summarizes the funding sources supporting the Agreement for purposes of assisting the LOCAL SPONSOR in complying with the requirements of **Attachment E**. A revised copy of **Exhibit 1** must be provided to the LOCAL SPONSOR for each amendment that authorizes a funding increase or decrease. If the LOCAL SPONSOR fails to receive a revised copy of Exhibit 1, the LOCAL SPONSOR shall notify the DEPARTMENT's Grant Administrator at 850/245-2970, to request a copy of the updated information.

B. The LOCAL SPONSOR is hereby advised that the Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. The LOCAL SPONSOR shall consider the type of financial assistance (federal and/or state) identified in **Attachment E, Exhibit 1** when making its determination. For federal financial assistance, the LOCAL SPONSOR shall utilize the guidance provided under U.S. Office of Management and Budget (OMB) Circular A-133, Subpart B, Section ___.210 for determining whether the relationship represents that of a subrecipient or vendor. For state financial assistance, the LOCAL SPONSOR shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website:

https://apps.fldfs.com/fsaa

The LOCAL SPONSOR should confer with its chief financial officer, or audit director or contact the DEPARTMENT for assistance with questions pertaining to the applicability of these requirements.

27. In accordance with Section 216.347, F.S., the LOCAL SPONSOR is hereby prohibited from using funds provided by this Agreement for the purposes of lobbying the Legislature, the judicial branch or a state agency. Further, in accordance with Section 11.062, F.S., no state funds, exclusive of salaries, travel expenses, and per diem, appropriated to, or otherwise available for use by, any executive, judicial, or quasi-judicial department shall be used by any state employee or other person for lobbying purposes.

28. The LOCAL SPONSOR covenants that it presently has no interest and shall not acquire any interest that would conflict in any manner or degree with the performance of services required.

29. This Agreement has been delivered in the State of Florida and shall be construed in accordance with the laws of Florida. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. If any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. Any action hereon or in connection herewith shall be brought in Leon County, Florida.

30. No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by either party under this Agreement, shall impair any such right, power or remedy of either party. Nor shall such delay or failure be construed as a waiver of any such breach or default, or any similar breach or default thereafter.

31. To the extent required by law, the LOCAL SPONSOR will be self-insured against, or will secure and maintain during the life of this Agreement, Workers' Compensation Insurance for all of its employees connected with the work of this PROJECT. In the case any work is subcontracted, the LOCAL SPONSOR shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the subcontractor's employees unless such employees are covered by the protection afforded by the LOCAL SPONSOR. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation Law, Chapter 440, F.S. In case any class of employees engaged in hazardous work under this Agreement is not protected under Workers' Compensation statutes, the LOCAL SPONSOR shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the DEPARTMENT, for the protection of its employees not otherwise protected.

32. To the extent required by law, the Grantee will secure and maintain insurance coverages in the amounts and categories specified below, during the life of this Agreement. The Grantee shall provide documentation of any private insurance or self-insurance, as may be applicable to governmental entities, to the Department's Grant Manager *prior to* performance of any work pursuant to this Agreement.

A. The Grantee shall secure and maintain Workers' Compensation Insurance for all of its employees connected with the work of this project and, in case any work is subcontracted, the Grantee shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of its employees unless such employees are covered by the protection afforded by the Grantee. Any self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law. In case any class of employees engaged in hazardous work under this Agreement is not protected under Workers' Compensation statutes, the Grantee shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Department, for the protection of its employees not otherwise protected.

B. The Grantee shall secure and maintain, and ensure that any of its subcontractors similarly secure and maintain, Commercial General Liability insurance including bodily injury and property damage. The minimum limits of liability shall be $200,000 each individual's claim and $300,000 each occurrence. This insurance will provide coverage for all claims that may arise from the services and/or operations completed under this Agreement, whether such services and/or operations are by the Grantee or any of its subcontractors. Such insurance shall include the State of Florida, the Department, and the State of Florida Board of Trustees of the Internal Improvement Trust Fund, as Additional Insureds for the entire length of the Agreement.

C. The Grantee shall secure and maintain, and ensure that any of its subcontractors similarly secure and maintain, Commercial Automobile Liability insurance for all claims which may arise from the services and/or operations under this Agreement, whether such services and/or operations are by the Grantee or any of its subcontractors. Such insurance shall include the State of Florida, the Department, and the State of Florida Board of Trustees of the Internal Improvement Trust Fund, as Additional Insureds for the entire length of the Agreement. The minimum limits of liability shall be as follows:

$300,000	Automobile Liability Combined Single Limit for Company-Owned Vehicles, if applicable
$300,000	Hired and Non-owned Automobile Liability Coverage

D. If any work proceeds over or adjacent to water, the Grantee shall secure and maintain, as applicable, any other type of required insurance, including but not limited to Jones Act, Longshoreman's and Harbormaster's, or the inclusion of any applicable rider to worker's compensation insurance, and any necessary watercraft insurance, with limits of not less than $300,000 each. In addition, the Grantee shall include these requirements in any sub grant or subcontract issued for the performance of the work specified in **Attachment A, Grant Work Plan.** Questions concerning required coverage should be directed to the U.S. Department of Labor (http://www.dol.gov/owcp/dlhwc/lscontac.htm) or to the parties' insurance carriers.

E. All insurance policies shall be with insurers licensed or eligible to do business in the State of Florida. The Grantee's current certificate of insurance shall contain a provision that the insurance will not be canceled for any reason except after thirty (30) calendar days' written notice (with the exception of non-payment of premium which requires a 10-calendar-day notice) to the Department's Procurement Administrator. In addition, the Grantee shall include these requirements in any sub grant or subcontract issued for the performance of the work specified in **Attachment A, Grant Work Plan.**

F. If the Grantee is a Florida governmental entity that is self-funded for liability insurance, this paragraph 32.F. supersedes 32.A. through E., above.

Grantee warrants and represents that it is self-funded for liability insurance, appropriate and allowable under Florida law, and that such self-insurance offers protection applicable to the Grantee's officers, employees, servants and agents while acting within the scope of their employment with the Grantee.

33. This Agreement is neither intended nor shall it be construed to grant any rights, privileges or interest in any third party without the mutual written agreement of the parties hereto.

34. A. No person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.

B. An entity or affiliate who has been placed on the discriminatory vendor list pursuant to section 287.134, F.S., may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity. The Florida Department of Management Services (DMS) is responsible for maintaining the discriminatory vendor list and posts the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida DMS, Office of Supplier Diversity at (850) 487-0915.

35. A. The LOCAL SPONSOR is prohibited from commingling funds on either a program-by-program or a project-by-project basis. Funds specifically budgeted and/or received for one project may not be used to support another project. Funds from each agency must be accounted for separately. Where a LOCAL SPONSOR's, or subrecipient's, accounting system cannot comply with this requirement, the LOCAL SPONSOR, or subrecipient, shall establish a system to provide adequate fund accountability for each project it has been awarded.

B. If the DEPARTMENT finds that these funds have been commingled, the DEPARTMENT shall have the right to demand a refund, either in whole or in part, of the funds provided to the LOCAL SPONSOR under this Agreement for non-compliance with the material terms of this Agreement. The LOCAL SPONSOR, upon such written notification from the DEPARTMENT shall refund, and shall forthwith pay to the DEPARTMENT, the amount of money demanded by the DEPARTMENT. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the original payment(s) are received from the DEPARTMENT by the LOCAL SPONSOR to the date repayment is made by the LOCAL SPONSOR to the DEPARTMENT.

C. In the event that the LOCAL SPONSOR recovers costs, incurred under this Agreement and reimbursed by the DEPARTMENT, from another source(s), the LOCAL SPONSOR shall reimburse the DEPARTMENT for all recovered funds originally provided under this Agreement. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the payment(s) are recovered by the LOCAL SPONSOR to the date repayment is made to the DEPARTMENT by the LOCAL SPONSOR.

36. A. The LOCAL SPONSOR shall not subcontract, assign, or transfer any work under this Agreement without the prior written consent of the DEPARTMENT's Project Manager. Regardless of any subcontract, the LOCAL SPONSOR is ultimately responsible for all work to be performed under this Agreement. The LOCAL SPONSOR shall submit a copy of the executed subcontract to the DEPARTMENT within ten (10) calendar days after execution. The LOCAL SPONSOR agrees to be responsible for the fulfillment of all work elements included in any subcontract consented to by the DEPARTMENT and agrees to be responsible for the payment of all monies due under any subcontract. It is understood and agreed by the LOCAL SPONSOR that the DEPARTMENT shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and that the LOCAL SPONSOR shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract. The LOCAL SPONSOR will be responsible for auditing all travel reimbursement expenses based on the travel limits established in Section 112.061, F.S.

1. The LOCAL SPONSOR may award, on a competitive basis, fixed price subcontracts to consultants/contractors in performing the work described in **Attachment A**. Invoices submitted to the DEPARTMENT for fixed price subcontracted activities shall be supported with a copy of the subcontractor's invoice and a copy of the tabulation form for the competitive procurement process (Invitation to Bid or Request for Proposals) resulting in the fixed price subcontract.

2. The LOCAL SPONSOR may request approval from the DEPARTMENT to award a fixed price subcontract resulting from procurement methods other than those identified in the paragraph above. In this instance, the LOCAL SPONSOR shall request the advance written approval from the DEPARTMENT's Project Manager of the fixed price negotiated by the LOCAL SPONSOR. The letter of request shall be supported by a detailed budget and Scope of Services to be performed by the subcontractor. Upon receipt of the DEPARTMENT Project Manager's approval of the fixed price amount, the LOCAL SPONSOR may proceed in finalizing the fixed price subcontract.

3. All subcontracts are subject to the provisions of this Agreement which affect subcontracting activities.

B. The DEPARTMENT supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State of Florida. A list of Minority Owned firms that could be offered subcontracting opportunities may be obtained by contacting the Office of Supplier Diversity at (850) 487-0915.

37. When applicable, the LOCAL SPONSOR shall also notify the DEPARTMENT's Project Manager of the selection of an intended subcontractor for a construction task and provide a tabulation list from which the intended subcontractor was selected. The LOCAL SPONSOR shall also provide the bid form for the successful bidder. The LOCAL SPONSOR shall select eligible consultants licensed to offer services in the State of Florida for studies, design and permitting and monitoring tasks in accordance with Chapter 287, F. S. Upon the DEPARTMENT's request, the LOCAL SPONSOR shall furnish copies of the respective solicitation documents. Solicitation documents include, but are not limited to, the solicitation and responses thereto, the bid tabulations, and the resulting contract(s), including a detailed Scope of Work.

38. The purchase of non-expendable equipment costing $1,000 or more is not authorized under the terms and conditions of this Agreement.

39. The DEPARTMENT may at any time, by written order designated to be a change order, make any minor modifications, as described below. All change orders are subject to the mutual agreement of both parties as evidenced in writing. Any change, which causes an increase or decrease in the LOCAL SPONSOR's cost or time, shall require formal amendment to this Agreement. Minor modifications which will be handled with a change order include notification of a modification of deliverable due dates when such change does not involve an extension of contract, and modification to the Grant Work Plan when such modifications would not involve a decrease/increase in total cost of the Agreement or an extension of the performance period of this Agreement.

40. The LOCAL SPONSOR shall comply with all applicable federal, state and local rules and regulations in providing services to the DEPARTMENT under this Agreement. The LOCAL SPONSOR acknowledges that this requirement includes, but is not limited to, compliance with all applicable federal, state and local health and safety rules and regulations. The LOCAL SPONSOR further agrees to include this provision in all subcontracts issued as a result of this Agreement.

41. The LOCAL SPONSOR shall obtain from each owner of upland property, which is adjacent to the erosion control PROJECT, a sufficient property interest in order to construct, maintain, monitor, and repair the erosion control PROJECT prior to entering each individual property to conduct such activities.

42. If a force majeure occurs that causes delays or the reasonable likelihood of delay in the fulfillment of the requirements of this Agreement, the LOCAL SPONSOR shall promptly notify the DEPARTMENT orally. Within seven (7) calendar days, the LOCAL SPONSOR shall notify the DEPARTMENT in writing of the anticipated length and cause of the delay, the measures taken or to be taken to minimize the delay and the LOCAL SPONSOR's intended timetable for implementation of such measures. If the parties agree that the delay or anticipated delay was caused, or will be caused by a force majeure, the DEPARTMENT may, at its discretion, extend the time for performance under this Agreement for a period of time equal to the delay resulting from the force majeure upon execution of an amendment to this Agreement. Such agreement shall be confirmed by letter from the DEPARTMENT accepting, or if necessary, modifying the extension. A force majeure shall be an act of God, strike, lockout, or other industrial disturbance, act of the public enemy, war, blockade, public riot, lightning, fire, flood, explosion, failure to receive timely necessary third party approvals through no fault of the LOCAL SPONSOR, and any other cause,

whether of the kind specifically enumerated herein or otherwise, that is not reasonably within the control of the LOCAL SPONSOR and/or the DEPARTMENT. The LOCAL SPONSOR is responsible for the performance of all services issued under this Agreement. Failure to perform by the LOCAL SPONSOR's consultant(s) or subcontractor(s) shall not constitute a force majeure event.

43. This Agreement and any Amendments or Change Orders to this Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of an electronic data file, such as Adobe Acrobat ® (.pdf), such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof, pursuant to s. 668.004, F.S.

44. State and federal monitoring required by permit is eligible for reimbursement pursuant to program statute and rule. In order to comply with Florida Auditor General report 2014-064 regarding conflicts of interest and to be consistent with s. 287.057(17)(a)(1), F.S., all monitoring data and statistical analysis must be provided directly and concurrently from the monitor to the DEPARTMENT/LOCAL SPONSOR/permittee/engineering consultant. The LOCAL SPONSOR's engineering consultant must provide an adequate mitigation plan, consistent with s. 287.057(17)(a)(1), F.S., including a description of organizational, physical, and electronic barriers to be used by the LOCAL SPONSOR's engineering consultant, that addresses conflicts of interest when contracting multi-disciplinary firms for PROJECT engineering and post-construction environmental monitoring services, or when the PROJECT engineering consultant firm subcontracts for post-construction environmental monitoring. Environmental monitoring includes hardbottom, seagrass, and mangrove resources. DEPARTMENT approval of the mitigation plan will be required prior to execution of this Agreement. If at any time the LOCAL SPONSOR and/or its engineering consultant fails to comply with this provision, the LOCAL SPONSOR agrees to reimburse the DEPARTMENT all funds provided by the DEPARTMENT associated with environmental monitoring for the PROJECT listed in Attachment A.

45. In executing this Agreement, the Local Sponsor (or affiliate, subcontractor) certifies that it is not listed on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and/or Scrutinized Companies with Activities in Israel List (eff. 10.1.2016), created pursuant to section 215.473, F.S. Pursuant to subsection 287.135(5), F.S., the Local Sponsor (or affiliate, subcontractor) agrees the Department may immediately terminate this Agreement for cause if the Local Sponsor (or affiliate, subcontractor) is found to have submitted a false certification or if the Local Sponsor (or affiliate, subcontractor) is placed on the Scrutinized Companies list during the term of the Agreement.

46. This Agreement represents the entire agreement of the parties. Any alterations, variations, changes, modifications or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Agreement, unless otherwise provided herein.

REMAINDER OF PAGE LEFT INTENTIONALLY BLANK.

IN WITNESS WHEREOF, the undersigned have signed and executed this Agreement on the respective dates under their signatures:

TOWN OF PALM BEACH

By:_____
Title: Town Council President

_____
Print Name and Title

Date:_____

FEID No. 59-6000402

_____
Local Sponsor's Attorney (if necessary)

_____
Print Name and Title

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

By:_____
Department of Environmental Protection
Secretary or designee

_____
Print Designee Name and Title

Date:_____

_____
Dena VanLandingham
Program Grant Administrator

_____
Rob Buda,
DEP Project Manager

*If someone other than the Town Council President signs this Agreement, a resolution, statement or other documentation authorizing that person to sign the Agreement on behalf of the County/City must accompany the Agreement.

List of Attachments/Exhibits included as part of this Agreement:

Specify Type	Letter/ Number	Description (include number of pages)
Attachment	A	Grant Work Plan (3 pages)
Attachment	B	Contract Payment Requirements (1 page)
Attachment	C	Request for Payment, Parts I - IV (4 pages)
Attachment	D	Project Completion Certification (1 page)
Attachment	E	Special Audit Requirements (5 pages)

ATTACHMENT A
GRANT WORK PLAN

Project Title: Lake Worth Inlet Management Plan Implementation.

Project Location: The Project is located between DEP reference monuments R75 and R78 along the Atlantic Ocean in Palm Beach County, Florida.

Project Background: The Project consists of the implementation of the Lake Worth IMP which includes strategies to mitigate beach erosion caused by the inlet. Federal maintenance dredging occurs in the shipping channel every one to two years with sand being placed on the beaches to the south of the inlet. A sand transfer plant is operated as needed on the northern jetty and pumps sand to a fixed discharge location on the beach south of the inlet.

Project Description: The Project includes physical monitoring on segments of shoreline managed under the Beach Management Agreement (BMA) permit.

The Project shall be conducted in accordance with the terms and conditions set forth under this Agreement, all applicable Department permits and the eligible Project task items established below. All data collection and processing, and the resulting product deliverables, shall comply with the standards and technical specifications contained in the Department's Monitoring Standards for Beach Erosion Control Projects (2014) and all associated state and federal permits, unless otherwise specified in the approved Scope of Work for an eligible Project item. The monitoring standards may be found at:

http://www.dep.state.fl.us/beaches/publications/pdf/PhysicalMonitoringStandards.pdf.

One (1) electronic copy of all written reports developed under this Agreement shall be forwarded to the Department, unless otherwise specified.

Acronyms:

CCCL – Coastal Construction Control Line
DEP or FDEP – Florida Department of Environmental Protection
DMMA – Dredged Material Management Area
FEMA – Federal Emergency Management Agency
FWC – Florida Fish and Wildlife Conservation Commission
FWS – United States Fish and Wildlife Service
IMP – Inlet Management Plan
JCP – Joint Coastal Permit
NEPA – National Environmental Policy Act
NMFS – National Marine Fisheries Service
RAI – Request for Additional Information
SHPO – State Historic Preservation Officer (Florida Department of State)
USACE- United States Army Corps of Engineers

For the purpose of this Attachment A, Grant Work Plan, the term "Grantee" and "Local Sponsor" will be used interchangeably.

The Department and the Local Sponsor/Grantee agree that the state grant funding, not to exceed the estimated costs of the Project, are identified in Table 1 below:

TABLE 1
Estimated Eligible Project Cost

Task #	Eligible Project Tasks	State Cost Share (%)	Federal Estimated Project Costs	DEP	Local	Total
4.0	**Monitoring**					
4.1	Physical Monitoring	75%		$124,777.50	$41,592.50	$166,370.00
	TOTAL PROJECT COSTS			**$124,777.50**	**$41,592.50**	**$166,370.00**

Changes in Project costs that increase or decrease the total funding amount shall require a formal amendment to the Agreement.

TASKS and DELIVERABLES:
Tasks must be completed as outlined below and in the Department-approved scope(s) of work prepared by the Local Sponsor for the Project. Deliverables listed below are to be completed by the Local Sponsor or submitted to the Department by the due date listed in this Work Plan. The Deliverable due by dates established in this Grant Work Plan indicate the time by which a Deliverable is received. The dates do not necessarily correspond with permit required due by dates. The Local Sponsor must meet the terms of the permit for compliance. The Department shall provide review and comment/approval of each Deliverable prior to reimbursement.

TASK 4.0 Monitoring

Task Description: This task includes a monitoring program conducted in accordance with the requirements specified in any and all permits issued by State or Federal agencies. A monitoring scope of work must be developed in a manner which will coordinate the monitoring activities associated with current shoreline stabilization projects located within or adjacent to the Project area and with the Department's Regional Coastal Monitoring Program. All data and analysis will be presented in a Department-approved format per the scope of work required by paragraph 4 of this Agreement.

Performance Standard: All deliverables, reports, and monitoring results will be circulated to the Department for review and comment. The Department's Grant Manager will review the deliverables to verify that they meet the specifications in the Scope of Work and this Grant Work Plan and this task description, and that work is being performed in accordance with the Grantee's service provider contracted documents and specifications. Reimbursement requests may be submitted once a deliverable has been submitted to and approved by the Department's Project Manager, in writing.

4.1 Physical Monitoring

The physical monitoring scopes of work include beach profile and bathymetric surveys located between FDEP range monuments R73 to R135 in Palm Beach County. Following the completion of the surveys, the data will be analyzed and presented in a physical monitoring report, as requried by JCP #0328802-001-BMA permit. Aerial surveys are not approved for cost sharing as they are not permit-required for physical monitoring.

A wave modeling analysis of the borrow area on the erosional effects of the adjacent shoreline along Phipps Ocean Park will be completed and a final report will be submitted.

Deliverable A: The 2015 physical monitoring report will be submitted electronically in accepted FDEP format.
Total Cost: $123,488.00.
Total Eligible Cost: $82,188.00 **(Department Cost:** $61,641.00**)**.
Due Date: June 1, 2018.

Deliverable B: The 2016 physical monitoring report will be submitted electronically in accepted FDEP format.
Total Cost: $110,974.00.
Total Eligible Cost: $69,674.00 **(Department Cost:** $52,255.50**)**.
Due Date: June 1, 2018.

Deliverable C: The 2016 Phipps Ocean Park borrow area wave modeling report will be submitted electronically in accepted FDEP format.
Total Eligible Cost: $14,508.00 **(Department Cost:** $10,881.00**)**.
Due Date: June 1, 2018.

NOTE: The deliverable due dates established in this Grant Work Plan indicate the time by which a deliverable is received. The dates do not necessarily correspond with permit required due dates. The Local Sponsor must meet the terms of the permit for compliance. All Tasks are Contractual Services.

ATTACHMENT B

Contract Payment Requirements
Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation must be provided for each amount for which reimbursement is being claimed indicating that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved contract budget should be reimbursed.

Listed below are examples of the types of documentation representing the minimum requirements:

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

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

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

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

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

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

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

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

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address: http://www.fldfs.com/aadir/reference_guide.htm

ATTACHMENT C

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT – PART I

PAYMENT SUMMARY

NAME OF PROJECT: Lake Worth Inlet Management Plan Implementation

LOCAL SPONSOR: Town of Palm Beach

REMITTANCE ADDRESS:_____

_____

DEP Agreement Number: 16PB4

Billing Number:_____

Billing Type: ☐ Interim Billing ☐ Final Billing

Costs Incurred This Payment Request:

Federal Share*	State Share	Local Share	Total
$_____	$_____	$_____	$_____

*if applicable

Cost Summary:

State Funds Obligated
$_____

Less Advance Pay
$_____

Less Previous Payment
$_____

Less Previous Retained
$_____

Less This Payment
$_____

Less This Retainage (10%)
$_____

State Funds Remaining
$_____

Local Funds Obligated
$_____

Less Advance Pay
$_____

Less Previous Credits
$_____

Less This Credit
$_____

Local Funds Remaining
$_____

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT – PART II

Name of Project:_____ Billing Period (1):_____
Billing Number:_____ Person Completing Form & Telephone Number (2):_____
DEP Agreement Number:_____

REIMBURSEMENT DETAIL

Item #	Vendor Name	Invoice Number	Invoice Date	Check Number	Deliverable Number (3)	Invoice Amount(4)	Eligible Cost (5)	% Fed Share (6)	Federal Share of Invoice Amount (7)**	Non-Federal Share (8)	% State Share (9)	State Share (10)	Local Share (11)	Retainage Payment (12)	Withheld Retainage (13)	State Payment (14)
									-	-		**$0.00**	0.00		0.00	0.00
							-		**Totals**	-		-	-	-	-	-

Total Due to Local Sponsor (15)_____

Form Instructions:
1. Billing Period: Should reflect Invoice services performed date. (beginning date - earliest date of services, end date - latest date of services performed).
2. Person responsible for completing this form: Please identify the person responsible for completing information if clarification is needed.
3. Deliverable #: Must identify completed deliverable(s) for each invoice. If invoice covers multiple deliverables, that invoice would be listed multiple times, a line item for each deliverable.
4. Invoice Amount
5. Eligible Cost: Invoice amount paid by Local Sponsor less ineligible cost for Line Item Deliverable only.
6. % Federal Share: If applicable this should be the percentage listed in Agreement. Federal Share will be listed on Table 1 if applicable.
7. Federal Share: If applicable, Local Sponsor will multiply Eligible Cost by Federal Share Percentage.
8. Non-Federal Share: Eligible Cost (5) minus Federal Share of Invoiced Amount (7).
9. Percentage of State Share: This should be the State Share Percentage listed in Agreement.
10. State Share: Multiply Non-Federal Share by State Share Percentage.
11. Local Share: Subtract State Share from Non-Federal Share.
12. Retainage Payment: Requires separate line for each completed **Task, Sub-Task and or Deliverable** that retainage is being requested.
13. Withheld Retainage: Multiply State Share by 10%.
14. State Payment: Subtract Retainage from State Share.
15. Total Due to Local Sponsor: Add Retainage Payment Total (12) to State Payment Total (14).

Notes: For questions or concerns regarding this form please contact: Janice Simmons - (850)245-2978 or email at Janice.L.Simmons@dep.state.fl.us

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
REQUEST FOR PAYMENT – PART III
PROJECT PROGRESS REPORT

NAME OF PROJECT: Lake Worth Inlet Management Plan Implementation

LOCAL SPONSOR: Town of Palm Beach

DEP Agreement Number: 16PB4

Billing Number: _____

Report Period: _____

Status of Eligible Project Items: (Describe progress accomplished during report period, including statement(s) regarding percent of task completed to date. Describe any implementation problems encountered, if applicable.)

Task No:	Eligible Project Item:
4.0	**MONITORING**
	4.1 Physical Monitoring

_____

_____

_____

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
CERTIFICATION OF DISBURSEMENT REQUEST
REQUEST FOR PAYMENT – PART IV

NAME OF PROJECT: Lake Worth Inlet Management Plan Implementation

LOCAL SPONSOR: Town of Palm Beach

DEP Agreement Number: 16PB4

Billing Number: _____

Certification: I certify that this billing is correct and is based upon actual obligations of record by the LOCAL SPONSOR; that payment from the State Government has not been received; that the work and/or services are in accordance with the Department of Environmental Protection, Beach Management Funding Assistance Program's approved PROJECT Agreement including any amendments thereto; and that progress of the work and/or services are satisfactory and are consistent with the amount billed. The disbursement amount requested on Page 1 of this form is for allowable costs for the PROJECT described in the grant work plan.

I certify that the purchases noted were used in accomplishing the PROJECT; and that invoices, check vouchers, copies of checks, and other purchasing documentation are maintained as required to support the cost reported above and are available for audit upon request.

Name of Project Administrator	Signature of Project Administrator	Date
Name of Project Financial Officer	Signature of Project Financial Officer	Date

ATTACHMENT D

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
FLORIDA BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM
PROJECT COMPLETION CERTIFICATION

NAME OF PROJECT: Lake Worth Inlet Management Plan Implementation

LOCAL SPONSOR: Town of Palm Beach

DEP Agreement Number: 16PB4

Task Completion ☐ (List Task)

Project Completion ☐

*I hereby certify that the above mentioned PROJECT task has been completed in accordance with the PROJECT Agreement, including any amendments thereto, between the DEPARTMENT and LOCAL SPONSOR, and all funds expended for the PROJECT were expended pursuant to this Agreement. All unused funds and interest accrued on any unused portion of advanced funds which have not been remitted to the DEPARTMENT, have been returned to the DEPARTMENT, or will be returned to the DEPARTMENT within sixty (60) days of the completion of construction portion of this PROJECT. Unused funds advanced to the United States Army Corps of Engineers through LOCAL SPONSORS will be due sixty (60) days after the Federal final accounting has been completed.

_____	_____	_____
Name of Project Manager	Signature of Project Manager	Date

ATTACHMENT E

SPECIAL AUDIT REQUIREMENTS

The administration of resources awarded by the Department of Environmental Protection *(which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the contract/agreement*) to the recipient *(which may be referred to as the "Contractor", Grantee" or other name in the contract/agreement)* may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised.

1. In the event that the recipient expends $500,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this Attachment indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from the Department of Environmental Protection. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this part.

2. In connection with the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.

3. If the recipient expends less than $500,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the recipient expends less than $500,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than Federal entities).

4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at **http://12.46.245.173/cfda/cfda.html.**

PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2)(m), Florida Statutes.

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of $500,000 in any fiscal year of such recipient, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this Attachment indicates state financial assistance awarded through the Department of Environmental Protection by this Agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

2. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

3. If the recipient expends less than $500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than $500,000 in state financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).

4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at https://apps.fldfs.com/fsaa for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at http://www.leg.state.fl.us/Welcome/index.cfm, State of Florida's website at http://www.myflorida.com/, Department of Financial Services' Website at http://www.fldfs.com/ and the Auditor General's Website at http://www.state.fl.us/audgen.

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by PART I of this Attachment shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:

A. The Department of Environmental Protection at one of the following addresses:

By Mail:
Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:
FDEPSingleAudit@dep.state.fl.us

B. The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Submissions of the Single Audit reporting package for fiscal periods ending on or after January 1, 2008, must be submitted using the Federal Clearinghouse's Internet Data Entry System which can be found at http://harvester.census.gov/fac/

C. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

2. Pursuant to Section .320(f), OMB Circular A-133, as revised, the recipient shall submit a copy of the reporting package described in Section .320(c), OMB Circular A-133, as revised, and any management letters issued by the auditor, to the Department of Environmental Protection at one the following addresses:

By Mail:
Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:
FDEPSingleAudit@dep.state.fl.us

3. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

A. The Department of Environmental Protection at one of the following addresses:

By Mail:
Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:
FDEPSingleAudit@dep.state.fl.us

B. The Auditor General's Office at the following address:

State of Florida Auditor General
Room 401, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

4. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at one of the following addresses:

By Mail:
Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:
FDEPSingleAudit@dep.state.fl.us

5. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

6. Recipients, when submitting financial reporting packages to the Department of Environmental Protection for audits done in accordance with OMB Circular A-133, 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 recipient in correspondence accompanying the reporting package.

PART V: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of **5** years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of **3** years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

EXHIBIT – 1

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Federal Resources 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

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:					
Federal Program Number	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:						
State Program Number	Funding Source	State Fiscal Year	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
Original Agreement	General Revenue, Chapter 2015-232, L.O.F.; GAA Line Item # 1647	2015-2016	37.003	Beach Management Funding Assistance Program	$124,777.50	140126

Total Award	$124,777.50	

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [http://12.46.245.173/cfda/cfda.html] and/or the Florida Catalog of State Financial Assistance (CSFA) [https://apps.fldfs.com/fsaa/searchCatalog.aspx]. The services/purposes for which the funds are to be used are included in the Contract scope of services/work. Any match required by the recipient is clearly indicated in the Contract.

TOWN OF PALM BEACH
Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Approve a Purchase Order for Coastal Vulnerability Assessment
Resolution No. 227-2016

DATE: November 23, 2016

STAFF RECOMMENDATION

Town staff recommends that the Town Council approve Resolution No. 227-2016 authorizing a purchase order to Woods Hole Group for $100,000 for a Coastal Vulnerability Assessment, and establishing a task budget of $110,000.

GENERAL INFORMATION

Woods Hole Group completed their peer review of the long-term Coastal Management Program in May 2013 and presented their findings directly to Town Council in June 2013. While their report identified recommended projects for each respective reach along the shoreline, the report included island-wide recommendations that extended through many reaches. The island-wide recommendations included items such as groin maintenance, improved communications with the public, and dune vegetation maintenance.

Another one of the island-wide recommendations was to perform a flooding vulnerability assessment. The purpose of the assessment would be to supplement the Town's Comprehensive Coastal Management Plan (CCMP) with the identification of areas presently at high risk of storm damage and flood. A vulnerability assessment can be utilized over time should the Town consider an adaptation to the Coastal Management plan in the future. This effort was described by Woods Hole Group as follows:

> "As a supplement to the CCMP, areas presently at high storm damage and flood risk should be identified along with areas subject to future vulnerability associated with sea level rise. Flooding pathways should be mapped. Possible engineering adaptations should be explored for the Town and residents to pursue."

Within the body of their 2013 technical review, Woods Hole Group also stated the following with respect to a vulnerability assessment:

> "Extreme storms pose an immediate risk to coastal communities. Areas of Palm Beach are at risk to flooding presently, particularly on the Lake side. As shown in Section 2.5, FEMA maps indicate vulnerability to flooding during a 100-year storm, resulting in a need to consider upgrading bulkheads in certain areas particularly on the west side of the island."

On April 14, 2016, staff presented an item to the Shore Protection Board regarding Woods Hole Group's 2013 recommendation to perform a coastal vulnerability evaluation. Following a discussion, the Shore Protection Board requested modifications of Woods Hole Group's proposed scope of work. The modifications requested included specific emphasis on the lagoon bulkhead and coastal flooding from the lagoon.

Staff worked with Woods Hole Group to refine the scope of work. Attached is a copy of the modified technical approach prepared by Woods Hole Group. Lagoon-related concerns previously cited by Woods Hole Group have been listed first. Questions raised by the Shore Protection Board members during the April 14, 2016 meeting were also included in the scope of work.

On October 27, 2016, the Shore Protection Board unanimously recommended approval of the Woods Hole Group 2-year scope of work for Vulnerability Index Development, Mapping, and Assessment.

This technical approach is expected to serve as a planning document for present and future risks of inundation and coastal flooding. The work is not duplicative and is expected to build on previously completed efforts by the Town.

FUNDING/FISCAL IMPACT

This is a planned study item and sufficient funds exist in the Coastal Protection Fund for costs associated with a Coastal Vulnerability Assessment. The FY16 ($50,000) and FY17 ($50,000) approved Coastal Management Program budgets include funding to specifically complete the two (2) phases of work.

PURCHASING REVIEW

This item has been reviewed by the Purchasing Division and was approved as recommended.

TOWN ATTORNEY REVIEW

This Resolution has been reviewed and approved by the Town Attorney for legal form and sufficiency.

Attachment

cc: Jane Struder, Director of Finance
Adis Pedraza, Purchasing Manager
Robert Weber, Coastal Program Manager

RESOLUTION NO. 227-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A PURCHASE ORDER IN THE AMOUNT OF $100,000 TO WOODS HOLE GROUP, FOR A COASTAL VULNERABILITY ASSESSMENT, AND ESTABLISHING A TASK BUDGET OF $110,000.

* * * * *

BE IT RESOLVED BY THE TOWN COUNCIL of the Town of Palm Beach, Palm Beach County, Florida as follows:

Section 1. The Town Council of the Town of Palm Beach hereby approves a purchase order to Woods Hole Group in the amount of $100,000 for a Coastal Vulnerability Assessment, and establishes a task budget of $110,000.

Section 2. The Town Manager is hereby authorized to execute this contract on behalf of the Town of Palm Beach for these professional services.

Section 3. The Town Manager, or his designee, is hereby authorized to take such further actions as may be necessary to effectuate the completion of the said project work, including any necessary change order work as recommended by the Public Works Director.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this 13th day of December 2016.

Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	Richard M. Kleid, Council President Pro Tem
	Bobbie Lindsay, Town Council Member
ATTEST:	Danielle H. Moore, Town Council Member
Susan A. Owens, MMC, Town Clerk	Margaret A. Zeidman, Town Council Member

Technical Approach and Proposal for
Vulnerability Index Development, Mapping and Assessment

Town of Palm Beach

Woods Hole Group respectfully submits this technical approach to assist the Town of Palm Beach plan for present and future risks of inundation and coastal flooding[1]. This work fulfills an approved and budgeted item in the 10-year coastal management program. The purpose is to provide more insight on present and future risk, and to provide information to help prioritize future action as required. The work is recommended over a 2-year period. The primary deliverable from Year 1 will be a report and maps identifying assets at risk with a prioritization process developed. The Year 2 work will apply the prioritization process to help rank Town assets at risk for action. The Year 2 deliverable also will include recommendations for conceptual engineering adaptation alternatives that can be considered to help manage and reduce risk. The scope includes the Lake Worth (western) shoreline. This work does not intend to evaluate storm water infrastructure or other upland flood control measured being handled separately by the Department of Public Works. Specifically, the proposed approach will be geared to answer the following questions:

- Given the current elevation (and absence/presence) of bulkheads along the intracoastal waterway (Lake Worth), and under current and future sea level and storm conditions, what areas along the Lake are most vulnerable to flooding?
- Are there certain locations where a localized engineering adaptation can help manage more widespread flooding while also not restricting drainage when flood waters subside?
- What is the vulnerability of shoreline (ocean facing) properties under current conditions and to storm inundation and sea level rise scenarios?
- What assets[2] are the highest priority to protect and what are the appropriate engineering adaptations to consider?

The proposed approach answers these questions using the following four (4) steps in a phased approach:

A. Map Layer Development and Identification of Properties/Resources/Facilities at Risk: *Collected information inputs*

B. Vulnerability Assessment: *Where is the water in Town under current and future storm and sea level rise scenarios?*

[1] This plan advances Item #7 in the approved 10-year coastal management program budget related to flooding and seal level rise assessment

[2] Assets is a general term used to refer to some physical feature that is of value to someone – e.g. homes, roads, beaches, gardens. When assessing vulnerability, we focus on the impact to different assets and working with the Town the assets can be prioritized.

C. Coastal Vulnerability Index: *Based on how we value our assets and where the water is located – what assets need to be prioritized for protection*?
D. Adaptation Alternatives/Recommendations: *What management steps will protect these assets?*

The focus area, based on input from the Shore Protection Board, is the coastal shoreline including intracoastal waterway. Early in the project, we will define the study area more clearly because the vulnerability will extend beyond the properties immediately adjacent to the waterway.

Step A of the approach first establishes a base Geographic Information System (GIS) tool, building on existing Town data layers. This will include capturing current bulkhead elevations and locations and seawall locations and elevations. In addition, map layers specifying locations of the properties, resources, and facilities of interest will be identified in collaboration with the Town. For scenario testing, maps depicting future bulkhead and seawall locations and elevations (supplied by the Town) would be developed.

Step B would then incorporate information about flooding probabilities and depths under present day and for future sea level rise and storm scenarios to map the likelihood of inundation across the Town, including what assets will get flooded under different scenarios. The Shore Protection Board requested specific focus on the intracoastal waterway and bulkhead elevations. The bulkhead elevations can be factored into the assessment to evaluate the influence on flooding probability in different areas of the Town.

Next, Step C will focus on developing a weighting index that can be used to prioritize assets based on vulnerability (probability of flooding) AND values placed on each asset by the Town (consequence of flooding). In developing this Coastal Vulnerability Index (CVI), Woods Hole Group will work cooperatively with the Town to understand the relative importance of impacts related to economics, access, natural resources, and other factors. Once developed, the CVI will be applied to each vulnerable asset identified in Step B to develop an overall ranking of vulnerabilities now and in the future.

With this prioritized ranking, Step D can then be implemented to identify alternative adaptations and recommendations for the specific high priority properties and assets. We also recommend an option to consider developing cost estimates and phasing plans for planning purposes to help prioritize future actions and investments required.

SCOPE OF WORK

Specific steps recommended to implement this approach are listed below.

A. Map Layer Development

1. Develop base map/GIS, including
   - Based on the Shore Protection Board's discussions, the initial focus will be the intracoastal waterway. Data compilation will focus on these areas.
   - Aerial photography (Town GIS or Google Earth depending upon property)
   - LiDAR for specific properties (USACE or NOAA depending property)
   - Bulkhead locations and elevations (preferred in ArcGIS format)
   - Wetland resource areas per Town/agency maps or property-specific data
   - Parcel boundaries from Town
   - Buildings with classifications (e.g., commercial, residential, emergency/critical infrastructure, storage facility, out-building, kiosk, etc.). Collaborate with Town staff to define appropriate classification scheme based level of use.
   - Roads, parking lots, fences and access ways with classifications (public, private, paved, unpaved, emergency access route). Consider other attributes related to whether it is a sole/critical road, access, parking area versus one of many options onsite.
   - Known cultural or historic resources
   - Recreational areas with classifications (e.g., trails, playground, beach, naturalist areas – bird watching, and long list on their website)
   - Vulnerable community populations (e.g., listed species)

2. Work cooperatively with Town staff to identify assets of importance based upon information compiled above

B. Vulnerability Assessment

1. Evaluate existing coastal hazard mapping tools and select appropriate tools for Town use
   - FEMA flood zone designations (present day only)
   - SLOSH model results (where available) – Hurricane Impacts (present day)
   - Relative sea level change rates
   - Erosion (slopes and soils) – state/Town shoreline change rates, USGS National Assessment of Coastal Vulnerability to Sea Level Rise (1999)
   - Information from NOAA or others from basic bathtub model inundation scenarios
   - University models of inundation, future scenarios, wetland change, as available

2. Compare assets defined in Step A with hazard information above to define vulnerable resources/infrastructure

3. Consider a future Option for more sophisticated dynamic flood inundation modeling, including present and future scenarios, to refine the vulnerability assessment for engineering purposes.

C. Coastal Vulnerability Index (CVI)

1. Develop indexing approach (consequence) cooperatively with Town
   - Develop variables for which to assign weights (e.g., geomorphology, slope (nearshore), flood prone areas) and values (1-5).
   - Select a range of variables to allow for assets to be compared related to their level of vulnerability, and also the types of resources at risk (e.g., two properties may be flooded, but one has buildings/roads/other resources at risk whereas the other does not)

2. Risk Analysis
   - Implement indexing tool to rank vulnerable assets to create the CVI, and use the CVI results to prioritize actions (e.g., adaptations for natural/cultural resources, infrastructure, public access, etc.). The primary focus will be properties along (but not only directly adjacent to) the intracoastal waterway.

D. Adaptation Alternatives/Recommendations

1. Management Recommendations
   - Coordinate with Town to understand management objectives – this will need to occur early as it will affect the overall scope and direction. We understand that one of the primary questions focuses on the bulkhead regulations and whether they need to be raised and the implications of raising the elevation requirement from a flooding perspective.
   - Identify vulnerable areas of high priority to Town (hot spots) based on the CVI
   - List possible site-specific *local* adaptations to minimize/mitigate risk, increase resiliency or adapt for hot spots
   - Evaluate overall results to identify potential *regional* adaptations

2. Develop a matrix with supporting narrative showing results with recommendations for next steps

3. Consider a future Option for Step D to develop cost estimates, phasing plans (when action would be required), and define planning (additional studies, supplemental data needed to fill gaps), engineering, regulatory requirements and next steps

The resulting work product will be a report that identifies areas subject to flooding under current conditions and future sea level and storm scenarios. Assets that might be flooded will be prioritized based on the consequence of flooding and the probability of flooding. Lacking an updated and realistic assessment of current and future flood risk leaves the Town dependent upon past observations alone,

and/or sometimes overly conservative estimates of future risk. The deliverable also will include GIS work products (e.g., shape files) and raster images that Town staff can incorporate for planning purposes. Data gaps and uncertainties will be described as well. A specific discussion of bulkhead elevation with respect to the model results will be included. We will not recommend a final bulkhead elevation, but we will provide the impact of different elevations on inundation. We will include a recommended monitoring plan for properties at risk to gauge future response, and to help plan for and be proactive with managed retreat strategies where appropriate. For instance, there may be certain indicators that can be monitored to trigger actions, such as relocating access ways, parking lots, or other assets/facilities. The focus will be on identifying conceptual alternatives to mitigate present and future flood risk that are modular and adaptable, and can be implemented over time as more data become available and the reality of flood risk is established.

SCHEDULE

Woods Hole Group is prepared to proceed with the scope of work defined above within two (2) weeks of receiving a Notice to Proceed from the Town. The Year 1 work would include Steps A through C.1, and require approximately six (6) months to complete. Step A GIS work would be ongoing for the duration of the effort, and would plan to incorporate the primary datasets and layers within the first 60 days. Step B and Task 1 of Step C would be completed in parallel, and in close cooperation with Town staff to identify assets at risk and define the indexing approach. Year 2 work would continue with the Step C.2 Risk Analysis portion after the assets are defined, base information is compiled, and weighting system is established. Experience suggests the Risk Analysis is an iterative process with Town personnel that may result in refinements to asset selection, attributes and relative indexing. Step D documentation would follow the Risk Analysis. A Draft Report would be submitted for review upon completion of Step D, and a Final Report incorporating input from Town staff would be issued within 30 days from receipt of comments.

BUDGET

The scope as outlined above can be completed within the approved coastal program budget that includes $50,000 each for fiscal years 2016 and 2017. We recommend the work on a time and materials basis so that resources can be conserved and dedicated where most needed. The total estimated budget for implementing Steps A-D (not including future Options) will depend upon the area(s) selected for investigation, and Town preferences for the types and numbers of properties and assets to be assessed. The actual budget also will depend upon the level of support available from Town personnel, particularly as related to compiling and providing information about the properties, bulkhead data, specific assets, and priorities. The level of effort also will scale with the overall number of specific assets on each property, and total number of areas of concern. After Year 2, work would only be required if supplemental analysis or specific engineering adaptations to manage flood risk are approved and pursued.

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Regular Agenda - New Business

Agenda Title

Authorization to Use Construction Management at Risk Services for the Town-wide Undergrounding Program.

Presenter

H. Paul Brazil, P.E., Director of Public Works

ATTACHMENTS:

- **Memorandum dated November 15, 2016, from H. Paul Brazil, P.E., Director of Public Works**
- **Kimley-Horn Memorandum**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

TO: Mayor and Town Council

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Authorization to Use Construction Management at Risk Services for the Town-wide Undergrounding Program

DATE: November 15, 2016

STAFF RECOMMENDATION

Town staff recommends that Town Council accept the recommendation of the Underground Utility Task Force to utilize Construction Management at Risk Services as the Construction Delivery Method for Town-wide Undergrounding.

GENERAL INFORMATION

Kimley-Horn and Associates (KHA) provided an extensive presentation of project delivery methods for the Town-wide Undergrounding Construction at the December 6, 2016 Undergrounding Utility Task Force meeting. KHA also provided to staff a memorandum dated November 2, 2016 which provides an analysis of the potential project delivery methods available for construction of the program which is attached. KHA's recommendation is to utilize the Construction Management at Risk (CMAR) method for all phases of construction. This recommendation is based on an evaluation of several factors which include budget, design, schedule, risk assessment, and level of expertise.

The following is an excerpt from the memorandum addressing the potential concern about the cost of utilizing CMAR:

> We understand that the question may arise whether using a Construction Manager At-Risk will raise or lower the cost of the project. Having a very cost conscious group involved during the design process might lower the total cost of the project. However, by shifting the cost guarantee burden onto the CM, a case can be made that the actual savings may be less than promised if the CM is too conservative and risk-averse. There are studies that seem to indicate a substantial savings in cost growth (fewer change orders) through use of CMAR, but no good information on comparative initial cost for similar infrastructure projects. This is mostly due to the fact that Owner's do not build the exact same project twice under different delivery methods. While the cost savings potential exists, there is no guarantee that it will cost more or less than any other delivery system.
>
> The CMAR project delivery method requires the least number of owner employees to manage the process because the CMAR can expand to meet the owner's staffing needs. While not reflected in the GMP, the reduced owner personnel required to manage the efforts of the CMAR is a cost savings that needs to be considered.

The CMAR process offers the Town "open book" transparency on how the construction price is developed. All of the sub-contractor bid proposals, CMAR overhead, project management, profit, and contingencies are clearly identified, shared with the Town, and agreed upon before the work begins. This also allows the Town to know the full budget for the project, unlike the DBB method where budget issues may not be discovered until well into the construction process.

As compared to other project delivery methods, the Town maintains a greater degree of control over the construction budget and use of any contingency funds. Change orders are inevitable in any underground infrastructure project. While upfront sub-surface investigation mitigates this risk, it cannot eliminate the risk. In a DBB project delivery, the Owner and Design professional work together to manage the rising project cost due to change orders on the project. In a CMAR project delivery, the Owner and Design professional work together to preserve the Construction Contingency which ultimately lowers the final cost of the project.

A significant cost advantage may be achievable through the Town's direct purchase of materials which can be streamlined through use of the CMAR procurement method. The CMAR can coordinate these efforts directly, retain responsibility for accepting delivery, storage and installation of these materials while achieving tax savings for the Town.

The Town's history with this delivery method has been positive with projects being completed on-time or ahead of schedule and under the negotiated GMP. When the cost of the project is less than the GMP, the contingency funds are returned to the Town.

Town staff is requesting the authorization to move forward with a Request for Qualifications for CMAR for the first phase of undergrounding construction. For future phases, we are investigating utilizing a Best Value Selection method for CMAR. With this method, both the cost of the work and qualifications are factors in the final selection of the CMAR. Weighted factors are applied to both cost and qualifications submitted by prospective CMAR's and the highest aggregate score determines the CMAR who will provide the Best Value to the Town.

The cost elements that could be considered in a Best Value selection process include:

- Preconstruction Services
- Construction Services
- General Conditions
- Recommended Contingency

The cost elements listed above are those costs related to the Construction Management activities only. The Total Construction Costs or the Guaranteed Maximum Price (GMP) would be developed after the CMAR has been selected and has competitively bid all the sub-trade work. The Best Value Selection process would be performed using a two-step process. A two-step process requires that prospective CMAR's first submit qualifications only. The evaluation committee then shortlists those proposers with the highest rankings and requests that those shortlisted proposers submit fee information. The fee information is then evaluated so the CMAR that provides the Best Value can be identified. Based on information provided by the Town Attorney, it may not be possible to use this method. Staff would like to continue to pursue the alternative and return to Town Council with additional information.

FUNDING/FISCAL IMPACT

At this time there is no fiscal impact associated with this approval. The selection recommendations will return to Town Council for approval.

TOWN ATTORNEY REVIEW

This item has been reviewed by the Town Attorney for legal form and sufficiency.

Attachment

cc: Jane Struder, Director of Finance
Eric B. Brown, P.E., Assistant Director of Public Works
Patricia Strayer, P.E., Town Engineer
Adis Pedraza, Purchasing Manager

MEMORANDUM

To: Patricia Strayer, P.E.

From: Kevin Schanen. P.E.

Kimley-Horn and Associates, Inc.

Date: November 7, 2016

Subject: Project Delivery Methods – Town-Wide Undergrounding of Utilities Program
KHA Project #044063188

There follows below our analysis of reasonable project delivery methods that are available for us by the Town in implementing the Undergrounding program. We look forward to discussing the analysis and recommendations with you prior to finalizing the recommendations for incorporation into the master plan.

1.0 Project Delivery Methods

A project delivery method is a system utilized by owners and public agencies to manage how a project will advance from concept to construction. Project delivery refers to the method of assigning risks and responsibilities to an entity for design and construction services and is different from project management. Project delivery methods can be grouped into several basic categories consisting of Design-Bid-Build (DBB), Construction Management at Risk (CMAR), Design-Build (DB), and Integrated Project Delivery (IPD) which is a new method that is gaining popularity in the vertical construction industry. Because the industry is relatively inexperienced with IPD, and it has not been commonly applied to the construction of public infrastructure, this summary will focus on DBB, CMAR, and DB while only providing a brief description of IPD. These delivery methods can be tailored or combined to meet the needs of the Town.

2.0 Project Delivery Method Selection Factors

There are several key factors that the Town must consider when choosing a project delivery and contracting strategy to execute the Undergrounding Project. These factors are summarized as follows:

- **Budget**: The Town has previously established an overall project budget of $90M and plans to sell bonds to raise the necessary funds to execute the program. To establish budgetary costs and assess the risk of exceeding this budget, this master planning process will develop an updated opinion of probable cost for the program. This will assist the Town in properly planning to manage this risk.
- **Design**: The design must meet the needs and vision of the Town. For the undergrounding project, the design team is made up of a various entities including the Utility Owners who will design and ultimately own their respective infrastructure portion of the project. These entities include:

- *Kimley-Horn (Conduit Routing, Town owned and maintained infrastructure, such as sanitary and drainage improvements, and watermain improvements that will be ultimately owned and maintained by the City of West Palm Beach);*
- *Florida Power & Light* (Electrical Infrastructure);
- *AT&T* (Telephone and Communications); and
- *Comcast* (Cable Television and Communications).

The Town has varying degrees of control over these entities. For example, the Town has a great degree of control over the Kimley-Horn design team due to the contractual relationship between these two entities. However, the Town has much less control over Florida Power & Light, AT&T, and Comcast. These varying degrees of control create an element of risk that must be considered when developing an overall schedule for the project.

The various types of work in a specific phase may also play a role in recommending a delivery method. For example, if a construction phase requires a small number of trades to execute the scope of work, it is inherently easier to coordinate the activities between the various contractors. This type of project may be easier to execute through a traditional design, bid, build process. On the other hand, when multiple trades and disciplines are required to execute the work and significant coordination is required between each trade to appropriately schedule the activities in order to maintain schedule and budget, CMAR may be a more effective project delivery mechanism.

Ultimately, the design documents must provide an appropriate level of detail to properly communicate the project requirements to the construction team. This level of detail can vary based on the Project Delivery method selected.

- **Schedule**: The Town places a high priority on schedule. The Town has a highly seasonal population and many residents are away between May and November. This provides an opportunity to perform highly disruptive work in the road rights of way when traffic volumes are lower. When construction schedules are extended into the winter months (December – April), the disruptions to traffic can be extreme causing the roadway level of service to completely fail.

  Because the undergrounding program is a multi-year, multi-phase program, significant schedule delays in any one phase may create a domino effect that could effectively delay subsequent phases. This would not only extend the program but could also increase project costs due to inflation and increased labor rates.

  Therefore, schedule will be given a high priority when considering Project Delivery Methods.

- **Risk Assessment**: There are inherent risks in any construction project. However, those risks can increase when the size, budget, and duration of the project increases. It is important that a risk assessment be performed during the planning phase of the project so that risks can be appropriately understood and allocated amongst the parties involved. In general, risk should be allocated to the party who has the best ability to exercise control over the risk. Each project delivery method assigns risk to the various parties differently. The Town will need to consider the level of risk it is willing to accept when selecting a project delivery method.

- **Level of Expertise**: The Town's level of expertise and experience with the various delivery methods also plays a role in recommending an appropriate delivery method for the project. The Town's ability to manage the project construction in-house can also influence the selection of a project delivery method. Our understanding is that the Town is in the process of searching for a Project/Construction Coordinator to assist in the execution of the undergrounding project. This role will increase the Town's ability to exercise a greater degree of management control over the project and may influence the recommended delivery methods.

3.0 Overview of Project Delivery Methods

The following provides descriptions and a summary of the advantages and disadvantages of the various project delivery methods available to the Town for project execution.

3.1 Design-Bid-Build (DBB)

Design-Bid-Build is the most common and widely used project delivery method in the United States. The process involves executing the project in three sequential phases: Design, Procurement (Bidding), and Construction. The designer prepares the construction plans and specifications for use in the procurement process. For the Town's undergrounding project, the construction documents will consist of drawings and specifications prepared by Kimley-Horn, FP&L, AT&T, and Comcast. The project is then advertised for public bidding and price proposals are obtained from interested members of the contracting community. The Town is familiar with this process and has standard contracting language developed to execute construction projects using this delivery method. The selection process is usually the lowest responsive and responsible bidder under this delivery method. The contractor who submits the lowest price, has demonstrated that he meets the minimum qualifications set forth in the bid documents, and has properly prepared the bid proposal package per the instructions will be awarded the project.

The following is a summary of the advantages and disadvantages of the DBB project delivery method:

Advantages:

- This method is well understood by the Town and has well-established and clearly defined roles for the parties involved.
- This method is the most common approach for public owners having to comply with local, state or federal procurement statutes. The Town's procurement department already has standard contracts and guidelines in place to facilitate this method.
- The Town has a great degree of control over the process due to their control over many elements of the design prior to selection of the contractor. In this case, the Town exerts less control over the designs prepared by FP&L, AT&T, and Comcast or to changes to the design these entities may choose to make after the bidding process.

Disadvantages:

- The process may have a longer duration when compared to other delivery methods since all design work must be completed prior to selection and award of a construction contract.

- The absence of a contractor during the design process does not allow for the advantages that a contractor may provide through assessment of scheduling and cost ramifications of various elements of the design.
- The Town generally faces exposure to contractor change orders and claims over changes and unknown field conditions since the Town accepts liability for design in its contract with the contractor.
- This approach can create a more adversarial relationship between the involved parties rather than a cooperative one. This can lead to higher costs and longer schedule durations than originally anticipated.
- If the Town uses a fixed price contracting method, the contractor may pursue a lowest-cost approach to completing the project and the Town may receive a lower quality work product than expected for the price, requiring increased oversight and quality review by the Town and Design Team. If the Town uses the unit price bidding and compensation method, the contractor may try to increase the scope to maximize revenue from the contract, costing the Town more than expected.
- The absence of construction input into the project design may limit the opportunities for building in efficiencies that can reduce the cost and duration of the work. Important design decisions affecting both the types of materials specified and the means and methods of construction may be made without full consideration from a construction perspective.
- Technological and programmatic obsolescence could become a problem since this is a very large, long lasting project. This is mitigated somewhat by constructing the project in phases. However, changing technologies and the deployment of such technology by FP&L, AT&T, and/or Comcast during the construction process will put the Town at a disadvantage when negotiating these changes into the contract if and when they occur.

3.1.1 DBB Contracting and Procurement Methods

There are several types of contracting methods that can be used under the DBB project delivery type. A very common approach is the lump sum, or fixed price bid. This is commonly used in the vertical construction industry or for any project where quantities are not easily measured. The Town is accustomed to this method as well as the unit-price method, which is commonly employed in the horizontal construction industry. A complication that can arise in the administration of construction for undergrounding projects is the quantification of the extensive number of conduits of varying sizes that will be installed under the project. For this reason, the electrical undergrounding contracting industry is more accustomed to the fixed price, or lump sum bid, approach to procuring this type of work. This approach also shifts the responsibility for quantification to the contractor which reduces the Town's risk of quantity overruns (or under runs and the claim for lost profits) that may have occurred under a unit price approach for the same work.

The Town's procurement policy allows for the pre-qualification of contractors prior to accepting a sealed bid for any given project. This allows the Town to independently review the qualifications of a particular contractor for a given type of work. Pre-qualification provides the Town with a greater degree of confidence that the contractor is properly experienced, financially sound, and has the proper resources to perform a given project. Once a set of pre-qualified contractors are in place, a sealed bid can be requested from them for a specific project. The lowest responsive, responsible bidder would then be awarded the work.

In lieu of the pre-qualification process, the Town may choose to develop a "Best Value" system of contractor selection similar to that used by the City of West Palm Beach. In this method, contractors are evaluated both by qualifications and price. Weighted scores can be employed to evaluate the bid proposal and the bidder who has the best combination of price and qualifications at the conclusion of the scoring process would be awarded the project. This method involves the Town determining which bidder will provide the best value for their money and will be most likely to complete the project both on time and within budget, not necessarily the bidder that provided the lowest initial cost. Under this modified method of DBB, a higher emphasis is placed on experience with similar projects and provides extra points for those bidders whose qualifications exceed the minimum requirements. The advantage of this modified process is that the Town can use both quantitative (cost) and qualitative (experience) metrics to evaluate and select a contractor thereby reducing the risk that a poor performing contractor is awarded the work.

3.2 Construction Management at Risk (CMAR)

Construction Management at Risk (CMAR) is similar to DBB because the CMAR fulfills the role of general contractor during the construction phase. The "risk" in CMAR is that the Construction Manager holds the trade contracts and takes on the risk of performing the construction while guaranteeing the completion of the project for a negotiated price. This price is usually determined when the design is between 50 to 90 percent completed. The CMAR is usually hired by the Owner prior to the project design being completed. The Town has employed this method successfully on many other large infrastructure projects. In the Town's experience, the CMAR performs most of the work through subcontractors that are procured through a competitive bidding process very similar to DBB. Only the CMAR's fees are negotiated separately by the Town and those fees are a comparatively small portion of the overall construction cost. The central idea of CMAR is to get the advantage of price competition in the subcontract work packages combined with the qualifications-based selection of the GC as CMAR.

This delivery method is different from DBB in that the CMAR offers schedule, budget and constructability advice during the project planning and design phases, as well as advisory professional management assistance to the Town prior to construction. With CMAR project delivery, the construction manager and contractor are a hybrid of the traditional DBB roles. Another way to look at this is that the CMAR manages the construction of the project.

Having pre-construction Construction Manager advisory services can identify advantageous changes that can reduce project costs and/or allow construction of certain portions of the project to begin before the design is finalized. For example, the CMAR can bid out portions of the project with approved designs at any time, without having to wait for the entire design to be completed. The CMAR and owner can come to an agreement on a guaranteed maximum price (GMP) based on a partially completed design, which takes into account the cost to complete. Coming to an agreement early on in the project on preferred materials, equipment and project features can also be helpful in allowing the use performance specifications or reduced specifications rather than standard specifications. This can reduce design costs as plans developed for a DBB procurement generally need to be more detailed than those used for a CMAR procurement process.

The following is a summary of the advantages and disadvantages of the CMAR project delivery method:

Advantages:

- CMAR project delivery gives the Town the opportunity to incorporate a contractor's perspective and input into the planning and design phases of the project. Because the CMAR is involved in the design process it is much more difficult for them to make a claim related to the clarity of the plans or that they didn't fully understand the scope of work. This is why CMAR generally results in lower cost growth (fewer change orders) than other methods.
- The CMAR participates in Value Engineering and Constructability reviews which can lower costs and achieve schedule efficiency.
- Portions of the construction can be "fast-tracked" prior to fully completing the design.
- This project delivery method can arguably require the least number of owner employees because the CMAR can expand to meet the owner's staffing needs. The CMAR takes much of the burden of construction management off the Town staff and provides professional advisory management assistance during design. The CMAR may eliminate the need for the Town to hire additional staff to support the project.
- The Town maintains a greater degree of control over the construction budget as this is discussed throughout the project design. During construction, the Town would maintain the authority over whether monies from the Construction Contingency fund are expended.
- Companies that offer CMAR project delivery are generally concerned about their reputation since most CMAR's are selected on a qualifications basis. They are significantly motivated to perform well to uphold their reputation.
- The CMAR is far less likely to develop an adversarial relationship with the Town during the course of the project. This results in a construction team that is motivated to perform well for the Town, resolve issues quickly and cost effectively, and maintain a positive working relationship so they can continue working with the Town on future projects. In this manner, risk is better managed and claims/lawsuits are often fewer.
- The CMAR process offers the Town "open book" transparency on how the construction price is developed. All of the sub-contractor bid proposals, CMAR overhead, project management, profit, and contingencies are clearly identified, shared with the Town, and agreed upon before the work begins. This also allows the Town to know the full budget for the project, unlike the DBB method where budget issues may not be discovered until well into the construction process.
- Because the CMAR is ultimately responsible for the schedule and budget, they generally will bid elements of the work to pre-qualified, bondable subcontractors who the CMAR has confidence will construct their scopes of work successfully.
- The direct purchase of materials can be streamlined through use of the CMAR procurement method. The CMAR can request bids from material suppliers, coordinate and remain responsible for the quantities, material deliveries, and storage, and assist the Town's purchasing department in issuing Purchase Orders directly to the suppliers to realize the tax savings. This saves an enormous amount of coordination time and relieves the Town of the responsibility of material deliveries and timing, storage, supplier delays, shop drawing approvals, etc.
- The Town's history with this delivery method has been positive with projects being completed on-time or ahead of schedule and under the negotiated GMP. When the cost of the project is less than the GMP, the contingency funds are returned to the Town.

Disadvantages:

- To provide the best value to the Town, the proper selection of the CMAR is critical. This is a "people" business and getting the right combination of skills and expertise is essential for project success.
- Because the CMAR provides a GMP for the project, the CMAR is in an "at-risk" position during construction. Depending on what challenges are faced during construction, the contingencies developed during the GMP negotiation may not be sufficient to cover the costs of dealing with those challenges. Because the CMAR provided a GMP, they are responsible for overcoming the challenge regardless of the cost. This can put them in an adversarial role with the Town if this situation develops.
- Despite the fact that the CMAR will find it very difficult to pursue change orders from plan ambiguities because they were involved in the design process, they may become very aggressive on change orders due to changed conditions (increase in scope) or adverse weather impacts.

3.2.1 CMAR Contracting and Procurement Methods

CMAR is a two-step procurement process; pre-construction services and then construction services. A Request for Qualifications/Proposal (RFQ/RFP) to select the CMAR is the first part of the two-step process. Based on the qualifications submitted, the Town narrows the pool of potential contractors to a short list. The Town can then either select from the short list or invite the short listed CMAR's to make a presentation. The Town can then select the contractor based on who made the best presentation. A modified method can be used that scores the CMAR's based on a combination of their pre-construction services pricing, general conditions, and construction fee, combined with their qualifications.

Once the CMAR is selected, an initial agreement on a fixed fee for pre-Construction services is negotiated (unless this was part of the selection process). Pre-Construction services can include the following:

- Performance of quantity surveys
- Value Engineering
- Suggestions regarding constructability and methods
- Development of a detailed construction schedule
- Suggestions regarding cost reductions
- Participation in Public Outreach
- Development of an initial Opinion of Construction Cost
- Development of the Final GMP after completion of the 90% construction documents which includes the subcontractor bidding process.

The GMP for the project will consist of the following elements:

- Complete quantity survey for the project
- Public advertisement for the subcontractor bids
- Prequalification of the subcontractors
- Analysis of all subcontractor bids to eliminate gaps and incomplete bids
- A detailed construction schedule

- Itemized breakdown of all direct costs, general conditions, CMAR management fees, overhead and profit, and the Owner's contingency

The GMP is presented to the Town in a bound document and the individual components are reviewed by Town staff and the Design Team consultants. Comments are made to the CMAR and the price is adjusted until a final agreement is reached.

Should the GMP be accepted, the second step in the two-step procurement process commences. This is the Construction Phase. The CMAR Performs all the duties that a General Contractor would under a traditional DBB procurement. Additionally, the CMAR also performs the following services:

- Conducts and arranges all meetings for the project including agenda development and minutes distribution
- Schedules and coordinates the work
- Tracks and provides a log of Contingency Use Directives (CUD's)
- Provides executive monthly reports regarding the project progress
- Participates in Public Outreach activities, including the roll of "Project Liaison" which has been proven to be especially beneficial to the Town on past projects.

3.3 Design-Build (DB)

The Design-Build (DB) delivery method has gained popularity and is sometimes seen by the industry as a solution to the limitations of the other project delivery methods. The DB delivery method is a service provided by a single entity that provides both the design and construction services. The main benefit is that the DB provides a single responsible party for the design and construction of conventional projects. DB combines engineering and construction services under one contract minimizing the disputes that the Town would normally handle. In DB, these become internal team disputes that may not involve the Town. Using the DB method, a preliminary scope of work and budgetary opinion of cost would be prepared by an independent consultant and the Town would then seek DB firms who would be responsible for the design and construction of the entire project.

The following is a summary of the advantages and disadvantages of the DB project delivery method:

Advantages:

- DB can theoretically deliver a project in a shorter amount of time than a conventional DBB because there is only one selection process (DB Team) instead of two (Design Team and Contractor)
- The Town will have one contract with one entity for both design and construction which simplifies contract administration
- Similar to CMAR, cost efficiencies can be realized because the contractor and designer work together throughout the entire project
- Change orders typically only occur due to changes to the original scope that are initiated by the Town
- Portions of the construction can be "fast-tracked" prior to fully completing the design

Disadvantages:

- The Town has significantly less control and involvement over a DB project than traditional DBB or CMAR
- Much of the schedule efficiency that DB can offer is hampered significantly by the design efforts and schedules of the utility owners on this project. Additionally, seasonal construction restrictions to minimize traffic impacts will also prevent maximum schedule efficiency from being achieved.
- To take full advantage of any shorter implementation benefits that DB offers, the Town must be highly responsive in its decision making
- The Town loses the benefit of the checks and balances that exist when contracting separately with independent design consultants and a general contractor or CMAR
- May be problematic when there is a requirement for multiple agency design approvals such as Landmarks and ARCOM
- There is a risk that an adversarial relationship could develop if the quality of the project is not what was expected by the Town. Under this delivery method, the design team works directly for the contractor and may not have the best interest of the Town in mind.

3.3.1 DB Contracting and Procurement Methods

There are several alternatives to contracting and procuring DB services. Contracting can be through a fixed price sum agreement similar to DBB or, like the CMAR delivery method, through a pre-construction fee and GMP development process.

The procurement process is usually a two-step process. The first step is issuance of an RFQ and the submittal of qualifications by prospective DB teams. The Owner would then establish a short list of the best qualified teams to then submit a cost and technical proposal to the Owner. The cost and technical proposal usually contains any technical innovations developed by the DB Team along with schedule and any other pertinent details related to the design and construction process. In some cases, Owners find it beneficial to produce "Bridging Documents" that are prepared by an independent consultant. The Bridging Documents provide detailed information related to the quality and function of the desired project. They can also contain any schedule or design constraints that may otherwise be unknown to a DB Team. These documents can reduce the risk that the Owner does not receive what they initially thought they would at the onset of the project.

Once the cost and technical proposals are received by the Owner from the DB Teams, a DB Team can be selected based on a combination of pricing, approach and qualifications.

3.4 Integrated Project Delivery (IPD)

Integrated Project Delivery (IPD) is a relatively new in the United States and not many projects have been delivered using this method. IPD requires collaboration between the primary parties to share the risk and responsibility for project delivery. In a contractual sense, the Owner, Contractor and Designer are all parties in a multi-party agreement to create a team-based approach whose goal is to maximize collaboration and efficiency. Compensation typically consists of three components: reimbursement to cover costs, incentive for achieving desired budgetary goals, and rewards for accomplishing set project goals.

There is very little industry experience with this method. We are not aware of it ever being used in the public sector or on horizontal infrastructure projects. It is also not currently an approved method of

contracting under the Town's procurement guidelines. We are also not aware of any contractors within the undergrounding industry that are both experienced with this method or advocating for its use. Therefore, we have not considered it as a viable alternative for delivery of any phase of this program.

4.0 Delivery Methods Used by Local Municipalities

In developing our recommendations, we also reviewed how other local municipalities delivered their overhead to underground utility conversion projects. The table below provides a summary:

Municipality	*Project Delivery Method Used*
Town of Jupiter Island	DBB
Jupiter Inlet Colony	DBB
Gulfstream	DBB
Hollywood	CMAR
Pompano	CMAR
Lake Worth (10th Ave. and 6th Ave.)	DB
Palm Beach (Worth Ave.)	CMAR
Palm Beach (Everglades Island)	DBB
Palm Beach (Nightingale/La Puerta)	DBB
Palm Beach (Lake Towers)	CMAR
Hallandale	CMAR
Kissimmee	CMAR

As shown in the table above, a mix of Design-Bid-Build, Design-Build, and CM-at-Risk project delivery methods have been employed by various municipalities to deliver overhead to underground conversion projects.

5.0 Project Area Characteristics

During the development of the project phasing and sequencing plan, it became apparent that the project phases can be broken into groups based on the land use that is contained in each phase. The types of land uses in the Town generally consist of multi-family residential, mixed use commercial and residential, and single family residential. Understanding the level of complexity that may exist in any given phase can aid in the project delivery selection process. By grouping the land use classification, the diversity of major work elements contained in each phase, and the anticipated community impacts involved in working in any given phase area, this level of complexity can be more easily seen. Community impacts include a combination of factors such as impact to private property owners, traffic impacts, sufficient right of way to perform the construction operations (or lack thereof), impacts related to other infrastructure work beyond undergrounding to be performed, and the level of stakeholder coordination required to execute the work.

The below table summarizes this information:

Project Area	Land Use	Major Work Elements	Community Impacts
Phase 1 North	Single Family Residential	Undergrounding, Street Lighting, Watermain, Drainage	High
Phase 1 South	Multi-Family Residential	Undergrounding, Street Lighting	High
Phase 2 North	Single Family Residential	Undergrounding, Street Lighting, Watermain	High
Phase 2 South	Single Family Residential	Undergrounding, Street Lighting, Watermain	High
Phase 3 North	Single Family Residential	Undergrounding, Street Lighting, Watermain	High
Phase 3 South	Single Family Residential	Undergrounding, Street Lighting, Watermain	High
Phase 4 North	Single Family Residential	Undergrounding, Street Lighting, Watermain	High
Phase 4 South	Mixed-Use Commercial/Residential	Undergrounding, Street Lighting, Watermain	Very High
Phase 5 North	Single Family Residential	Undergrounding, Street Lighting, Watermain	High
Phase 5 South	Mixed-Use Commercial/Residential	Undergrounding, Street Lighting, Watermain, Signal Interconnect	Very High
Phase 6 North	Single Family Residential	Undergrounding, Street Lighting, Watermain	High
Phase 6 South	Mixed-Use Commercial/Residential	Undergrounding, Street Lighting, Watermain, Signal Interconnect	Very High
Phase 7 North	Single Family Residential	Undergrounding, Street Lighting, Watermain	High
Phase 7 South	Single Family/Multi-Family	Undergrounding, Street Lighting, Watermain	High
Phase 8	Mixed-Use Commercial/Residential	Undergrounding, Watermain	Very High

It is notable that the major work elements described above are those that are anticipated to be constructed in conjunction with the Undergrounding project by the contractor selected for each phase. There are other infrastructure projects that will occur concurrently with this program but they may occur either before or after the work in any given undergrounding phase area due to bond timing requirements and/or priority needs. ACIP project work performed by the Town and Gas main replacement work by FPUC are an examples of bond timing and priority needs, respectively.

6.0 Project Delivery Recommendations

The Town's undergrounding program is a very large and complex infrastructure program that will be implemented in a phased manner over the next eight to ten years. In developing recommendations for project delivery methods for each of those phases, the risks to schedule, level of service expectations, and cost must be carefully considered. If any single phase falters in any of those three areas of risk, the remaining phases of the program will be detrimentally affected. For this reason, the project delivery method must balance those risks while yielding the highest probability of project success.

It is our opinion that the CMAR method of project delivery yields the highest probability of success for delivering the various phases of the Town's Undergrounding Program. This is a method that is approved for use under the Town's procurement code and the Town staff has a history of success delivering large, complicated infrastructure projects under this method. The following sections reinforce this opinion based on the three areas of risk; schedule, level of service, and cost.

Schedule

The Town has placed a high priority on schedule. Because this is a phased program, a substantial delay in one phase can impact the ability to begin construction in a subsequent phase. These delays can create a domino effect that can impact the overall program schedule. This can lead to increased costs due to labor/material price increases over time. Additionally, there are technical reasons for performing certain construction tasks at certain times of the year. For example, highly disruptive roadway impacts are more desirable in the summer months because traffic volumes are at their lowest. Feeder transitions from the overhead to the underground system at the phase boundaries are much more desirable in the winter time when electrical demand is low. Performing these transitions during the hotter months can drive up costs because the process becomes more complicated to execute.

CMAR has the ability to fast-track certain activities. Working with the design team, elements of the project design can be completed early so construction of those elements can commence in an expedited manner. This can be advantageous for infrastructure elements such as water and drainage improvements that may need to be constructed in advance of the undergrounding infrastructure due to sequencing requirements.

By obtaining constructability comments and perspectives from the CMAR during the design process, the Town can achieve schedule efficiencies that are not available under traditional DBB. Reducing the schedule duration will reduce the cost of the general conditions on the project.

Level of Service

A major criterion in choosing a project delivery method for this program is the delivery method's ability to accommodate the needs of various stakeholders in a complex environment. The Town works very hard to protect the interests of the community. A high level of service and responsiveness to community needs, desires, and concerns is considered a very high priority. The undergrounding program is fundamentality different than most Town projects in that the work in this case is not confined to Town property or the public right of way. The Town's contractor will be required to perform work on just about every private property in the entire Town. It is imperative that the Town's contractor perform work on

private property in a manner that minimizes the disturbance to that property in order to reduce the risk of property owner claims against the Town.

The ability to deliver the level of service to the community that they expect best aligns with the CMAR method. Because the CMAR selection process has a qualifications component, their reputations are very important to them. They are highly motivated to do a good job for their client as they are typically desirous of winning the next project for the same client. Additionally, because the Town retains a great deal of control over the actions of the CMAR, when the need for change arises, as it often does with private individuals, it can easily be implemented by the CMAR.

Since the CMAR is ultimately responsible for the schedule and the budget, they will generally bid the trade elements to subcontractors who are qualified and bondable who the CMAR has confidence will construct their scopes of work successfully. This enhances the quality of the work and reduces the risk that either the design professional or utility owner will reject the work. Work that is rejected and must be redone can pose a significant schedule risk in addition to quality concerns.

Another advantage of this method is that the CMAR is far less likely to develop an adversarial relationship with the Town during the course of the project. This results in a construction team that is motivated to perform well for the Town, resolve issues quickly and cost effectively, and maintain a positive working relationship so they can continue working with the Town on future projects. For this reason, the risk of claims and lawsuits are often much lower for CMAR than other delivery methods. A lawsuit resulting from poor performance or claim on a project of this magnitude could have significant schedule and cost impacts.

Cost

We understand that the question may arise whether using a Construction Manager At-Risk will raise or lower the cost of the project. Having a very cost conscious group involved during the design process might lower the total cost of the project. However, by shifting the cost guarantee burden onto the CM, a case can be made that the actual savings may be less than promised if the CM is too conservative and risk-averse. There are studies that seem to indicate a substantial savings in cost growth (fewer change orders) through use of CMAR, but no good information on comparative initial cost for similar infrastructure projects. This is mostly due to the fact that Owner's do not build the exact same project twice under different delivery methods. While the cost savings potential exists, there is no guarantee that it will cost more or less than any other delivery system.

The CMAR project delivery method requires the least number of owner employees to manage the process because the CMAR can expand to meet the owner's staffing needs. While not reflected in the GMP, the reduced owner personnel required to manage the efforts of the CMAR is a cost savings that needs to be considered.

The CMAR process offers the Town "open book" transparency on how the construction price is developed. All of the sub-contractor bid proposals, CMAR overhead, project management, profit, and contingencies are clearly identified, shared with the Town, and agreed upon before the work begins. This also allows the Town to know the full budget for the project, unlike the DBB method where budget issues may not be discovered until well into the construction process.

As compared to other project delivery methods, the Town maintains a greater degree of control over the construction budget and use of any contingency funds. Change orders are inevitable in any underground infrastructure project. While upfront sub-surface investigation mitigates this risk, it cannot eliminate the risk. In a DBB project delivery, the Owner and Design professional work together to manage the rising project cost due to change orders on the project. In a CMAR project delivery, the Owner and Design professional work together to preserve the Construction Contingency which ultimately lowers the final cost of the project.

A significant cost advantage may be achievable through the Town's direct purchase of materials which can be streamlined through use of the CMAR procurement method. The CMAR can coordinate these efforts directly, retain responsibility for accepting delivery, storage and installation of these materials while achieving tax savings for the Town.

The Town's history with this delivery method has been positive with projects being completed on-time or ahead of schedule and under the negotiated GMP. When the cost of the project is less than the GMP, the contingency funds are returned to the Town.

CMAR Procurement Recommendations

There are multiple ways to select a CMAR to perform a given project. Historically, the Town has selected their CMAR contractors solely on a Qualifications-Based selection methodology. The CMAR then negotiates a pre-construction services fee, bids out the subcontracted trades, and assembles a final GMP which is negotiated and agreed upon by the Town and CMAR. This continues to be an option for CMAR selection but it is not the only avenue that a public agency has to make such a selection.

Another method that could be employed by the Town to select the CMAR is the Best Value Selection method. With this method, both the cost of the work and qualifications are factors in the final selection of the CMAR. Weighted factors are applied to both cost and qualifications submitted by prospective CMAR's and the highest aggregate score determines the CMAR who will provide the Best Value to the Town.

The cost elements that could be considered in a Best Value selection process include:

- Preconstruction Services
- Construction Services
- Post Construction Services (if needed)
- General Conditions
- Recommended Contingency

It is important to note that the cost elements listed above are those costs related to the Construction Management activities only. The Total Construction Costs (GMP) would be developed after the CMAR has been selected and has competitively bid all the sub-trade work. The Best Value Selection process can be performed through either a one-step process or a two-step process at the discretion of the Town. A one-step process requires prospective CMAR's to submit qualifications and fees concurrently. Typically, during the evaluation period of a one-step process CMAR fees are submitted in a separately

sealed envelope and scored after the qualifications based rankings have been finalized. A two-step process requires that prospective CMAR's first submit qualifications only. The evaluation committee then shortlists those proposers with the highest rankings and requests that those shortlisted proposers submit fee information. The fee information is then evaluated so the CMAR that provides the Best Value can be identified. Depending on the time available to select a CMAR, a one or two step process can be used to achieve the same result.

If the Town were to decide to pursue the Best Value Selection Method, we recommend that the Procurement Department and Town Attorney review and determine whether this method is acceptable based on the Town's procurement code and any other applicable state regulations.

Another resource the Town has available to assist in GMP/Contract Negotiations with the selected CMAR is the use of an expert in the field of construction to aid in the negotiation. The Town has already established a relationship with such an expert (Peter Brandt) and could request his involvement during this process to further ensure that the terms and fee offered by the CMAR are fair and equitable to the Town.

References

An Owner's Guide to Project Delivery Methods, The Construction Management Association of America, 2012.

Primer on Project Delivery, Second Edition. Developed by the Joint Committee of the American Institute of Architects and the Associated General Contractors of America, 2001.

The Risk in CM "At-Risk", by the Construction Management Association of America, 2002.

CM/GC Guidelines for Public Owners, second edition © 2007 by the Associated General Contractors of America and the National Association of State Facilities Administrators.

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 21-2016 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 42, Environment; Article V, Noise; Section 42-230, Lawn Maintenance Equipment Noise, so as to Define the Hours of Operation of Lawn Maintenance Equipment; Prohibiting Commencement of Large Scale Landscape Installation on Saturdays; Regulating Sound Level Measurement of Said Equipment; Regulating Use of Leaf Blowers; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing for an Effective Date.

Presenter

Jay Boodheshwar, Deputy Town Manager

ATTACHMENTS:

- **Memorandum Dated December 5, 2016, from Jay Boodheshwar, Deputy Town Manager**
- **Ordinance No. 21-2016**
- **Correspondence from Residents Regarding Landscape Maintenance**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Thomas G. Bradford, Town Manager

From: Jay Boodheshwar, Deputy Town Manager

Re: Amendment of Town Code of Ordinances, Relative to Landscape Maintenance
Ordinance No. 21-2016

Date: December 5, 2016

STAFF RECOMMENDATION

Staff recommends Town Council approve Ordinance No. 21-2016, amending Chapter 42, Section 42-230 of the Town Code of Ordinances, relative to landscape maintenance noise and hours of operation, as recommended by the Ordinances, Rules and Standards (ORS) Committee.

GENERAL INFORMATION

At the August 15 and September 8, 2016, ORS meetings significant discussion took place regarding rules governing the hours of operation, days of the week and time of the year for the use of landscape maintenance equipment.

After much discussion, the ORS Committee recommended an amendment to the Town Code to revise the schedule of days/hours in which the use of landscape maintenance equipment is permitted. The intent is to create greater consistency between the winter and summer months, while ensuring sufficient quiet time during certain hours of the day so that residents can enjoy their outdoor spaces with minimal noise.

TOWN ATTORNEY REVIEW

The Town Attorney prepared and approved Ordinance No. 21-2016, which has been prepared to codify the ORS recommendations outlined above.

Attachment

cc: Department Directors
Nicholas Caristo, Police Captain
Benjamin Alma, Code Enforcement Manager
John C. Randolph, Town Attorney

ORDINANCE NO. 21-2016

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 42, ENVIRONMENT; ARTICLE V, NOISE; SECTION 42-230, LAWN MAINTENANCE EQUIPMENT NOISE, SO AS TO DEFINE THE HOURS OF OPERATION OF LAWN MAINTENANCE EQUIPMENT; PROHIBITING COMMENCEMENT OF LARGE SCALE LANDSCAPE INSTALLATION ON SATURDAYS; REGULATING SOUND LEVEL MEASUREMENT OF SAID EQUIPMENT; REGULATING USE OF LEAF BLOWERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The Code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 42, Environment; Article V, Noise, Section 42-230, Lawn Maintenance Equipment Noise, to read as follows:

"**Sec. 42-230. - Lawn maintenance equipment noise.**

(a) Operation of lawn maintenance equipment shall be limited to the following hours: ~~outlined for construction work at section 42-199, including the prohibitions stated therein on Sundays and all legal holidays.~~

Winter months (December 1 – April 30)

Monday – Friday 9:00 a.m. to 5:00 p.m.

Saturday – 12:00 noon to 5:00 p.m.

Summer months (May 1 – November 30)

Monday – Friday 9:00 a.m. to 5:00 p.m.

Saturday – 12:00 noon to 5:00 p.m.

There shall be no commencement of large scale landscape installation at any time on Saturdays.

The sound level meter measurement for lawn maintenance equipment shall be no greater than 65 dBA measured 50 feet from the point of operation of the equipment.

Nothing in this section shall preclude the operation of lawn maintenance equipment on Saturdays or the Friday immediately after Thanksgiving. Additionally, nNothing in this section shall preclude the operation of lawn maintenance equipment, including leaf blowers, by residents on Saturdays, Sundays or legal holidays, including the Friday immediately after Thanksgiving. Further, Ggolf course maintenance equipment within the town is not restricted during the hours outlined for construction work at section 42-199 set forth above; however, such golf course maintenance equipment shall not be used before 8:00 a.m. or after 5:30 p.m. on any day at locations within 300 feet of residential properties, except in the event of valid emergencies and once per month for purposes of chemical spraying or fertilizing. The sound level meter measurement shall be no greater than 75 dBA measured 50 feet from the point of operation of the equipment. The sound level meter measurement set forth above shall not be applicable to lawn maintenance equipment used on golf courses.

(b) Lawn maintenance equipment includes but is not limited to lawn mowers, edgers, hedge trimmers, yard tractors, leaf blowers, lawn vacuum machines, and monofilament line grass trimmers.

(c) Leaf blowers. All motorized lawn maintenance equipment shall be prohibited from use between the hours of 5:00 p.m. and 9:00 a.m. Monday - Saturday and between the hours of 12:00 Noon Saturday and 9:00 a.m. Monday.. Additionally, during the period of the year commencing December 1 and ending April 30, leaf blowers may be used on Saturdays only from 9:00 a.m. to 12:00 p.m. Leaf blowers shall not exceed a decibel level of 65 dBA as measured at 50 feet from the point of operation. It shall be unlawful to blow yard trash or clippings into the public street.It shall be unlawful to use leaf blowers to blow yard trash or clippings into the public street or onto adjacent properties from the property on which the leaf blower is being used."

Section 2. Severability.

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

Section 3. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 4. **Codification.**

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 5. **Effective Date.**

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this ____ day of _____, 2016, and for second and final reading on this ____ day of _____, 2017.

_____
Gail L. Coniglio, Mayor

_____
Michael J. Pucillo, Town Council President

_____
Richard M. Kleid, Council President Pro Tem

_____
Bobbie Lindsay, Town Council Member

_____
Danielle H. Moore, Town Council Member

_____
Margaret Z. Zeidman, Town Council Member

ATTEST:

_____
Susan A. Owens, MMC, Town Clerk

p:\docs\13156\00008\doc\1r31708.doc

From:	mjchristiano@comcast.net
To:	Town Council
Cc:	mjchristiano
Subject:	Potential Blower Ban and Restricted Hours for Landscapers
Date:	Wednesday, November 02, 2016 4:02:26 PM

Dear Council Members:

On November 8th, you will be making a critical decision regarding the potential ban on leaf blowers and major restrictions on landscaper and gardener work allowances on Saturdays. Let me first point out that either one of these new restrictions will forever change the efficiency that we in the green industry can provide our Palm Beach clients.

The proposed ban on blowers will be catastrophic to the overall cleanliness and tidy appearance of our gardens, streets, walkways, etc. There is no way that sweeping or vacuuming can keep things in order the way a blower does. Everyone has become accustomed to the perfectly clean hard surfaces and the clean bedding areas that are signature Palm Beach.

The other major issue is the ability to work on Saturdays. No work on Saturdays would mean that we will never be on-time with our work. Saturday work has always helped us catch up from the Town's observed holidays that we cannot work and rain days. Saturday work may be the most important work day of all because no one schedules anything on a Saturday. Saturday is a day that is mainly set aside only for catch-up or "it has to get done this week" purposes. We would have no contingency plan without it.

I have been gardening exclusively on this island for more than 30 years. I can assure you that a ban on blowers and Saturday work will change things for the worse. It's hard enough to tell my clients that we can't work on President's Day. I would hate to tell my clients that I cannot blow off their walk way, etc. before a big social event, especially on a Saturday.

Thank you for your consideration in this matter.

Respectfully,
Michael J Christiano

From: Esther Feldberg
To: Town Council
Subject: Our lawns
Date: Friday, October 14, 2016 1:54:56 AM

To whom this may concern,
We are one of the lucky owners of a home in Palm Beach. And we are contributors to the important issues in the town. We received a letter from our landscaper, Scott Lewis Gardening and Trimming, informing us that the town council is considering radically reducing the times landscapers can use any power equipment at all. No other industry in the town has been targeted.

The beautiful gardens, foliage, the palm trees and the lawns of the lovely homes on this very special island are being attacked for no apparent reason, unless some old inconsiderate individuals are complaining. And if this is so, this is unacceptable to the home owners who live here all year round and to those who are here in the fall and winter seasons as well.

To keep the very special look on this unbelievable island, the registered gardening companies must not be restricted in the care of their individual clients. Living here full time, the construction being done on every corner
this summer has been very inconsiderate to us all. The noise and jack hammering, and large pieces of equipment all over has been very unappealing. Apparently no one has complained and it keeps on going.

To target the landscapers is unacceptable to me because if this ordinance were to go through, the cost to everyone will be very much increased, which is so high to begin with. To maintain the Palm Beach
beauty with the look of no other town in the whole world, you must NOT
consider stopping the works of our landscapers.

Sincerely,

Esther Feldberg

cc: Scott Lewis

Our lawns
Esther Feldberg
to:
Council
10/14/2016 01:54 AM
Hide Details
From: Esther Feldberg <poetspath26@gmail.com>
To: Council@townofpalmbeach.com

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To target the landscapers is unacceptable to me because if this ordinance were to go through, the cost to everyone will be very much increased, which is so high to begin with. To maintain the Palm Beach beauty with the look of no other town in the whole world, you must NOT
consider stopping the works of our landscapers.

Sincerely,

Esther Feldberg

cc: Scott Lewis

From: jazzdellago@aol.com
To: Town Council
Subject: from Frances Scaife
Date: Wednesday, October 12, 2016 11:33:35 AM

Mrs. Frances G. Scaife
179 Via Del Lago
Palm Beach, Florida 33480
561-659-4579

Wednesday, October 12, 2016

Dear Town Council,

I find your new consideration for gardeners to be really ridiculous. I understand there is a proposal about changing the allowance for gardeners in Palm Beach particularly related to noise factor and hour changes. You are really restricting the job quality and services the gardeners can give their clients and I think you should reconsider your proposal.

Sincerely,
Frances G. Scaife

From: William Wagner Jo Anne Wagner
To: Town Council
Subject: Garden blowers
Date: Saturday, October 08, 2016 3:31:05 PM

Dear Council members
Please do not restrict the hours for gardeners to use their power equipment. Palm Beach resident's pride themselves in keeping their properties well groomed. Our long time garden company is Scott Lewis and we have not been disturbed by noise from his quality eqipment

Sent from my iPhone

Fw: Power equipment restrictions

Town Council to: Thomas G. Bradford, Jay Boodheshwar, jrandolph 10/05/2016 02:37 PM

Sent by: Cheryl Kleen

Cc: Kathleen Dominguez

Bcc: gailconig1, dukie85, mjpucillo, lindsaybobbie, heron1107, kleid561

----- Forwarded by Cheryl Kleen/PalmBeach on 10/05/2016 02:37 PM -----

From: Jane Trevisan <janetrevisan@gmail.com>
To: council@townofpalmbeach.com
Date: 10/04/2016 03:02 PM
Subject: Power equipment restrictions

Dear Town Council,

I am writing to express my concern about the power equipment time restrictions that you are considering for landscapers.

I find this unfair for several reasons:

1) NO other industry who works on the island is being targeted. This means that a major construction, demolition, or renovation project can proceed at 8 am - at blast level noise - but my gardener cannot use a blower until 9 am or not at all on Saturdays.

2) This proposal will result in increased costs and inconvenience to me.

If the noise created by landscapers is such an issue, then I suggest you crack down on the myriad of unlicensed companies that operate on the island using the loudest garden equipment possible, in violation of Town Ordinances. Enforcing a fine or two would clearly send a message to these characters.

Why penalize citizens who employ licensed, reputable companies to maintain their homes and gardens in a manner that Palm Beach deserves.

Thank you.

Jane Trevisan
165 Root Trail

From: Jane Trevisan
To: Town Council
Subject: Power equipment restrictions
Date: Tuesday, October 04, 2016 3:02:57 PM

Dear Town Council,

I am writing to express my concern about the power equipment time restrictions that you are considering for landscapers.

I find this unfair for several reasons:

1) NO other industry who works on the island is being targeted. This means that a major construction, demolition, or renovation project can proceed at 8 am - at blast level noise - but my gardener cannot use a blower until 9 am or not at all on Saturdays.

2) This proposal will result in increased costs and inconvenience to me.

If the noise created by landscapers is such an issue, then I suggest you crack down on the myriad of unlicensed companies that operate on the island using the loudest garden equipment possible, in violation of Town Ordinances. Enforcing a fine or two would clearly send a message to these characters.

Why penalize citizens who employ licensed, reputable companies to maintain their homes and gardens in a manner that Palm Beach deserves.

Thank you.

Jane Trevisan
165 Root Trail

BAN REDUCING THE ALLOWABLE HOURS THAT LANDSCAPERS CAN USE POWER EQUIPMENT DURING THE OFF SEASON .

Harold Blumenstein to: council@townofpalmbeach.com 10/04/2016 12:08 PM

History: This message has been forwarded.

To Members of the Town Council,

I am writing to express my opposition to the alteration of the allowable hours that landscapers can use power equipment
My reasons are as follow:

1) Beautiful landscaping is one of the distinguishing features of the Town of Palm Beach.
2) The hours of the ability of Landscapers to maintain this condition are already limited both by ordinance and weather.
3) The justification to leaving the hours as they are, which allows for modestly more work in the off-season is that the off season is when most of the plant growth occurs.
4) Whenever weather damages our trees and plants, we anxiously wait until this growth period occurs so the damage can be repaired.
5) That time is also when much of the rain occurs, which already limits the ability of landscapers to get things done.
6) Additionally, this change will only apply to landscapers and not to other equipment users, which is very discriminatory.

This seems very like a very wrongminded change, and is almost as if a small group of people have a vendetta against Landscapers.

I am certain that a vote of the residents of Palm Beach would not approve this change.

Thank you,

Harold Blumenstein
650 North County Road
Palm Beach, FL 33480

From:	Alexander Griswold
To:	Town Council
Subject:	Landscape Noise Ordinance
Date:	Tuesday, October 04, 2016 11:16:41 AM
Attachments:	D789B4F8-A40A-4E5D-970C-75C836494477[75].png

Town Council,

I hope all is well. I am the Managing Partner of 205 Royal Palm Way, LLC. which owns 205 & 221 Royal Palm Way. I am extremely concerned about limiting my landscapers ability to work at off hours and on the weekends. My tenants need quiet during normal business hours, so we specifically do our maintenance on Saturdays and in the evenings. Can someone please provide exactly what is being purposed to me? I hope you understand my concerns. Best, Alex

ARMATA
HOLDINGS

Alex H. Griswold
222 Lakeview Ave.
Suite 1550
West Palm Beach, FL 33401
C: 561.310.6205
O: 561.282.0767

342 Garden Rd

Karen E. Terry to: council@townofpalmbeach.com 10/03/2016 12:49 PM

History: This message has been replied to and forwarded.

Town Council,
I understand that the town is considering radically reducing the times that landscapers can use power equipment by 20 hours per week. The only purpose this would seem to fulfill is more quiet. But if the blowers are too loud, why isn't the Town issuing fines to those unlicensed companies that use the loud blowers.

If this issue is carefully studied, it seems clear that the minuses far outweigh the pluses. Reducing the hours per week will force the prices of our landscapers up to as much as 25%. It will make the landscaper's jobs inefficient and their customers will not be timely serviced. It appears that landscapers are being targeted but other industries including demolition, construction, and renovation companies are not being restricted on Saturdays or to these hours, regardless of the noisiness of their equipment. It seems patently unfair to target the landscapers in my opinion.

Thank you.

Karen E. Terry, Esq.

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****

Proposed restrictions to island landscapers

Rebecca Dunn to: council 10/05/2016 05:53 PM

History: This message has been forwarded.

Dear Town Council:

We are very much against the proposed restrictions to landscapers that service our island. You have singled out an industry and are attempting to put restrictions on them that make no sense when demolition, construction and renovation companies are not restricted at these same times.

Additionally, the potential to raise rates of 15-25% due to the reduced hours and need to use brooms instead of blowers is significant and should not be overlooked.

You may please a few intolerant and uncooperative individuals but you do no service to the community as a whole if you pass these proposed restrictions. **Please vote against these proposed restrictions.**

Sincerely,

William and Rebecca Dunn
210 El Vedado Road
Palm Beach

From: Bruce Toll
To: Town Council
Subject: Town Council Leaf blowers
Date: Wednesday, August 24, 2016 3:23:05 PM

Dear Town Council,
Please be advised I have been reading articles, in the Palm Beach Daily News concerning a proposed ordinance to ban leaf blowers. I think this a bad idea it will increase cost of gardening. As a town resident the noise does not bother me.

Very truly yours,
Brue Toll

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 26-2016 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Town Code of Ordinances at Chapter 106, Streets, Sidewalks and Other Public Places; Article V, Sidewalks; Section 106-156, Regarding Duty to Maintain Sidewalks and Gutters Free of Debris, Encumbrances and Obstructions; Providing a Definition of Debris, Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

Presenter

Jay Boodheshwar, Deputy Town Manager

ATTACHMENTS:

- **Memorandum Dated December 5, 2016, from Jay Boodheshwar, Deputy Town Manager**
- **Ordinance No. 26-2016**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: Jay Boodheshwar, Deputy Town Manager

Re: Amendment of Town Code of Ordinances at Chapter 106, Section 156 of the Town Code of Ordinances, Relative to Maintenance of Sidewalks
Ordinance No. 26-2016

Date: December 5, 2016

STAFF RECOMMENDATION

Staff recommends Town Council approve Ordinance No. 26-2016, amending the Town Code of Ordinances at Chapter 106, Section 156 of the Town Code of Ordinances, to expand and clarify the definition of debris in the context of sidewalk maintenance, as recommended by the Ordinances, Rules and Standards Committee.

GENERAL INFORMATION

Section 106-156 of the Town Code of Ordinances address maintenance of sidewalks and gutters, which states that "it shall be unlawful for any person owning and/or occupying any lot or part of a lot in the town to omit to keep the abutting paved sidewalk clean and free of debris and the gutters adjoining the same free from encumbrance and obstruction. Responsibility for repair and maintenance of sidewalks located within town rights-of-way shall be the responsibility of the town except where damage to same is caused by the abutting property owner, his agents or representatives."

Because there is no definition of "debris" in this section of the Code, it is not clear if adjacent property owners are responsible for removing dirt build-up, mold and algae. Pressure washing to address dirt build-up, mold and algae on residential sidewalks has historically not been done by the Town. Most adjacent property owners keep the sidewalks and gutters adjacent to their homes clean and free of all debris, including dirt, mold and algae, as a part of their routine landscape/hardscape maintenance. However, there are situations in which cleaning of adjacent sidewalks is not done frequently enough, which creates an unsightly and potentially unsafe situation.

The ORS Committee recently reviewed Section 106-156 and determined that for purposes of this section, debris should be defined to include dirt, mold, algae or other unsightly buildup or any object which creates an encumbrance, obstruction or potential hazard, requiring cleaning by the adjacent property owners.

TOWN ATTORNEY REVIEW

The Town Attorney prepared and approved Ordinance No. 26-2016.

Attachment

cc: John C. Randolph, Town Attorney
Paul Brazil, Director of Public Works
Kirk Blouin, Director of Public Safety
Nicholas Caristo, Police Captain
Benjamin Alma, Code Enforcement Manager
Karen Temme, Risk Manager

ORDINANCE NO. 26-2016

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 106, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES; ARTICLE V, SIDEWALKS; SECTION 106-156, REGARDING DUTY TO MAINTAIN SIDEWALKS AND GUTTERS CLEAN AND FREE OF DEBRIS, ENCUMBRANCES AND OBSTRUCTIONS; PROVIDING A DEFINITION OF DEBRIS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article V, Sidewalks, Section 106-156, provides that it shall be unlawful for any person owning and/or occupying any lot or part of a lot in the Town to omit to keep the abutting paved sidewalk free and clean of debris; and

WHEREAS, the word "debris" has not been defined in the ordinance; and

WHEREAS, it is important for the purposes of assuring public safety that the definition of debris include dirt, mold, algae and other unsightly buildup, as well as any other obstacles or objects which may be considered as an encumbrance or obstruction.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Article V, Sidewalks, Section 106-156, Duty to maintain sidewalks and gutters clean and free of debris, encumbrances and obstructions, is hereby amended to read as follows:

"**Sec. 106-156. - Duty to maintain sidewalks and gutters clean and free of debris, encumbrances and obstructions.**

A. It shall be unlawful for any person owning and/or occupying any lot or part of a lot in the town to omit to keep the abutting paved sidewalk clean and free of debris and the gutters adjoining the same free from encumbrance and obstruction. Responsibility for repair and maintenance of sidewalks located within town rights-of-way shall be the

responsibility of the town except where damage to same is caused by the abutting property owner, his agents or representatives.

B. For purposes of this section, debris is defined to include dirt, mold, algae or other unsightly buildup or any object which creates an encumbrance, obstruction or potential hazard."

Section 2. Severability.

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

Section 3. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 4. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 5. Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this ____ day of December, 2016, and for second and final reading on this ____ day of January, 2017.

_____	_____
Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	_____
	Richard M. Kleid, Council President Pro Tem
	_____
	Bobbie Lindsay, Town Council Member
	_____
ATTEST:	Danielle H. Moore, Town Council Member
_____	_____
Susan A. Owens, MMC, Town Clerk	Margaret A. Zeidman, Town Council Member

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TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 27-2016 An Ordinance of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Amending the Code of Ordinances of The Town of Palm Beach at Chapter 66, Natural Resource Protection, Article I, In General, Section 66-2, Definitions so as to Add, Amend or Delete Various Terms Related to Landscape and Irrigation Requirements; Amending Article IV, Vegetation, Relating to Conditions for Landscape Design, Installation and Removal; Moving General Requirements for Landscape Design to a New Section 285; Modifying Section 66-286 Establishing Minimum Requirements for Shade Trees, Required Landscaping for Interior Parking Lots, Minimum Landscape Installation Requirements, Modifying Irrigation Standards and Requirements for Irrigation and Irrigation Systems, Providing for Requirements Related to the Submission of Plans, and Landscape Installation and Removal Permits; Adding Section 66-287 Requiring That All Required Landscaping be Approved by the Planning, Zoning and Building Department Prior to the Issuance of Certificates of Occupancy or Completion; Adding a New Section 66-288 Requiring Protection of Trees During Construction; Adding a New Section 66-289 Requiring Vegetation Maintenance; Adding a New Section 66-290 Providing Standards Related to Tree Trimming; Adding a New Section 66-291 Prohibiting Certain Practices Related to Tree Trimming; Providing for Severability; Providing for Repeal of Ordinances in Conflict; Providing for Codification; Providing an Effective Date.

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

- **Memorandum Dated November 21, 2016 From John S. Page, Director of Planning, Zoning & Building**
- **Ordinance No. 27-2016**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: John S. Page, Director, PZB Department

Re: Chapter 66 Review
Article I. In General, Article IV. Vegetation
Ordinance 27-2016

Date: November 21, 2016

STAFF RECOMMENDATION

Staff recommends approval of changes to Chapter 66 Articles I, In General, and IV, Vegetation as reviewed and approved by the Ordinance, Rules and Standards Committee.

ORS RECOMMENDATION

The Ordinance, Rules and Standards Committee has been reviewing proposed changes to Chapter 66 Natural Resource Protection related to landscaping. On November 10, 2016, ORS approved the final draft of Article I, Sec. 66-2 Definitions, and Article IV, Vegetation and requested Staff to prepare an ordinance for the Council's consideration.

GENERAL INFORMATION

You may recall that review of Chapter 66 was initiated at the time that a comprehensive review of the Code of Ordinances was commenced, and has been ongoing. At that time, Staff recommended that a landscape installation permit be instituted, in addition to the already-required tree removal permit, for a number of reasons. Periodically, landscaping was being altered, particularly buffer screening, which was the subject of prior approvals by Town Council, ARCOM or LPC, and Staff was being asked to enforce those prior approvals. In addition, Staff was already performing landscape plan reviews and inspecting landscape installations for conformance to the existing code, as well as ensuring ARCOM approvals were implemented correctly, all without any cost recovery fees being charged. It was believed that these and other issues, including hedge and easement agreements in place but not being observed, and conformance to xeriscape requirements, could be better monitored through the oversight afforded by a landscape permit requirement.

Attached is proposed Ordinance 27-2016, which addresses these concerns, as well as other modifications considered by ORS as necessary or desirable, such as:

- Clarifying definitions to guide users on the Code's intent and requirements.

- Instituting a minimum requirement for the use of shade trees (one (1) for lots of less than 10,000 square feet, one (1) per 5,000 square feet for properties 10,000 square feet or more.
- Adding landscaping requirements for new parking lots.
- Introducing the use of native vegetation and clarifying the existing requirements related to the use of drought tolerant landscape materials.
- Modifying the Town's advanced irrigation requirements by changing the variance process to a waiver process and reducing other requirements so as to encourage more participation in the program.
- Adding a new provision requiring the protection of trees during construction.
- Adding a provision (at the request of Code Enforcement Staff) establishing vegetation maintenance requirements.
- Adding a provision regarding tree-trimming standards, and the prohibition of hatracking of trees.

Staff remains in the process of reviewing Articles II and III of Chapter 66 related to dunes, and checking on the County's ordinance as it relates to provisions regarding Scheffleras, to determine whether certain existing Scheffleras, considered an invasive species, may remain, another issue that was considered by ORS. These items will be presented at a later date after ORS consideration.

TOWN ATTORNEY REVIEW

Please be advised that the Town Attorney has reviewed Ordinance No. 27-2016 and has approved it as to legal form and sufficiency.

Please feel free to contact me should you have any questions on this version.

cc: John. C. Randolph, Town Attorney
Veronica Close, Assistant Director, Planning, Zoning & Building
John Lindgren, Planning Administrator
Benjamin Alma, Parking and Code Enforcement Supervisor

ORDINANCE NO. 27-2016

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AT CHAPTER 66, NATURAL RESOURCE PROTECTION, ARTICLE I, IN GENERAL, SECTION 66-2, DEFINITIONS SO AS TO ADD, AMEND OR DELETE VARIOUS TERMS RELATED TO LANDSCAPE AND IRRIGATION REQUIREMENTS; AMENDING ARTICLE IV, VEGETATION, RELATING TO CONDITIONS FOR LANDSCAPE DESIGN, INSTALLATION AND REMOVAL; MOVING GENERAL REQUIREMENTS FOR LANDSCAPE DESIGN TO A NEW SECTION 285; MODIFYING SECTION 66-286 ESTABLISHING MINIMUM REQUIREMENTS FOR SHADE TREES, REQUIRED LANDSCAPING FOR INTERIOR PARKING LOTS, MINIMUM LANDSCAPE INSTALLATION REQUIREMENTS, MODIFYING IRRIGATION STANDARDS AND REQUIREMENTS FOR IRRIGATION AND IRRIGATION SYSTEMS, PROVIDING FOR REQUIREMENTS RELATED TO THE SUBMISSION OF PLANS, AND LANDSCAPE INSTALLATION AND REMOVAL PERMITS; ADDING SECTION 66-287 REQUIRING THAT ALL REQUIRED LANDSCAPING BE APPROVED BY THE PLANNING, ZONING AND BUILDING DEPARTMENT PRIOR TO THE ISSUANCE OF CERTIFICATES OF OCCUPANCY OR COMPLETION; ADDING A NEW SECTION 66-288 REQUIRING PROTECTION OF TREES DURING CONSTRUCTION; ADDING A NEW SECTION 66-289 REQUIRING VEGETATION MAINTENANCE; ADDING A NEW SECTION 66-290 PROVIDING STANDARDS RELATED TO TREE TRIMMING; ADDING A NEW SECTION 66-291 PROHIBITING CERTAIN PRACTICES RELATED TO TREE TRIMMING; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECIVE DATE.

WHEREAS, Town Council determined that a comprehensive review of the Town's Code of Ordinances was desirable; and

WHEREAS, Staff reviewed the sections of Chapter 66 related to landscaping and irrigation requirements, and reported its findings to the Ordinance Rules and Standards Committee, and

WHEREAS, it was determined beneficial to institute a landscape installation permit procedure to ensure that approvals by the Town Council, ARCOM and LPC were being implemented in perpetuity for the benefit of applicants, neighbors and the community in general, and that the costs for those reviews and inspections were recovered; and

WHEREAS, it was determined that significant benefit to the community would be derived by strengthening existing provisions related to water conservation, maintenance of trees and other landscaping, and instituting design principles for landscaping and irrigation based on current conservation initiatives; and

WHEREAS, it was determined that a reduction in the requirements for a waiver from watering requirements would promote more utilization of weather-based irrigation systems.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALMBEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

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

Section 2. The code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 66, Natural Resource Protection; Article I, In General; Section 66-2, Definitions, to read as follows:

"**Sec. 66-2. - Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alter or *alteration of stormwater systems* means work done on a stormwater management system other than that necessary to maintain the system's original design and function.

Alter or *alteration of vegetation* means anything other than trimming of vegetation, including but not limited to, trampling, crushing, breaking, digging up, or excessive cutting of roots, stems, or branches. ~~to cut, trim, remove, defoliate, or otherwise destroy or disturb by any means, leaves, limbs, stems, roots, or other plant parts, dead or alive.~~

Antitranspirant means a protective coating, generally applied to plant materials prior to or immediately after transplanting, that reduces water loss through the leaf surface.

Buffer, perimeter landscape is an area of flat ground at grade or bermed land which is set aside along the perimeters of a parcel of land in which landscaping is required to provide an aesthetic transition between adjacent plots to eliminate or reduce adverse environmental impact, and incompatible land use impacts.

Cistern means an underground container that is used for collecting and storing rainwater.

Clear trunk when referring to palms means grey wood and sheath, boot, nut or other growth above the grey wood but does not include the fronds.

Cultivated landscape area means planted areas that are frequently maintained by mowing, irrigating, pruning, fertilizing, etc.

Curb means Type D or Type F curbing that border along the edge of a roadway, path, etc. typically constructed of concrete which may perform any one or more of the following functions:

(A) forms a structural confinement of the road's edge, parking island and medians;
(B) may be raised to prevent vehicular traffic from leaving the road surface; and
(C) provides a channel to collect and direct rainfall runoff from the road surface.

DSH means diameter at standard height (4.5 feet or 1.37 meters) measured from the top of rootball

Detention means the collection and storage of surface water for subsequent gradual discharge.

Dune means a hill or ridge of windblown sand and marine deposits formed by action of the wind and water, often stabilized by vegetation indigenous to this formation.

Erosion and sediment control plan means a plan for the control of soil erosion, sedimentation of waters and sediment related pollutants, and stormwater runoff resulting from land disturbing activity. The town may require the party responsible for carrying out the plan to submit monitoring reports, as deemed necessary, to determine whether the measures required by the approved plan are being properly performed.

Essential element means any element of a landscape plan which is determined by either the Architectural or Landmark Preservation Commission as being mandatory and upon which an approval is predicated. Changes to essential elements cannot be made without approval from the respective Commission. Examples of essential elements include, but are not limited to, buffers, screening, trees, and palms.

Grey wood and clear wood means the portion of a palm trunk which is mature hardwood measured from the top of the rootball to the base of the green terminal growth, sheath, nut or boot. Refer to Sec. 66-284 Diagram A.

~~*Evapotranspiration-based controller* means an irrigation controller that calculates soil moisture from known weather and related inputs, as follows:~~

~~(1) Receives and monitors weather data or on-site environmental conditions;~~

~~(2) Calculates the amount of moisture input to and moisture lost from the soil and plants;~~

~~(3) Automatically creates or adjusts the irrigation schedule to apply only the amount of water necessary to maintain adequate soil moisture.~~

Ground cover means plants, other than turf grass, normally reaching an average maximum height of not more than 24 inches at maturity.

Hat-racking means the removal of main stems, tops of trees, or a significant percentage of tree canopy, generally by cross-cutting the main stem(s) or leaders, leaving stubs.

Hedge means a dense row of regularly spaced shrubs planted to form a continuous, unbroken visual screen.

Impervious surface means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes but is not limited to semi-impervious surfaces such as compacted clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar structures.

Irrigation system means a permanent, artificial watering system designed to transport and distribute water to plants.

Landscape/landscaping means the following:

(A) When used as a noun, this term shall mean living plant materials such as beautification strips, floral installations, hedges, sod, grasses, groundcover, shrubs, vines, trees or palms and nonliving durable materials commonly used in environmental design such as, but not limited to, walls or fences, aesthetic grading or mounding, but excluding pavers, paving, artificial turf, turf block, rocks and structures.

(B) When used as a verb, this term shall mean the process of installing or planting materials commonly used in landscaping or environmental design.

Landscaped open space means open space which is covered and maintained with natural growth in a permeable soil.

Land disturbing activity means any land change that may result in soil erosion from water or wind and the movement of sediments and sediment related pollutants in waters, including but not limited to clearing, grading, excavating, transporting and filling of land.

Mangroves means any specimen of Avicenna germinans (black mangrove), Laguncularia racemosa (white mangrove), Rhizaphora mangle (red mangrove), and Conocarpus erectus (buttonwood mangrove), dead or alive, regardless of size.

Moderate drought tolerant means vegetation that requires supplemental irrigation during extreme dry periods to maintain attractive appearance.

Mulch means ~~nonliving~~ organic, arsenic free material such as wood chips, pine straw or bark placed on the soil to reduce evaporation, prevent soil erosion, control weeds and buffer soil temperature. ~~and synthetic materials customarily used in landscape design to retard erosion and retain moisture.~~

Multi-trunk tree is a tree that has a minimum of three trunks with no more than five trunks of equal diameters originating from the ground and with angles no greater than forty-five (45) degrees with diameter of at least 1 ½ inches measured at DSH.

Native habitat means habitat that predominantly consists of or is used by those communities of plants, animals, and other flora and fauna which occur indigenously on the land, in the soil, or in the water.

Native plant community is a natural association of plants dominated by one or more prominent native plant species, or a characteristic physical attribute as indicated by the Town of Palm Beach.

Native plant species shall be the plant species indigenous to the ecological communities of South Florida, as indicated as native to South Florida by the University of Florida in the Atlas of Vascular Plants, or that can be scientifically documented to be native to South Florida.

Native shoreline vegetation means vegetation that occurs indigenously on the land, in the soil, or in the water.

Opaque: obscure as to be visually unintelligible.

Overall height of a tree means the height measured from the ground to the bend of the topmost branch of the tree. Overall height of palm means the measurement from the ground to the bend of the topmost frond.

Pestilent exotic species means any specimen of Melaleuca (Melaleuca quinquenerva), Australian Pine (Causarina spp.), or Brazilian Pepper (Schinus terebinthifolius), or other species referenced elsewhere in this chapter, regardless of size.

Planting means the placing on or setting into the ground of live plant material.

Planting soil/topsoil means a medium composed of equal portions of sand and muck. Palm planting soils means a medium composed of no more than 80 percent sand and remainder soil consisting of muck.

Prop roots means the structures originating below the lowest limbs of red mangroves, and which are also known as stilt roots.

Rainwater harvesting system means an active (e.g. cisterns) or passive system (e.g. rain barrels) designed to collect stormwater as a means of meeting water demands and reducing runoff and pollutant load.Rate means volume per unit of time.

Removal means to relocate, cut down, remove, or in any other manner destroy or cause vegetation to be destroyed.

Retention means the collection and storage of runoff without subsequent discharge to surface waters.

Runoff coefficient means ratio of the amount of rain that runs off a surface to that which falls on it; a factor from which runoff can be calculated.

Sediment means the mineral or organic particulate material that is in suspension or has settled in surface waters or groundwaters.

Sediment related pollutants means substances such as nutrients, pesticides, pathogens, and organic materials that are transmitted with, or in association with, sediment.

Shrub means a self-supporting, woody plant full to the ground with three or more branches produced from the ground which could be maintained in a healthy state to the height indicated on the landscape plans.

Structure means anything constructed or erected, except for fences, the use of which requires any type of permanent location on the ground or attached to something having a permanent location on the ground, and shall include but not be limited to signs, walkways or types of construction with interior surfaces not normally accessible for human use.

Substantial improvement means any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a one-year period in which the cumulative cost equals or exceeds 50 percent of the market value of the structure prior to the improvement. The market value of the building should be:

(1) The appraised value of the structure prior to the start of the initial repair or improvement, or

(2) In the case of damage, the value of the structure prior to the damage occurring.

This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been pre-identified by the code enforcement official and which are solely necessary to assure safe living conditions.

Surface water means water above the surface of the ground whether or not flowing through definite channels.

Temporary irrigation system is one which is not to be supplied by buried polyvinyl chloride (PVC), polyethylene (PE), copper tubing or any other direct buried piping.

Tree means any living, self-supporting woody perennial plant, together with its root system, growing upon the earth, usually one trunk or multi-trunk with diameter of at least 1 ½ inches measured at DSH.

Tree, dicotyledonous (Dicot) means a tree having a woody stem, branches, and leaves with net venation and having a separate, distinct outer bark which can be peeled from the tree.

Tree, shade/canopy means a tree which generally grows to an overall height of 30 feet or greater and which provides significant shade/canopy.

Tree, monocotyledonous (Monocot) means a palm or tree having fronds with parallel venation and no true woody bark.

Trim or *trimming of vegetation* means to cut branches, twigs, limbs, and foliage, but does not mean to remove, defoliate, or destroy. Trimming does not include the cutting of prop/aerial roots.

Turf means continuous plant coverage consisting of grass species suited to growth in the county.

Untrimmed mangrove means a mangrove that has not been trimmed over two successive growing seasons.

Vegetation means plant life that includes but is not limited to trees, palms, shrubs, groundcover, vines, and turf.

Vehicular encroachment is any protrusion of a motor vehicle outside of the boundaries of a vehicular use area into a landscape area.

Vehicular use area (VUA) means an area used for loading, circulation, access, storage, parking, or display of any type of vehicle, boat, or construction equipment whether self-propelled or not.

Very drought tolerant means vegetation that can survive without supplemental irrigation after establishment.

Vine means any plant with a long, slender stem that trails or creeps on the ground or climbs by attaching itself on a support.

Wetlands means hydrologically sensitive areas that are identified by being inundated or saturated by surface water or groundwater with a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands shall also be defined as those areas within the regulatory jurisdiction of the department of environmental regulation pursuant to F.S. ch. 403 and F.A.C. rules 17-3, 17-4, and 17-12. Wetlands generally include swamps, marshes, bogs and similar areas.

Weather based irrigation ~~*Evapotranspiration-based*~~ *controller* means an irrigation controller that calculates soil moisture from known weather and related inputs, as follows:

(1) Receives and monitors weather data or on-site environmental conditions;

(2) Calculates the amount of moisture input to and moisture lost from the soil and plants;

(3) Automatically creates or adjusts the irrigation schedule to apply only the amount of water necessary to maintain adequate soil moisture.

Window means a visual corridor through vegetation between upland properties and the waterfront.

Section 3. The code of Ordinances of the Town of Palm Beach is hereby amended at Chapter 66, Natural Resource Protection; Article IV, Vegetation, to read as follows:

"DIVISION 1. - GENERALLY

Sec. 66-211. - Findings.

It is found and determined that:

(1) Landscaping promotes the health, safety and welfare of the community by absorbing carbon dioxide and returning oxygen to the air; precipitating dust and other articles in the air; providing wildlife habitat; providing soil stabilization; making the built environment more attractive; and helping to abate noise.

(2) Proper landscaping and irrigation techniques can result in significant water conservation.

(3) Landscaping provides a positive aesthetic value to the town.

(4) Native shoreline ecosystems provide valuable shoreline stabilization and protection, wildlife habitat, and maintenance of environmental quality.

(5) Pestilent exotic species constitute a nuisance in the town because:

a. They have spread rapidly to many areas of the town, displacing the diverse native Florida vegetation and associated wildlife habitat, and creating ecologically undesirable vegetative monocultures.

b. They can have adverse effects upon human health and pose safety hazards during high wind conditions.

c. The health, safety and welfare of the present and future residents of the town are benefited by minimizing degradation of the native ecological systems of the town.

(6) Various plant species having aesthetic, ecological, educational, historical, recreational, economic or scientific value have been classified as endangered, threatened or species of special concern and should be protected.

Sec. 66-212. - Purpose and intent.

It is the intent of the town to promote the health, safety and welfare of existing and future residents of the town by establishing minimum standards for the protection of natural plant communities, and the installation and continued maintenance of landscaping within the town, in order to:

(1) Promote water conservation and improve air quality by promoting evapotranspiration through the use of permeable land areas for aquifer recharge and surface water filtration.

(2) Maintain and improve the aesthetic appearance of the town through appropriate landscape design; thereby protecting and increasing property values throughout the community.

(3) Improve the environmental quality of the town.

(4) Eradicate or control ~~certain~~ invasive exotic plant species as listed on the Florida Exotic Pest Plant Council's List of Invasive Plant Species .

(5) Protect and encourage native shoreline and wetland ecosystems.

(6) Offer special guidelines for the removal and control of those pestilent exotic species that are particularly deleterious to native shoreline environments.

(7) Protect listed plant species that inhabit the town as referenced in Sec. 66-312.

(8) Reduce noise and pollution by designing landscaping to visually screen unsightly views, and reduce noise impacts from major roadways and incompatible uses, through the filtering capacity of living trees and vegetation.

(9) Provide a visual buffer between otherwise incompatible types of land uses,

(10) Strengthen important vistas and reinforce desirable site design.

(11) Promote the use of vegetation for energy conservation by encouraging cooling through the provisions of shade and channeling of breezes.

(12) Encourage the use of rain harvesting systems such as cisterns, as a means to conserve water by reducing overwatering of landscapes.

(13) Promote water conservation and lower water costs through the use of smart irrigation systems.

Sec. 66-213. - Applicability.

This article shall apply to, and a permit shall be required when one or more of the following activities are proposed on private property: ~~any new development or redevelopment. Provisions relating to tree removal or wetland protection apply to existing development, as noted.~~

(1) An entire lot where new construction or redevelopment occurs.

(2) Those portions of a lot where proposed changes in vegetation (removal, relocation or addition):

a. Constitute 35% or more of the existing landscaped open space (but not less than 1,000 square feet) of a lot as defined in Chapter 134.

b. Are within 10 feet of any side, rear, street-side or street-rear property line and reduce the opacity of existing screening of more than 30 lineal feet.

c. Occur within an easement where no easement agreement exists, or where proposed changes are not in conformance to an existing agreement or encroach into a previously approved drainage system.

d. Affect "essential elements" of a landscape design as designated by the Architectural or Landmark Preservation Commission, and memorialized in an agreement, recorded document or contained as a deed restriction between the town and the property owner.

e. Require Architectural of Landmark Preservation Commission approval.

(3) Existing development when proposed activities involve tree removal (See Sec. 66-236), or wetland protection (See Sec. 66-361 through Sec. 66-400).

Secs. 66-214—66-234~~5~~. - Reserved.

DIVISION 2. - PERMITS

Sec. 66-235. – Application procedure for vegetation installation permit.

(a) Requirement for application. Installation permits shall be obtained by making application prior to installation to the planning, zoning and building department director or designee, after having first received approval from the architectural or landmark preservation commission if applicable, and by paying a permit fee in accordance with the schedule of fees adopted by resolution by the town council and amended in the same manner.

(b) Permit Issuance and time limitations. Upon approval of an application, the planning, zoning and building department director or his or her designee shall issue a permit. Permits shall expire and become null and void if work has not commenced within 90 days from the date of permit issuance. Work must be completed and pass a final inspection within one year of issuance of the permit. A

time extension for the permit may be granted by the planning, zoning and building department director or designee for good cause upon written request.

Sec. 66-236. - Application procedure for vegetation removal permit.

(a) *Requirement for Application* ~~Removal *permits*~~*.* Vegetation removal permits shall be required to remove trees, essential elements as defined herein, or vegetation which affects more than 35% of the existing landscape open space on a site,~~,~~ not sought in conjunction with a vegetation installation ~~building~~ permit~~s,~~. Such permits shall be obtained by making application prior to removal, relocation or replacement to the planning, zoning and building ~~official~~ department director or ~~his~~ designee~~,~~. Applications must be submitted at least ten working days prior to the proposed date of removal in order to be considered timely, and shall be accompanied by a fee. Failure to submit a permit in a timely manner may result in the payment of a penalty fee. Permit and penalty fees are in accordance with the schedule of fees adopted by resolution by the town council and amended in the same manner.

(b) *Circumstances justifying issuance.* Vegetation removal permits shall be issued in the following circumstances:

(1) Where vegetation, including ~~a~~ trees, due to natural circumstances, is no longer viable, is in danger of falling, is too close to existing structures so as to endanger such structures, interferes with utility services, creates unsafe vision clearance, or constitutes a health hazard;

(2) Where the affected vegetation will be relocated, replaced with a suitable substitute vegetation ~~tree~~, or otherwise preserved, with the exception of mangroves, which are regulated elsewhere in this chapter; or

(3) Where vegetation ~~tree~~ removal is part of a plan to restore or encourage native shoreline species, either on the coastal strand, ~~as described in section 66-81 et seq., resolution number 37-89,~~ or along Lake Worth, as described in articles II and III of this chapter.

(4) Where proposed replacement vegetation, including trees, meets the requirements and intent of this code, as determined by the Planning, Zoning and Building Department Director or designee.

(c) *Permit issuance and time limitations.* Upon approval of an application, the planning, zoning and building department director ~~official~~ or ~~his~~ designee shall issue a permit. Permits shall expire and become null and void if work is not commenced within 90 days from the date of permit issuance. Work must be completed and pass final inspection within six months of permit issuance. A time extension for the permit may be granted by the planning, zoning and building department director or designee for good cause upon written request.

(d) Where removal is in conjunction with an approved vegetation installation permit, all vegetation or trees to be removed must be included in an approved landscape plan, and a separate vegetation removal permit will not be required.

(e) The provisions contained in this section do not apply to projects which solely involve the removal of pestilent exotic species.

Secs. 66-237—66-260. - Reserved.

DIVISION 3. - PLANS

Sec. 66-261. - Plans required.

All site plans for new development and redevelopment shall be required to submit a landscape plan and irrigation plan to the architectural commission, or landmarks commission, as applicable. All plans shall be signed and sealed by a registered landscape architect licensed to practice in the state of Florida, who shall guarantee that the plans meet all specifications of this chapter. The plans shall

include a drainage statement by a professional engineer ~~registered~~ licensed to practice in the state of Florida that the landscape plan is not in conflict with the stormwater management plan.

All work requiring a vegetation installation or removal permit which does not require architectural of landmark preservation commission review must be accompanied by information sufficient to determine conformance to this code, but need not be signed and sealed by a registered landscape architect unless the planning, zoning and building director or his or her designee determines that such signature and seal and a statement that plans meet all specifications of this chapter are necessary.

Sec. 66-262. - Landscaping plan.

(a) Landscaping plans shall ~~should~~ identify:

(1) Any native, historic or specimen trees located on the property.

(2) Any threatened or endangered vegetative species contained on ~~the Florida Natural Areas Inventory's "Special Plants List,"~~ the Florida Game and Fresh Water Fish Commission's "Official Lists of Endangered and Potentially Endangered Fauna and Flora in Florida," or a comparable list approved by the town planning, building and zoning department.

(3) The location, number, height, spread, ~~size,~~ amount of clear or grey wood, clear trunk, botanical name, cultivar and common name of all existing vegetation four inches or larger in diameter on the property.

(4) The location, species name, and common name of all proposed vegetation on the property.

(5) The location and type of trees to be relocated or removed, and place of relocation if applicable.

(6) All elements of an approved stormwater management plan applicable to the project, and a drainage statement by a professional engineer registered in the state that the landscape plan is not in conflict with the stormwater management plan.

(7) Planting specifications and irrigation sources, including but not limited to staking, fertilization, top soil, mulching and applicable drainage and subsurface treatments.

(8) Property boundaries, location of proposed or existing buildings and site improvements, including but not limited to walls, gates, retention areas, parking, access aisles, driveways, sidewalks, easements, rights-of-way, drainage structures, overhead and underground utilities, poles, fire hydrants, check valves, transformers and other features to remain or to be removed.

(9) Method to protect trees, including historic or specimen trees, and native plant communities during construction.

(10) Such other information that may be required to give a complete understanding of a proposed plan.

(b) Details shall be in the same scale as the site plan, but not less than 1 inch equals 50 feet, with 1 inch equals 20 feet recommended for all planting plans.

Sec. 66-263. - Irrigation plans.

Detailed ~~I~~irrigation plans must be signed by an individual certified under the Irrigation Association Certification Program, ~~shall~~ submitted as part of a building permit, and shall include:

(1) Layout of irrigation system and identification of components.

(2) Explanation of relationship between plant groupings and type of irrigation used.

(3) If the use of cisterns is proposed, include the size, location and estimated rainfall to be collected.

Secs. 66-264—66-284~~5~~. - Reserved.

DIVISION 4. - DESIGN REQUIREMENTS

Sec. 66-285. – General

(1) Landscape design shall enhance architectural features, relate structural design to the site, visually screen dissimilar uses and unsightly views, reduce noise impacts from roadways and incompatible uses, strengthen vistas and reinforce neighborhood site design and architecture.

(2) Existing specimen trees and native vegetation shall be preserved to the maximum extent possible, and the landscape plan shall include at least 33 percent of highly or moderately drought tolerant plant species where possible.

(3). At least 25 percent (25%) of all required landscaping, by category in the form of trees, shrubs and ground cover plants, other than grass, shall consist of native vegetation. The Xeriscape Plant Guide by the South Florida Water Management District, or if available County or regional lists as amended may be used to determine appropriate native vegetation.

(4) Canopy trees and shrubs shall be used to reduce energy consumption by shading buildings and paved surfaces.

(5) Street trees shall be used to shade roadways and provide visual order. All street tree planting shall conform to the requirements in the town's Right-of-Way Manual.

(6) Canopy trees and shrubs shall be placed on the site in locations that take into consideration overhead utility lines, proximity to native plant communities, underground rain harvesting systems, sewer lines, and other underground utilities and facilities.

(7) Adjoining properties must be screened to mitigate negative impact to neighboring properties and adverse impacts of development.

(8) All vegetation included in the proposed landscape plan must be in conformance with the requirements of the town's code of ordinances.

Sec. 66-286. - Water conserving landscape design.

(a) The following section shall be applicable to all new construction, construction with a value of 50% or more of the total value of the principle structure, or those activities on a lot which are included in a landscape installation or removal permit. Additional requirements may be placed by the town council as a condition of a development order, or in conjunction with an approval granted by the architectural or landmark preservation commission, in order to promote the purpose and intent of this article.~~and substantial improvements.~~

(1) *Required.* Landscapes shall be designed in accordance with water conserving landscape design elements set forth in subsections (2)—(9~~5~~).

(2) *Minimum landscaped open space.* Minimum landscaped open space shall be required as stipulated by the lot, yard and bulk regulations in the zoning code, chapter 134.

(3) *Required vegetation.* The following vegetation is required. The nine principles of Florida F~~f~~riendly landscaping shall be utilized.

a. Lawns.

1. If very drought tolerant grass is used, not more than 70 percent of the required landscaped open space shall be planted in lawn grass.

2. If moderate drought tolerant grass is used, not more than 60 percent of the required landscaped open space shall be planted in lawn grass.

(Information on Florida ~~f~~friendly drought tolerant grass can be found at: http://fyn.ifas.ufl.edu/ifaspubs.htm.)

3. Turf shall not be treated as a fill-in material, but rather as a major planned element of the landscape and shall be placed so that it can be irrigated separately from planting beds.

b. Nonturfed areas.

1. Nonturf areas shall be planted in mixes of trees, shrubs and ground covers.

2. Plants shall be grouped according to their water needs, and irrigated accordingly. At least 33 percent of the groupings shall be characterized by highly or moderately drought tolerant vegetation.

(Information for Florida friendly landscaping drought tolerant plants can be found at: http://www.floridayards.org/index.php)

c. Trees.

1. A minimum of one shade/canopy tree is required for every 5,000 square feet, or portion thereof, of a lot, for lots 10,000 square feet or more.

2. A minimum of one shade/canopy tree is required for lots less than 10,000 square feet.

3. Every effort should be utilized to reduce the risk of damage and liability by utilizing more salt tolerant and wind tolerant trees and palms due to the town's coastal proximity and the high risk of hurricanes in South Florida.

4. The selection and placement of all street trees must refer and adhere to the Town of Palm Beach Standards Applicable To Public Rights-Of-Way And Easements Within The Town Of Palm Beach.

5. Non-conforming lots less than 10,000 square feet.

d. Screening of equipment.

1. Dumpster, mechanical equipment, A/C units, electrical transformers, generators and all above ground equipment shall be screened in accordance with applicable requirements contained in Chapter 134 Zoning.

2. Such screening shall not interfere with normal operation of equipment.

e. Parking area interior landscaping and parking islands.

1. The following requirements are applicable to interior parking areas of parking lots subject to the requirements of Sec. 134-2179(e) and (f) and are in addition to the requirements contained therein.

i. Terminal islands. Any landscaped islands must have at least 5 feet of planting area width (excluding Type D or Type F curbs) and 18 feet in length shall be provided at the end of each parking row. In addition, there shall be a minimum requirement of 1 tree and 25 groundcover plants planted in every landscaped terminal island.

ii. Interior islands. All parking areas shall be so arranged so that if there are 10 contiguous parking spaces along the same parking aisle, the eleventh space shall be a landscaped island. These landscaped interior islands must be at least 5 feet of planting area width (excluding Type D or Type F curbs) and 18 feet in length. In addition, there shall be a minimum requirement of 1 tree planted in every interior landscape island.

iii. Landscape treatment. All interior planting areas not dedicated to trees, shrubs, or existing vegetation, shall be landscaped with sod, groundcover, or other appropriate landscape treatment (no sand, rock, pavement, or base soil).

2. Sight triangles and clear visibility requirements. The creation and maintenance of site triangles must conform to Chapter 134 and the Town of Palm Beach Standards Applicable To Public Rights-Of-Way And Easements Within The Town Of Palm Beach.

(4) Minimum installation requirements.

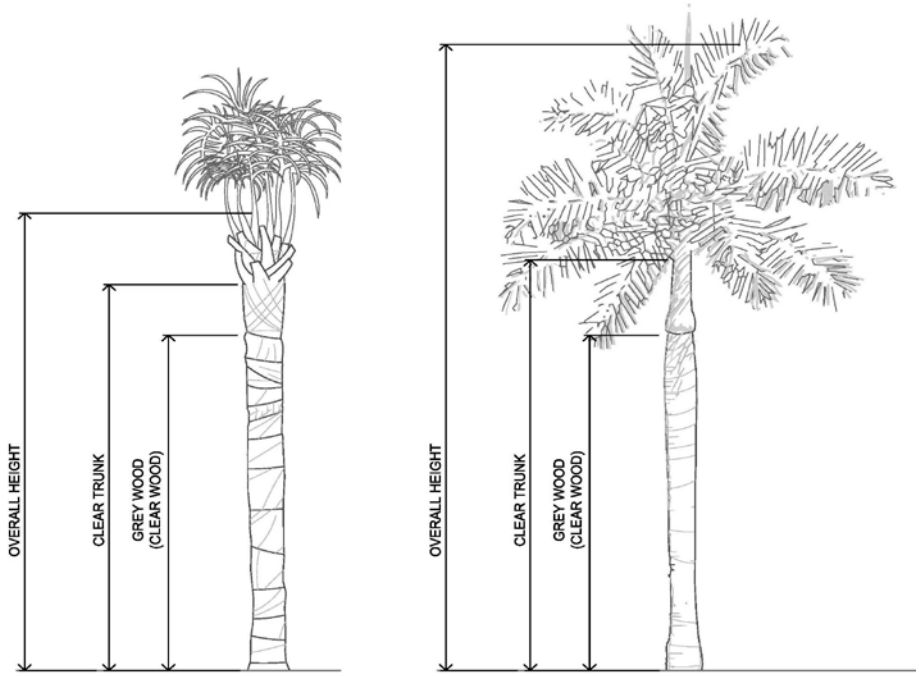
a. Shade/canopy trees shall be a minimum overall height of 14 feet, 6 feet spread, 2.5 inches DSH and 5 feet of clear trunk at planting.

b. Intermediate trees shall be a minimum overall height of 12 feet, 5 feet spread, 2 inches DSH and 4.5 feet clear trunk at planting.

c. Small trees shall be a minimum overall height of 10 feet, 4.5 feet spread, 1.5 inches DSH and 4 feet clear trunk at planting.

d. Palms shall have a minimum of 8 feet clear trunk at planting. See Diagram A for palm height measurements. All proposed coconut palms shall be certified to be resistant to Lethal Yellowing.

DIAGRAM A



e. Multi-trunk trees shall have a minimum of 3 – 5 trunks with equal diameters originating from the ground with angles no greater than 45 degrees and with no crossing branches.

f. Shrubs shall be a minimum of 2 feet height, full to base, 2 feet spread and planted a maximum of 2 feet on center when measured immediately after planting. If the spread cannot be met with the 2 feet requirement, then 18 inches spread and 18 inches on center may be utilized. When shrubs are used for the perimeter buffer, said shrubs shall be a minimum of 2 feet in height at time of planting and branch touching branch.

g. Required buffer hedges shall be planted a minimum 6 feet high, full to the base, with branch touching branch and maintained so as to form a continuous, unbroken solid, visual screen.

h. Shrubs shall be planted so the branches do not touch the building walls or walkways at time of planting.

i. The use of tree and plant material that reinforces the ambience of the town's distinctive, lush, diverse subtropical character is strongly encouraged.

j. Plant quality for all required landscaping shall be Florida No. 1 or better, as provided in Grades and Standards for Nursery Plants, Part 1 and Part 2, as amended, as published by the Florida Department of Agriculture and Consumer Services. All vegetation shall be clean and free of noxious pests or disease. Sod shall be green, healthy, clean and visibly free of weeds, noxious pests and diseases. It shall be solid St. Augustine 'Floratam', 'Palmetto', Zoysia 'Empire', Paspalum 'Seashore', Bermuda or other cultivars on the Florida Friendly Landscaping list, laid on a smooth planting base with tight joints, at 100 percent coverage at time of planting and cut to fit all landscape planters and curb areas.

k. Planting soil and topsoil shall be clear and free of construction debris, weeds and rocks. The topsoil and/or planting soil for all planting areas shall have a pH between 6.5 and 7.0 and be composed of the appropriate percent muck and sand in accordance with the requirements of the plant material.

l. All trees/palms shall be properly guyed and staked at the time of planting until one year from landscape final or establishment. The use of nails, wire or rope, or any other method which damages the trees or palm, is prohibited.

m. All plants shall be installed so the top of the rootball is 10% above the surrounding soil grade. All synthetic string, synthetic burlap, cords, or wire baskets shall be removed prior to planting.

n. All proposed landscaping shall be installed with fertilizer which has trace minor elements in addition to a minimum six percent Nitrogen (N) - six percent Phosphorus (P) - six percent Potassium (K) of which 50 percent of the nitrogen must be derived from an organic source.

o. All plant root ball sizes shall conform or exceed the minimum standards in the current edition of Florida Grades and Standards.

(5~~4~~) *Irrigation standards.*

a. Weather-based controlled ~~I~~irrigation systems, ~~either manual or automatic, may~~ must be used for the cultivated landscape areas in accordance with the provisions in this article.

b. The use of rainfall harvesting systems is encouraged and promoted.

c~~b~~. Irrigation shall be designed in zones that reflect necessary water regimes for specific groupings of vegetation.

d~~c~~. Sprinkler heads irrigating lawns or other high water requirement landscape areas shall be circuited so that they are on a separate zone from those irrigating trees, shrubbery or other reduced water requirement areas.

e~~d~~. Zones containing existing native plant communities and ecosystems maintained in a natural state do not require, and shall not have any additional irrigation water added in any form.

f~~e~~. In order to prevent overthrow, low trajectory heads or low volume water distributing devices shall be used when irrigating confined areas.

g~~f~~. No more than ten percent of spray radius shall be allowed onto impervious areas.

h~~g~~. Newly installed native plant areas may require irrigation during the establishment period. Water during this period shall be applied from a temporary irrigation system, a water truck, or by hand watering from a standard bib source.

i~~h~~. A temporary irrigation system shall be removed no later than 60 days after completion of the planting.

j. Irrigation must be designed to provide 100 percent coverage of landscape areas.

(6~~5~~) *Use of organic mulches.* ~~When appropriate, a~~A minimum of two inches of arsenic-free organic mulch shall be installed around each tree planting for a minimum of 18 inches beyond its trunk in all directions, including palms, and throughout all hedge, shrub, and groundcover plantings. Mulch shall be pulled a minimum of two inches away from trees and palms. Appropriate mulching material consists of by-product or alternative mulches such as pine bark, eucalyptus, utility or other mulch as recommended by Florida Friendly Landscaping principles. The use of Cypress mulch is prohibited.

~~(6) *Antitranspirants.* In order to reduce water loss through leaves during installation, antitranspirants shall be used and applied on all permitted landscape installation projects for a minimum period of 90-days from the date of installation.~~

~~(7) *Irrigation plans.* Detailed irrigation plans shall be submitted as part of a building permit, and shall include:~~

~~a. Layout of irrigation system and identification of components.~~

~~b. Explanation of relationship between plant groupings and type of irrigation used.~~

~~c. Irrigation plans must provide 100 percent coverage of landscape areas.~~

(7~~8~~) *Control systems.*

a. The irrigation system shall be equipped with ~~rainfall~~ weather or moisture sensing devices to avoid operation during periods of sufficient moisture.

b. Automatically controlled irrigation systems shall be operated by an irrigation controller that is capable of watering high water requirement areas on a different schedule from low water requirement areas.

(b~~9~~) *Advanced irrigation systems.* This section shall be applicable to any~~all~~ new, replacement or modification affecting more than 50% of a landscape irrigation system. ~~construction, substantial improvement and existing properties applying for a variance from the day-of-week watering restrictions imposed by the South Florida Water Management District (SFWMD), the City of West Palm Beach (WPB) or the Town of Palm Beach (town). Variances from the day-of-week watering restrictions does not relieve a property owner from complying with irrigation restrictions contained in a water shortage order or water emergency declaration issued by the SFWMD, WPB or the town.~~

(1)~~a.~~ Any person who purchases or installs an automatic landscape irrigation system on their property must properly install, maintain, and operate the system in accordance with manufacturer specifications, technology that inhibits or interrupts operation of the system during periods of sufficient moisture, and otherwise comply with the provisions of this section.

(2)~~b.~~ All components of an automatic landscape irrigation system, including but not limited to controllers, soil moisture sensors, sprinkler heads and valves, which are installed subsequent to the date of adoption of this ordinance must conform to smart irrigation standards and be equipped with a weather-based irrigation ~~Evapotranspiration-based (ET) or moisture sensing-based~~ controller. ~~s are required on any new automatic landscape irrigation system or controller installed subsequent to the date of adoption of this ordinance. In addition said systems are required on automatic irrigation systems when any principal structure on a property in the town is substantially altered.~~

(3) The weather-based~~ET~~ irrigation controller must be approved by the building official as meeting the Environmental Protection Agency (EPA) WaterSense® specification for weather-based controllers or, the requirements of the irrigation Association (IA) for climate-based or moisture sensor-based controllers. Or some comparable and applicable standard.

(c~~.~~) Owners who have a properly operating irrigation system controlled by a weather-based irrigation controller ~~evapotranspiration-based (ET) or moisture sensing controlled irrigation system~~ shall be eligible for a ~~variance~~waiver from the day-of-the-week landscape irrigation restrictions set forth in section 122-78(b)(3) and (4) by the submission of an application for a variance~~waiver~~, and payment of any applicable fees as adopted by the Town Council by resolution.~~ if the following requirements are met~~:

~~1. The ET controller is approved by the Town of Palm Beach building official as meeting the Environmental Protection Agency (EPA) WaterSense® specification for weather-based controllers, the requirements of the Irrigation Association (IA) for climate-based controllers or moisture sensor-based controllers, or some comparable and applicable standard.~~

~~2. The owner submits an application for variance to the Town of Palm Beach building official or his/her designee in accordance with section 122-81 along with an application fee in an amount adopted by the town council by resolution.~~

~~3. The owner posts a sign in a conspicuous location on the property to inform the public of the approved variance. The sign shall be provided by the town, the cost of which shall be payable to the town in an amount to be determined by the town council by resolution, upon approval of the variance.~~

~~4. No irrigation occurs between the daily restricted hours as may be set forth by the South Florida Water Management District and/or the City of West Palm Beach, which is subject to change at any time.~~(d~~.~~) The town shall maintain a database of all properties which have installed and maintained advanced irrigation systems in accordance with the requirements of this subsection, and which are exempt from the day-of-the-week irrigation restrictions set forth in section 122-78(b)(3) or (4).

(d~~e.~~) A ~~variance~~waiver granted from section 122-78(b)(3) or (4) based on the installation and operation of an advanced irrigation system does not relieve a property owner from complying with irrigation restrictions contained in a water shortage order or water emergency declaration issued by the South Florida water Management District, the City of West Palm Beach or the Town of Palm Beach.

~~f. *Applicability.* This section shall apply to all licensed contractors within the jurisdiction of the town who install or perform work on automatic irrigation systems and to any person or entity which purchases or installs an automatic landscape irrigation system on their property.~~ (f)~~1.~~ A licensed contractor or owner who installs or performs work on an automatic landscape irrigation system must test for the correct operation of each inhibiting or interrupting device or switch on the system. If such devices are not installed, or are not functioning properly, the contractor must install new devices or repair the existing ones and insure that each is operating properly before completing other work on the system.

~~2. A licensed contractor or owner performing work on an automatic landscape irrigation system shall report systems that are not in compliance with this section, to code enforcement personnel in the police department. Failure of a contractor or owner to report non-compliant systems within five business days is punishable by fines as specified in the violations and penalties section of this section. A system that is repaired by the contractor and brought into compliance need not be reported.~~

~~3. Regular maintenance and replacement of worn or broken moisture sensing equipment, such as soil moisture or rain sensors, is not a violation of this section, if such repairs are made within 30 days from the time non-compliance is noted.~~

~~4. All contractors performing work on irrigation systems within the town shall be licensed or registered under F.S. ch. 489, or the Construction Industry Licensing Board of Palm Beach County and shall hold a municipally-issued license or business tax certificate that permits work on irrigation systems.~~

(e)~~5.~~ A licensed contractor shall perform annually a maintenance review of the weather-based irrigation controller and irrigation system ~~ET-controlled system~~ and certify to the town on an annual basis that the ET-controlled system is properly operating and in compliance with this section. ~~Owners f~~Failure~~ing~~ to provide ~~such~~ annual recertification that the system is properly operating shall result in revocation of the ~~variance~~waiver received under ~~from~~ section 122-78(b)(3) or (4).

~~g. *Violations and penalties.*~~

~~1. Failure of any person who purchases or installs an automatic landscape irrigation system on their property, or property managed by them, to properly install, maintain, and operate technology that inhibits or interrupts operation of the system during periods of sufficient moisture is a violation of this section, and such person shall be subject to a fine in accordance with section 2-439 of this Code. A person in violation of this section may be cited for each day the system fails to be in compliance with this section.~~

~~2. Failure of an owner to report to town code enforcement officials automatic landscape irrigation systems that are not in compliance with this section, which require properly operating devices to inhibit or interrupt the operation of the irrigation system during periods of sufficient moisture, shall be a violation of this section, and such owner shall be subject to a fine in accordance with section 2-439 of this Code.~~

Sec. 66-287. Certificate of Occupancy and Certificate of Completion.

No certificate of occupancy or certificate of completion shall be issued until such time as all of the required landscaping is installed and approved by the planning, zoning, and building department director or designee. However, nothing herein shall prevent the issuance of a temporary certificate of occupancy so long as at least the sod portion of the landscaping has been installed.

Sec. 66-288. Protection of Trees during Construction or Land Development.

(1) During any construction or land development, protective barriers specified and approved by the Planning, Zoning, and Building Director, or his or her designee, shall be placed and maintained around all trees to be retained on site to prevent their destruction or damage. The developer shall use every precaution possible to avoid damaging such trees by preventing the use or storage of materials or equipment, or the contamination of soil with such materials as paint, oil, solvents, asphalt, concrete, mortar, and the like, within the drip line.

(2) No attachments other than those of a protective or non-damaging nature, shall be attached to any tree except those trees approved to be removed or relocated.

Sec. 66-289. Vegetation Maintenance Requirements

An owner of land is subject to this code and shall be responsible for the maintenance of said land and landscaping. All vegetation shall be maintained at all times so as to present a healthy, vigorous and neat appearance free from refuse and debris. All landscaped areas shall be sufficiently fertilized and irrigated to maintain the plant material in a healthy and viable condition. All fertilizer and pest control shall be safe and environmentally friendly and applications shall conform to the manufacturer's specifications.

All missing, removed, dead, or damaged vegetation whether from natural or manmade causes shall be replaced with equivalent vegetation in a time period determined by the Town of Palm Beach.

Where vegetation has not been maintained or pervious areas exist without benefit of vegetation which meets the requirements of this code, the owner may be cited at which time the requirements of this code will apply to all areas in violation.

Sec. 66-290. Tree Trimming Standards.

All trees shall be trimmed in accordance with standards established by American National Standards Institute (ANSI A300). All trimming, pruning and shaping shall be performed under the supervision of a certified arborist.

Sec. 66-291. Hatracking/Topping Prohibited.

Pruning a tree by hatracking or topping and thus creating detrimental effects, including vigorous but weakly-attached regrowth, pest susceptibility, pathogen intrusion, and internal decay is prohibited. However, crown reduction in excess of one-third may be permitted under the following conditions:

(1) If a tree interferes with utility lines or utility structures.

(2) If a tree has significant damage and in the opinion of the Planning, Zoning & Building Director or designee, should be pruned in order to preserve the tree.

Secs. 66-28~~7~~92—66-310. - Reserved.

Section 4. Effective Date. This ordinance shall take effect on January 1, 2017 as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this __th day of _____, 2016 and second reading on the _____ day of _____, 201_.

_____

Gail L. Coniglio, Mayor

_____

Michael J. Pucillo, Town Council President

_____

Richard M. Kleid, Council President Pro Tem

_____

Bobbie Lindsay, Town Council Member

_____

Danielle H. Moore, Town Council Member

_____

Margaret A. Zeidman, Town Council Member

ATTEST

_____

Susan A. Owens, MMC, Town Clerk

TOWN OF PALM BEACH

Town Council Meeting on: December 13, 2016

Section of Agenda

Ordinances - First Reading

Agenda Title

ORDINANCE NO. 28-2016 An Ordinance of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Rescinding Section 18-241 of The Town Code of Ordinances Relating To Building Board of Adjustment And Appeals In Its Entirety; Providing For Severability; Providing For Repeal of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Presenter

John S. Page, Director of Planning, Zoning & Building

ATTACHMENTS:

- **Memorandum Dated December 2, 2016 From John S. Page, Director of Planning, Zoning & Building**
- **Ordinance No. 28-2016**

TOWN OF PALM BEACH

Information for Town Council Meeting on: December 13, 2016

To: Mayor and Town Council

Via: Thomas G. Bradford, Town Manager

From: John S. Page, Director of Planning, Zoning & Building

Re: **Resolution No. 222-2016**, Repealing the Building Board of Adjustment & Appeals, and **Ordinance No. 28-2016**, Repealing the Building Board of Adjustment & Appeals

Date: December 2, 2016

STAFF RECOMMENDATION

Staff recommends that the Town Council repeal all references in Town Code referencing the "Building Board of Adjustment and Appeals." In order to do so, a Resolution must be adopted repealing Section 112 of the Town's Administrative Amendments to the Florida Building Code, and an Ordinance must be adopted repealing Section 18-241 of Chapter 18, Building and Building Regulations.

GENERAL INFORMATION

The Town, through both its Administrative Amendments to the Florida Building Code as well as Chapter 18 of the Code of Ordinances, makes provision for a Building Board of Adjustment and Appeals. The purpose of this Board is to allow an aggrieved party to appeal any decision of the Building Official regarding interpretations of the Florida Building Code and to grant, when justified, variances to the provisions of the Florida Building Code for the particular situation being reviewed.

At the October 10, 2016 meeting, the Town Council gave consensus to proceed with an alternative provision for this Board that was arrived at in consultation with the Town Attorney. Florida statutes, Section 553.775, titled "Interpretations," sets forth a process whereby an aggrieved party may appeal to the Florida Building Commission to settle interpretation issues with local Building Officials, and such interpretations rendered by the Commission shall be binding on the parties (553.775 (7).

It is the proposal of Town staff to repeal Section 112 of the Town's Administrative Amendments to the Florida Building Code in its entirety, and to also repeal Section 18-241 of Chapter 18 of the Code of Ordinances (each of which references the Building Board of Adjustment & Appeals), thereafter allowing aggrieved parties to follow the process outlined in the Florida Statutes.

SPECIAL CIRCUMSTANCES

As a matter of information relating to this issue, the current Building Board of Adjustment and Appeals has not met on an issue since 1996. Town staff is seeking to change the process due to the logistical trouble of maintaining an active Board that hasn't experienced the need to meet in so many years (training, financial disclosures, etc.). In addition, some members of the Board have passed away or relocated since the last meeting and new appointments would have to be made in order to convene a functioning Board.

TOWN ATTORNEY REVIEW

The Town Attorney has reviewed and approved Resolution No. 222-2016 and Ordinance No. 28-2016 for legal form and sufficiency.

Attachments

cc: John C. Randolph, Town Attorney
Bill Bucklew, Building Official

ORDINANCE NO. 28-2016

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RESCINDING SECTION 18-241 OF THE TOWN CODE OF ORDINANCES RELATING TO BUILDING BOARD OF ADJUSTMENT AND APPEALS IN ITS ENTIRETY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Palm Beach has determined that a Building Board of Adjustment and Appeals is no longer necessary, as there are alternative remedies for aggrieved parties established by Florida Statutes; and

WHEREAS, it is the desire of the Town Council to, therefore, rescind Section 18-241 of the Town's Code of Ordinances relating to the Building Board of Adjustment and Appeals; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Section 18-241 of the Town's Code of Ordinances relating to the Building Board of Adjustment and Appeals is hereby rescinded in its entirety.

Section 2. Any further reference to the Building Board of Adjustment and Appeals is hereby deleted except to the extent that said wording is consistent with the rescission of the establishment and duties of the Building Board of Adjustment and Appeals as referenced herein.

Section 3. Severability.

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

Section 4. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 5. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 6 Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 13th day of December, 2016 and for second and final reading on this ____ day of January, 2017.

_____	_____
Gail L. Coniglio, Mayor	Michael J. Pucillo, Town Council President
	_____
	Richard M. Kleid, Council President Pro Tem
	_____
	Danielle H. Moore, Town Council Member
ATTEST:	_____
	Bobbie Lindsay, Town Council Member
_____	_____
Susan A. Owens, MMC, Town Clerk	Margaret Zeidman, Town Council Member