



**AGENDA
CITY OF LAKE WORTH
CITY COMMISSION MEETING
CITY HALL COMMISSION CHAMBER
TUESDAY, FEBRUARY 16, 2016 - 6:00 PM**

- 1. ROLL CALL:**
- 2. INVOCATION OR MOMENT OF SILENCE:** Provided by Commissioner Andy Amoroso
- 3. PLEDGE OF ALLEGIANCE:** Led by Commissioner Christopher McVoy
- 4. AGENDA - Additions/Deletions/Reordering:**
- 5. PRESENTATIONS:** (there is no public comment on Presentation items)
 - A. Rotary of Lake Worth to present a plaque to the City for its participation in the Peace Pole project
 - B. Firefighter Pension Trust Fund update
 - C. Firefighters Pension Board, Division II update
 - D. Neighborhood Association President's Council update
- 6. COMMISSION LIAISON REPORTS AND COMMENTS:**
- 7. PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA:**
- 8. APPROVAL OF MINUTES:**
 - A. Commission Meeting Minutes - February 2, 2016
- 9. CONSENT AGENDA:** (public comment allowed during Public Participation of Non-Agendaed items)
 - A. First Amendment to an Agreement with U.S. Peroxide, LLC for odor control chemicals

- B. Management Contract with Mildly Delirious Design, Inc. dba Lake Worth Farmers Market

10. PUBLIC HEARINGS:

- A. Resolution No. 09-2016 - declare one property as surplus and directing the method of disposition
- B. Resolution No. 10-2016 - abandon a 40 ft. strip of land on 4th Avenue South

11. UNFINISHED BUSINESS:

12. NEW BUSINESS:

- A. Declare REG Architects, Inc., The Morganti Group, Inc., and The Insurance Company of the State of Pennsylvania in default

13. LAKE WORTH ELECTRIC UTILITY:

- A. **CONSENT AGENDA:** (public comment allowed during Public Participation of Non-Agendaed items)
- B. **PUBLIC HEARING:**
- C. **NEW BUSINESS:**

14. CITY ATTORNEY'S REPORT:

15. CITY MANAGER'S REPORT:

- A. March 1, 2016 - draft Commission agenda

16. ADJOURNMENT:

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

NOTE: ONE OR MORE MEMBERS OF ANY BOARD, AUTHORITY OR COMMISSION MAY ATTEND AND SPEAK AT ANY MEETING OF ANOTHER CITY BOARD, AUTHORITY OR COMMISSION.



AGENDA DATE: February 16, 2016, Regular Meeting

DEPARTMENT: City Clerk

EXECUTIVE BRIEF

TITLE:

Firefighter Pension Trust Fund update

SUMMARY:

Mark Lamb, Chair, will update the Commission on activities that have taken place over the past several months.

BACKGROUND AND JUSTIFICATION:

The board members shall administer the Relief and Pension Fund and decide all claims to relief. Members serve two-year terms. The last update provided by the Firefighter's Pension Trust Fund was on December 2, 2014.

MOTION:

Not applicable

ATTACHMENT(S):

Fiscal Impact Analysis – not applicable



AGENDA DATE: February 16, 2016, Regular Meeting

DEPARTMENT: City Clerk

EXECUTIVE BRIEF

TITLE:

Board of Trustees, Firefighters Pension Board, Division II update update

SUMMARY:

Scott Conley, Board Chair, will update the Commission on activities that have taken place over the past several months.

BACKGROUND AND JUSTIFICATION:

The Board members shall implement the provisions of Florida State Statutes, Chapter 175. The members serve three-year terms. The last update provided by the Firefighter's Pension Trust Fund- Division 2 was on December 2, 2014.

MOTION:

Not applicable

ATTACHMENT(S):

Fiscal Impact Analysis – not applicable



AGENDA DATE: February 16, 2016, Regular Meeting

DEPARTMENT: City Clerk

EXECUTIVE BRIEF

TITLE:

Neighborhood Association President's Council (NAPC) update

SUMMARY:

Mr. Jon Faust, Neighborhood Association President, will advise the Commission on activities in the neighborhoods.

BACKGROUND AND JUSTIFICATION:

At the City Commission meeting on July 20, 2010, the City Commission requested that all neighborhood associations provide an update. The last update from the NAPC was March 24, 2015.

MOTION:

Not applicable

ATTACHMENT(S):

Fiscal Impact Analysis – not applicable

**MINUTES
CITY OF LAKE WORTH
REGULAR MEETING OF THE CITY COMMISSION
FEBRUARY 2, 2016 – 6:00 PM**

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

1. ROLL CALL:

Present were Mayor Pam Triolo; Vice Mayor Scott Maxwell; and Commissioners Christopher McVoy (arrived 6:04 PM), Andy Amoroso, and Ryan Maier. Also present were City Manager Michael Bornstein, City Attorney Glen Torcivia, and City Clerk Pamela Lopez.

2. INVOCATION OR MOMENT OF SILENCE:

The invocation was offered by Father Paul Rasmus, St. Andrew's Episcopal Church, on behalf of Commissioner Christopher McVoy.

3. PLEDGE OF ALLEGIANCE:

The pledge of allegiance was led by Commissioner Ryan Maier.

4. AGENDA - Additions/Deletions/Reordering:

Action: Motion made by Vice Mayor Maxwell and seconded by Commissioner Maier to waive the rules to:

- Reorder Consent Agenda, Item G to New Business as Item A – Crossing License Agreement with the Florida East Coast Railroad (FEC) regarding All Aboard Florida (AAF); and
- Approve the agenda as amended.

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

5. PRESENTATIONS:

A. Proclamation declaring February 13, 2016 as Arbor Day

Mayor Triolo read a proclamation declaring February 13, 2016, as Arbor Day.

Commissioner McVoy arrived at the meeting; the time being 6:04 PM.

Richard Stowe, Tree Board Chairperson, accepted the proclamation and announced upcoming events scheduled in observance of Arbor Day.

6. COMMISSION LIAISON REPORTS AND COMMENTS:

Commissioner McVoy: commented that there was a shooting in District 2 yesterday; said he was asked to join the Red Cross on January 30, 2016, they installed smoke alarms in mobile homes near Congress Avenue, held a Heath Fair, and commented that he was glad to be supportive of them. He said Bills regarding fracking were moving through Tallahassee, Broward County and Lake Worth were on record opposing fracking, but State Legislators were not listening.

Vice Mayor Maxwell: announced that there were three Bills in Tallahassee regarding vacation home regulations on the local level that were favorable to Home Rule. He announced that Loretta Sharpe had died peacefully earlier last week, she was a big part of the community, and said the family would hold a memorial mass sometime in February.

Commissioner Maier: offered his sympathy to Loretta Sharpe's family on her passing; thanked everyone, including the many volunteers, for participating in Project Homeless; and said he received a lot of comments from residents on both sides of the public space ordinance issue approved at the last meeting. Many supported his position and many stated that he was purporting a continued problem. He said people were more concerned about their own neighborhoods with burglaries and drug deals. This ordinance was not designed to defend their neighborhoods, streets, or homes from crime. It was designed to make the downtown area more attractive to businesses. He said sending a message that the City took a position to polish its facades was not more important than people.

Commissioner Amoroso: said the City had a booth at the County Fair, announced the Street Painting Festival was coming up in February and that volunteers were still needed, The Cottage Restaurant was rented, and the new tenants said they hoped it would be open in time for the Street Painting Festival.

Mayor Triolo: announced two community meetings on February 10 and 17, 2016, to learn about new lighting upgrades, automated electric and water meters, City facility upgrades, and new solar field. She thanked everyone for attending the State of the City Address and commented that staff was working on a summit to talk about the homeless issue and what could be done as a community.

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

The following individuals spoke on issues written on their comment cards:

Monica Narsiff asked for speed bumps to be installed on the south side of

Wright Drive. She said there were serious speeding problems on the street with trucks and vehicles rarely stopping at major intersections. She commented that, when I-95 was shut down, drivers were diverted to Wright Drive.

Monica Bilotti asked what the Public Services employees were spraying as a herbicide near the Intracoastal.

Nanci Bradford said a murder was committed on her doorstep last night and that she saw part of it outside of her window. She asked for more police training.

Teila Brackmore Bradford said that last night a 21 year old neighbor was shot dead on her parent's doorstep and bullets went through their garage door. She asked what could be done in the community. She commented that eight years ago her father was mugged by someone who used a gun. She asked for more police training, said she was afraid to visit her parents, and asked if they should move.

The following individuals spoke on various issues; however, they did not write anything on their comment cards: Richard Guercio, Katie McGiveron, Jay Hayward, and Peggy Fisher.

8. APPROVAL OF MINUTES:

Action: Motion made by Vice Mayor Maxwell and seconded by Commissioner Maier to approve the following minutes, as submitted:

A. City Commission Meeting – January 19, 2016

Vote: Voice vote showed: AYES: Mayor Triolo; Vice Mayor Maxwell; and Commissioners McVoy, Amoroso, and Maier. NAYS: None.

9. CONSENT AGENDA:

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

A. Resolution No. 08-2016 – declare an intent to abandon a 40 ft. strip of land on 4th Avenue South

City Attorney Torcivia did not read the following resolution by title only:

RESOLUTION NO. 08-2016 OF THE CITY OF LAKE WORTH, FLORIDA, DECLARING THE INTENTION OF THE CITY COMMISSION TO CONSIDER THE ABANDONMENT OF THE 40 FOOT WIDE STRIP OF 4TH AVENUE SOUTH RIGHT-OF-WAY RUNNING EAST TO WEST FROM THE WESTERN EDGE OF S. EAST COAST STREET RIGHT-OF-

WAY TO THE EASTERN EDGE OF THE FLORIDA EAST COAST RAILWAY COMPANY RIGHT-OF-WAY (A DISTANCE OF APPROXIMATELY 112 FEET); SETTING A PUBLIC HEARING TO HEAR AND CONSIDER OBJECTIONS TO AND PROTESTS AGAINST THE PROPOSED ABANDONMENT; PROVIDING AN EFFECTIVE DATE.

- B. Agreement with The Florida Division of Blind Services, Bureau of Business Enterprise to provide snack vending machine services**
- C. Amendment to Agreement with Utility Services Co., Inc. for Water Tank Maintenance – North Elevated Tank**
- D. Ratify Contract with Kaman Industrial Technologies Corporation for emergency sewer pump repair service**
- E. Settlement Agreement with the Village of Palm Springs regarding Public Services Taxes and Franchise fees**
- F. Purchase two refuse collection vehicles from Palm Peterbilt Truck Centers**
- G. (Reordered to New Business as Item A) Crossing License Agreement with the Florida East Coast Railroad (FEC) regarding All Aboard Florida (AAF)**

Vote: Voice vote showed: AYES: Mayor Triolo; Vice Mayor Maxwell; and Commissioners McVoy, Amoroso, and Maier. NAYS: None.

10. PUBLIC HEARINGS:

- A. Ordinance No. 2016-08 – Second Reading and Public Hearing – revise the special assessment procedure and the collection of such assessments for the clearing of nuisance lots**

City Attorney Torcivia read the following ordinance by title only:

ORDINANCE NO. 2016-08 OF THE CITY OF LAKE WORTH, FLORIDA, AMENDING CHAPTER 12 “HEALTH AND SANITATION”, ARTICLE III “LOTS AND LANDS CONSTITUTING NUISANCES”, SECTION 12-38, SECTION 12-39, SECTION 12-40 AND SECTION 12-42 TO REVISE THE PROCEDURE FOR THE COLLECTION OF COSTS INCURRED FOR THE CLEARING OF LOTS; PROVIDING FOR SEVERABILITY, REPEAL OF LAWS IN CONFLICT, CODIFICATION, AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

Action: Motion made by Vice Mayor Maxwell and seconded by Commissioner Maier to approve Ordinance No. 2016-08 on second reading.

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

Vote: Voice vote showed: AYES: Mayor Triolo; Vice Mayor Maxwell; and Commissioners McVoy, Amoroso, and Maier. NAYS: None.

B. Ordinance No. 2016-09 – Second Reading and Public Hearing – revise the special assessment procedure and the collection of such assessments for the boarding and securing of structures

City Attorney Torcivia read the following ordinance by title only:

ORDINANCE NO. 2016-09 OF THE CITY OF LAKE WORTH, FLORIDA, AMENDING CHAPTER 2 “ADMINISTRATION”, ARTICLE VII “ABATEMENT OF NUISANCES”, SECTION 2-75.2 AND SECTION 2-75.2.5 TO PROVIDE THAT THE COSTS OF THE BOARDING AND SECURING OF A VACANT PROPERTY ARE SPECIAL ASSESSMENTS AND TO PROVIDE FOR THE ANNUAL NOTICE OF THE SAME; TO AMEND SUBSECTION 2-75.2.7 TO STREAMLINE THE PROCEDURE FOR THE COLLECTION OF COSTS INCURRED FOR THE BOARDING AND SECURING OF STRUCTURES; PROVIDING FOR SEVERABILITY, REPEAL OF LAWS IN CONFLICT, CODIFICATION, AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

Action: Motion made by Commissioner McVoy and seconded by Commissioner Amoroso to approve Ordinance No. 2016-09 on second reading.

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

Vote: Voice vote showed: AYES: Mayor Triolo; Vice Mayor Maxwell; and Commissioners McVoy, Amoroso, and Maier. NAYS: None.

C. Ordinance No. 2016-10 – Second Reading and Public Hearing – revise the special assessment procedure and the collection of such assessments for the demolition of unsafe structures

City Attorney Torcivia read the following ordinance by title only:

ORDINANCE NO. 2016-10 OF THE CITY OF LAKE WORTH, FLORIDA, AMENDING CHAPTER 9 “BUILDINGS AND STRUCTURAL REGULATIONS”, ARTICLE I “IN GENERAL”, SECTION 9-2.2 TO PROVIDE THAT THE COSTS OF THE DEMOLITION OF AN UNSAFE BUILDING ARE A SPECIAL ASSESSMENT AND TO PROVIDE FOR THE ANNUAL NOTICE OF THE SAME; TO AMEND SUBSECTION 9-2.2(P) TO STREAMLINE THE PROCEDURE FOR THE COLLECTION OF COSTS INCURRED FOR THE DEMOLITION OF UNSAFE BUILDINGS; PROVIDING FOR SEVERABILITY, REPEAL OF LAWS IN

CONFLICT, CODIFICATION, AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

Action: Motion made by Commissioner Amoroso and seconded by Commissioner Maier to approve Ordinance No. 2016-10 on second reading.

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

Vote: Voice vote showed: AYES: Mayor Triolo; Vice Mayor Maxwell; and Commissioners McVoy, Amoroso, and Maier. NAYS: None.

11. UNFINISHED BUSINESS:

A. Resolution No. 06-2016 – establish opening/closing hours for “public property” owned by the City

City Attorney Torcivia did not read the following resolution by title only:

RESOLUTION NO. 06-2016 OF THE CITY OF LAKE WORTH, FLORIDA, RELATING TO THE USE OF CITY-OWNED PUBLIC PROPERTY AND ESTABLISHING HOURS OF OPERATION; PROVIDING THAT CONFLICTING RESOLUTIONS ARE REPEALED; AND, PROVIDING FOR AN EFFECTIVE DATE.

Action: Motion made by Commissioner Amoroso and seconded by Vice Mayor Maxwell to approve Resolution No. 06-2016 as amended.

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

Noam Brown said cities across the country were frequently being legally challenged for violating human rights. He cited lawsuits filed for punishing homeless people and said this resolution was an ineffective approach.

Mayor Triolo read the comments written by Shauna Coolican. Ms. Coolican wrote asking to focus on real solutions and not distract the Sherriff’s Department by criminalizing homelessness.

Mayor Triolo read the comments written by Karla Engel. Ms. Engel wrote asking to please do everything [the Commission] could to interrupt and deter all drug dealing in the city. Children’s safety was paramount.

Mayor Triolo read the comments written by Anela Kingston. Ms. Kingston wrote that running, playing, climbing, and meeting other children was what she was all about. She loved to be in the fresh air and was fond of windy days. She wrote that she went to safe parks not in the City because they were dirty and had needles. She wrote asking to begin to make the Cultural Plaza and Library a place where kids could go again. Her

mothers were talking about setting hours in the Cultural Plaza was the first step in creating a park that was close to her home. Setting hours would be the first step in allowing the police to make sure that she had a clean and safe place to play. Setting hours was about keeping her safe and nothing else. Children deserved a proper park downtown—it was their downtown too.

Henry Calway said he did not know how a resolution could be passed and not allow the homeless to sleep. Some people did not have homes at all and had to fight injustices all over the place. He said he would challenge any of the Commission to sleep at the Cultural Plaza. He supported having universal housing.

Cirilo DeSantrago commented that he was in defense of Follow Travelers Committee Action Group, was not homeless, would not wish that on anyone, and challenged anyone to sleep on the streets. He said he walked through Lake Worth all the time, had friends who were homeless, and felt bad that he had a place to sleep while they did not. He commented that he had slept on a roof because he feared police harassment.

Tyler Miller said this item was an intent to arrest the homeless and drug addicts that could not get out of a cycle. If approved, they would be pushed into streets and backyards. He asked people to find real, humanitarian solutions. If the resolution was approved, he said he would continue to fight it.

JoAnn Golden said that these closing hours made humans a nuisance, and this was an inhuman resolution. The homeless needed to sleep, and the hours proposed was at the time when people slept. It was important for people to not allow their children to walk in parks without shoes on.

Leah Shubin said she opposed the unjust resolution. She lived in Delray Beach and came to Lake Worth to oppose it. She said she met someone who was homeless and was arrested for sleeping in the park in Miami. The homeless were human beings and it was important to give them compassion. Delray Beach closed their public bathrooms and benches, and the homeless were now begging for money on their streets.

Timothy Swenson said this resolution imposed hours when people without homes had no place to sleep and could not get a job. There were a lot of situations where people were crossing the country's borders then had no place to live in order to find work. He said he saw public art exhibits in the City that were about human rights; however, he found it odd that the City would have a resolution to close parks. Any hours to close parks to people criminalized poverty.

Mayor Triolo read the comments written by John Pope. Mr. Pope wrote that Lake Worth was one of the best little cities on the east coast. Please do not drag it through the mud in front of the world.

Ryan Hartman said he heard a majority of the Commission talking about homeless and the Mayor cried for the homeless during the last Commission meeting. Crime was crime and using drugs or urinating in public were already crimes. Bryant Park always had park hours and crime was still there. He said he did not know how placing hours at the Cultural Plaza would stop crime there.

Carlos Naranjo commented that other cities had similar ordinances and Lake Worth wanted to engage in a similar action that would end up in court. This resolution could cause individuals to have criminal records. He said there was a need to uphold the humanity of people.

Niko Segal-Wright said the comments made were directed at the resolution and not an ordinance approved at the last meeting. It was established that no one wanted to criminalize the homeless. There was a real issue with drug addiction. There may have been the best intentions when the resolution was created, but if it resulted in people being arrested because there was no place to send them, then the homeless would be given the option to either trespass or sleep in parking lots or neighborhoods. He asked for the ordinance to be repealed and have public bathrooms.

Rosie Ryburn commented that she could not talk about the resolution without talking about the ordinance. If the resolution was passed, it would result in people going into the prison system. This resolution would not alleviate the problem. Homeless individuals were real, living human beings and this was a way to push people away. She said it would be worth looking at homeless model solutions instead of passing a resolution that would increase harm to those who had no home.

Mayor Triolo read the comment written by David Gibson. Mr. Gibson wrote that he was considering moving to Lake Worth. It seemed like a great place to live. Passage of this resolution would make it less attractive to him.

Aaliyana Smith said she attended many protests and did not enjoy closing down the parks to the homeless. She said she heard about one homeless person who was generous to people, but someone beat him to death. She said she was not a fan of people thinking they were better than others. She commented that she saw homeless people and they were human beings.

Michael Chase Fox said he was trying to organize citizens on both sides

of the issue to find a real solution. People, at this meeting, should not say disparaging remarks against the Commission because everyone was trying to put up their hands to help. The Lake Worth Citizens Advisory Group was there to help the homeless. It was a working group that was talking with City employees around the State. He asked the Commission to delay action on the resolution.

AnnaMaria Hunt commented that she supported the resolution. She said she was a volunteer at the City's Volunteer Information Center, which was located at a place where people paid their bills. She said she had to walk through a gauntlet of people who were not homeless. They were agitators who just recently came into the City for the election.

Peggy Fisher said she wanted to echo the comments made by the last two people who spoke, and supported the resolution. All humans were valuable, including the Commission. Comments made implying that the Commission did not have feelings for all people were divisive. The resolution was to set hours at the Cultural Plaza. She suggested the Palm Beach Sheriff's Office Captain be asked how many homeless were arrested.

Darrin Engel said the issue was about public park and space and not about the homeless. It was about the ability to use public space without being exposed to illegal activities, which were caused by people who did not have a place to live. There was a need to enforce the illegal activities. The underlying issues with alcohol and sober homes would not be issued away over night.

Mayor Triolo read the comments written by Michelle Sylvester. Ms. Sylvester wrote in support of park hours to close at 12:00 AM to 6:00 AM, setting hours similar to most parks across the nation.

Heidi Wallace said she was homeless and had a safe haven at City Hall. This resolution would take that safety away and she would not have any place to go. She said she understood that the resolution was not an attack on her, but it did affect her. The homeless wanted to help the City find a solution. This resolution would hurt a lot of good people. This law was biased and prejudicial. She commented that drug use was being done all day long.

Dylan Harrison commented that, as a youth, he partook in drugs, but no longer shot drugs or abused alcohol because he could not pay his rent. If anyone wanted to detox or go to an outreach center, he offered to take them. He said no one was sleeping at the Cultural Plaza. The people at the Cultural Plaza were just partying. He said that whoever opposed this resolution, he would contribute campaign money to vote those Commissioners out of office.

Mayor Triolo read the comments written by Ben Ellis. Mr. Ellis wrote that he would like to note that setting hours in a public park was not anti-homeless it was pro safety. To say [people] could not take steps to better their community without a total solution to homelessness was a logical fallacy. [Residents] could not wait for a perfect solution to homelessness to better his City.

Greg Rice said he supported the resolution because the County had passed a similar ordinance regulating hours. He asked if the group speaking at this meeting also spoke at the County when they were discussing their ordinance. He said he lived across from the Cultural Plaza and around 10 or 11 PM, there were mostly young men there using a lot of profanity. He said he called the Palm Beach Sherriff's Office all the time. This problem was not just a Lake Worth problem, but a national problem. Homelessness was a bigger problem than Lake Worth could handle. He said he hoped the Commission would make the right choice.

Elexa Harrison said this resolution was not about equality, but about not being able to walk passed a park without being afraid. There were places for the homeless to go. People with homes were not privileged. This issue was about children being able to walk without being scared.

Kimberly Cooper said she was a recovering addict. Shortly after she moved to Lake Worth she became clean and got a job. She said she had been offered drugs, and people were antagonizing her to buy drugs. As a recovered addict, former homeless individual, and a humanitarian, she said none of the people in the Cultural Plaza were homeless. After a similar ordinance was passed, it became difficult for her to find a shelter when she was homeless. This forced her to find a detox and reach out to get help.

Tammy Pansa said she lived near the downtown area and disliked what was going on at Bryant Park. She said she did not dislike the homeless, but the people causing trouble were not homeless. Once this resolution was adopted, she said no one would be arrested. This resolution was being used as a tool to defray people. They were looking for publicity, which had nothing to do with this issue. There were many who would offer food or money to the homeless.

Ryan Parker said he was a former Lake Worth homeless person. There were programs in the County to help turn a homeless person's life around. If someone chose to live out in the open, then they were not entitled to public housing. He said he got a job, was now in college, married, and had a car.

Haylee Becker said she was from Ft. Lauderdale and spoke about other hate ordinances in her community. She said throwing people into jails would not help the homeless. She commented that Housing and Urban

Development funding was being cut in those communities that had similar ordinances against the homeless. She said Ft. Lauderdale was now fighting many lawsuits.

Commissioner Amoroso left the meeting at 7:28 PM.

Virginia Savietto said she grew up in Lake Worth in the 1990s, and the City was a lot more unsafe than before. She commented that she was committed to working with Lake Worth, was a House Representative District 87 candidate, and wanted support from the residents. She said she was present to establish a relationship with Lake Worth.

Commissioner Amoroso returned to the meeting at 7:31 PM.

Captain Todd Baier said robberies, drug use, and burglaries were the largest three crimes committed in the City. Currently, he said he received complaints about homeless, prostitution, and lawlessness. He announced that the Palm Beach Sheriff's Office (PBSO) did not target the homeless and that they were afforded protection under the law. He explained if a homeless individual wanted to be transported to a County shelter; however, there were no beds available, that person would not be arrested. If someone was loitering and they had a home, they would be arrested. He said most people in the Cultural Plaza were the lawless and not the homeless. This resolution would help, but was not the cure all. The same laws and ordinances were in effect for the past 20 years in Lake Worth. The PBSO deputies would use discretion and target lawlessness and repeat offenders.

Comments/requests summaries:

1. Commissioner McVoy asked if activities were already illegal, then PBSO could arrest them.

Captain Baier replied that this was a problem because the Cultural Plaza currently never closed. This resolution was a deterrent and tool to be used against the lawless.

2. Commissioner McVoy commented that there were assertions made that if the resolution was approved, then the lawless or homeless population would be pushed into the neighborhoods where they would be more dispersed and harder to find. He suggested getting a diverse group together and listing out what was really bothering them, discuss if there were tools, and discuss what could be done.

Captain Baier replied that PBSO enforced the law and sometimes people did get displaced. The City was scheduling a Homeless Summit. He said PBSO did not target the homeless, but there was an element of people who were not homeless.

3. Commissioner Maier asked if the resolution allowed the PBSO to search people.

Captain Baier replied that if the person was being arrested and transported, then they would be searched.

4. Commissioner Maier asked for a scenario that would occur if an individual did not want to identify themselves as homeless or did not want to go into a sheriff's car.

Captain Baier replied that if an individual was resisting an officer or did not want to identify themselves, it would be a misdemeanor. He said that, in his whole career, no one had ever refused to identify themselves.

5. Mayor Triolo commented that people from the public were attacking her about homelessness. She said she was compassionate about the homeless and was working to find solutions. Homelessness was not a Lake Worth problem, but a national problem. She said she was working with County Commissioner Shelley Vana to find homeless shelters close to Lake Worth. The Lord's Place and Goodwill opened in Lake Worth. This was a community that lifted people up and did not tear them down. One of the speakers tonight spoke to her about the effective date of an ordinance approved at the last meeting. He did not want to talk to her about the homeless. Another speaker said he would stay in Lake Worth until he could prove that the PBSO were arresting the homeless. This resolution was not about the homeless, but about crime in public spaces. A homeless individual told her that the drug addicts were stealing from the homeless and asked the City to do something about the drug addicts. She said she was planning a Homeless Summit to ask about finding solutions to move forward. The City was trying to do this for all of the people, especially for the homeless.

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

12. **NEW BUSINESS:**

A. **(Formerly Consent Agenda, Item G) Crossing License Agreement with the Florida East Coast Railroad (FEC) regarding All Aboard Florida (AAF)**

Commissioner Maier explained that he asked that this item be removed from the Consent Agenda for discussion. He said he was not opposed to the item, but items on the Consent Agenda were supposed to be non-

controversial. He commented that people may think that this item was controversial. He asked someone to explain the item.

City Attorney Torcivia explained that the crossing license agreement allowed the Florida East Coast Railroad (FEC) to name All Aboard Florida (AAF) as a third party beneficiary to the City's existing license agreements with FEC. He said over the last two years, the City had been working closely with the Metropolitan Planning Organization, Florida League of Cities, FEC, AAF, and the City's legal counsel to review and provide feedback on the FEC's plan to create an express passenger rail service from Miami to Orlando. As part of the project, all of the existing railroad crossings in the proposed double track corridor must be upgraded with additional safety measures to allow for passenger rail service. The AAF agreed to fund 100% of the improvements for the City, in return for being named as a third-party beneficiary to the existing license agreements between the City and FEC.

He explained that he requested FEC consider updating the license agreements since some were as old as 1949 and in need of revisions. He advised that the FEC refused to make any changes to the existing license agreements. In order for the City to have AAF fund 100% of the initial development costs, the City must agree to name AAF as a third party beneficiary to the existing licenses without any changes.

City Manager Bornstein explained that every time someone crossed the railroad track, they were crossing the FEC's property.

Comments/requests summaries:

1. Commissioner McVoy announced that he spoke to Attorney Neil Schiller at length about All Aboard Florida to educate himself. He commented that he supported passenger and freight rail, but that he was responsible for protecting the people. He asked if there would be a meeting to discuss what was being transported through the cities.
2. Commissioner Maier commented that he was aware of Lake Worth's regional neighbors who were against All Aboard Florida because there were no stops in their cities. Now these cities would not receive any benefits. He said there was a reason why the FEC did not want to let go of their very old contracts with cities.
3. Mayor Triolo announced that there would be a commuter stop in Lake Worth, but not an All Aboard Florida stop.

In response to the Commission's comments, Attorney Neil Shilla, Becker & Poliakoff, explained that there would be 32 additional trains per day going through Lake Worth, but as yet there was no schedule. The impact would be as minimal as possible and quiet zones would

become a reality. He announced that \$5.6 million would be spent just in Lake Worth. He cited the benefits of All Aboard Florida and said public and private bonds would fund the project. The project was going forward and the FEC wanted to do right by the City. He said they would evaluate the FEC's relationship with Lake Worth and all cities and recognized that communication could be better.

4. Commissioner Amoroso asked when there would be quiet zones.

Attorney Shilla replied that some of the construction had already begun and everything would be constructed at the same time so not to be disruptive to the community. He announced that the construction in Lake Worth would begin in 2017. He commented that Tri-Rail would be moved to the FEC rails.

Action: Motion made by Vice Mayor Maxwell and seconded by Commissioner Amoroso to approve a Crossing License Agreement with the Florida East Coast Railroad.

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

Vote: Voice vote showed: AYES: Mayor Triolo; Vice Mayor Maxwell; and Commissioners McVoy, Amoroso, and Maier. NAYS: None.

13. **LAKE WORTH ELECTRIC UTILITY:**

A. **CONSENT AGENDA:**

There were no Lake Worth Electric Utility Consent Agenda items on the agenda.

B. **PUBLIC HEARING:**

There were no Lake Worth Electric Utility Public Hearing items on the agenda.

C. **NEW BUSINESS:**

There were no New Business items on the agenda.

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

City Attorney Torcivia did not provide a report.

15. **CITY MANAGER'S REPORT**

A. **February 16, 2016 – draft Commission agenda**

City Manager Bornstein did not provide a report.

Mayor Triolo said she wanted to recognize Loretta Sharpe's passing. Ms. Sharpe would be greatly missed and said she was glad she spent her last hours with her.

16. ADJOURNMENT:

Action: Motion made by Commissioner Amoroso and seconded by Commissioner McVoy to adjourn the meeting at 8:12 PM.

Vote: Voice vote showed: AYES: Mayor Triolo; Vice Mayor Maxwell; and Commissioners McVoy, Amoroso, and Maier. NAYS: None.

PAM TRIOLO, MAYOR

ATTEST:

PAMELA J. LOPEZ, CITY CLERK

Minutes Approved: February 16, 2016

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



CITY OF LAKE WORTH

7 North Dixie Highway · Lake Worth, Florida 33460 · Phone: 561-586-1600 · Fax: 561-586-1750

AGENDA DATE: February 16, 2016, Regular Meeting

DEPARTMENT: Water/Sewer Utilities

EXECUTIVE BRIEF

TITLE:

First Amendment to an Agreement with U.S. Peroxide, LLC for odor control chemicals

SUMMARY:

The Amendment provides for a one year renewal to an existing agreement at an annual cost of \$92,500.

BACKGROUND AND JUSTIFICATION:

On September 20, 2013, the City Commission approved a three year Contractor Agreement with two one-year renewal options for peroxide chemical supply used in odor control treatment in the City Sub Regional Sewer Collection System.

Hydrogen Sulfide (H₂S) gas forms in the sanitary sewer system, and is the primary source of wastewater odor. It also is toxic and corrosive, and over time, causes damage to manholes and gravity pipes in the system.

Ferrous sulfate (ODOPHOS) has been used by the City since 1989 to mitigate H₂S. However, due to the cost increases over the past few years in ferrous based additives, as well as the maintenance problems caused by iron deposits clogging the system as a result of using this chemical, the City of Lake Worth approved a contract with US Peroxide, LLC, on September 20, 2013, for an alternate chemical supply. Experience with the use of peroxide over the last two years has been positive for reducing hydrogen sulfide gas levels, and reducing resident complaints due to odors. The City therefore desires to renew the agreement for an additional year to September 20, 2017, and allow the City Manager to authorize future renewals, subject to budget availability.

This performance based contract included a city wide study in which strategic sites were sampled for H₂S levels and dosing sites were selected. The primary dosing site is at the Master Pump Station located in Bryant Park, with additional dosing sites at lift station 10, lift station 15 and the Lantana pump station.

US peroxide was the lowest responsive bid, with a 50% Hydrogen Peroxide Solution at \$3.90/gallon. The estimated dosing will be 65 gallons/day, or approximately \$92,500 per year.

MOTION:

I move to approve/disapprove the First Amendment to an Agreement with U.S. Peroxide, LLC at a cost of \$92,500 which will be included in the upcoming FY 2017 budget.

Attachments

- 1) Fiscal Analysis
- 2) 2013 Contractor Agreement
- 3) First Amendment

FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures	0	0	0	0	0
Operating Expenditures	0	\$92,500	0	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-Kind Match	0	0	0	0	0
Net Fiscal Impact	0	\$92,500	\$0	\$0	\$0

No. of Additional Full-Time Employees	0	0	0	0	0
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B. Recommended Source of Funds/Summary of Fiscal Impact

Upon approval of this item by the City Commission, this contract expenditure of \$92,500: will be included in the upcoming FY 2017 budget

Utilities/Water Production							
Account Number	Account Description	Project #	FY 2016 Budget	Amended Budget	Current Balance	Agenda Item Expenditures	Remaining Balance
405-7421-535.52-30	Regional Sewer	N/A	N/A	N/A	N/A	N/A	N/A

C. Fiscal Review:

Larry Johnson – Director
Corinne Elliott - Finance

CONTRACTOR AGREEMENT
(Odor Control Treatment in the City Sewer Collection System)

THIS AGREEMENT is made this 9 day of JD, 2013 between the **City of Lake Worth**, Florida, a municipal corporation, hereinafter the "CITY", with its principle office located at 7 North Dixie Highway, Lake Worth, Florida 33460, and, **U.S. Peroxide, LLC.**, a corporation authorized to do business in the State of Florida, hereinafter the "CONTRACTOR", with its principle office located at 900 Circle 75 Parkway, Suite 1330, Atlanta, GA 30339.

RECITALS

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

WHEREAS, the CITY issued Invitation for Bid UT-SW-12-13-112 (hereinafter "IFB") for the procurement of all goods and services needed to provide a performance based contract to control H₂S formation in the sanitary sewer collection system to mitigate odor and corrosion problems in the collection system and the sub-regional transmission facilities (Master Pump Station and force main) without negatively impacting the East Coast Regional Wastewater Reclamation Facility (hereinafter the "Odor Control Services");

WHEREAS, CONTRACTOR submitted a bid to perform the work described and set out in the IFB;

WHEREAS, the CITY desires to accept CONTRACTOR's bid in order for CONTRACTOR to render the goods and services to the CITY as provided herein;

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

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

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

1. TERM

The term of this Contractor Agreement (the "Agreement") and time for completion of the Odor Control Services shall be three (3) years from the date work is commenced as provided for herein, with an option for two additional one year renewals. In addition to other completion requirements, completion of the Odor Control Services

requires written authorization that all goods and services have been rendered to the satisfaction of the CITY executed by both the CITY and CONTRACTOR Odor Control Services Managers as designated herein. The CITY, however, may terminate the Agreement subject to the provisions of Section XIII of this Agreement.

2. SCOPE OF WORK

2.1 The scope of work is the provision of all goods and services needed to provide a full-service sulfide and odor corrosion control program for the City of Lake Worth sanitary sewer collection system as more specifically set forth in the IFB (the "Scope of Work"). **Work shall commence upon the issuance of a notice to proceed by the City.**

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

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

3. USE OF AGENTS OR ASSISTANTS

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

4. EQUIPMENT

4.1 The CONTRACTOR shall provide all equipment and chemicals necessary to complete the work to be performed as more specifically set forth in the IFB. In the event CONTRACTOR requires equipment from the CITY, the CONTRACTOR shall meet and confer with the CITY before work commences. In the event the CITY's equipment is to be utilized, any costs chargeable to the CONTRACTOR shall be agreed upon in advance of the commencement of work.

5. FEE AND ORDERING MECHANISM

5.1 For services to be rendered under this Agreement, the CONTRACTOR shall be entitled to a fee for actual work performed and accepted by the CITY, in an amount not to exceed \$100,000 (One-hundred thousand dollars) per fiscal year.

5.2 Should the CITY require additional or unforeseen work not included in this Agreement, fees and payment for such work will be set forth in a separate Addendum, as authorized in accordance with the CITY's procurement code prior to any such additional work being performed by the CONTRACTOR. The CITY has reserved a contingency fund for such additional work.

5.3 The City's ordering mechanism for all work performed under this Agreement shall be a City Purchase Order; however, the terms and conditions stated in a City Purchase Order shall not apply. CONTRACTOR shall not perform work under this Agreement without a City Purchase Order specifically for this purpose. CONTRACTOR shall not perform work which is out of scope, nor exceed any not to exceed amounts expressed on the Purchase Order. Note that the City's Fiscal Year ends on September 30th of each calendar year. The City cannot authorize work beyond September 30th of each calendar year, prior to the annual budget being approved by the City Commission. Additionally, the City must have budgeted appropriate funds for this work in any subsequent Fiscal Year. If the budget is approved for said work, the City will issue a new Purchase Order each Fiscal Year, for required and approved work.

6. MAXIMUM COSTS

6.1 The CONTRACTOR expressly acknowledges and agrees that the total cost to complete all work is as specified herein and no additional costs shall be authorized without prior written approval from CITY's governing body.

6.2 Any price adjustments (increases or decreases) in the cost of hydrogen peroxide or iron salts will be based upon validated industry information furnished by the supplier and other sources. Price adjustments will be addressed at the twelve month contract intervals and will not exceed 4% unless extreme market conditions warrant action in advance. The CITY reserves the option to accept/deny any price adjustment and return to bid.

6.3 Energy and Fuel Surcharges will be adjusted on a monthly basis with supporting documentation. Increases, decreases or no change will be noted and included with each invoice.

7. INVOICE

7.1 The CONTRACTOR shall submit an itemized invoice to the Utilities Engineer for approval prior to receiving compensation. The invoice shall include an itemized summary of total costs billed and shall be made at such intervals as agreed to with the Utilities Engineer, but no more frequently than once per month. All invoices shall include a description of the status of the work, a brief itemization of costs associated with each task or Odor Control Services phase and the total task or Odor Control Services costs to date. The CONTRACTOR shall be paid within thirty (30) days receipt of an approved invoice for work.

8. AUDIT BY CITY

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

9. COPIES OF DATA/DOCUMENTS

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

10. OWNERSHIP

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

11. WRITTEN AUTHORIZATION REQUIRED

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

12. DEFAULTS, TERMINATION OF AGREEMENT

12.1 If the Odor Control Services Manager deems that the CONTRACTOR is in default for failure to supply an adequate working force or has failed in any other respect

to satisfactorily perform the work specified in this Agreement; or, is in material breach of a term or condition of this Agreement, the Odor Control Services Manager may give written notice to the CONTRACTOR specifying defaults to be remedied within three (3) days. Such notice shall set forth the basis for any dissatisfaction and suggest corrective measures. If the CONTRACTOR does not remedy defaults within three (3) days or commence good faith steps to remedy the default to the reasonable satisfaction of the Odor Control Services Manager, the CITY may take such action to remedy the default and all expenses related thereto shall be borne by the CONTRACTOR including, without limitation, utilization of another contractor to provide for such work; and/or, the CITY may withhold any money due or which may become due to the CONTRACTOR for such expense and/or work related to the claimed default. Alternatively, or in addition to the foregoing, if after three (3) days the CONTRACTOR has not remedied defaults or commenced good faith steps to remedy defaults to the satisfaction of the Utilities Engineer, the CITY may elect to terminate this Agreement. No compensation shall be paid for de-mobilization, take-down, disengagement wind-down, lost profits or other costs incurred due to termination of this Agreement under this paragraph 13.1.

12.2 Notwithstanding paragraph 13.1, the CITY reserves the right and may elect to terminate this Agreement at any time. At such time, the CONTRACTOR would be compensated only for that work which has been satisfactorily completed to the date of termination. No compensation shall be paid for de-mobilization, take-down, disengagement wind-down, lost profits or other costs incurred due to termination of this Agreement under this paragraph 13.2.

13. INSURANCE

13.1 The CONTRACTOR shall, at its own expense, procure and maintain throughout the term of this Agreement, with insurers acceptable to the CITY, the types and amounts of insurance conforming to the minimum requirements set forth in the IFB. The CONTRACTOR shall not commence work until the required insurance is in force and evidence of insurance acceptable to the CITY has been provided to, and approved by, the CITY. An appropriate Certification of Insurance shall be satisfactory evidence of insurance. Until such insurance is no longer required by this Contract, the CONTRACTOR shall provide the CITY with renewal or replacement evidence of insurance at least thirty (30) days prior to the expiration or termination of such insurance.

13.2 All policies of insurance required to be carried by CONTRACTOR shall be in form satisfactory to CITY, shall specifically name CITY as an additional insured, shall be issued by responsible insurance companies which are licensed to do business in the State of Florida, and shall have an AM Best Company rating of at least "A" and a financial rating of not less than "XII".

13.3 The insurance provided by the CONTRACTOR shall apply on a primary basis. Any insurance, or self-insurance, maintained by the City Commission shall be excess of, and shall not contribute with, the insurance provided by the CONTRACTOR. Except as otherwise specified, no deductible or self-insured retention is permitted.

13.4 Compliance with these insurance requirements shall not limit the liability of the CONTRACTOR. Any remedy provided to the CITY by the insurance provided by the CITY shall be in addition to and not in lieu of any other remedy (including, but not limited to, as an indemnitee of the CONTRACTOR) available to the CITY under this Agreement or otherwise.

13.5 Neither approval nor failure to disapprove insurance furnished by the CONTRACTOR shall relieve the CONTRACTOR from responsibility to provide insurance as required by this Agreement.

13.6 The CONTRACTOR's failure to obtain, pay for, or maintain any required insurance shall constitute a material breach upon which the CITY may immediately terminate or suspend this Agreement. In the event of any termination or suspension, the CITY may use the services of another contractor without the CITY incurring any liability to the CONTRACTOR.

13.7 At its sole discretion, the CITY may obtain or renew the CONTRACTOR's insurance, and the CITY may pay all or part of the premiums. Upon demand, the CONTRACTOR shall repay the CITY all monies paid to obtain or renew the insurance. The CITY may offset the cost of the premium against any monies due the CONTRACTOR from the CITY.

14. WAIVER OF BREACH

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

15. INDEMNITY

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

employees, subcontractors or by anyone the CONTRACTOR directly or indirectly employed.

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

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

16. ENTIRE AGREEMENT AND ORDER OF PRECEDENCE

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

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

17. ASSIGNMENT

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

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

18. SUCCESSORS AND ASSIGNS

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

19. WAIVER OF TRIAL BY JURY

19.1 TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

20. GOVERNING LAW AND REMEDIES

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

20.2 No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

21. TIME IS OF THE ESSENCE AND LIQUIDATED DAMAGES

21.1 Time is of the essence in the completion of tasks and services as specified herein.

21.2 In addition, the CITY may recover from the CONTRACTOR any amounts paid by the CITY for damages suffered to third parties as a result of the CONTRACTOR's failure to complete the tasks and services as required in this Agreement.

22. NOTICES

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

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

Monica Morandi, Utilities Engineer
City of Lake Worth
1900 2nd Avenue South
Lake Worth, Florida 33461

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

Michael Nostro
U.S. Peroxide, LLC
9107 Panzani Place
Windermere, FL 34786

23. SEVERABILITY

23.1 Should any part, term or provision of this Agreement or any document required herein to be executed be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby.

24. DELAYS AND FORCES OF NATURE

24.1 The CONTRACTOR shall not be considered in default by reason of a delay in timely performance if such delay and failure arises out of causes reasonably beyond the control of the CONTRACTOR or its subcontractors and without their fault or negligence. Upon the CONTRACTOR's request, the CITY shall consider the facts and extent of any such delay and failure to timely perform the work for reason beyond the control of the CONTRACTOR and, if the CONTRACTOR'S delay and failure to timely perform was without it or its subcontractors' fault or negligence, as determined by the CITY in its sole discretion, the time of completion shall be extended for any reasonable time that the CITY, in its sole discretion, may decide; subject to the CITY'S rights to change, terminate, or stop any or all of the work at any time. If the CONTRACTOR is delayed at any time in the progress of the work by any act or neglect of the CITY or its employees, or by any other contractor employed by the CITY, or by changes ordered by the CITY or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the CONTRACTOR'S control, or by delay authorized by the CITY pending negotiation or by any cause which the CITY, in its sole discretion, shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the CITY, in its sole discretion, may decide. No extension of time shall be made for any delay occurring more than five (5) days before a claim therefore is made in writing to the CITY. In the case of continuing cause of delay, only one (1) claim is necessary. The

CONTRACTOR's sole remedy for a delay in completion of the work for any reason will be an extension of time to complete the work and CONTRACTOR specifically waives any right to seek any monetary damages or losses for a delay in completion of the work, including, but not limited to, waiving any right to seek monetary amounts for lost profits, additional overhead, salaries, lost productivity, efficiency losses, or any other alleged monetary losses which may be allegedly suffered by CONTRACTOR due to a delay in completion of the work.

24.2 Neither party shall be considered in default in the performance of its obligations hereunder or any of them, if such obligations were prevented or delayed by any cause, existing or future beyond the reasonable control of such party which include but are not limited to acts of God, labor disputes or civil unrest.

25. COUNTERPARTS

25.1 This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same document. Each of the parties shall sign a sufficient number of counterparts, so that each party will receive a fully executed original of this Agreement.

26. LIMITATIONS OF LIABILITY

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

27. PUBLIC ENTITY CRIMES

27.1 CONTRACTOR acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. CONTRACTOR will advise the CITY immediately if it becomes aware of any violation of this statute.

28. PREPARATION

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

29. PALM BEACH COUNTY INSPECTOR GENERAL

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

30. ENFORCEMENT COSTS

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

31. PUBLIC RECORDS

CONTRACTOR shall comply with Florida's Public Records Laws, and specifically agrees to:

- (a) Keep and maintain public records that ordinarily and necessarily would be required by the CITY in order to perform the service.
- (b) Provide the public with access to public records on the same terms and conditions that the CITY would provide the records and at a cost that does not exceed the cost provided in this Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- (d) Meet all requirements for retaining public records and transfer, at no cost, to the CITY all public records in possession of the CONTRACTOR upon termination of the Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

32. COPYRIGHTS AND/OR PATENT RIGHTS

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

33. COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH

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

34. FEDERAL AND STATE TAX

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

35. PROTECTION OF PROPERTY

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

36. DAMAGE TO PERSONS OR PROPERTY

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

37. CHARACTER OF WORKMEN AND EQUIPMENT

37.1 All workers provided by the CONTRACTOR for work hereunder, shall be the best available for the kind of work performed. Any person employed by the Contractor whom the CITY may deem temporarily or permanently incompetent or unfit to perform the work, shall under written instruction of the CITY be removed from the job, and shall not again be employed under this contract.

38. SAFETY: ACCIDENT PREVENTION

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

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

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

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

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

- (a) Any CITY facility or property that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and

regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

(b) CONTRACTOR agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

(c) CONTRACTOR shall promptly notify the CITY of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a CITY facility or property that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

40. HAZARDOUS/FLAMMABLE/TOXIC MATERIALS

40.1 CONTRACTOR, at CONTRACTOR expense, shall comply with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state county and municipal authorities pertaining to CONTRACTOR's use of the City's Property, including, without limitation, all applicable federal, state and local laws, regulations or ordinances pertaining to air and water quality, Hazardous Materials (as hereinafter defined), waste disposal, air emissions and other environmental matters, all zoning and other land use matters, and utility availability, and with any lawful direction of any public officer or officers, pursuant to law, which shall impose any duty upon City or Tenant with respect to the use or occupation of the Leased Premises.

40.2 As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste, including but not limited to, those substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, or such substances, materials and wastes that are or become regulated under any applicable local, state or federal law.

40.3 CONTRACTOR shall disclose and report to City the names and amounts of all hazardous, toxic or flammable materials, or any combination thereof, which were stored, used or disposed of on by the CONTRACTOR at any CITY Facility or Property, or which CONTRACTOR is currently storing, using or disposing of or intends to store, use or dispose of at the Leased Premises at any time that the same are or become present at any CITY Facility or Property.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS

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

CITY OF LAKE WORTH, FLORIDA

By: _____
Pam Triolo, Mayor

ATTEST:

Pamela J. Lopez, City Clerk

Approved as to form and legal sufficiency:

Glen J. Torcivia, Interim City Attorney

CONTRACTOR: **U.S. PEROXIDE, LLC**

By: _____
[Signature]

[Corporate Seal]

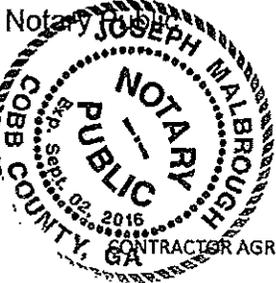
Print Name: ANDREW NAVGANO

Title: ASSISTANT SECRETARY

STATE OF Georgia)
COUNTY OF Colo)

The foregoing instrument was acknowledged before me this September day of 20, 2013 by Andrew Navgano, as Assistant Secretary (title), of Midwest Towers, Inc., a corporation authorized to do business in the State of Florida, and who is personally known to me or who has produced the following Georgia Drivers License as identification.

U.S. PEROXIDE LLC
[Handwritten initials]



[Signature]
Print Name: Joseph Malbrough
My commission expires: 9/2/16

FIRST AMENDMENT TO AGREEMENT WITH U.S. PEROXIDE, LLC.
(Odor Control Chemicals – Peroxide)

THIS FIRST AMENDMENT (“Amendment” hereafter) is made as of the _____ day of _____, 2016, by and between the CITY OF LAKE WORTH, 7 N. Dixie Highway, Lake Worth, FL 33460, a municipal corporation organized and existing under the laws of the State of Florida, (“CITY” hereafter), and U.S. PEROXIDE, LLC, 900 Circle 75 Parkway, Suite 1330, Atlanta, GA 30339 a corporation authorized to do business in the State of Florida (“CONTRACTOR” hereafter).

RECITALS

WHEREAS, in 2013, the CITY issued Bid UT-SW-12-13-112 for the procurement of goods and services needed to mitigate odor and corrosion problems in the wastewater collection system; and,

WHEREAS, pursuant to a written Agreement dated September 20, 2013 (“Agreement” hereafter) the CONTRACTOR agreed to furnish the goods and services to the CITY for a three year term and also provided that the Agreement and pricing set forth therein may be renewed for another two one year periods; and,

WHEREAS, the CITY and CONTRACTOR desire to renew the term of the Agreement for another one year term under the same terms and conditions and pricing set forth in the Agreement; and,

WHEREAS, the parties also desire to provide that in the event the parties wish to renew the Agreement for the last one year term, the City Manager for the CITY shall have the authority to approve such renewal.

NOW THEREFORE, in consideration of the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The parties agree that the recitals set forth above are true and correct and are fully incorporated herein by reference.
2. Term. The parties agree that the term of the Agreement is hereby extended to September 20, 2017. In the event the CITY wishes to extend the Agreement for the final renewal term, the City Manager of the CITY shall be authorized to approve such renewal.
3. Entire Agreement. The CITY and the CONTRACTOR agree that this Amendment and the Agreement set forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in the Agreement including this Amendment may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

4. Legal Effect. This Amendment shall not become binding and effective until approved by the City Commission. The Effective Date is the date this Amendment is executed by the Mayor.

5. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Amendment.

6. Amendment. Except for the provisions of the Agreement specifically modified by this Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the CITY and CONTRACTOR hereto have made and executed this First Amendment to the Agreement for the procurement of goods and services for odor control treatment in the sewer collection system as of the day and year first above written.

CITY OF LAKE WORTH, FLORIDA

By: _____
Pam Triolo, Mayor

ATTEST:

Pamela J. Lopez, City Clerk

Approved as to form and legal sufficiency:

Glen J. Torcivia
Glen J. Torcivia, City Attorney

CONTRACTOR:

U.S. PEROXIDE, LLC.

By: Andrew Nangana

[Corporate Seal]

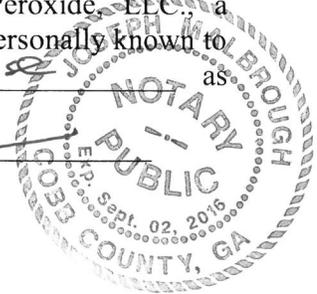
Print Name: ANDREW NANGANA

Title: ASSISTANT SECRETARY

STATE OF GEORGIA)
COUNTY OF COB)

The foregoing instrument was acknowledged before me this 4 day of February, 2016 by Andrew Nangana (title), of U.S. Peroxide, LLC, a corporation authorized to do business in the State of Florida, and who is personally known to me or who has produced the following Drivers License as identification.

Joselyn Cele
NOTARY PUBLIC





AGENDA DATE: February 16, 2016, Regular Meeting

DEPARTMENT: Leisure Services

EXECUTIVE BRIEF

TITLE:

Management Contract with Mildly Delirious Design, Inc. dba Lake Worth Farmers Market

SUMMARY:

The Contract provides for the renewal of the Lake Worth Farmers Market held at the Old Bridge Park from October 2016 through April 29, 2017 with two additional one year terms.

BACKGROUND AND JUSTIFICATION:

The Lake Worth Farmer's Market is a signature event for the City of Lake Worth that is entering its 10th year of operation. The farmer's market supports local agriculture and brings local, just harvested produce to the local community. The market also functions as venue for local businesses to showcase their products. Local businesses are and have been incubated in the market.

At the market, the consumer has the opportunity to talk to the grower and learn their growing practices and also talk to an experienced, passionate vendor about his/her products. Local businesses also participate in special events that are held at the market. Local not-for-profit organizations are given complementary space to help promote their mission in the Lake Worth community. Many local not-for-profits have fund raised in the market over the past ten seasons.

The market traffic has generated over the past three years an average of \$2,500 in additional parking revenue for the beach complex fund. The market will pay to the city a monthly lease of \$500 per month for the duration of the contract.

MOTION:

I move to approve/not approve a Market Contract with Mildly Delirious Design, Inc. dba Lake Worth Farmers Market.

ATTACHMENT(S):

Fiscal Impact Analysis
Contract

FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures	0	0	0	0	0
Operating Expenditures	0	0	0	0	0
External Revenues (parking)	0	0	0	0	0
Program Income	\$3500	\$3500	\$3500	\$3500	\$3500
In-kind Match	0	0	0	0	0
Net Fiscal Impact	0	0	0	0	0
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

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

C. Department Fiscal Review: CE

**City of Lake Worth Management Contract
For Lake Worth Farmers Market**

This Management Contract (“Contract” hereafter) is made as of 2016, by and between the **City of Lake Worth**, Florida, a municipal corporation organized and existing under the laws of the State of Florida (hereinafter referred to as the “CITY”), and **Mildly Delirious Design Inc.**, a corporation authorized to do business in the State of Florida D/B/A Lake Worth Farmers Market (hereinafter referred to as the “MANAGER”).

RECITALS

WHEREAS, the CITY owns and operates the real property generally known as Old Bridge Park; and

WHEREAS, the MANAGER desires to use a portion of Old Bridge Park for the purpose of conducting a weekly market to be known as “Lake Worth Farmers Market” and for the purpose of conducting an evening farmers market and local artist exhibition (hereinafter collectively referred to as the “Market”); and,

WHEREAS, the MANAGER is a professional promoter/management company willing and able to operate the Market; and,

WHEREAS, the MANAGER’s use of a portion of Old Bridge Park and operation of the Market will enhance public use of the park and increase tourism to the City of Lake Worth; and

WHEREAS, said enhanced use of a portion of Old Bridge Park and tourism to the City will inure to serve the public good and benefit the public.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein, the sufficiency of which is hereby acknowledged by each party, it is hereby agreed that the MANAGER shall use the portion of Old Bridge Park and operate the Market in accordance with the terms and conditions hereinafter set forth.

SECTION 1: INCORPORATION OF RECITALS. The foregoing true and correct recitals are hereby incorporated into this Contract.

SECTION 2. DESCRIPTION AND ACCEPTANCE OF PREMISES. The specific portion of Old Bridge Park to be used by the MANAGER shall be referred to as the “Premises”. The Premises is further illustrated in **Exhibit “A”** attached hereto and incorporated herein. The MANAGER has examined and inspected and knows the condition of the Premises and other improvements thereon, and accepts the same in their present, “as is” condition.

SECTION 3: MANAGER’S RIGHTS AND RESPONSIBILITIES. The MANAGER, at the MANAGER’s sole expense, shall exclusively manage the Premises during each Market and exclusively operate the Market in a manner which will increase public use of the Premises and tourism to the City of Lake Worth and Old Bridge Park. In addition to other rights and

responsibilities described in this Contract or imposed by law, the MANAGER, at the MANAGER's sole expense, shall have the following rights and responsibilities:

A. The MANAGER shall perform its responsibilities under this Contract to that degree of care and skill ordinarily exercised, under similar circumstances, by reputable members of its profession practicing in the same or similar locality at the time the services are provided.

B. Operation of Premises and Market: MANAGER shall have the exclusive right and obligation to operate the Premises for the general public's attendance at the Market, and shall assume responsibility for policing the Premises, keeping off trespassers; preventing injury/damage to the Premises; preserving proper order in and about the Premises; and, promoting, marketing and developing the Premises during the operation of the Market. In the event of an emergency or other issues requiring law enforcement, the MANAGER shall immediately contact the Palm Beach County Sheriff's Office or other applicable authorities. In no event shall the MANAGER allow any illegal use of the Premises during the operation of the Market. The Market shall be held on Saturday mornings from 8:00 A.M. through 1:00 P.M., inclusive of the time necessary for set-up, clean-up and restoration of the Premises provided from 6:00 A.M. to 8:00 A.M. and from 1:00 P.M. to 2:00 P.M.

C. Maintenance of Premises: Except as specifically provided in this Contract, it is understood and agreed that the maintenance of the Premises, is under the direct supervision, responsibility and control of the MANAGER during the operation of the Market. The MANAGER shall maintain the Premises in an equal or better condition as when received prior to each weekly Market. The Premises is to be maintained during each Market to generally recognized and accepted Premises standards and conditions with sensitivity to the ecology and the environment of the Premises and surrounding areas.

D. Repairs: During the life of this Contract, the MANAGER shall make all necessary repairs to the Premises due to damage which occurs during the operation of the Market.

E. Signs: The MANAGER shall coordinate with the CITY's representative on the use of any signage for or related to the Market. All such signage must be in compliance with the CITY's code of ordinances and any other applicable rule or law. The MANAGER shall repair all damage to the Premises or off-premise sign locations resulting from the removal of signs installed by the MANAGER.

F. Operations and Services at the Premises. The MANAGER agrees to perform all services typical of operating and managing a farmers' market including, but not limited to, the following:

1. Keep all areas of the Premises in a neat, clean condition and free from rubbish at all times during the Market;
2. Provide all janitorial service as may be necessary for the Premises during the Market and at the close of the Market;
3. Enforce all rules and regulations of the Premises reasonably established by the CITY's representative and as reasonably established by the MANAGER;

4. Ensure all vendors at the Market have valid business tax receipts from the CITY and have a Florida sales tax number or proof of applicable exemption, which are displayed at all times;
5. Prohibit vendors from selling or offering any article according to weight except in accordance with the established standards for weight in the State of Florida;
6. Prohibit vendors from selling or offering any unwholesome or spoiled products or attracting attention to his or her products by hawking or crying out;
7. Ensure no waste, garbage or any other refuse remains on the Premises after the closing hour of the Market (each vendor space must be cleaned by the vendor assigned to the space or the Manager shall clean such space);
8. Authorize animals or pets at the Market during operating hours; so long as the animal or pet is kept on a leash at all times and all animal or pet waste is promptly removed (Manager should request the removal of any nuisance causing animals or pets);
9. Ensure vendors abide by all applicable laws, regulations and rules; and,
10. Observe and require compliance with the guidelines for food handling at neighborhood markets or temporary food service events developed by the Palm Beach County Health Department.

G. Old Bridge Park Evening Market: The MANAGER shall develop a name, logo and marketing plan for an event wherein the Market will be held in the evening at Old Bridge Park (the "Evening Market"). The MANAGER shall secure the CITY's approval of the proposed Evening Market along with the agreed upon date and time for the event. Upon receipt of the CITY's approval, the MANAGER shall have full responsibility for the implementation and management of the Evening Market. For the first Evening Market, the CITY agrees to waive any fee for the use of Old Bridge Park. Additional Evening Markets shall be approved at the sole discretion of the CITY, and the fee for the use of Old Bridge Park shall be negotiated between the parties. The MANAGER shall comply with all rights, responsibilities, duties, requirements, covenants and provisions of this Contract in its implementation, management and operation of the Evening Market. For the purposes of this Contract, the term Market shall include Evening Market.

H. Equipment and Supplies: The MANAGER shall provide all equipment, labor and furnishings necessary for operation and maintenance of the Premises during the Market.

I. Record keeping: The MANAGER shall prepare and maintain an adequate set of bookkeeping records related to the MANAGER's performance of this Contract including, but not limited to, statements of profit and loss and balance sheets. Said set of bookkeeping records shall be maintained by the MANAGER for at least three (3) years after this Contract expires or is otherwise terminated. The CITY shall have access to such records as required in this section for the purpose of inspection or audit during normal business hours at a location agreed to by the MANAGER.

J. Personnel: The MANAGER has, or will secure at its own expense, all necessary personnel required to perform its responsibilities under this Contract. Such personnel at the time of employment by the MANAGER shall not be employees of or have any contractual relationship

with the CITY. All of the responsibilities required hereunder of the MANAGER shall be performed by the MANAGER or under its supervision, and all personnel engaged in performing the same shall be fully qualified and, if required, authorized or permitted under state and local law to perform such responsibilities. All of the MANAGER's personnel (and all sub-contractors) while on the Premises, will comply with all CITY requirements governing conduct, safety, and security.

K. Insurance: No later than the Effective Date of this Contract, the MANAGER shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The certificates shall clearly indicate that the MANAGER has obtained insurance of the type, amount, and classification as required for strict compliance with this section and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the CITY. All insurance, other than Worker's Compensation Insurance, to be maintained by the MANAGER shall specifically include the CITY as an "Additional Insured". All insurance shall be provided at MANAGER's sole expense. Compliance with the foregoing requirements shall not relieve the MANAGER of its liability and obligations under this Contract.

1. The MANAGER shall maintain, during the life of this Contract, commercial general liability, including premises operation liability, owners and contractors liability and contractual liability insurance in the amount of \$1,000,000 per occurrence (including at least \$10,000 in medical coverage) to protect the MANAGER from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations or services under this Contract, whether such operations be by the MANAGER or by anyone directly employed by or contracting with the MANAGER.

2. The MANAGER shall maintain, during the life of this Contract, Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes. In the event that the MANAGER does not carry Workers' Compensation Insurance and chooses not to obtain same, then MANAGER shall, in accordance with Section 440.05, Fla. Stat., apply for and obtain an exemption authorized by the State of Florida and shall provide a copy of such exemption to the CITY.

L. Other activities and Damages to the Premises: During the life of this Contract, MANAGER shall not engage in any activity, business or calling that will detrimentally impair its ability to satisfy its responsibilities required under this Contract or that is in violation of any applicable law. The MANAGER shall not do, or suffer to be done, in, on or upon the Premises or as affecting said Premises or adjacent properties, any act which may result in damage or depreciation of value to the Premises or adjacent properties, or any part thereof. Except as authorized by law, the MANAGER shall not generate, store, produce, place, treat, release or discharge any contaminants, pollutants or pollution, including but not limited to, hazardous or toxic substances, chemicals or other agents on, into, or from the Premises or any adjacent lands or waters in any manner. For the purposes of this Contract, "hazardous substances" shall mean those elements or compounds defined in 42 USC Section 9601 or which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency (EPA)

and the list of toxic pollutants designated by the United States Congress or the EPA or defined by any other federal, state or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance, material, pollutant or contaminant. "Pollutants" and "Pollution" shall mean those products or substances defined in Chapters 376 and 403, Florida Statutes, and the rules promulgated thereunder, all as amended or updated from time to time. In the event of the MANAGER's failure to comply with this paragraph, the MANAGER shall, at its sole cost and expense, promptly commence and diligently pursue and legally required closure, investigation, assessment, cleanup, decontamination, remediation, restoration and monitoring of (1) the Premises, and (2) all off-site ground and surface waters and lands affected by the MANAGER's such failure to comply, as may be necessary to bring the Premises and affected off-site waters and lands into full compliance with all applicable federal, state or local statutes, laws, ordinances, codes, rules, regulations, orders and decrees and to restore the damaged property to the condition existing immediately prior to the occurrence which caused the damage. The MANAGER's obligations set forth in this paragraph shall survive the termination or expiration of this Contract. This paragraph shall not be construed as a limitation upon the MANAGER's obligations regarding indemnification and payment of costs and fees as set forth in this Contract, nor upon any other obligations or responsibilities or the MANAGER as set forth herein. Nothing herein shall relieve the MANAGER of any responsibility or liability prescribed by law for fines, penalties and damages levied by government agencies, and the cost of cleaning up any contamination caused directly or indirectly by the MANAGER's activities or facilities. Upon discovery of a release of hazardous substance or pollutant, or any other violation of local, state or federal law, ordinance, code, rule, regulation, order or decree relating to the generation, storage, production, placement, treatment, release or discharge of any contaminant, the MANAGER shall report such violation to all applicable governmental agencies having jurisdiction, and to CITY, all within the reporting periods of the applicable agencies.

M. Permits, Licenses and Taxes: The MANAGER shall obtain at its own expense, any and all permits and licenses, which may be required for the performance of its responsibilities and exercise of its rights in connection herewith. The MANAGER is required to obtain all applicable permits and licenses required to operate the Market from the CITY. MANAGER shall pay all taxes which might be assessed against it or the CITY for whatever purpose in the management of the Premises or operation of the Market or otherwise in the performance of its responsibilities or execution of its rights under this Contract.

N. Loss or Damage and Safety: In the case of accidents, thefts, labor disputes, riots, or other similar incidents, MANAGER shall immediately notify CITY and, if required, the Palm Beach County Sheriff's Office or other local authorities. In the event of damage or loss not insured under the insurance required under this Contract by the MANAGER or otherwise available, MANAGER and CITY promptly meet and discuss remedies of such condition. The MANAGER shall be responsible for the safety and security measures undertaken at the Premises during the Market including, but not limited to, abiding by the requirements of the applicable fire department. MANAGER shall at all times take all steps reasonable or necessary to avoid injury, loss or damage to persons or property. All applicable governmental laws shall be complied with in the performance of this Contract.

O. Prohibitions Against Liens or Other Encumbrances: Fee title to the Premises is held by the CITY. The MANAGER shall not do or permit anything to be done which purports to create a lien or encumbrance of any nature against the real property contained in the Premises as of and on the date of which this Contract was executed, including but not limited to mortgages or construction liens against the existing Premises or against any interest of the CITY therein.

P. Surrender of Premises: At the expiration or termination of this Contract, the MANAGER shall surrender the Premises to CITY in the same or better condition at the commencement of this Contract (less reasonable wear and tear).

Q. Sales Tax: The MANAGER shall pay all sales tax related to the MANAGER's operation of the Premises and Market (if any).

R. Conflict of Interest: The MANAGER represents that it, its officers and employees presently have no interest and shall acquire no interest, either direct or indirect, which would knowingly conflict in any manner with the performance hereunder, as provided for in section 112.313, Florida Statutes, and the Palm Beach County Code of Ethics. The MANAGER further represents that no person having any such interest shall be knowingly hired or employed for said performance.

S. Intent of MANAGER's Rights and Responsibilities: It is the parties' intention that the MANAGER shall at its sole cost and expense have and fulfill all rights and responsibilities as stated herein or as required by any applicable law or as otherwise necessary to properly manage and operate the Premises during the Market. The parties agree that the CITY shall have no responsibility nor shall it incur any cost or expense for any of the rights and responsibilities granted to the MANAGER herein or as required by any applicable law or as otherwise necessary to properly manage and operate the Premises during the Market.

SECTION 4: DAMAGE OR DESTRUCTION OF PREMISES AND RELATED FACILITIES.

In the event that the Premises are substantially destroyed, partially destroyed or damaged by fire, hurricane, natural disaster war or insurrection, riot, public disorder, any authorized act upon the part of any governmental authority, or any cause or happening to such an extent that the same cannot be used by the MANAGER, then the parties shall meet within thirty (30) days of written notice of said destruction or damage to address repairs and the continuation of this Contract.

SECTION 5: UTILITIES AND SOLID WASTE.

During the operation of the Market, the CITY shall pay for and shall provide electricity to the Premises with the connection to be located at Old Bridge Park. The CITY shall supply a lockable panel box covering the electric meter or some similar device to assist in preventing unauthorized access to the electricity. All other utilities used by and for the Premises during the Market, including but not limited to water and sewer (if any) shall be the responsibility of the MANAGER and shall be paid for by the MANAGER. The MANAGER shall be responsible for providing sufficient waste disposal receptacles for the Market, collecting and removing the waste disposal receptacles and legally disposing of all waste collected off the Premises, all at its sole cost and expense. The CITY shall

not provide refuse service for the Market and the MANAGER shall not dispose of any waste from the Market in CITY dumpsters.

SECTION 6: MONTHLY FEE. During the initial five (5) year term of this Contract, the MANAGER shall pay the CITY a monthly fee of Five Hundred Dollars (\$500) for the use of the Premises during that month (the “Monthly Fee” hereafter). The Monthly Fee shall be paid by the MANAGER on the first day of each month during the first year of this Contract for use of the Premises during the month. The first Monthly Fee shall be made on or before October 22, 2016. The Monthly Fee payments shall be paid without any notice or invoice from the CITY. After three (3) days from the due date of the Monthly Fee, the MANAGER shall be charged a late fee of Fifty Dollars (\$50.00) and the CITY may pursue termination of this Contract in accordance with the terms and conditions herein. The Monthly Fee shall be paid regardless of the number of Markets scheduled or held during a month. The parties recognize that the Market is a seasonal farmers’ market and the Monthly Fee will not be paid during that seasonal time for which the Market is not operating (e.g., for the first year, the time after April 29, 2017, until the date of commencement for the next year of the Market). The Monthly Fee for any extension(s) of the term of this Contract will be \$500.00.

SECTION 7: PARKING REVENUES. All parking revenue received or derived from patrons of the Market will be revenue to the CITY and will be paid to and provided to the CITY. The MANAGER shall not receive any revenue from patron parking at the Premises.

SECTION 8: CITY’S RESPONSIBILITIES AND OBLIGATIONS. In addition to other responsibilities and obligations described in this Contract or imposed by law, the CITY shall have the following responsibilities:

A. Designate in writing in a person to act as the CITY’s representative with respect to this Contract. Such person shall have authority to transmit instructions, receive information, interpret and define the CITY’s policies with respect to the MANAGER’s responsibilities hereunder. However, unless specifically stated herein, such representative shall not have the authority to modify or amend the terms and conditions of this Contract. Unless otherwise specified, the CITY’s representative shall be the CITY’s Leisure Services Director.

B. CITY will hold thirty (30) spaces for permit parking on the east side of Old Bridge Park for parking by the Market’s vendors. The MANAGER will be responsible for monitoring the thirty (30) spaces and use by the Market’s vendors. No other persons will be permitted to park in the thirty (30) spaces.

C. In addition to the thirty (30) spaces for permit parking, the CITY will designate and hold storage space at or near the Premises for the MANAGER to temporarily store a portable storage facility for the Market’s café tables & chairs, signage and flags. The CITY shall not be liable for any damage to the portable storage facility or its contents caused by the MANAGER or any third party. The portable storage facility must be removed from the Premises promptly after the last Market held in a year.

SECTION 9: TERM OF CONTRACT. The initial term of this Contract shall be for five (5) years from the Effective Date. The Effective Date of this Contract is November 1, 2016. For the first year (2016-2017), the Market will commence October 22, 2016 and end April 29, 2017. The MANAGER's and the CITY's representatives will meet before the end of the first year to decide on the dates for the Market for the next year which are anticipated to be on or about the same weekends for each subsequent year. This Contract may be extended for two (2) additional one (1) year terms. The CITY's City Manager may authorize the extension of the Contract for the additional terms. Notwithstanding the foregoing, this Contract may be terminated under the terms and conditions provided in this Contract.

SECTION 10: INDEMNIFICATION AND WAIVER OF LIABILITY AND LIMITATION OF LIABILITY. The MANAGER shall indemnify and hold harmless the CITY, and its officers and employees, from all liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by or related to the MANAGER, its officers, agents, employees or subcontractors in the performance of or failure to perform the MANAGER's responsibilities or in the exercise of or failure to exercise any rights and responsibilities required or granted herein. The CITY shall be responsible for all liability, damages, losses, and costs, including, but not limited to, reasonable attorney's fees (at the trial and appellate levels) to the extent caused by the CITY, its officers or employees' negligence. Nothing contained in this Contract shall create a contractual relationship with or a cause of action in favor of a third party against either the CITY or MANAGER, nor shall this Contract be construed a waiver of sovereign immunity beyond the waiver provided in section 768.28, Florida Statutes. Further, the MANAGER agrees that the CITY, its officials, employees, and agents, shall not be liable for any injury to the MANAGER's business or any loss of income or for damage to the goods, wares, merchandise or other property of the MANAGER, its employees, invitees, vendors, customers, or any other person in or about the Premises or related to the Market, nor shall the CITY, its officials, employees, and agents, be liable for injury to the person of the MANAGER, his employees, agents, vendors or contractors, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from any other cause, whether the damage or injury results from conditions arising upon the Premises or related to the Market or from other sources or places, and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to the MANAGER.

IN ADDITION, IN NO EVENT, WHETHER ARISING OUT OF THIS CONTRACT OR RELATED TO THIS CONTRACT, SHALL THE CITY, ITS OFFICIALS, EMPLOYEES OR AGENTS BE LIABLE FOR ANY BUSINESS INTERRUPTION LOSSES, ATTORNEY'S FEES, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OF THE MANAGER OR ANY OTHER ENTITY OR PERSON RELATED TO OR ARISING FROM THIS CONTRACT. THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF THE CITY HAS BEEN ADVISED AS TO THE POSSIBILITY OF ANY DAMAGES, LOSSES OR LIABILITY.

SECTION 11: TERMINATION AND EXPIRATION AND SUSPENSION.

A. Immediate Termination. Nothing herein will be construed as limiting the right of the CITY to terminate this Contract immediately upon written notice if:

1. The filing of a lien by any contractor, sub-contractor or third tier sub-contractor including, but not limited to materialmen, suppliers, or laborers, upon the Premises which lien is not satisfied, discharged or contested in a court of law within sixty (60) days from the date of notice to the MANAGER;

2. The filing of any judgment lien against the assets of MANAGER related to the performance of this Contract which is not satisfied, discharged or contested in a court of law within sixty (60) days from the date of notice to the MANAGER; or

3. The filing of a petition by or against MANAGER for relief under the Bankruptcy Code, or for its reorganization or for the appointment of a receiver or trustee of MANAGER or MANAGER's property; or an assignment by MANAGER for the benefit of creditors; or the taking possession of the property of MANAGER by any governmental officer or agency pursuant to statutory authority for the dissolution or liquidation of MANAGER; or if a temporary or permanent receiver or trustee shall be appointed for MANAGER or for MANAGER's property and such temporary or permanent receiver or Trustee shall not be discharged within sixty (60) days from the date of appointment.

B. Early Termination for Breach. Nothing herein will be construed as limiting the right of either party to terminate this Contract upon ten (10) days prior written notice and an opportunity to cure if either party is in breach of a material term of this Contract. If the breach identified in the written notice is cured within said ten (10) day period, grounds for termination based on the noticed breach will no longer exist. If the opportunity to cure will require longer than ten (10) days, then a longer cure period shall be agreed to by the parties, which agreement shall not be unreasonably withheld or conditioned, so long as the breaching party commenced curing the breach within ten (10) days of receipt of the written notice and thereafter prosecutes the cure in good faith and within the agreed to cure period. Notwithstanding the foregoing, the CITY reserves the right to terminate this Contract upon three (3) days prior written notice if the MANAGER fails to pay the Monthly Fee (and any applicable late charges) as set forth herein.

C. Termination for Convenience. The CITY or the MANAGER reserves the right to terminate this Contract at its convenience upon sixty (60) days prior written notice.

D. Upon Termination or Expiration. After receipt of a termination notice or upon the expiration of this Contract, except as otherwise be directed by the CITY in writing, the MANAGER shall:

1. Promptly stop conducting the Market and relinquish the Premises as stated herein.
2. Promptly close out all utility accounts and cancel/terminate all other agreements entered by the MANAGER related to this Contract.
3. Promptly remove all non-permanent fixtures, MANAGER's Equipment or other personal property exclusively owned by the MANAGER at the Premises.
4. For thirty (30) days after termination or expiration, cooperate with the CITY in transitioning the Premises back to the CITY or another individual or entity as designated by the CITY.

Expiration or termination of this Contract shall not affect any rights, obligations, and liabilities of the parties arising out of transactions which occurred prior to expiration or termination.

E. Suspension. The CITY reserves the right to suspend the Market without notice in the event of threat to the public health or the public safety as may be determined in the sole discretion of federal, state or local officials charged with making such determinations or the CITY (which determination shall be conveyed by the CITY's representative to the MANAGER). The CITY, its officials, employees and agents, shall not be liable to the MANAGER for any losses incurred by reason of such suspension to it or any of its vendors, and the MANAGER agrees to defend, keep, indemnify and save harmless the CITY, its officials, employees, and agents against any claims, suits or injuries, arising, directly or indirectly, as a result of the implementation of this suspension provision. The CITY shall use its best efforts to orally notify the MANAGER in the event of any potential suspension as soon as the CITY is aware of the potential suspension.

SECTION 12: RIGHT OF INSPECTION. The CITY or their duly authorized representatives or employees shall have the right during the Market to inspect the Premises and the works and operations thereon of the MANAGER.

SECTION 13: SUCCESSORS AND ASSIGNS. The CITY and the MANAGER each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. The MANAGER shall not assign, sublet, convey or transfer its interest in this Contract without the written consent of the CITY. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the CITY which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the CITY and the MANAGER.

SECTION 14: LAW, VENUE AND REMEDIES AND WAIVER OF JURY TRIAL. This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract will be held in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof. **The parties hereto hereby mutually waive any right to a trial by jury on any claim, counterclaim, setoff, demand, action or cause of action arising out of or in any way pertaining or relating to this Contract, any dealings of the parties hereto with respect to this Contract, or in connection with any of the transactions related hereto or contemplated hereby, or the exercise of any party's rights or remedies hereunder, in all of the foregoing cases whether now existing or hereafter arising, and whether sounding in contract, tort or otherwise.** A copy of this paragraph may be filed with any court as written evidence of the knowing, voluntary and bargained agreement between the parties irrevocably to waive trial by jury, and that any dispute or controversy whatsoever between them shall instead be tried in a court of competent jurisdiction by a judge sitting without a jury.

SECTION 15: INDEPENDENT CONTRACTOR RELATIONSHIP. The MANAGER is, and shall be, in the performance of all its responsibilities under this Contract, in all legal senses, an independent contractor, and not an employee, agent, or servant of the CITY. All persons engaged in the performance of the MANAGER's responsibilities under this Contract shall at all times, and in all places, be subject to the MANAGER's sole direction, supervision, and control. The MANAGER shall exercise control over the means and manner in which it and its employees perform the services.

SECTION 16: NONDISCRIMINATION. The MANAGER warrants and represents that all of its employees and all persons utilizing the Premises or who otherwise receive services from the MANAGER under this Contract shall be treated equally without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

SECTION 17: SEVERABILITY. If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Contract, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

SECTION 18: PUBLIC ENTITY CRIMES. MANAGER acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a manager, supplier, sub-contractor or contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The MANAGER will advise the CITY immediately if it becomes aware of any violation of this statute.

SECTION 19: NOTICE. All notices required in this Contract shall be sent by certified mail, return receipt requested or by nationally recognized overnight courier or by hand delivery, and if sent to the CITY shall be sent to:

City of Lake Worth
Attn: Director of Leisure Services
7 North Dixie Highway
Lake Worth, Florida 33460

and if sent to the MANAGER shall be sent to:

Mildly Delirious Design, Inc. D/B/A Lake Worth Farmers Market

517-29th Street
West Palm Beach, Florida 33407

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

SECTION 20: ENTIRETY OF CONTRACTUAL AGREEMENT. The CITY and the MANAGER agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

SECTION 21: TIME. Unless otherwise mutually agreed by the MANAGER and CITY in writing, time shall be of the essence under this Contract.

SECTION 22: TERMINOLOGY AND CAPTIONS. All pronouns, singular, plural, masculine, feminine or neuter, shall mean and include the person, entity, firm or corporation to which they relate as the context may require. Wherever the context may require, the singular shall mean and include the plural and the plural shall mean and include the singular. The term "Contract" as used herein, as well as the terms "herein", "hereof", "hereunder", "hereinafter" and the like mean this Contract in its entirety and all exhibits, amendments and addenda attached hereto and made a part hereof. The captions and paragraph headings are for reference and convenience only and do not enter into or become a part of the context of this Contract, nor shall such headings affect the meaning or interpretation of this Contract.

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

SECTION 24: PREPARATION. This Contract shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

SECTION 25: EXHIBITS AND CONTRACT DOCUMENTS. Each exhibit and other contract documents referred to in this Contract forms an essential part of this Contract. The exhibits and other contract documents, if not physically attached, should be treated as part of this Contract and are incorporated herein by reference.

SECTION 26: LEGAL EFFECT. This Contract shall not become binding and effective until approved by the CTIY's Commission.

SECTION 27: SURVIVABILITY. Any provision of this Contract which is of a continuing nature or imposes an obligation which extends beyond the term of this Contract shall survive its expiration or earlier termination.

SECTION 28: WAIVER OF SUBROGATION. MANAGER hereby waives any and all rights to Subrogation against the CITY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then MANAGER shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should MANAGER enter into such an agreement on a pre-loss basis.

SECTION 29: COUNTERPARTS. This Contract may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties at such time as all the signatories hereto have signed a counterpart of this Contract.

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

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have made and executed this City of Lake Worth Management Contract as of the day and year first above written.

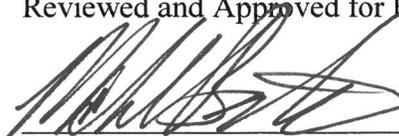
CITY OF LAKE WORTH, FLORIDA

By: _____
Pam Triolo, Mayor

ATTEST

Reviewed and Approved for Execution:

Pamela J. Lopez, City Clerk



Michael Bornstein, City Manager

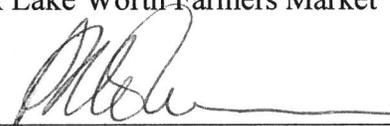
Approved as to form and legal sufficiency:



Glen J. Torcivia, City Attorney

MANAGER: Mildly Delirious Design, Inc. D/B/A Lake Worth Farmers Market

[Corporate Seal]

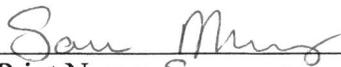
By: 

Peter Robinson, President

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this 2nd day of February 2016 by Peter Robinson, President, Mildly Delirious Design Inc. D/B/A Lake Worth Farmers Market, a Florida corporation, and who is personally known to me or who has produced the following _____ as identification.

Notary Public



Print Name: Sara Murphy
My commission expires: 7/24/17



SARA MURPHY
MY COMMISSION # FF 039528
EXPIRES: July 24, 2017
Bonded Thru Budget Notary Services

EXHIBIT "A"
DESCRIPTION OF PREMISES



City of Lake Worth

The Art of Florida Living

Old Bridge Park



Lake Worth Road

S Ocean Blvd

Lake Worth's Beach Area

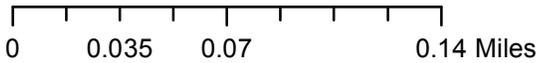


EXHIBIT "A"



Old Bridge Park



Municipal Boundary

Prepared By:
Audrey MBE
City of Lake Worth's
Community Sustainability Department
GIS Planner
1999 2nd Avenue North
Lake Worth, FL 33460
305.286.1785
Updated 03.06.2016



AGENDA DATE: February 16, 2016, Public Hearing

DEPARTMENT: City Manager's Office

EXECUTIVE BRIEF

TITLE:

Resolution No. 09-2016 - declare one property as surplus and directing the method of disposition

SUMMARY:

The Resolution authorizes the review of a city-owned property and determination if it is appropriate for affordable housing, needed for city purposes, or to be offered for sale.

BACKGROUND AND JUSTIFICATION:

State statute and City ordinance require the City Commission to review the list of all real property within the City limits to which the city holds fee simple title. The City Commission must review such property at a public hearing and make a determination if the property is appropriate for affordable housing. If the property is not appropriate for affordable housing, the Commission must determine if the property is unusable or not needed for city purposes. Any property that is not appropriate for affordable housing and not usable or needed for city purposes, may be sold by competitive sealed bids or by request for proposal.

Staff has identified one property to be reviewed. On August 18, 2015, the unimproved parcel located at 128 South E Street was conveyed to the City of Lake Worth by the Palm Beach County Board of County Commissioners (BCC) via Resolution R2015-1019 with the understanding that the City would transfer ownership to the Lake Worth Community Redevelopment Agency (CRA) for the development of affordable housing.

Pursuant to Florida Statutes Section 270.592(3), the County must convey surplus property acquired by Tax Deed directly to the municipality in which it is located. Accordingly, the property has been conveyed to the City by the County Deed that was approved by the BCC via Resolution R2015-1020 on this date. The City in turn must determine the best use of the property and provide for its maintenance.

The parcel is currently vacant and is located in the Single Family/Two Family 14 dwelling units per acre (SF TF-14) zoning district. It also is located in the CRA Neighborhood Stabilization Program 2 (NSP-2) target area. Under the approved Action Plan for its NSP-2 Program, the CRA and its consortium partners are tasked with the acquisition, rehabilitation and construction of 100 affordable housing units.

According to Chapter 2, Section 2-1 of the Code of Ordinances, properties identified as appropriate for use as affordable housing may be offered for sale at City Commission direction and the proceeds may be either used to increase the City fund earmarked for the development of affordable housing, offered for sale with a restriction

that requires the development of property as permanent affordable housing, or donated to a non-profit housing organization for the construction or rehabilitation for permanent affordable housing.

Alternatively, the City Commission by a simple majority vote at a scheduled public meeting may waive the requirements regarding minimum bid amount, method of sale and sale of surplus property and convey property to the CRA provided such property is located in a residentially zoned area. The City Commission also has the option of conveying said real property to a 501(c) 3 organization with a proven track record in the production of affordable housing. This is defined by the City as three (3) completed affordable housing projects.

To further the efforts in providing attainable affordable housing to qualified residents of the Lake Worth community, the CRA is partnering with Neighborhood Renaissance, Inc. to develop infill housing opportunities. Neighborhood Renaissance was established twenty-three years ago as a non-profit community-based organization dedicated to the production of affordable housing, management of affordable rental housing, and the provision of housing and credit counseling. Neighborhood Renaissance is recognized for their positive affordable housing efforts throughout Palm Beach County and specifically in the City of Lake Worth as a partner in the CRA NSP-2 Consortium.

At its meeting of November 4, 2015, the City's Planning and Zoning Board supporting the recommendation to the City Commission that the property located at 128 South E Street is suitable for affordable housing and that the appropriate method of disposition will be at the discretion of the City Commission. The Resolution finds that this property is suitable for affordable housing and recommends conveyance of said property to the Lake Worth Community Redevelopment Agency for the development of appropriate affordable housing.

MOTION:

I move to approve/not approve Resolution No. 09-2016

ATTACHMENT(S):

Fiscal Impact Analysis – not applicable

Resolution

County Resolution R2015-1019

County Deed R2015-1020

Location Map

NSP-2 Target Area Map

Development Proposal Rendering

BCC Agenda Item Summary

1
2
3 RESOLUTION NO. 09-2016 OF THE CITY OF LAKE WORTH, FLORIDA,
4 DECLARING CITY OWNED PROPERTY AT 128 S. E STREET AS SURPLUS;
5 FINDING SAID PROPERTY APPROPRIATE FOR AFFORDABLE HOUSING;
6 DIRECTING THE METHOD OF SALE; AND, PROVIDING AN EFFECTIVE
7 DATE.

8
9 WHEREAS, Section 2-1 of the City's code of ordinances requires the
10 City Commission to review a list of all real property within the city limits to which
11 the city holds fee simple title; and

12
13 WHEREAS, this review must occur at a public meeting to determine if
14 any property is appropriate for affordable housing and, if not, whether usable or
15 needed for city purposes; and

16
17 WHEREAS, if a property is appropriate for affordable housing, the City
18 may sell it (and use the proceeds for further affordable housing development);
19 sell it with restrictions for affordable housing; or, donate it to a nonprofit housing
20 organization for permanent affordable housing; and

21
22 WHEREAS, for property to be conveyed to the Lake Worth Community
23 Redevelopment Agency (CRA), the City Commission may waive the sale
24 requirements of Section 2-1; and

25
26 WHEREAS, the City Commission has reviewed the property located at
27 128 South E Street (attached hereto and incorporated herein) that has been
28 recently conveyed to the City by Palm Beach County and has determined that
29 such property is surplus and not needed by the City for its purposes; and

30
31 WHEREAS, the City Commission has specifically determined that this
32 property is appropriate for affordable housing; and

33
34 WHEREAS, the City Commission finds declaring the property surplus
35 and as further set forth herein as serving a valid public purpose.

36
37 NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION
38 OF THE CITY OF LAKE WORTH, FLORIDA:

39
40 Section 1. The foregoing WHEREAS provisions are adopted herein as
41 true and correct statements and findings of the City Commission.

42
43 Section 2. The City Commission finds that the property located at 128
44 South E Street is appropriate for affordable housing and should be conveyed
45 directly to the CRA consistent with Section 2-1 of the City's code of ordinances
46 (without a minimum bid amount or by sale).
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Section 3. Effective Date. This Resolution shall take effect immediately upon its adoption.

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

- Mayor Pam Triolo
- Vice Mayor Scott Maxwell
- Commissioner Christopher McVoy
- Commissioner Andy Amoroso
- Commissioner Ryan Maier

Mayor Pam Triolo thereupon declared this Resolution duly passed and adopted on the 16th day of February, 2016.

LAKE WORTH CITY COMMISSION

By: _____
Pam Triolo, Mayor

ATTEST:

Pamela J. Lopez, City Clerk

78
79

Attachment

ADDRESS	PCN	NOTES	IMP/VAC	LEGAL DESCRIPTION	2014 VALUE
128 S. E Street	38-43-44-21-15-059-0030	Convey to CRA	Vacant	TOWN OF LAKE WORTH, Lot 3, and South ½ of Lot 4, Block 59	\$15,194

80

RESOLUTION NO. 20 R-2015-1019

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE CONVEYANCE OF CERTAIN REAL PROPERTY TO THE CITY OF LAKE WORTH PURSUANT TO FLORIDA STATUTE SECTION 197.592(3) WITHOUT CHARGE AND WITH MINERAL AND PETROLEUM RIGHTS RESERVATION WITHOUT RIGHTS OF ENTRY AND EXPLORATION; AND PROVIDING FOR AN EFFECTIVE DATE:

WHEREAS, the County owns one (1) property within the municipal boundaries of the City of Lake Worth which was acquired for delinquent taxes; and

WHEREAS, Florida Statutes Section 197.592(3) states that under certain conditions, the County is to convey to municipalities in which they are located, properties acquired by the County for delinquent taxes and that any liens of record held by the County on such properties shall not survive the conveyance to the municipalities; and

WHEREAS, the subject property has not been previously sold, acquired for infill housing, or dedicated by the Board of County Commissioners, and shall not be conveyed to the record prior fee simple title owner; and

WHEREAS, pursuant to Florida Statute Section 270.11, the City of Lake Worth has requested that such property be conveyed without reservation of and to release the rights of entry and exploration relating to mineral and petroleum rights; and

WHEREAS, the Board of County Commissioners of Palm Beach County has agreed to convey such property reserving phosphate, mineral, metals and petroleum rights but releasing any and all rights of entry and exploration relating to such rights.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Section 1. Recitals

The foregoing recitals are true and correct and incorporated herein by reference.

Section 2. Authorization to Convey Real Property

The Board of County Commissioners of Palm Beach County shall convey to the the City of Lake Worth without charge and by County Deed, attached hereto and

incorporated herein by reference, the real property legally described in such deed. Any liens of record held by the County on the subject lands shall not survive the conveyance to the City of Lake Worth.

Section 3. Conflict with Federal or State Law or County Charter

Any statutory or Charter provisions in conflict with this Resolution shall prevail.

Section 4. Effective Date

The provisions of this Resolution shall be effective immediately upon adoption hereof.

The foregoing resolution was offered by Commissioner Taylor who moved its adoption. The Motion was seconded by Commissioner Abrams, and upon being put to a vote, the vote was as follows:

Commissioner Shelley Vana, Mayor	Aye
Commissioner Mary Lou Berger, Vice Mayor	Aye
Commissioner Hal R. Valeche	Aye
Commissioner Paulette Burdick	Aye
Commissioner Steven L. Abrams	Aye
Commissioner Melissa McKinlay	Aye
Commissioner Priscilla A. Taylor	Aye

The Mayor thereupon declared the resolution duly passed and adopted this day of August 18th, 2015.

PALM BEACH COUNTY, a political subdivision of the State of Florida
BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK
CLERK & COMPTROLLER

By: Nancy Bock
Deputy Clerk



APPROVED AS TO FORM AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND CONDITIONS

By: [Signature]
Assistant County Attorney

By: [Signature]
Department Director



CFN 20150328141
 OR BK 27780 PG 1385
 RECORDED 09/03/2015 11:17:58
 Palm Beach County, Florida
 ANT 10.00
 Doc Stamp 0.70
 Sharon R. Bock, CLERK & COMPTROLLER
 Pg 1385; (1pg)

PREPARED BY AND RETURN TO:
 Richard C. Bogatin
 PALM BEACH COUNTY
 PROPERTY & REAL ESTATE MANAGEMENT DIVISION
 2633 Vista Parkway
 West Palm Beach, FL 33411-5605

PCN: 38-43-44-21-15-059-0030
 Closing Date: 8-18-2015
 Purchase Price: \$0

R201571020

COUNTY DEED

This COUNTY DEED, made AUG 18 2015, by PALM BEACH COUNTY, a political subdivision of the State of Florida, by and through its Board of County Commissioners, whose legal mailing address is 2633 Vista Parkway, West Palm Beach, Florida 33411-5605, "County", and the CITY OF LAKE WORTH, a Florida municipal corporation, whose legal mailing address is 7 North Dixie Highway, Lake Worth, Florida 33460-3795, "City".

WITNESSETH:

That County, for and in consideration of the sum of Ten and 00/100 (\$10.00) Dollars to it in hand paid by City, the receipt whereof is hereby acknowledged, has granted, bargained and sold to City, its successors and assigns forever, the following described land lying and being in Palm Beach County, Florida:

TOWN OF LAKE WORTH, LT 3 and S 1/2 of LT 4, BLK 59.

THE ABOVE BEING THE REAL PROPERTY DESCRIBED UNDER TAX CERTIFICATE NUMBER 27627 IN THE TAX DEED RECORDED IN OFFICIAL RECORD BOOK 27493, PAGE 0607, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

Reserving, however, unto County, its successors and assigns, an undivided three-fourths (3/4) interest in, and title in and to an undivided three-fourths (3/4) interest in, all the phosphate, minerals, and metals that are or may be in, on, or under the said land and an undivided one-half (1/2) interest in all petroleum that is or may be in, on, or under said land. The aforementioned reservation of phosphate, mineral, metals and petroleum rights shall not include and County hereby expressly releases any and all rights of entry and rights of exploration relating to such phosphate, mineral, metals and petroleum rights.

IN WITNESS WHEREOF, County has caused these presents to be executed in its name by its Board of County Commissioners acting by the Mayor or Vice Mayor of said Board, the day and year aforesaid.

ATTEST:

SHARON R. BOCK
 CLERK & COMPTROLLER
 By: [Signature]
 Deputy Clerk



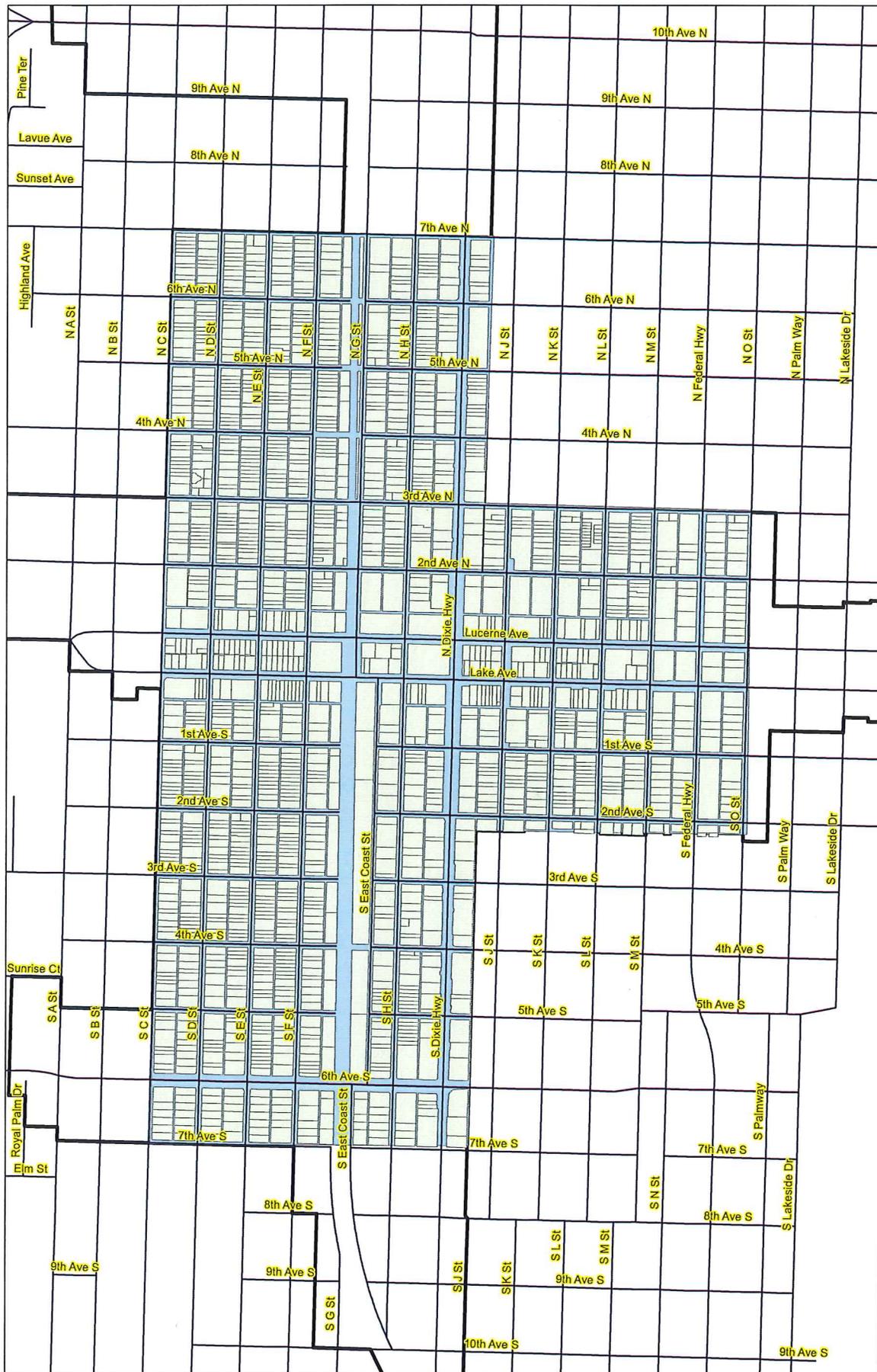
PALM BEACH COUNTY, a political subdivision of the State of Florida

By: [Signature]
 Shelley Vana, Mayor

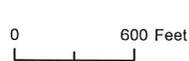
APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]
 Assistant County Attorney

(OFFICIAL SEAL)



Target Area



Plot date 06/26/2009





AGENDA DATE: February 16, 2016, Regular Meeting

DEPARTMENT: Economic Development

EXECUTIVE BRIEF

TITLE:

Resolution No. 10-2016 - abandonment of a portion of 4th Avenue South Right-of-Way.

SUMMARY:

This Resolution is the second of a two-step process to abandon a portion of 4th Avenue South Right-of-Way between the FEC railroad and S. East Coast Street.

BACKGROUND AND JUSTIFICATION:

In 1912, a portion of the right-of-way for 4th Avenue South (known as “8th Avenue” at that time) was dedicated in Plat Book No. 2, page 37. Within the same Plat Book, to the west of the intersection of S. East Coast Street and the 4th Avenue South right-of-way, there is also a dedication of right-of-way to the Florida East Coast Railway Company (FEC). It is not clear from the original dedication whether the 4th Avenue South right-of-way extends from the western edge of S. East Coast Street to the eastern edge of the Florida East Coast right-of-way (a distance of approximately 112 ft.) (“Abandonment Area”). Over time, the City has entered agreements with FEC and the surrounding property owner (Wm. Thies) for the use of the Abandonment Area. In 2002, the City entered a revocable permit with the surrounding property owner for the property owner to use the Abandonment Area. The surrounding property owner built an open-air structure over the Abandonment Area in 2003 with said structure still existing today. The current owner of the surrounding property desires to sell the surrounding property, the Abandonment Area and the structure built over the Abandonment Area. The buyer desires to improve the property and has approached the City about whether the Abandonment Area is legally encumbered by the 4th Avenue South right-of-way.

The City Attorney has reviewed the recorded plat and re-plat for 4th Avenue South; the deeds of record; and, other recorded documents, and agrees that the original dedication is unclear. The City has no utilities in the Abandonment Area and the Abandonment Area has been closed since the construction of the 2003 structure. City staff recommends that the City abandon the Abandonment Area and terminate the revocable permit (as no longer applicable).

Pursuant to section 19-4, the City may abandon dedicated right-of-way through a two-step resolution process. The first step is to declare the intent to abandon right-of-way and the second step is to hold a public hearing to hear the abandonment request and grant or deny the abandonment.

Since the City has not utilized the Abandonment Area for the past 14 years and there are no utilities in the Abandonment Area, City staff is recommending that the City Commission abandon the Abandonment Area and

termination of the revocable permit. With the abandonment of the Abandonment Area, the revocable permit issued in 2002 is no longer necessary and the City should terminate the same.

The property is zoned in the AI – Artisanal Industrial District with a Future Land Use of Transit Oriented Development.

MOTION:

I move to approve/not approve Resolution No. 08-2016, abandoning the Abandonment Area and terminating the revocable permit.

ATTACHMENT(S):

Fiscal Impact Analysis – not applicable

2002 Revocable Permit

Resolution with Survey

1
2
3 RESOLUTION NO. 10-2016 OF THE CITY OF LAKE WORTH, FLORIDA,
4 APPROVING THE ABANDONMENT OF THE 40 FOOT WIDE STRIP OF 4TH
5 AVENUE SOUTH RIGHT-OF-WAY RUNNING EAST TO WEST FROM THE
6 WESTERN EDGE OF S. EAST COAST STREET RIGHT-OF-WAY TO THE
7 EASTERN EDGE OF THE FLORIDA EAST COAST RAILWAY COMPANY
8 RIGHT-OF-WAY (A DISTANCE OF APPROXIMATELY 112 FEET); AND
9 PROVIDING AN EFFECTIVE DATE.

10
11 WHEREAS, the original dedication for the 4th Avenue South right-of-way (in
12 Plat Book No. 2, page 37 and identified as "8th Avenue") is not clear as to whether
13 the dedication extended the 40-foot 4th Avenue South right-of-way from the
14 western edge of the S. East Coast Street right-of-way to the eastern edge of the
15 Florida East Coast Railway Company's right-of-way (a distance of approximately
16 112 ft.) ("Abandonment Area"); and

17
18 WHEREAS, in 2002, the City approved a revocable permit agreement with
19 the owner of the real property surrounding the Abandonment Area which revocable
20 permit was thereafter recorded in Official Records Book 23262, Page 1647 of the
21 Official Records of Palm Beach County, Florida (the "Revocable Permit") in order
22 for the owner to be able to utilize the Abandonment Area; and

23
24 WHEREAS, in 2003, the owner of the surrounding real property constructed
25 an open-air structure over the Abandonment Area; and

26
27 WHEREAS, the current owner desires to sell the Abandonment Area
28 including the 2003 structure thereon, together with the real property and
29 improvements surrounding the Abandonment Area; and

30
31 WHEREAS, the buyer has approached the City about the Abandonment
32 Area and whether it is encumbered by the 4th Avenue South right-of-way; and

33
34 WHEREAS, the City has no utilities in the Abandonment Area; and

35
36 WHEREAS, the Abandonment Area has been closed since the construction
37 of the 2003 structure; and

38
39 WHEREAS, the City desires to abandon the Abandonment Area and
40 terminate the revocable permit as no longer applicable.

41
42 BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE
43 WORTH, FLORIDA, that:

44
45 Section 1. The City Commission of the City of Lake Worth, Florida, hereby
46 declares the following described right-of-way as abandoned:

47
48 That part of Block 500, The Palm Beach Farms Co Plat No. 2,
49 Lucerne Townsite (now known as the City of Lake Worth) according

50 to the plat thereof, recorded in Plat Book 2, Page 29, Public Records
51 of Palm Beach County, Florida described as a strip of land 40 feet in
52 width Northerly and Southerly extending Easterly and Westerly across
53 the right of way of the Florida East Coast Railway Company (a
54 distance of approximately 112 ft.) and adjacent to and North of the
55 following described parcel:

56
57 Beginning at the point of Intersection of the right-of-way of East Coast
58 Street and the Westerly extension of the South right-of-way of 4th
59 Avenue South, (shown on the recorded plat as 8th Ave.); thence
60 South 01°42'39" West along said Westerly right-of-way of East Coast
61 Street, a distance of 400.0 feet to the intersection of the right-of-way
62 of East Coast Street and the Westerly extension of the North right-of-
63 way of 5th Avenue South, (shown on the recorded plat as 7th
64 Avenue); thence North 88° 16'54" West along said Westerly extension
65 of the North right- of-way of 5th Avenue South, a distance of 108.73
66 feet to the East line of a 100 foot operating right-of-way of the Florida
67 East Coast Railway, L.L.C.; thence North 01°10'00" East along the
68 said East line of right-of-way of the Florida East Coast Railway,
69 L.L.C., a distance of 400.0 feet to the Westerly extension of the South
70 right-of-way of said 4th Avenue South; thence South 88° 16' 54" East
71 along said Westerly extension of 4th Avenue South, a distance of
72 112.54 feet to the Point Of Beginning.

73
74 **The Abandonment Area is shown in the attached survey as**
75 **parcel A(3).**

76
77 Subject to easements, restrictions, reservations, covenants, and
78 rights-of-way of record without serving to reimpose same.

79
80 Section 2. With the abandonment, the City also terminates the revocable permit
81 recorded in Official Records Book 23262, Page 1647 of the Official Records of
82 Palm Beach County, Florida, as no longer applicable.

83
84 Section 3. This Resolution shall become effective immediately upon its passage.
85



5-2002

FILE NUM 20090185833 OR BOOK/PAGE 23262/1647 DATE: 08/03/2009 08:07:35 Pgs 1647 - 1648 (2pgs)
Sharon R. Beck, CLERK & COMP TROLLER

RESOLUTION NO. 5-2002 OF THE CITY OF LAKE WORTH, FLORIDA, GRANTING A REVOCABLE PERMIT CONSISTING OF A PORTION OF 4TH AVENUE SOUTH BETWEEN EAST COAST STREET AND THE FEC RAILROAD; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission has adopted a revocable permit procedure pursuant to Chapter 19, Article III, of the Code of Ordinances; and

WHEREAS, WM. Thies & Sons, Inc., is the adjacent property owner to the following described parcel of public right-of-way:

That certain 40 foot wide strip located in Block 500 of the Plat recorded in Plat Book 32, Page 14 of the Public Records of Palm Beach County, Florida, more particularly described as a strip of land 40 feet in width northerly and southerly extending easterly and westerly across the right-of-way of the Florida East Coast Railway Company in the Southeast quarter of the Northeast quarter of Section 16, Township 44 South, Range 43 East, the longitudinal center line of said strip of land being located 1978.0 feet southerly from the Railway's Mile Post No. 306 from Jacksonville, Florida, said right-of-way of the Railway having a total width of 211 feet more or less at this location, being 161 feet more or less and 50.0 feet in width on the easterly and westerly sides respectively of the center line of the Railway's northbound main track, the northerly and southerly lines of said strip of land coinciding with those respective lines of 4th Avenue South, if extended across said right-of-way of the Railway, and as shown on the attached part of the Railway's plan V3-S17c dated June 27, 1949.

and

WHEREAS, WM. Thies & Sons, Inc., has applied for a revocable permit; and

WHEREAS, staff has recommended approval of said revocable permit.

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

Section 1. The City Commission of the City of Lake Worth hereby grants a revocable permit for the following described parcel of public right-of-way:

That certain 40 foot wide strip located in Block 500 of the Plat recorded in Plat Book 32, Page 14 of the Public Records of Palm Beach County, Florida, more particularly described as a strip of land 40 feet in width northerly and southerly extending easterly and westerly across the right-of-way of the Florida East Coast Railway Company in the Southeast quarter of the Northeast quarter of Section 16, Township 44 South, Range 43 East, the longitudinal center line of said strip of land being located 1978.0 feet southerly from the Railway's Mile Post No. 306 from Jacksonville, Florida, said right-of-way of the Railway having a total width of 211 feet more or less at this location, being 161 feet more or less and 50.0 feet in width on the easterly and westerly sides respectively of the center line of the Railway's northbound main track, the northerly and southerly lines of said strip of land coinciding with those respective lines of 4th Avenue South, if extended across said right-of-way of the Railway, and as shown on the attached part of the Railway's plan V3-S17c dated June 27, 1949.

Section 2. The revocable permit shall be recorded in the public records of Palm Beach County, Florida.

Section 3. This Resolution shall become effective immediately upon its passage.

The passage of this Resolution was moved by Commissioner Allen, seconded by Commissioner Egly, and upon being put to a vote, the vote was as follows:

Mayor Rodney G. Romano	AYE
Commissioner Scott Maxwell	AYE
Commissioner Colburn H. McKinnon	AYE
Commissioner Gary Bo Allen	AYE
Commissioner Joe Egly	AYE

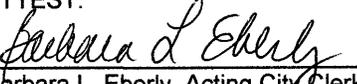
The Mayor thereupon declared this Resolution duly passed and adopted on the 5th day of February, 2002.



LAKE WORTH CITY COMMISSION

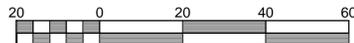
By: 
Rodney G. Romano, Mayor

ATTEST:

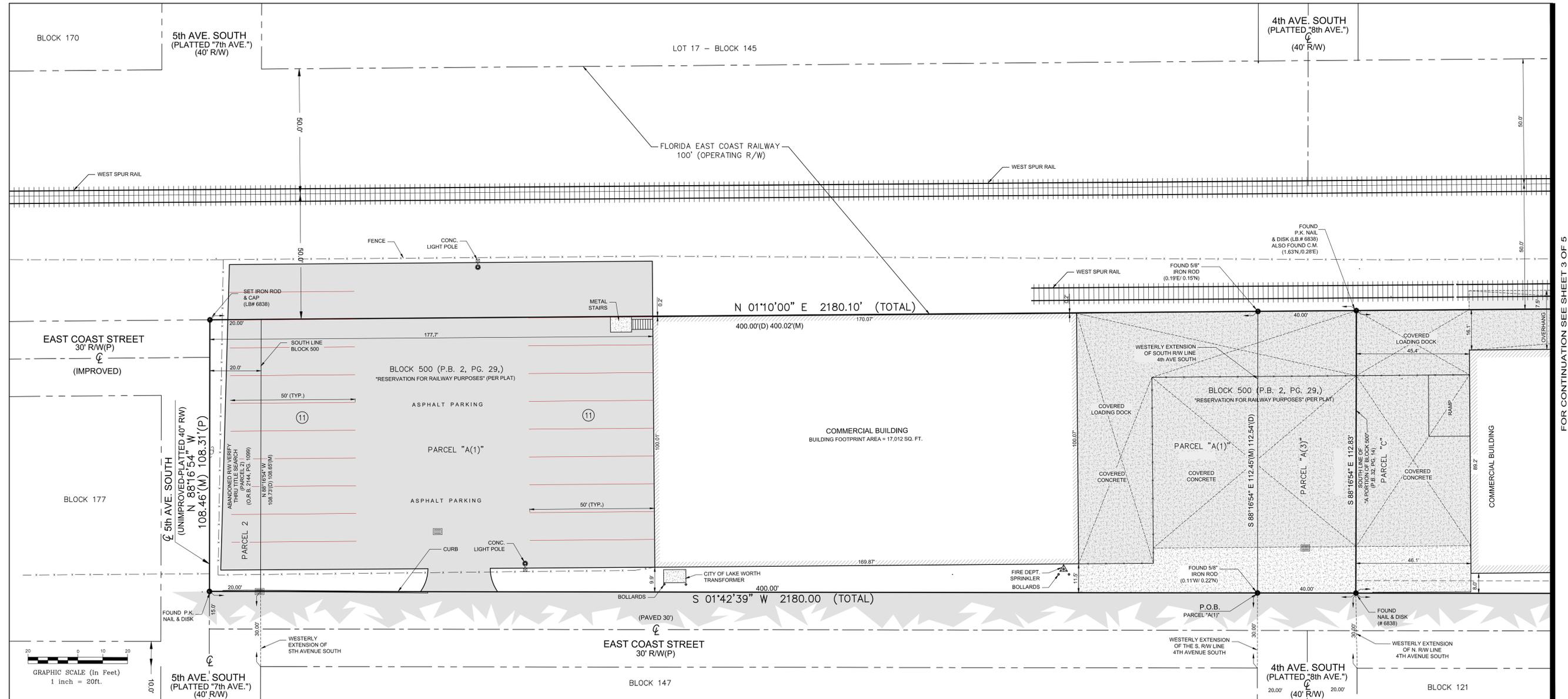

Barbara L. Eberly, Acting City Clerk

Submitted: January 15, 2002

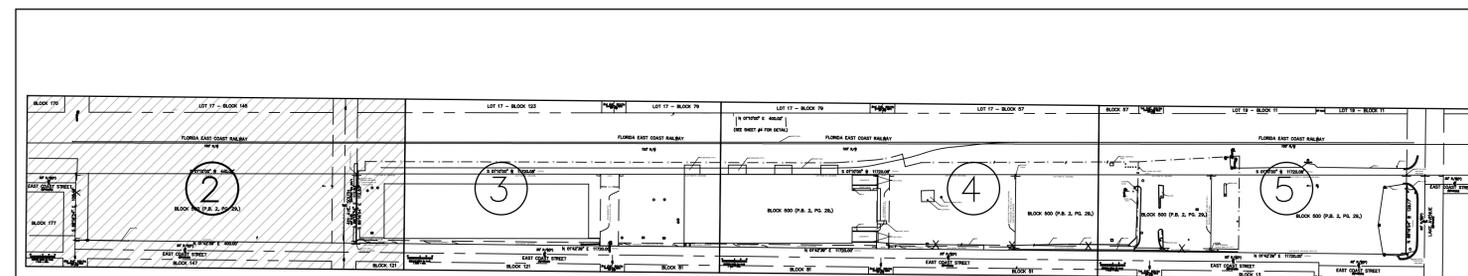
ORIGINAL DOCUMENT



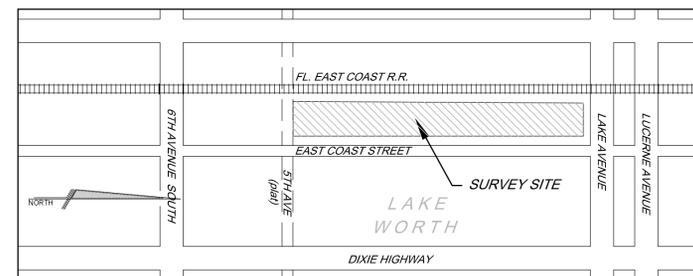
Scale 1" = 20'



FOR CONTINUATION SEE SHEET 3 OF 5



SITE MAP
N.T.S.



LOCATION MAP
N.T.S.

LEGEND

ABBREVIATION	DESCRIPTION
SYMBOL	
---	FENCE
---	CENTER LINE
---	EASEMENT
---	BACKFLOW DEVISE
---	FIRE DEPT. CONNECTION
---	HYDRANT
---	WOOD POWER POLE
---	ANCHOR
---	LIGHT POLE
---	TRAFFIC SIGN

LEGEND:

CAL.C.	= CALCULATED	IP	= PLAT	P.I.	= POINT OF INTERSECTION	ASPHALT PAVEMENT
C.B.S.	= CONCRETE BLOCK STRUCTURE	R	= RADIUS	P.O.C.	= POINT OF COMMENCEMENT	CONCRETE FLATWORK
CONC. MON.	= CONCRETE MONUMENT	A	= CENTRAL DELTA ANGLE	P.O.B.	= POINT OF BEGINNING	PAVER BRICK CLATWORK
CONC.	= CONCRETE	A	= ARC LENGTH	R/W	= RIGHT OF WAY	WOOD POWER POLE
D.E.	= DRAINAGE EASEMENT	CH.B.	= CHORD BEARING	CHANK LINE FENCE	= CHANK LINE FENCE	WATER METER
U.E.	= UTILITY EASEMENT	N.G.V.D.	= NATIONAL GEODETIC VERTICAL DATUM	WOOD FENCE	= WOOD FENCE	PRE-HYDRANT
P.F.E.	= FINISHED FLOOR ELEVATION	Q.R.B.	= QUADRANT BEARING	METAL FENCE	= METAL FENCE	CATCH BASIN
EL.	= ELEVATION	P.C.	= POINT OF CURVATURE	EASEMENT	= EASEMENT	STAIRWAY MANHOLE
BEAR.	= BEARING REFERENCE	P.T.	= POINT OF TANGENCY	OVERHEAD	= OVERHEAD LINES	
(D)	= DEED	P.R.C.	= POINT OF REVERSE CURVATURE	LOT LINE	= LOT LINE	
M	= MEASURED	P.C.C.	= POINT OF COMPOUND CURVATURE			

SCALE: 1" = 20'
 DRAWN BY: PICARD
 FIELD WK: M.M. / B.M.
 DATE: 12/16/2015

MILLER LAND SURVEYING
 1121 LAKE AVENUE
 LAKE WORTH, FLORIDA 33460
 PHONE: (561) 596-2669 - FAX: (561) 582-0151
 www.millersurveying.com
 e-mail: millersurveying@aol.com

CERTIFIED TO: Jell LLC; BankUnited, N.A. its successors and/or assigns as their interest may appear; Hunt & Gross, P.A.; Levinson, Gritter & DiGiore, LLP; Shapiro, Blasi, Wasserman & Hermann, P.A.; Old Republic National Title Insurance Company

ADDRESS: 201 S East Coast Street, Lake Worth, FL 33460

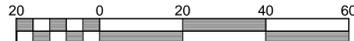
FLOOD ZONE: B (FIRM 120213-0002C 9/29/1992)

FOR LEGAL DESCRIPTION & SURVEY NOTES:
 SEE SHEET 1 OF 5
REVISIONS:

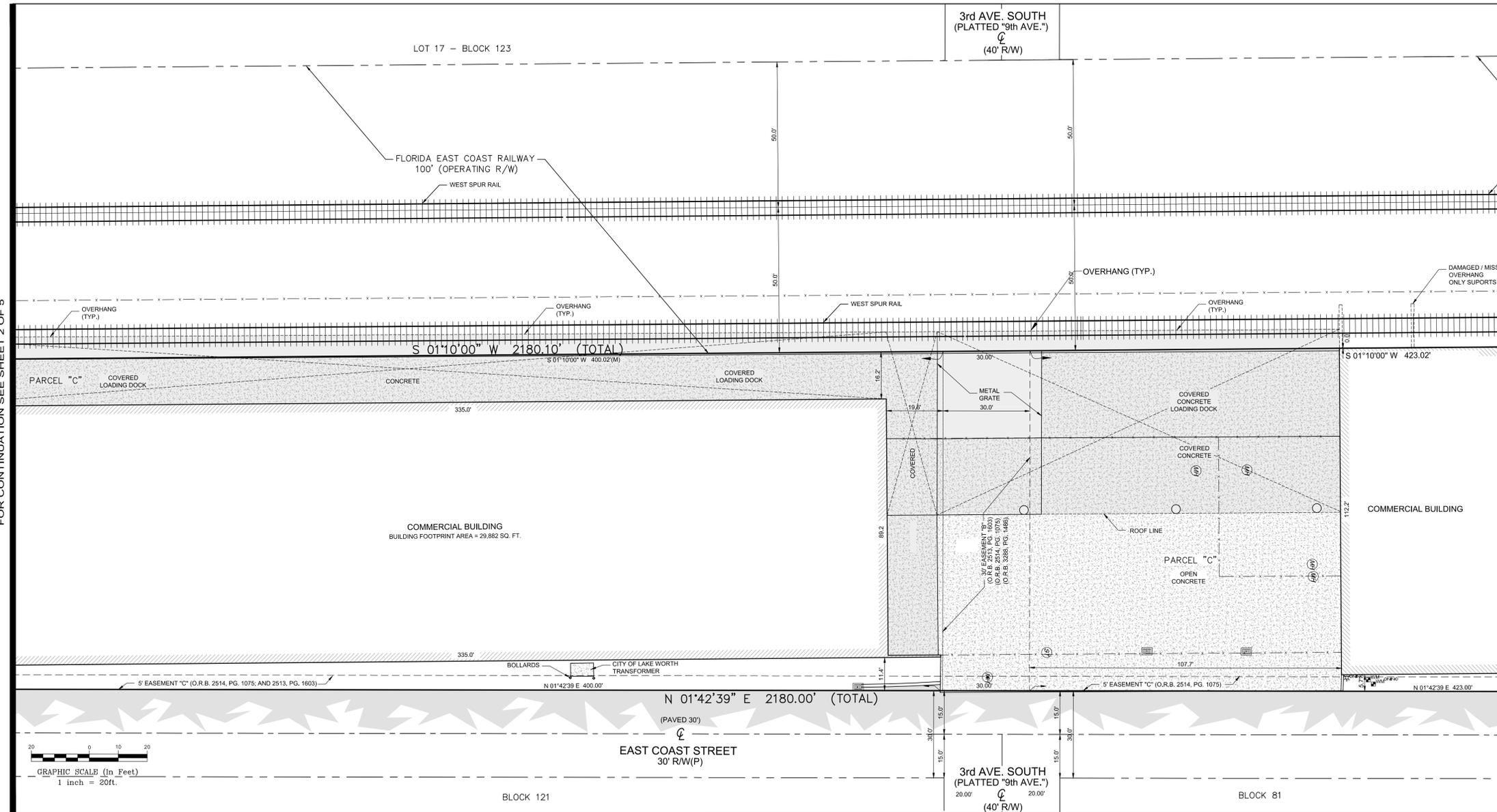
NO.	DATE	DESCRIPTION
1	12/16/2015	2/1/2016 Parcel A-3 description

SHEET 2 OF 5
BOUNDARY SURVEY
 This survey is the property of Miller Land Surveying, Inc. and is not to be used for any other purpose without the written consent of Miller Land Surveying, Inc. The surveyor's seal and/or signature is required for this survey to be valid.

REFS:	BB151/0396/568-52
PREV. JOB NO'S:	Y00004 Y031819 Y140173
JOB NO.:	Y151182
L - 1500 - B	

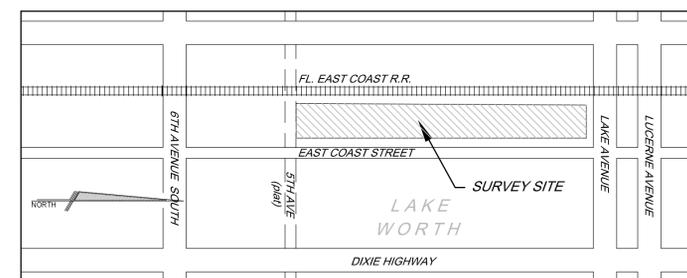
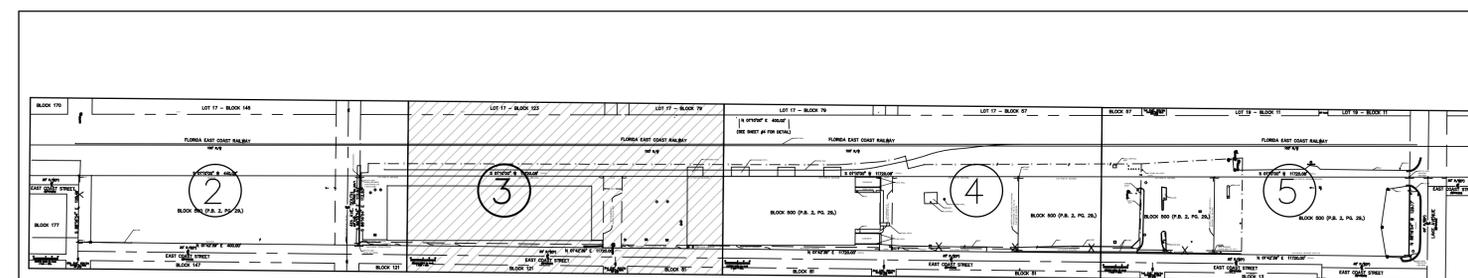


Scale 1" = 20'



FOR CONTINUATION SEE SHEET 2 OF 5

FOR CONTINUATION SEE SHEET 4 OF 5



- SYMBOL**
- FENCE
 - CENTER LINE
 - EASEMENT
 - BACKFLOW DEVISE
 - FIRE DEPT. CONNECTION
 - HYDRANT
 - WOOD POWER POLE
 - ANCHOR
 - LIGHT POLE
 - TRAFFIC SIGN

- LEGEND:**
- | | | | |
|-----------------------------------|---|--------------------------------|----------------------|
| CAL.C. = CALCULATED | IP1 = PLAT | P.I. = POINT OF INTERSECTION | ASPHALT PAVEMENT |
| C.B.S. = CONCRETE BLOCK STRUCTURE | R = RADIUS | P.O.C. = POINT OF COMMENCEMENT | CONCRETE FLATWORK |
| CONC. MON. = CONCRETE MONUMENT | A = ANGLE | P.O.B. = POINT OF BEGINNING | PAVER BRICK FLATWORK |
| CONC. = CONCRETE | ARC LENGTH = ARC LENGTH | R/W = RIGHT OF WAY | WOOD POWER POLE |
| D.E. = DRAINAGE EASEMENT | C.H.B. = CHAIN BEARING | CHANK LINK FENCE | WATER METER |
| U.E. = UTILITY EASEMENT | N.G.V.D. = NATIONAL GEODETIC VERTICAL DATUM | WOOD FENCE | PRE-FORMANT |
| P.F.E. = FINISHED FLOOR ELEVATION | O.R.B. = OFFICIAL RECORD BOOK | METAL FENCE | CATCH BASIN |
| EL. = ELEVATION | P.C. = POINT OF CURVATURE | EASEMENT | WARRANTY MANHOLE |
| BEI = BEARING REFERENCE | P.T. = POINT OF TANGENCY | COVERED OVERHEAD LINES | |
| (D) = DEED | P.R.C. = POINT OF REVERSE CURVATURE | LOT LINE | |
| M = MEASURED | P.C.C. = POINT OF COMPOUND CURVATURE | | |

SCALE: 1" = 20'

DRAWN BY: PICARD

FIELD WK: M.M. / B.M.

DATE: 12/16/2015

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CERTIFIED TO: Jell LLC, BankUnited, N.A. its successors and/or assigns as their interest may appear; Hunt & Gross, P.A.; Levinson, Gritter & DiGiorio, LLP; Shapiro, Blasi, Wasserman & Hermann, P.A.; Old Republic National Title Insurance Company

ADDRESS: 201 S East Cost Street, Lake Worth, FL 33460

FLOOD ZONE: B (FIRM 120213-0002C 9/29/1982)

FOR LEGAL DESCRIPTION & SURVEY NOTES: SEE SHEET 1 OF 5

REVISIONS:

SHEET 3 OF 5 BOUNDARY SURVEY
 This survey is based on the processed surveyor's seal and/or electronic signature and authentication of the surveyor.

 Michael J. Miller
 Registered Professional Surveyor License Certificate No. 40334

REF'S:	BB15/1 D396 568-52
PREV. JOB NO'S:	Y00054 Y031819 Y140173
JOB NO.:	Y15182
L - 1500 - B	





The Art of Florida Living. SM

ABANDONMENT OF A 40' STRIP OF LAND

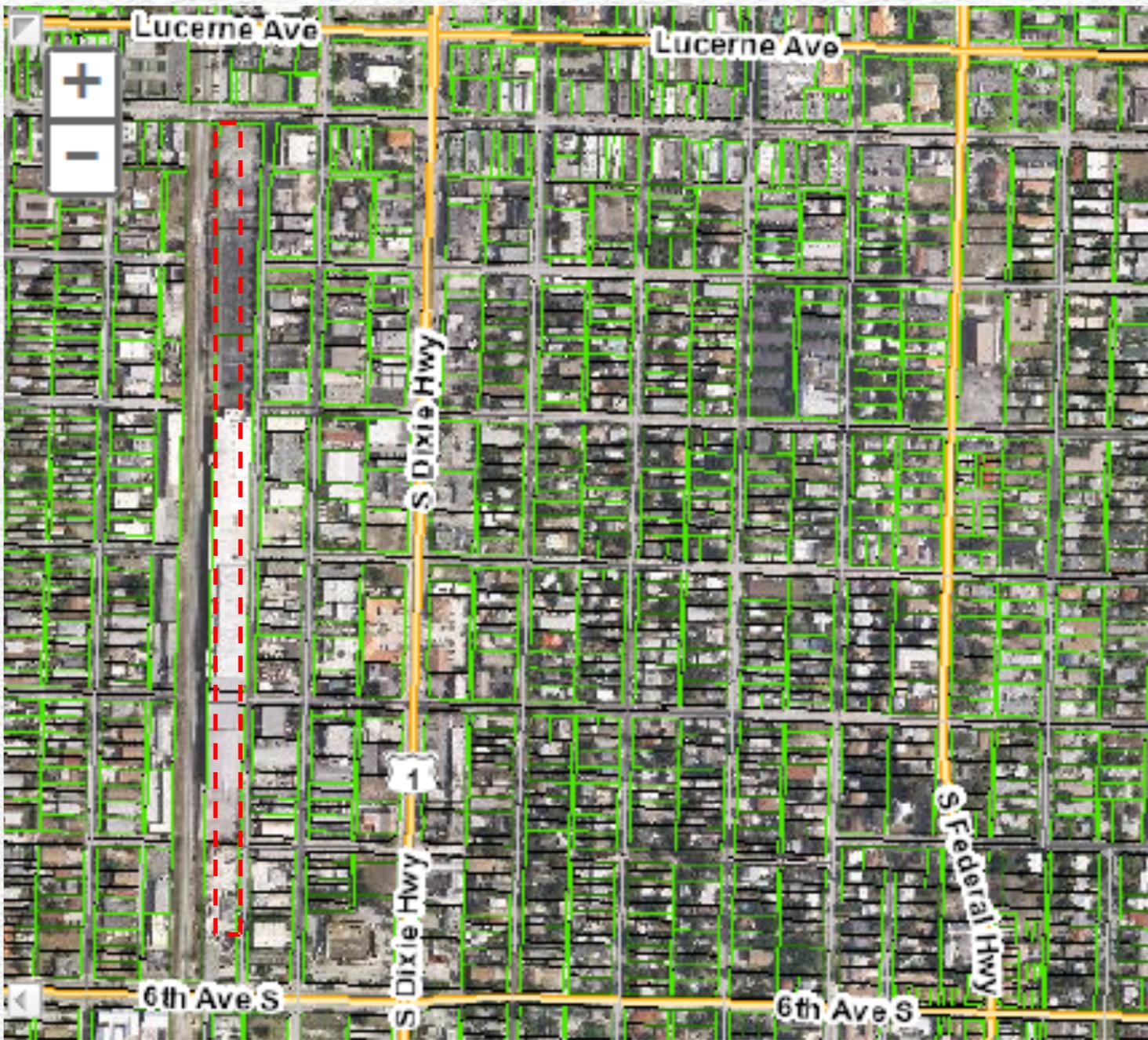
City Commission Meeting
February 16, 2016

Proposed Abandonment Would

- Provide clarification of action taken in 2002
- Provide clear title of land
- Add land back to tax role
- Allow for purchase of land for prospective owner



Site is Commonly Known as the
Wm. Thies Property





4th Avenue South dead-ends at 201 South East Coast Street (Wm. Thies property).

West side of the property is adjacent to FEC rail.

Zoned: Artisanal Industrial District

Future Land Use: Transit Oriented Development





40' Strip of Land proposed for Abandonment

Structure built as a result of Resolution 5-2002





The Art of Florida Living. SM

- Water Utility Support
- Electric Utility Support
- Public Services Support
- Department for Community Sustainability Support

- Staff recommends approval of Resolution XX-2016



AGENDA DATE: February 16, 2016

DEPARTMENT:

EXECUTIVE BRIEF

TITLE:

Declare REG Architects, Inc., The Morganti Group, Inc., and The Insurance Company of the State of Pennsylvania in default

SUMMARY:

This item seeks to declare the design and construction firms and the construction firm's surety in default of their respective contracts with the City regarding the Casino Building.

BACKGROUND AND JUSTIFICATION:

In June 2010, the City entered a professional services agreement with REG Architects, Inc. (REG) to design the new Casino Building. In November 2010 (and as amended in June 2011), the City entered into a construction agreement with The Morganti Group, Inc. (Morganti) to construct the new Casino Building. Morganti secured a Public Construction Bond for its work with The Insurance Company of the State of Pennsylvania (Surety).

During construction, the City notified REG and Morganti of various issues occurring at the Casino Building including, but not limited to, water intrusion through and/or around the doors on the second story (east elevation); water pooling on the second story deck; and, rusting surfaces. While some efforts were made to correct these issues, the City continued to experience the same and additional issues at the Casino.

In 2013, after both REG and Morganti applied for final payment (which was withheld), the City retained construction attorney Michael Kennedy of Ciklin, Lubitz, Martens & O'Connell, P.A., to assist in resolving the issues. After further attempts to resolve some of the issues failed, in November 2013, Mr. Kennedy notified REG, Morganti and the Surety of the continued issues. After a request by Morganti for more time, the City, REG and Morganti again attempted to amicably resolve the issues. The City met with representatives of REG and Morganti in August 2014 at the Casino to discuss solutions to the continued issues and some new issues. In September 2014, the City put REG and Morganti on notice that their proposed solutions to-date were unacceptable. In another effort to amicably resolve the issues, the City attended pre-suit mediation with representatives of REG and Morganti in May 2015. The mediation resulted in a Tolling Agreement to stay any applicable statute of limitations and to allow the parties one more attempt to resolve the issues without litigation.

In late 2015, the parties again discussed resolution of the issues. When the City (and two hired consultants) pushed back on the latest proposed solutions, the City received little response from representatives of REG and Morganti. At this time, the issues at the Casino Building include, but are not be limited to:

- Water intrusion through the windows and operable doors along the east elevation;

- Failure of the second floor deck to drain;
- Water intrusion behind the stucco on the elevations of the building;
- Improper drainage design or construction which allows water to cascade off of the roof causing hazardous conditions on the paver deck below or mold growth on canopies;
- Rusting on arch supports; and
- Premature degradation of external surfaces.

The City along with Mr. Kennedy have worked for an extended period of time with representatives of REG and Morganti in an effort to resolve the issues without litigation. Since the tolling agreement expired in January 2016; REG and Morganti appear non-responsive to the City; and, the uncorrected issues with the Casino are a breach of REG's, Morganti's and the Surety's respective contracts/bonds, Mr. Kennedy recommends placing REG, Morganti and the Surety in default and proceeding with litigation without further delay. The City Attorney concurs with this recommendation.

If REG, Morganti and the Surety are declared in default, Mr. Kennedy and the City Attorney will notify them of the same and immediately proceed with filing a lawsuit.

MOTION:

I move to declare REG Architects, Inc., The Morganti Group, Inc., and The Insurance Company of the State of Pennsylvania in default.

ATTACHMENT(S):

None

FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures	0	0	0	0	0
Operating Expenditures	0	0	0	0	0
External Revenues	0	0	0	0	0
Program Income	0	0	0	0	0
In-kind Match	0	0	0	0	0
Net Fiscal Impact	0	0	0	0	0
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

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

C. Department Fiscal Review: _____



**DRAFT
AGENDA
CITY OF LAKE WORTH
CITY COMMISSION MEETING
CITY HALL COMMISSION CHAMBER
TUESDAY, MARCH 01, 2016 - 6:00 PM**

- 1. ROLL CALL:**
- 2. INVOCATION OR MOMENT OF SILENCE:** Provided by Commissioner Ryan Maier
- 3. PLEDGE OF ALLEGIANCE:** Led by Commissioner Andy Amoroso
- 4. AGENDA - Additions/Deletions/Reordering:**
- 5. PRESENTATIONS:** (there is no public comment on Presentation items)
 - A. Planning and Zoning Board update
 - B. Royal Poinciana Neighborhood Association update
 - C. Proclamation Declaring March 2016 as Florida Bicycle Month
- 6. COMMISSION LIAISON REPORTS AND COMMENTS:**
- 7. PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA:**
- 8. APPROVAL OF MINUTES:**
- 9. CONSENT AGENDA:** (public comment allowed during Public Participation of Non-Agendaed items)
 - A. Purchase IBM Power 8 System to replace IBM System i 520
- 10. PUBLIC HEARINGS:**
- 11. UNFINISHED BUSINESS:**
- 12. NEW BUSINESS:**

13. LAKE WORTH ELECTRIC UTILITY:

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

1) Update on the electric utility system

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

C. PUBLIC HEARING:

D. NEW BUSINESS:

14. CITY ATTORNEY'S REPORT:

15. CITY MANAGER'S REPORT:

A. March 22, 2016 - draft Commission agenda

16. ADJOURNMENT:

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

NOTE:ONE OR MORE MEMBERS OF ANY BOARD, AUTHORITY OR COMMISSION MAY ATTEND AND SPEAK AT ANY MEETING OF ANOTHER CITY BOARD, AUTHORITY OR COMMISSION.