



Lake Park Town Commission, Florida

Executive Session

Followed by the Special Call Commission Meeting

Commission Chamber, Town Hall, 535 Park Avenue, Lake Park, FL 33403

June 12, 2024 6:00 P.M.

Roger Michaud	—	Mayor
Kimberly Glas Castro	—	Vice Mayor
Michael Hensley	—	Commissioner
Mary Beth Taylor	—	Commissioner
Judith Thomas	—	Commissioner
John D'Agostino	—	Town Manager
Thomas J. Baird.	—	Town Attorney
Vivian Mendez, MMC	—	Town Clerk

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision of the Town Commission, with respect to any matter considered at this meeting, such interested person will need a record of the proceedings, and for such purpose, 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. Persons with disabilities requiring accommodations in order to participate in the meeting should contract the Town Clerk's office by calling 881-3311 at least 48 hours in advance to request accommodations.

CIVILITY AND DECORUM

The Town of Lake Park is committed to civility and decorum to be applied and observed by its elected officials, advisory board members, employees and members of the public who attend Town meetings. The following rules are hereby established to govern the decorum to be observed by all persons attending public meetings of the Commission and its advisory boards:

- Those persons addressing the Commission or its advisory boards who wish to speak shall first be recognized by the presiding officer. No person shall interrupt a speaker once the speaker has been recognized by the presiding officer. Those persons addressing the Commission or its advisory boards shall be respectful and shall obey all directions from the presiding officer.
- Public comment shall be addressed to the Commission or its advisory board and not to the audience or to any individual member on the dais.
- Displays of disorderly conduct or personal derogatory or slanderous attacks of anyone in the assembly is discouraged. Any individual who does so may be removed from the meeting.
- Unauthorized remarks from the audience, stomping of feet, clapping, whistles, yells or any other type of demonstrations are discouraged.
- A member of the public who engages in debate with an individual member of the Commission or an advisory board is discouraged. Those individuals who do so may be removed from the meeting.

- All cell phones and/or other electronic devices shall be turned off or silenced prior to the start of the public meeting. An individual who fails to do so may be removed from the meeting.

CALL TO ORDER/ROLL CALL

PLEDGE OF ALLEGIANCE

COMMISSION WILL NOW RECESS THE SPECIAL CALL COMMISSION MEETING AND GO INTO AN EXECUTIVE SESSION.

The Town Commission for the Town of Lake Park will have an Executive Session pursuant to Florida Statute 447.605(1) in the Town Hall Mirror Ballroom. Those in attendance shall be: Mayor Roger D. Michaud; Vice-Mayor Kimberly Glas-Castro; Commissioners Michael Hensley; Mary Beth Taylor; and Judith Thomas; also in attendance will be Town Manager John D'Agostino; Assistant Town Manager/Human Resources Director Bambi McKibbin-Turner, Finance Director Jeffrey DaSilva and Assistant Finance Director Barbara Gould ~~Public Works Director Jaime Morales~~ for the purposes to discuss collective bargaining of the Federation of Public Employees, A Division of National Federation of Public and Private Employees (AFL-CIO).

AFTER THE EXECUTIVE SESSION THE COMMISSION WILL RECONVENE THE SPECIAL CALL COMMISSION MEETING.

SPECIAL PRESENTATION/REPORT:

- 1.** Proclamation in Honor of Janet Rae Miller.
- 2.** Presentation by Nakishia R. Freeman, Founder and Executive Director of the Nonprofit Organization Freepreneuers Inc.
- 3.** Lake Park Grants: Past, Present, And Future.
- 4.** Presentation of the Traffic Study Findings and Recommendations for 2nd Street and Greenbriar Drive Intersection.

PUBLIC COMMENT:

This time is provided for addressing items that do not appear on the Agenda. Please complete a comment card and provide it to the Town Clerk so speakers may be announced. Please remember comments are limited to a TOTAL of three minutes.

TOWN ATTORNEY, TOWN MANAGER, COMMISSIONER COMMENTS:

CONSENT AGENDA:

All matters listed under this item are considered routine and action will be taken by one motion. There will be no separate discussion of these items unless a Commissioner or person so requests, in which event the item will be removed from the general order of business and considered in its normal sequence on the agenda. Any person wishing to speak on an agenda item is asked to complete a public comment card located on either side of the Chambers and given to the Town Clerk. Cards must be submitted before the item is discussed.

- 5.** Informing the Town Commission of the Addition of Exhibit A, B, and D to the Executed P3 Ground Leases.

QUASI-JUDICIAL PUBLIC HEARING (RESOLUTION): NONE

PUBLIC HEARING(S) - ORDINANCE ON FIRST READING: NONE

PUBLIC HEARING(S) - ORDINANCE ON SECOND READING: NONE

OLD BUSINESS:

- 6.** Selecting a Workshop Date for the Resiliency Ordinance Discussion AND Zoning/Density Changes for the US-1 Corridor/Waterfront (Saturday, October 5, 12 or 19).

NEW BUSINESS:

- 7.** Petition Presented by Frank Katz to Create a Cul de Sac on Lake Shore Drive
- 8.** Resolution 38-06-24 - Northlake Promenade - FINAL CONDITIONS OF APPROVAL
- 9.** Resolution 40-06-24 Support for the Florida Department Of Transportation (FDOT) US-1 Project and Associated Roadway Plans
- 10.** Resolution 41-06-24 For the Florida Department Of Transportation (FDOT) US-1 Project Approving the MMOA for the Crosswalks (referred to by FDOT as 'Landscape').
- 11.** Resolution 42-06-24 For the Florida Department Of Transportation (FDOT) US-1 Project Approving the Maintenance Memorandum Of Agreement (MMOA) for the Lighting.
- 12.** Resolution 43-06-24 for the Florida Department Of Transportation (FDOT) US-1 Project Approving the Local Funding Agreement.
- 13.** Discussion; Proposed Affordable Housing Ordinance.

14. Designation Of A “District” In The Town Of Lake Park.

REQUEST FOR FUTURE AGENDA ITEMS:

ADJOURNMENT:

FUTURE MEETING DATE: Next Scheduled Regular Commission Meeting will be held on July 3, 2024.



Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: June 12, 2024

Agenda Item No.

Agenda Title: Proclamation in Honor of Janet Rae Miller

- ☐ SPECIAL PRESENTATION/REPORTS ☐ CONSENT AGENDA
☐ BOARD APPOINTMENT ☐ OLD BUSINESS
☐ PUBLIC HEARING ORDINANCE ON FIRST READING
☐ NEW BUSINESS
☒ **OTHER: Proclamation**

Approved by Town Manager _____ Date: _____

Bambi McKibben-Turner _____

Name/Title: Assistant Town Manager/Human Resources Director

Originating Department: Human Resources	Costs: -0- Funding Source: Acct. # <input type="checkbox"/> Finance _____	Attachments: Copy of Proclamation
Advertised: Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone <u>BMT</u> OR Not applicable in this case ____ Please initial one.

Summary Explanation/Background:

The purpose of this agenda item is the presentation of a Proclamation in honor of Janet Rae Miller upon her retirement from the Town of Lake Park.

Recommended Motion: None

PROCLAMATION

IN HONOR OF JANET RAE MILLER

WHEREAS; *Janet Rae Miller* commenced her employment with the Town of Lake Park on May 13, 2009 as a part-time Administrative Secretary in the Human Resources Department; and

WHEREAS; on October 1, 2012, *Janet Rae Miller* was reclassified to full-time Administrative Secretary where she was able to become knowledgeable in all aspects of human resource management, and where she also provided significant assistance to the Town of Lake Park Recreation Department; and

WHEREAS; as the Administrative Assistant and later as the Executive Assistant to the Human Resources Director, *Janet Rae Miller* has throughout her career with the Town of Lake Park demonstrated herself to be a consummate professional with a strong sense of duty to both to the Town of Lake and its employees; and

WHEREAS; in testament to her professionalism, *Janet Rae Miller* has always gone “above and beyond” with a strong sense of commitment to all regulatory requirements in ensuring that the duties and responsibilities of the Human Resources Department have always been met; and

WHEREAS; *Janet Rae Miller* is held in high esteem by her colleagues within the entire staff of the Town of Lake Park and through her example, she has served as a mentor and friend to all who have had the honor and privilege of knowing her; and

WHEREAS; *Janet Rae Miller* has performed her duties with grace and humor thereby making the Human Resources Department a pleasant place in which to work; and

WHEREAS; *Janet Rae Miller* will always be an integral member of the Town of Lake Park family; and

WHEREAS; the Town of Lake Park wishes to publicly recognize *Janet Rae Miller* for her service and accomplishments upon the eve of her retirement from the Town.

NOW, THEREFORE, on behalf of the Commission of the Town of Lake Park, I, Roger Michaud, Mayor of the Town of Lake Park, do hereby publicly recognize and commend *Janet Rae Miller* for her dedication and service to the Town of Lake Park.

IN WITNESS WHEREOF, I have hereto set my hand and caused the official Seal of the Town of Lake Park, Florida to be affixed this 12th day of June, 2024.

By: _____
Mayor Roger Michaud

ATTEST:

Vivian Mendez, Town Clerk



Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: June 12, 2024

Agenda Item No.

Agenda Title Special Presentation by Freeprenuers, a Non-Profit Organization providing services to female teens aged 10-17.

- | | |
|--|---|
| <input checked="" type="checkbox"/> SPECIAL /REPORTS | <input type="checkbox"/> CONSENT AGENDA |
| <input type="checkbox"/> BOARD APPOINTMENT | <input type="checkbox"/> OLD BUSINESS |
| <input type="checkbox"/> PUBLIC HEARING ORDINANCE ON 1 st READING | |
| <input type="checkbox"/> NEW BUSINESS | |
| <input type="checkbox"/> OTHER: WORKSHOP _____ | |

Approved by Town Manager **John D'Agostino** Digitally signed by John D'Agostino
DN: cn=John D'Agostino, o=Town of Lake Park, ou=Town Manager, email=jdagostino@lakeparkflorida.gov, c=US
Date: 2024.05.28 12:23:16 -04'00' Date: _____

John O. D'Agostino, Town Manager

Name/Title

Originating Department: Town Manager	Costs:\$ 0 Funding Source: General Fund Acct. # <input type="checkbox"/> Finance _____	Attachments: <ul style="list-style-type: none"> • Brochure • Freeprenuers Inc. in Review
Advertised: Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required JOD	All parties interested in this agenda item will be notified of the meeting date and time.	____ Yes, I Notified everyone OR ____ Not applicable in this case Please initial one.

Summary Explanation/Background: The non-profit orgainzation is located at 3450 Northlake Blvd in Palm Beach Gardens. Today's presentation by Nakishia R. Freeman, the Executive Director and Founder of the organization, is informational. The organization wants to expand its services into Lake Park and surrounding municipalities. Currently, the organization serves Riviera Beach, West Palm Beach, and Belle Glade/Pahokee.

Recommended Motion: No motion is necessary.



We provide real life
world relatable
experiences throughout
the year.



When the Youth knows that
someone genuinely cares about
and invests in them, they are more
likely to develop their skills, make
healthy choices, and achieve self-
sufficiency throughout their life's
journey.

~ Executive Director & Founder
Nakishia R. Freeman

Service area locations:

- Riviera Beach
- West Palm Beach
- Belle Glade/Pahokee
- And surrounding areas



Freepreneurs

Item 2.



EMPOWER. INSPIRE. MENTOR



Teen Empowerment Organization
for girls 10 - 17
501(c)3 organization

Email:
info@freeprenuers.org

Website:
www.freeprenuers.org

Ph: (561) 320-1002

Address:
3450 Northlake Blvd
Suite #270

Palm Beach Gardens, FL 334

Our Mission is to empower young ladies to become self sufficient Adults through Life Skills, Entrepreneurship and Mental Health Wellness.

Our vision is to create a generation of young ladies who will develop into women that dream big, knows and activates her worth regardless of race, ethnicity, income level, social status and is nurtured and empowered to reach their fullest potential.



Our Programs

ENTREPRENUERSHIP & LIFE SKILLS

We build reliable, caring relationships with the youth that provides the support they need to develop into successful members of our community. Mentoring Program supports positive youth development.

PURPOSELY FITTED TEEN BRA PROGRAM

We are developing young ladies into Professional Women. The Purposely Fitted Bra Program was designed to help underserved & underprivileged Teen girls learn the importance of wearing a correctly fitted bra, the importance of proper posture, breast health, gaining greater confidence, increased self-esteem, confidence and emotional health while wearing their bra.

Why Register Your Teen

Freeprenuers, Inc. provides workshops that gives the teen a hands on experience of real world opportunities; providing a long tradition of excellence, empowerment and leadership.

We inspire young ladies to become future entrepreneurs, we provide financial literacy, we aide with the assistance for mental health, and we promote diversity and educate on body image from preteen to womanhood.

Contributions benefit Freeprenuers, Inc. a not-for-profit, tax exempt organization (#CH57563). A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL INFORMATION MAY BE OBTAINED FROM THE DIVISION OF CONSUMER SERVICES AT www.FloridaConsumerHelp.com OR BY CALLING TOLL FREE (800-435-7352) WITHIN THE STATE. Registration does not imply endorsement, approval, or recommendations by the state.



FREEPRENUERS, INC. IN REVIEW



Freeprenuers
EMPOWER. INSPIRE. MENTOR

A WORD FROM THE EXECUTIVE DIRECTOR/FOUNDER

Greetings Friends of Freeprenuers, Inc.:

Thank you for helping us complete our mission and we are happy to to present our Impact Report.

This report was created to share our accomplishments, thank our donors and focus on our upcoming goals.

We were able to able to reach more Teen Girls and empower them even the more through our mission goals and empowering them up to be Professional Women.

We would not have been able to do this without the support of our board of directors. Thank you for your leadership, commitment and expertise to Freeprenuers, Inc.

Lastly, this report shows a few accomplishments that we were able to effectly accomplish.

We look forward to continuing our mission for 2023/2024 by bringing more programs for Teen Girls, we know it's achievable when we all work together.



Sincerely,
Nakishia R. Freeman
Executive Director & Founder



About Freeprenuers, Inc.

Freeprenuers, Inc. is a non profit organization, we are dedicated to empowering Teen Girls by developing crucial life skills in including social, emotional and academic competencies.

Our Mission is to empower young ladies to become self -sufficient Adults through Life Skills, Entrepreneurship and Mental Health Wellness.



Our Vision

Our vision is to create a generation of young ladies who will develop into women that dream big, knows and activates her worth regardless of race, ethnicity, income level, social status and is nurtured and empowered to reach their fullest potential.



Freeprenuers, Inc. In Review

Since founding the organization in 2015, we have empowered over 500 Teen Girls throughout Palm Beach County. **87%** of the girls are from single parent homes. We have served both of high school students and of middle school students.



Since the inception of our Purposely Fitted Teen Bra Program in 2021, we have fitted **91** Teen Girls throughout Palm Beach County, with a current waiting list.

We have Fitted Teen Girls at PACE School for Girls Palm beach County, Manifest Church in West Palm beach, Orthodox Church in West Palm Beach and Azure Estates in Riviera Beach.

Our goal is to connect and partner with Public Schools or low poverty organizations that provide services to teen girls.



The programs we offer include Leadership and Entrepreneurship programs, as well as our Face to Face program, which allows teen girls to be themselves in a safe environment while discussing real life issues. One of our special programs is our Purposely Fitted Bra Program, which was designed for girls aged 10 to 17 years old to teach them the importance of correct bra fitting and breast health.

We are transforming these girls from the inside out, making them whole.
We are here to save the next generation of Girls.



Freeprenuers, Inc.

Year In Review

Item 2.

January 23, 2023

Quantum House

Chef For a Day - Feeding Families at the House - Educating Teens on the importance of giving back to the community. We served over 70 families.



March 28, 2023

Teens and Tees T-shirt making workshop
- Intro to T-shirt design. 11 girls were in attendance.



April 2023

Because I Said Sew Tips and Tricks of Designing and Sewing - Hosted an intro to sewing while instilling entrepreneurship, 14 girls were in attendance.



July 16, 2023

Purposely Fitted Teen Bra Program and PACE School for Girls Palm Beach County. 16 girls were fitted with a new bra.



August 2023

Purposely Fitted Teen Bra Program Partnered with Manifest Church to fit 36 Teen Girls for back to school.



August 2023

Received bras from Jessica Baxter CEO of Ta Tas for Now to help further the mission.

September 16, 2023

Teen Health Day with Flight Bungee Fitness - Hosted a day of fun through empowering the importance of healthy weight and mental health with Flight Bungee Fitness. There were 11 girls in attendance.

Teen Health Day!!
Join us Saturday
September 16th
12:30pm - 2:30pm

Health & Wellness, Healthy Options,
Personal Hygiene & Bungee Fitness

Website: www.freepreneuers.org
Phone: 561-320-1002

Registration is required

SCAN HERE

501 10th Street,
Suite 521,
Lake Park, FL 33403

BUNGEE FITNESS



November 7, 2023

Freepreneuers, Inc. received a Quantum in the Community Grant to serve Teen Girls so that they received the necessary essentials of a new bras and toiletries. Our goal is to fit 50 girls by the end of May 2024.

January 13, 2024

Teens and Proper Skin Care. Hosted a workshop for teens educating on the importance of skin care. There were 14 girls in attendance.



April 20, 2024

Purposely Fitted Teen Bra Program Partnered with Azura Estates to fit girls in the community. There were 14 girls in attendance.



2024

We are continually hosting in bra fittings and providing teens with monthly toiletries for underserved and underprivileged girls.



Testimonials from Attendees/Parents

My Granddaughter had a blast at each class/workshop that she has attended.

My Daughter has attended 3 events, jewelry workshop, a health and wellness and a cake baking workshop. Her experiences and the lessons and skills that she has taken away from the events will be used in her daily activities and even future endeavors are a lasting impression and I would definitely refer another Teen to your events. You and your organization rock!! .

I enjoy meeting new people

I love learning new things





Our Board

Nakishia R. Freeman -
Executive Director & Founder

Lolita Jackson -
CEO of Lo's Pie Shop and more

Tenecia Sproull -
The Pink Queen Foundation
Executive Director & Founder

India Edwards -
Educator & CEO of Raw
Edwards Tutoring Company

TaQuoya Scott -
Educator & Event Planner

Johnnie Mae Chaney -
CEO Chaney's Landscaping

Jill Mondo -
Director of Operations and
Executive Assistant to the
President & CEO

Colleen MacDonald Campbell -
Good Samaritan Medical
Center - Breast Health

Katina Davis Williams - Assistant

Dorothy Stills - Dedicated Supporter

Champayne Freeman - Student Volunteer

Acknowledgements

We would like to thank all our sponsors, donors and individual contributors.



NORMA E. & MILES M. ZISSON
**COMPREHENSIVE
BREAST CENTER**
OF THE PALM BEACHES
GOOD SAMARITAN MEDICAL CENTER



CodeRedEvents
RENTALS | DESIGN



TRANSCENDENT



**TRAINING
SOURCEONE**
www.TRAININGSOURCEONE.com ®





Freeprenuers
EMPOWER. INSPIRE. MENTOR

WWW.FREEPRENUERS.ORG



Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: June 12, 2024

Originating Department: Communications and Grants

Agenda Title: Lake Park Grants: Past, Present, And Future

Approved by Town Manager: John D'Agostino Digitally signed by John D'Agostino
DN: cn=John D'Agostino, o=Town of Lake Park,
ou=Town Manager,
email=jdagostino@lakeparkflorida.gov, c=US
Date: 2024.06.07 17:50:51 -04'00' **Date:** _____

Cost of Item: \$0.00 **Funding Source:** _____

Account Number: _____ **Finance Signature:** _____

Advertised:

Date: N/A **Newspaper:** _____

Attachments: N/A

Please initial one:

MA

Yes I have notified everyone

Not applicable in this case

Summary Explanation/Background:

The Town of Lake Park is fortunate to be the recipient of millions of dollars in grants that fund projects of all sizes in the Town, eliminating the financial burden on residents. This presentation will provide an overview of grants we have received and what we have accomplished with them; grants that are still pending; and potential funding sources for ongoing and future projects.

Recommended Motion:

N/A

LAKE PARK GRANTS: PAST, PRESENT, AND FUTURE

Merrell Angstreich, *Grant Writer/
Chief Public Information Officer*



Special Call Commission Meeting
June 12, 2024

Lake Park Grants

- Thanks to the grants the Town has secured, we are able to undertake a wide variety of improvement projects ranging from installing new playground equipment in our parks to conducting multi-million-dollar drainage projects
- As a result of these grant funds, Lake Park residents are able to reap the benefits from these projects without incurring any financial burden to themselves



Grants Received

- Since 2018, Lake Park has received nearly \$17 million in grants for drainage projects
- Ranging from small grants as low as \$20,000 to over \$11 million
- Received more than \$185,000 in Community Development Block Grants that have allowed us to improve our parks



Grants Received

- Received \$1 million grant to convert 42 properties from septic systems to sewer systems
 - Currently awaiting a response to a \$3 million request that will cover more than half of the project

Grants Received

- Recent upgrades to Town Hall were made possible, in part, thanks to a \$325,000 grant
 - Roof replacement
 - Painting and waterproofing building exterior
- The Town has also received more than \$110,000 in grants over the last five years that have allowed us to provide a variety of library services, including the technology such as laptops and charging stations that are available for use by the community at no charge



Pending Grants

- **Received notification that we were awarded:**
 - Nearly \$400,000 to create a design for a new community center
 - Almost \$200,000 to make necessary repairs and improvements to Evergreen House
 - Over \$15,000 to design plans necessary to make Town Hall more accessible



POTENTIAL GRANT OPPORTUNITIES

Some of the ongoing and upcoming projects for which the Town will be seeking funding are:

Southern Outfall

- Received nearly \$11.1 million from the Florida Department of Economic Opportunity for this project
- Originally Estimated to cost \$11.4 million
- As a result of industry-wide price increases, the grant funds received will leave one phase of the project incomplete. An additional \$2 million (approximately) is required to complete the final phase.

POTENTIAL GRANT OPPORTUNITIES

Southern Outfall

There are a number of potential funding opportunities for this project:

Palm Beach County Division of Emergency Management

- Local Mitigation Strategy Prioritized Project List
 - Inclusion on this list also makes the project eligible for funding through the FEMA Hazard Mitigation Grant Program, if funds become available

Federal Appropriations Request

Florida Department Of Environmental Protection Funding Opportunities

POTENTIAL GRANT OPPORTUNITIES

Road Diet

DOT Safe Streets And Roads For All Program

- This is a two-phase opportunity:
 - Applicants must first apply for a *Planning and Demonstration Grant*
 - An approved plan must be created; the plan must include the project(s) to be implemented
 - Once the plan is approved, the Town will be eligible to apply for an *Implementation Grant*

Federal Appropriations Request

Florida Small Cities Community Development Block Grant Program (Commercial Revitalization)

POTENTIAL GRANT OPPORTUNITIES

Item 3.

Kelsey Park

- Land And Water Conservation Fund (through Florida DEP) Applicants must first apply for a Planning and Demonstration Grant
- Florida Recreation Development Assistance Program (through DEP)
- Play And Park Structure Healthy Kids Initiative (National Recreation and Park Association)

Seawall Modification

- Florida Inland Navigation District (FIND)







Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: June 12, 2024
Originating Department: Public Works
Agenda Title: Presentation of the Traffic Study Findings and Recommendations for 2nd Street and Greenbriar Drive Intersection
Approved by Town Manager: John D'Agostino Digitally signed by John D'Agostino
DN: cn=John D'Agostino, o=Town of Lake Park, ou=Town Manager,
email=jdagostino@lakeparkflorida.gov, c=US
Date: 2024.06.11 14:33:16 -04'00' **Date:** _____

Cost of Item: N/A **Funding Source:** N/A
Account Number: N/A **Finance Signature:** N/A

Advertised:
Date: N/A **Newspaper:** N/A

Attachments: Traffic Analysis PowerPoint presentation

Please initial one:
 _____ Yes I have notified everyone
 JM _____ Not applicable in this case

Summary Explanation/Background:

In response to concerns raised by residents along 2nd Street, the Department of Public Works has been directed to evaluate the need for additional traffic control measures. This directive, supported by a commissioner, aims to address the issue of speeding vehicles. The Department conducted a preliminary traffic analysis at Greenbriar Drive and 2nd Street intersection. The findings and recommendations from this analysis will be presented for consideration.

Recommended Motion:

The Department recommends deferring this request as the available data does not support the need for additional stop signs at the intersection of 2nd Street and Greenbriar Drive at this time.



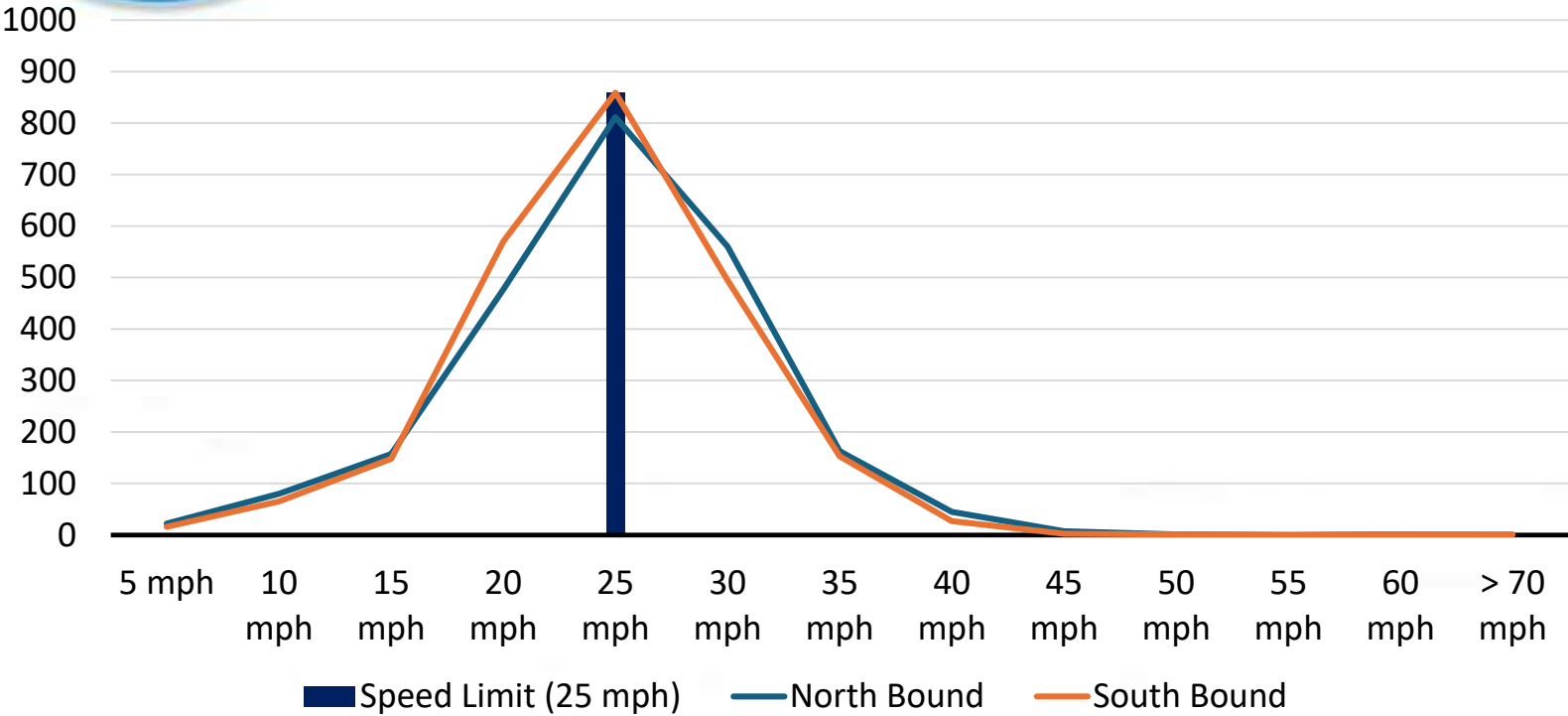
Department of Public Works

Traffic Count Analysis 2nd Street and Greenbriar Drive



2nd Street Travel Speed Analysis

from April 15, 2024, to April 21, 2024

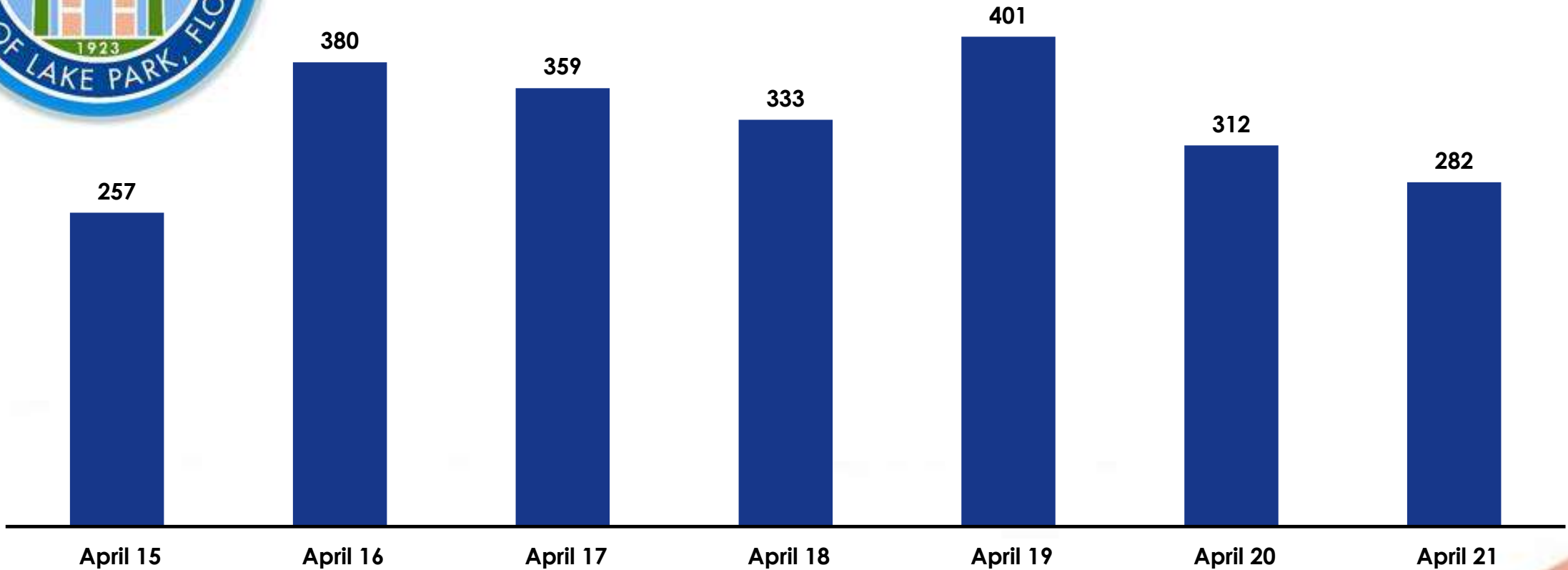


Travel Speed	North Bound	South Bound
5 mph	22	16
10 mph	80	65
15 mph	157	148
20 mph	477	570
25 mph	811	859
30 mph	560	495
35 mph	163	153
40 mph	45	27
45 mph	7	2
50 mph	1	1
55 mph	0	0
60 mph	1	1
> 70 mph	0	1



2nd Street (North Bound) Traffic Count

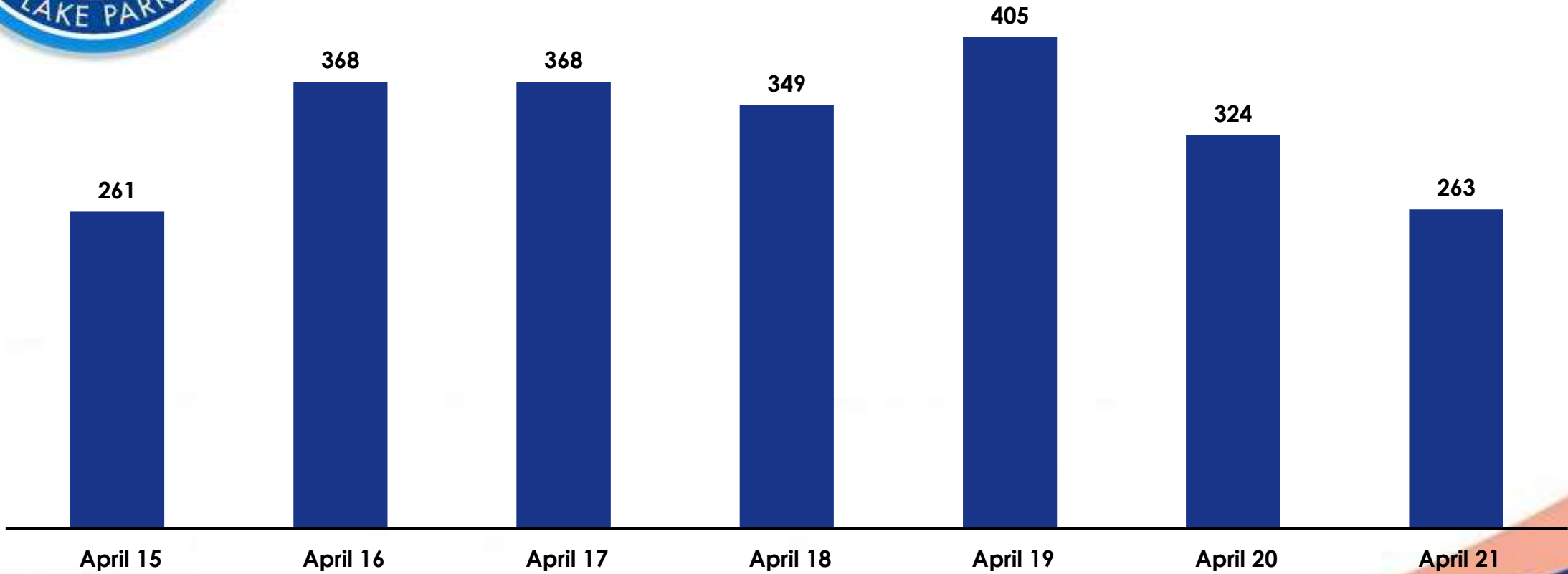
Item 4.





2nd Street (South Bound) Traffic Count

Item 4.

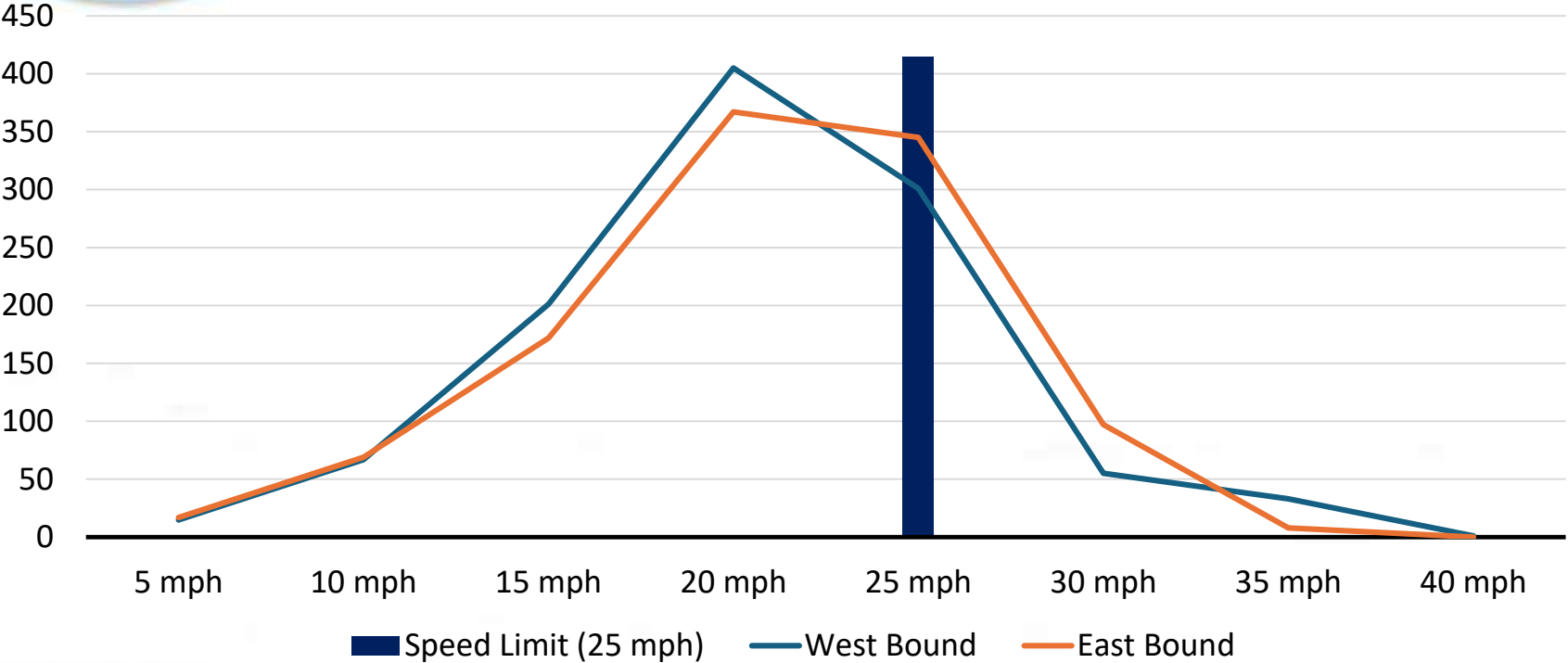




Greenbriar Drive

Travel Speed Analysis

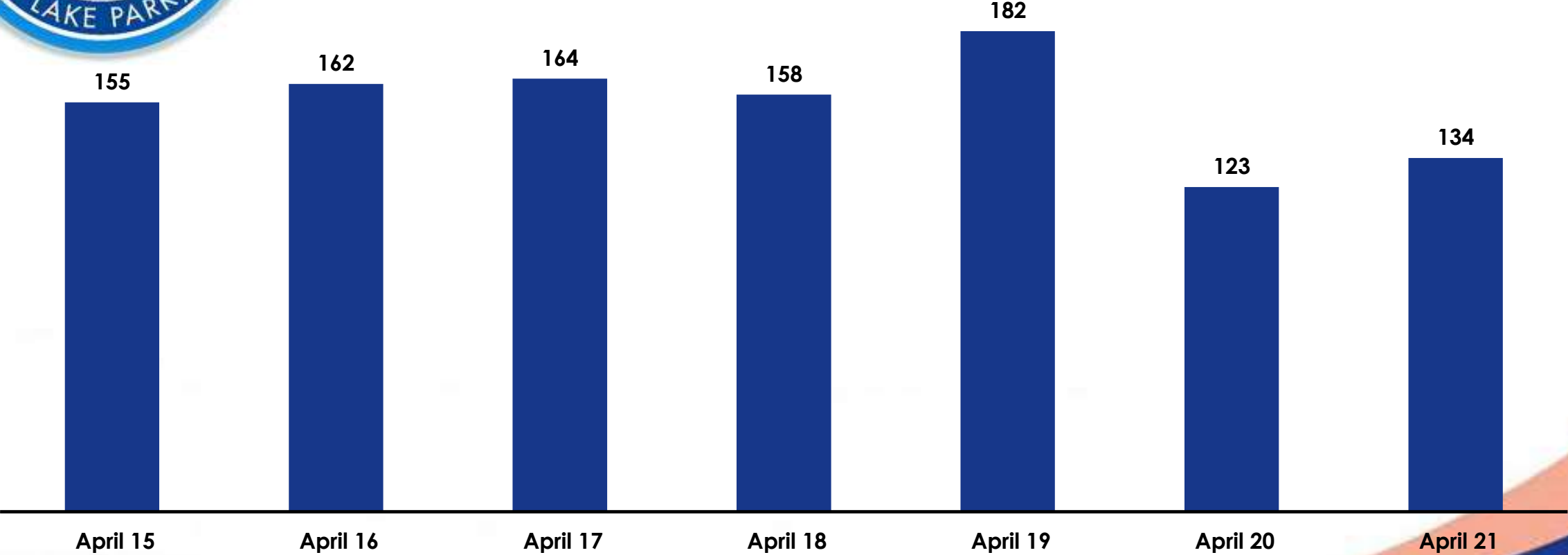
from April 15, 2024, to April 21, 2024



Travel Speed	West Bound	East Bound
5 mph	15	17
10 mph	67	69
15 mph	201	172
20 mph	405	367
25 mph	301	345
30 mph	55	97
35 mph	33	8
40 mph	1	0



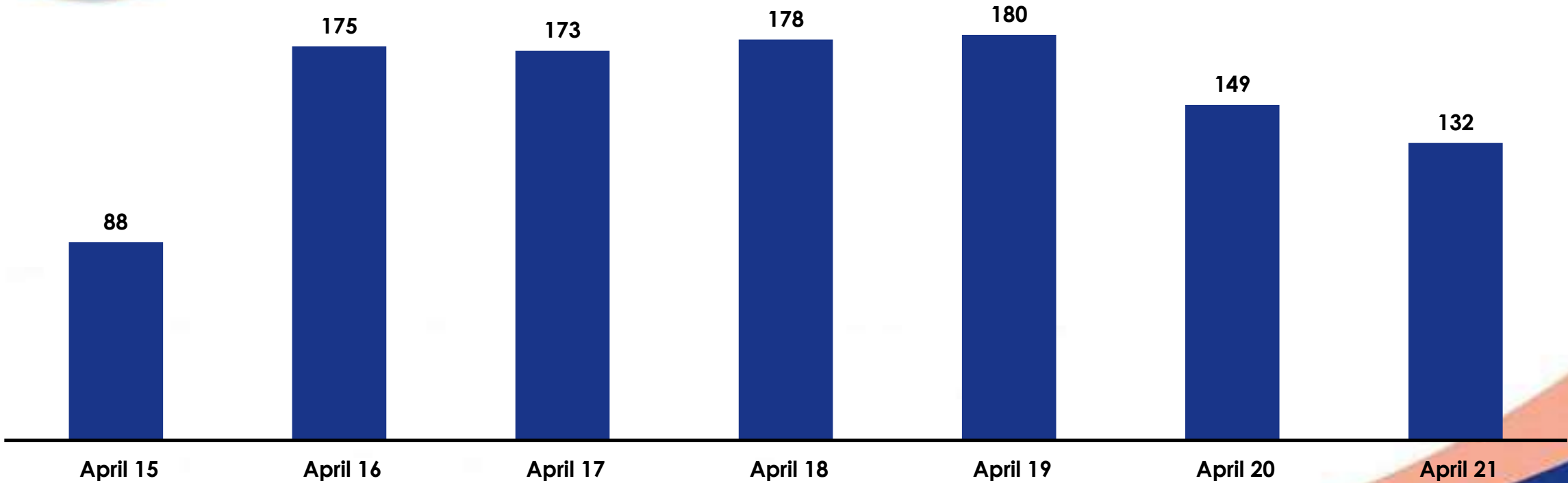
Greenbriar (West Bound) Traffic Count





Greenbriar (East Bound) Traffic Count

East Bound





Stop Signs Analysis

Based on the travel speed data for 2nd Street, the distribution of vehicle speeds is heavily skewed towards 20-30 mph, with the highest concentration of vehicles traveling at 25 mph. This suggests that most traffic flows at or slightly above typical residential speed limits, which commonly range from 25-30 mph.

Given that speeds decrease significantly above 30 mph, with only a small percentage of vehicles exceeding this limit, considering the current speed patterns, and that only 3 accidents have occurred from 2019 to 2023, installing an additional stop sign for speed control purposes might not be immediately necessary.



Stop Signs Analysis

Stop signs are typically used to address safety concerns at intersections, manage right-of-way conflicts, or where there's a proven history of accidents or near-misses.

However, a stop sign could be a proactive measure if the goal is to further reduce average speeds or manage pedestrian safety, especially in areas with schools, parks, or a high foot traffic volume. It could serve to break up long stretches where drivers might otherwise be tempted to speed up, contributing to a safer overall street environment.



Stop Signs Analysis

In rendering a final decision on this matter, it is critical to consider various factors, including potential disruptions to traffic flow, impacts on local neighborhoods, and findings from comprehensive traffic studies. These studies should encompass accident statistics and pedestrian traffic volumes.



Stop Signs Recommendation

Based on the data presented, there is no current justification for installing an additional stop sign at this location. Consequently, we recommend deferring this request. We propose a reevaluation of the intersection at 2nd Street and Greenbriar Drive in 12 months to assess whether evolving traffic patterns or conditions necessitate the placement of additional stop signs.



Community and Law Enforcement Collaboration

Item 4.

The success of these strategic measures hinges on the active collaboration and support of Lake Park's **citizens** and the vigilant enforcement by local law enforcement agencies. Engaging with the community through educational outreach and regular communication will foster a sense of ownership and responsibility toward maintaining traffic safety. Concurrently, the role of law enforcement in upholding traffic regulations and monitoring compliance is crucial in reinforcing the effectiveness of the new traffic controls.



Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: June 12, 2024

Agenda Item No.

Agenda Title: Informing the Town Commission of the Addition of Exhibits A, B and D to the Executed P3 Ground Leases

[] SPECIAL PRESENTATION/REPORTS [x] **CONSENT AGENDA**
 [] BOARD APPOINTMENT [] OLD BUSINESS
 [] PUBLIC HEARING ORDINANCE ON FIRST READING
 [] NEW BUSINESS
 [] OTHER: _____

John

Approved by Town Manager D'Agostino

Digitally signed by John D'Agostino
 DN: cn=John D'Agostino, o=Town of Lake
 Park, ou=Town Manager,
 email=jdagostino@lakeparkflorida.gov,
 c=US
 Date: 2024.06.10 13:58:31 -04'00'

Date: _____

Name/Title: Bambi McKibben-Turner, Assistant Town Manager/Human Resources Director

Originating Department: Human Resources	Costs: \$ 0.00 Funding Source: Acct. # [] Finance _____	Attachments: Copies of the P3 Ground Leases for the Marina Restaurant Component, the Public Marina Component, the Boat Storage Component and the Hotel Component with Exhibits A, B and D Included
Advertised: Date: _____ Paper: _____ [x] Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone <u>BMT</u> OR Not applicable in this case ____ Please initial one.

Summary Explanation/Background:

At its May 15, 2024 Regular Commission meeting, the Commission approved by Resolution the Ground Leases for the Marina Restaurant Component, the Public Marina Component, and the Boat Storage Component for the P4 Project for the Enhancement of the Lake Park Harbor Marina. At its January 3, 2024 meeting, the Commission also approved the ground lease for the Hotel Component for this project.

Staff has since learned that the ground leases it received and presented to the Commission did not include Exhibit A, B and D which consist of the following documents:

- Exhibit A -- Site Plan
- Exhibit B -- Legal Description of the Premises
- Exhibit D -- Permitted Title Exceptions

The purpose of this agenda item is to inform the Commission that Exhibits A, B and D have now been provided to staff and are included in each of the attached ground leases. The inclusion of such exhibits does not constitute a material change in any of the ground leases as previously approved.

Recommended Motion: No action is necessary. The purpose of this agenda is to inform the Commission of the inclusion of the exhibits which were previously missing from the approved ground leases

GROUND LEASE FOR THE MARINA RESTAURANT COMPONENT

GROUND LEASE
(Marina Restaurant Component)

THIS GROUND LEASE (this “Lease”), dated as of May 15, 2024 (the “Effective Date”), is entered into by and between the **TOWN OF LAKE PARK, FLORIDA**, a Florida municipal corporation (“Landlord”), and **FD P3 LP RESTAURANT, LLC**, a Florida limited liability company (“Tenant”) (collectively, the “Parties” and individually, a “Party”).

WHEREAS, in accordance with Florida Statutes §255.065, Forest Development P3 LPM, LLC, a Florida limited liability company (the “Developer”), an affiliate of Tenant, submitted to Landlord an unsolicited proposal for a Qualifying Project (the “Proposal for Redevelopment”) involving the redevelopment of six (6) parcels of land owned by Landlord (the “Land”), comprising approximately +/-12.01 acres generally located on the intracoastal waterway east of Federal Highway and north of Silver Beach Road in the Town of Lake Park, Florida, and commonly known as Lake Park Harbor Marina (the “Marina”); and

WHEREAS, the Town Commission selected the Developer’s Proposal for Redevelopment; and

WHEREAS, in accordance with said §255.065, Landlord and Developer entered into that certain Comprehensive Agreement dated as of August 2, 2023 (as the same may be amended or supplemented, collectively, the “Comprehensive Agreement”), memorializing their respective rights and obligations with respect to the redevelopment of the Marina; and

WHEREAS, all capitalized terms used but not otherwise defined in this Lease shall have the respective meanings ascribed to them in the Comprehensive Agreement; and

WHEREAS, pursuant to the Comprehensive Agreement, Landlord and Developer have agreed that Landlord and four (4) special purpose entities formed by Developer shall enter into four (4) separate ground leases for portions of the Marina, on which will be developed the “Hotel Component,” the “Boat Storage Component,” the “Public Marina Component” and the “Marina Restaurant Component” (as defined in the Comprehensive Agreement); and

WHEREAS, in accordance with the Comprehensive Agreement, Landlord and Tenant desire to enter into this Lease to document Tenant’s lease from Landlord of a portion of the Marina hereinafter described on which will be developed the Marina Restaurant Component, all in accordance with the terms and conditions hereinafter set out.

NOW, THEREFORE, for and in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **DEMISE.** Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, all of the area shown on the plan attached hereto as **Exhibit A** and made a part hereof (the “Site Plan”), and more particularly described on **Exhibit B**, attached hereto and made a part

hereof, together with all appurtenant easements and rights thereto (collectively, the “**Premises**”). Landlord and Tenant hereby acknowledge and agree that this Lease shall be subject to the terms, conditions and provisions of the Comprehensive Agreement only to the extent the same pertain to the Marina Restaurant Component and that only a default under the terms of the Comprehensive Agreement that pertain to the Marina Restaurant Component shall constitute a default under this Lease.

2. **TERM**. The term of this Lease (the “**Term**”) shall be ninety-nine (99) years, commencing on the later of (i) the Effective Date; (ii) the earlier of (A) the date of the modification or termination of the Deed Restrictions and Reverter Clauses to Landlord’s and Developer’s reasonable satisfaction, and (B) the date that Developer notifies Landlord in writing that it intends to proceed with the Project even if the Deed Restrictions and Reverter Clauses are not fully terminated; (iii) August 2, 2025 (the “**Commencement Date**”). Notwithstanding the foregoing, in the event that the Deed Restrictions and Reverter Clauses have not been terminated or modified to the Developer’s reasonable satisfaction and the Developer has not notified Landlord in writing that it intends to proceed with the Project despite the fact that the Deed Restrictions and Reverter Clauses have not been fully terminated, Tenant shall have the right to terminate this Lease by written notice to Landlord on or before August 2, 2025.

3. **LEASE PAYMENTS**. As consideration for Landlord’s execution of this Lease with Tenant, Tenant shall make payments to Landlord in accordance with the schedule attached hereto as **Exhibit C** (the “**Lease Payments**”). During the Term, Tenant shall also be responsible for all real estate taxes (including ad valorem taxes and non-ad valorem assessments) assessed with respect to the Premises and for all expenses incurred in connection with the ownership, operation, maintenance, repair, occupancy or use of the Premises. In addition, Tenant shall pay or cause the Developer to pay the portion of the P3 Assessment Fee in the total amount of Three Hundred Thousand and 00/100 Dollars (\$300,000.00) and the Building Permit Fee (as such terms are defined in the Comprehensive Agreement) applicable to the Marina Restaurant Component, which payments shall be made on or before August 2, 2024 in accordance with the Comprehensive Agreement. Except as otherwise expressly set forth in this Lease, Landlord shall not be responsible for any costs, expenses, or charges of any kind or nature respecting the Premises and Landlord shall not be required to render any services of any kind to Tenant or to the Premises. Landlord shall receive the Lease Payments free and clear of any and all impositions, taxes, liens, charges, deductions or expenses of any nature whatsoever in connection with the ownership, operation, maintenance, repair, occupancy or use of the Premises.

4. **IMPROVEMENTS**. Tenant hereby agrees to develop the Marina Restaurant Component on the Premises in accordance with the terms and conditions of the Comprehensive Agreement, to the extent such terms and conditions apply to the Marina Restaurant Component. Tenant covenants that the construction of all improvements at the Premises (the “**Improvements**”) shall be at Tenant’s sole cost and expense and in accordance with all applicable legal requirements. Tenant acknowledges and agrees that the interest of the Landlord in the Premises shall not be subject to liens for improvements made by the Tenant. Tenant shall not at any time permit any mechanics’, laborers’ or materialmen’s liens to stand against the Premises for any labor or material furnished to Tenant or claimed to have been furnished to Tenant or Tenant’s agents, contractors or subtenants, in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction or sufferance of Tenant. Tenant shall notify any contractor

engaged in the construction of the Improvements of the foregoing, and the knowing or willful failure of the Tenant to provide such notice to the contractor(s) shall render the contract between the Tenant and the contractor voidable at the option of the contractor. In the event any such lien is filed against the fee simple interest in the Premises as a result of any construction thereon by Tenant or on Tenant's behalf, then and in that event, Tenant shall cause said lien to be discharged or bonded over within thirty (30) days of Tenant's actual knowledge of same. The failure to do so shall, at the option of Landlord, constitute a breach of this Lease. If Tenant fails to have such lien or claim for lien so released or to deliver such bond to Landlord, Landlord, without investigating the validity of such lien, shall have the right to pay or discharge the same, and Tenant shall reimburse Landlord upon demand for the amount so paid by Landlord, including Landlord's reasonable expenses and attorneys' fees.

Subject to the terms and conditions of this Lease, until the expiration or earlier termination of this Lease, (a) all Improvements shall be and remain the property of Tenant, and (b) Tenant shall have the rights and benefits of ownership of the Improvements, including, without limitation the right to claim depreciation of the Improvements for tax purposes.

5. USE OF PREMISES. It is expressly agreed that the Premises may be used during the Term only for any purposes permitted pursuant to the Comprehensive Agreement or as may permitted by the applicable governmental authority and may not use the Premises for any purpose in violation of the Deed Restrictions and Reverter Clauses to the extent the same have not been amended or terminated of record. It is the obligation of the Developer to work out alternative locations that would provide for seamless operation of current users in that location during construction. Tenant, its agents, employees, customers, and invitees shall have free and unobstructed right to use the Premises for such purposes. Tenant shall comply with and abide by all federal, state, county, municipal, and other governmental statutes, ordinances, laws, and regulations affecting the Premises, the Improvements, or any activity or condition on or at the Premises. Tenant shall have access to the Premises twenty-four (24) hours per day, 365 days per year. Tenant shall have the right to place signs at the Premises provided such signs comply with the local ordinances and regulations. Upon the expiration of the Term, upon Landlord's request, Tenant shall remove all signage and shall restore and repair any damage caused by the installation or removal of such signs.

6. MAINTENANCE AND REPAIR. Throughout the Term, Tenant, at its sole cost and expense, shall (a) keep and maintain the Premises including all Improvements of every kind thereon and appurtenances thereto, in good order and condition, and (b) make such repairs, replacements and renewals (collectively, "**Repairs**") to the Premises as may be necessary or appropriate to keep and maintain the Premises in good order and condition, whether such Repairs are ordinary or extraordinary, foreseen or unforeseen. Without limiting the generality of the foregoing, Tenant shall keep and maintain all portions of the Premises and all driveways, sidewalks, parking areas, curbs and access ways adjoining the Premises in a clean and orderly condition, and shall keep and maintain all open areas of the Premises in a neat and orderly condition and perform all necessary landscaping work. All Repairs shall be promptly made with materials and equipment, which are at least equal in quality to those in place. Landlord shall not be obligated to make any repairs or replacements of any kind, nature, or description, whatsoever, to the Premises or the Improvements thereon.

7. INDEMNIFICATION.

(a) Subject to the subrogation provisions of this Lease, Tenant agrees to indemnify and hold Landlord and its former and current elected and appointed officials, agents, consultants and employees (collectively, "**Landlord Parties**") harmless, to the fullest extent permitted by law, from all liabilities, losses, interest, damages, costs and/or expenses (including, without limitation, reasonable attorneys' fees, whether suit is instituted or not, and if instituted, whether incurred at any trial, appellate or post judgment level), threatened or assessed against, levied upon, or collected from, any Landlord Party arising out of, from, or in any way connected with or arising from the negligence, recklessness, or intentional wrongful misconduct of Tenant in the performance of its obligations under this Lease. Notwithstanding the foregoing, Tenant shall not be required to indemnify any Landlord Party with respect to any liability, loss, damages, costs or expenses suffered as a result of the negligence and/or willful misconduct of such Landlord Party. To the extent this indemnification clause or any other indemnification clause in this Lease is subject to the provisions of Chapter 725, Florida Statutes, and such does not comply with Chapter 725, Florida Statutes, as such may be amended, such provision shall hereby be interpreted as the parties' intention for the indemnification clauses and to comply with Chapter 725, Florida Statutes, as such may be amended.

(b) Tenant shall not have any obligation to indemnify or defend the Landlord Parties against any claims brought against any Landlord Party by any third party challenging: (i) Landlord's legal authority to lease all or any portion of the Premises; (ii) the Town Commission's judgment in leasing all or any portion of the Premises; or (iii) Landlord's decision to enter into this Lease or the terms and provisions of this Lease, regardless of whether such claim seeks monetary damages or injunctive, declaratory or other relief. Provided however, that if any third party brings any claims against Landlord and Tenant, Tenant shall have the responsibility to defend the allegations against it. The provisions of this Section shall survive the expiration or earlier termination of this Lease. Any tort liability to which Landlord is exposed under this Lease shall be limited to the extent permitted by applicable law and subject to the provisions and monetary limitations of Section § 768.28, Florida Statutes, as it may be amended. Landlord expressly does not waive any of its rights and immunities under § 768.25.

8. TAXES. During the Term, Tenant shall assume full responsibility for and shall pay all taxes and assessments that accrue to the Premises or to the Improvements thereon, including sales and property taxes (including ad valorem taxes and non-ad valorem assessments). Tenant shall obtain, if available, a separate tax billing or assessment for the Premises, and Tenant shall pay the ad valorem real property taxes attributable to the Premises only. If a separate billing or assessment for the Premises is not available, Tenant shall pay its pro rata share of the cost incurred by Landlord for real property taxes upon the Project. Tenant agrees to reimburse Landlord within thirty (30) days after receipt of an itemized statement showing the pro rata amount due by Tenant.

In no event shall Tenant be obligated to pay any of Landlord's administrative fees relating to taxes nor shall Tenant be obligated to pay any interest or penalties imposed for late payment or otherwise unless caused by Tenant. Any real property taxes shall be apportioned so that Tenant shall pay only that portion of real property taxes or installments thereof as fall within the Term.

Tenant shall not be obligated to pay any income tax, excise tax or other similar tax or charge, or inheritance, franchise, capital levy transfer, estate, succession or other similar tax or charge that may be payable by or chargeable to Landlord under any present or future law of the United States or the state in which the Premises are located or imposed by any political or taxing subdivision thereof. Tenant shall have the right, by appropriate proceedings, to protest or contest any assessment or reassessment for real property taxes, or any special assessment, or the validity of either, or of any change in assessments or the tax rate and Landlord agrees to reasonably cooperate with Tenant in any such protest or contest. If Landlord is unwilling to pursue such protest or contest, then Tenant may do so in Landlord's name at Tenant's expense. Landlord agrees not to initiate or endorse any action or application which would increase Tenant's monetary obligations under this Section.

9. INSURANCE; WAIVER OF SUBROGATION. During the Term, Tenant shall comply with all of the insurance requirements imposed upon the Developer pursuant to the Comprehensive Agreement only to the extent the same are applicable to the Marina Restaurant Component.

Landlord and Tenant, for themselves and their respective insurers, hereby release each other of and from any and all claims, demands, actions and causes of action, (including, without limitation, subrogation claims), for loss or damage to their respective property located within or upon, or constituting a part of the Premises, even if the loss or damage shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible, which loss or damage is covered by valid and collectible insurance policies, to the extent that such loss or damage is recoverable under such policies or, in the case of Landlord, if Landlord elects to self-insure. Landlord and Tenant shall each cause each insurance policy obtained by it to provide that each insurance company waives all rights of recovery by way of subrogation against the other party in connection with any damage covered by any such policy. The foregoing waiver of subrogation shall also apply in the event that Landlord elects to self-insure.

10. UTILITIES. During the Term, Tenant, at its sole cost and expense, shall take such action as may be necessary to procure the utility services required for Tenant's operation of the Premises, including, without limitation, making arrangements to extend and connect utility lines to and within the Premises. Tenant shall pay all charges for utility services used on the Premises during the Term. At Landlord's request from time to time (but no more frequently than twice in any calendar year), Tenant shall deliver to Landlord receipts or other evidence satisfactory to Landlord indicating the timely payment of utility expenses.

Landlord makes no representation or warranty with respect to the availability or sufficiency of any utility service to the Premises. Landlord is not required to furnish any utility services to Tenant and shall not be liable for the failure of any utility services or for the untenability of the Premises or other damage or loss resulting from the unavailability, interruption, inadequacy or termination of, any utility services.

11. DEFAULT. The following conditions shall be considered a "Default" by Tenant hereunder:

(a) Tenant's failure to pay any monetary sum as provided in this Lease which continues for thirty (30) days following Tenant's receipt of notice from Landlord to that effect (a "**Monetary Default**"); and

(b) Tenant's failure to observe or perform any of the covenants, conditions or provisions of this Lease that Tenant must observe or perform, other than a Monetary Default, where the failure continues for a period of ninety (90) days after Tenant's receipt of written notice from Landlord; provided, however, that if the nature of the obligation that Tenant has failed to perform is such that more than ninety (90) are reasonably required for its cure, a Default will not occur so long as Tenant commences the cure within such ninety (90)-day period and continuously prosecutes the cure to completion (a "**Non-Monetary Default**")

If a Monetary Default occurs hereunder, then in addition to any other lawful or equitable right or remedy which Landlord may have, including any rights or remedies available to Landlord under the Comprehensive Agreement (to the extent applicable to the Marina Restaurant Component), Landlord may, subject to any and all cure and notice provisions contained in this Lease, do the following: (i) commence a proceeding to terminate this Lease, or (ii) repossess the Premises, with or without terminating this Lease.

If a Non-Monetary Default occurs and is continuing, then in addition to any other lawful or equitable right or remedy which Landlord may have, including any rights or remedies available to Landlord under the Comprehensive Agreement (to the extent applicable to the Marina Restaurant Component), Landlord shall have the right, in its sole election, then, or at any time thereafter while such Default shall continue to (i) remedy the same and charge Tenant for the reasonable costs thereof (including reasonable interest thereon), (ii) sue for specific performance of Tenant's obligations under this Lease; or (iii) commence a proceeding to terminate this Lease.

In the event of the occurrence of any Landlord's default as is detailed in this Lease which is not cured within sixty (60) days of Tenant's notice to Landlord, or such longer period of time as may be necessary to cure defaults which are not subject to being cured within such sixty (60) day period, Tenant shall have the right, in its sole election, then, or at any time thereafter while such Landlord's default shall continue to (i) remedy the same and charge Landlord for the costs thereof (including reasonable interest thereon), or (ii) sue for specific performance of Landlord's obligations under this Lease; or (iii) such other remedy as may be available at law or in equity.

Subject to the terms of this Section, all rights and remedies of Landlord and Tenant are cumulative, and the exercise of any one shall not be an election excluding Landlord or Tenant at any other time from exercising a different or inconsistent remedy. No waiver by Landlord or Tenant of any covenant or condition shall be deemed to imply or constitute a further waiver of the same at a later time.

12. CASUALTY.

(a) General. If at any time during the Term, any Improvements are damaged or destroyed by fire or other casualty (a "**Casualty**"), Tenant shall promptly give written notice thereof to Landlord. Tenant's obligations under this Lease shall not be affected by any Casualty except as provided in this Section. Lease Payments shall not abate during the period when the

Premises are not usable by Tenant due to damage or destruction, provided, however, Tenant shall receive a credit against the Lease Payments for the relevant period in an amount equal to any insurance proceeds actually received by Landlord with respect to such period.

(b) Restoration.

(i) Upon the occurrence of a Casualty, unless this Lease is terminated pursuant to Section 12(c), Tenant shall proceed, at its sole cost and expense and with commercially reasonable diligence, to carry out or cause to be carried out any necessary demolition and debris removal and to repair, restore, replace or rebuild the Improvements as nearly as reasonably practical to their condition, quality and character immediately prior to such damage or destruction, with such changes or alterations as may be approved by Landlord or as may be required by Governmental Authority (the “**Restoration**”).

(ii) All insurance proceeds shall be applied first to reimburse Tenant for the necessary and proper expenses paid or incurred by Tenant in the adjustment and collection of the insurance proceeds (including, without limitation reasonable attorneys’ fees and disbursements) (the “**Net Insurance Proceeds**”). The balance remaining shall be paid and applied in accordance with the provisions of this Section 12(b). In the event of a Casualty resulting in damage to the Improvements of less than \$2,000,000.00, the Net Insurance Proceeds shall be paid directly to Tenant and used by Tenant to pay the costs of the Restoration of the Improvements, subject to and in accordance with the provisions of this Section 12(b) and any Leasehold Mortgage. In the event of a Casualty resulting in damage to the Improvements of \$2,000,000.00 or more, the Net Insurance Proceeds shall be paid to the Insurance Depository (as hereinafter defined) and shall be held, invested and disbursed, subject to and in accordance with the provisions of this Section 12(b) and any leasehold mortgage. The “**Insurance Depository**” shall mean an institutional lender jointly selected by Landlord and Tenant (or if the provisions of any leasehold mortgage so provide, as selected by the holder of any Leasehold Mortgage (and may be the Leasehold Mortgagee)) to perform the functions described herein.

(iii) Subject to the terms of any Leasehold Mortgage, the Insurance Depository shall invest and reinvest the Net Insurance Proceeds in United States government securities backed by the full faith and credit of the United States government. The income from the investment of the Net Insurance Proceeds shall be part of the Net Insurance Proceeds and shall be held, invested, and disbursed in the same manner as the balance of the Net Insurance Proceeds. All reasonable costs, fees, expenses and charges of the Insurance Depository in connection with the collection, investment, administration and disbursement of the Net Insurance Proceeds shall be paid by Tenant upon demand by the Insurance Depository. In the event that Tenant shall fail to pay such costs, fees, expenses and charges upon demand, the Insurance Depository may deduct the amount thereof from the Net Insurance Proceeds.

(iv) The Insurance Depository shall disburse the Net Insurance Proceeds from time to time in accordance with requests for disbursement (each, a “**Disbursement Request**”) made by Tenant and approved by the then Leasehold Mortgagee, or, if there is no Leasehold Mortgagee, Landlord. No disbursement of Net Insurance Proceeds shall be made without the prior written approval of the then Leasehold Mortgagee, or, if there is no Leasehold

Mortgagee, Landlord. Landlord shall be obligated to approve a Disbursement Request provided that Tenant has complied with the requirements of this Section.

(v) Subject to the other requirements of this Lease, Net Insurance Proceeds shall be disbursed periodically by the Insurance Depository as the Restoration progresses in amounts not exceeding 90% of the value of labor and materials incorporated into the work. The remaining 10% will be disbursed upon final completion of the Restoration.

(vi) If at any time during the course of the Restoration the then Leasehold Mortgagee, or, if there is no Leasehold Mortgagee, Landlord, reasonably determines that the undisbursed portion of the Net Insurance Proceeds will not be sufficient to complete the Restoration, Tenant shall deposit the difference, as reasonably determined by Leasehold Mortgagee or Landlord, as applicable, with the Insurance Depository, and such amount shall be held, invested and disbursed in the same manner as the balance of the Net Insurance Proceeds.

(vii) All Restoration work shall be performed by Tenant in accordance with the provisions of Section 4.

(viii) Except as otherwise provided in any Leasehold Mortgage or any related loan documents, in the event that (a) Tenant shall fail to commence or complete the Restoration as required by this Section or otherwise defaults in the performance of its obligations under this Section, or (b) a default beyond any applicable notice and cure periods shall occur before or during the course of the Restoration, the Net Insurance Proceeds shall be paid to and retained by Landlord.

(ix) Upon final completion of the Restoration and compliance with the requirements for the final disbursement, any excess Net Insurance Proceeds shall be paid to Tenant.

(c) Termination by Tenant.

(i) Subject to the terms of any Leasehold Mortgage or any related loan documents, upon the occurrence of Casualty during the last thirty (30) years of the Term or if at any time during the Term the Improvements are substantially destroyed and estimated cost of the Restoration would exceed one hundred ten percent (110%) of the Maximum Required Restoration Cost (as hereinafter defined), then, instead of carrying out the resulting Restoration, Tenant, at its option, may elect to terminate this Lease by written notice to Landlord given within thirty (30) days after the Casualty or the estimated cost of such Restoration shall have been determined, whichever last occurs. After making such election, Tenant shall proceed with reasonable diligence to

- (A) demolish the damaged portion of the Improvements to street grade;
- (B) remove all debris from the Premises;

(C) put the Premises in good, safe, lawful, clean and orderly condition (collectively, the “**Demolition**”). The Demolition shall be carried out at Tenant’s sole cost and expense. Upon completion of the Demolition, as certified by the architect handling the Demolition and upon payment of all Lease Payments payable under this Lease through the date of such completion, this Lease shall expire and terminate with the same force and effect as though the date of such completion were the Termination Date; and

(D) provide evidence reasonably satisfactory to Landlord that all subleases have been terminated.

The term “**substantially destroyed**” shall mean and refer to that condition where the use and occupancy of substantially all the Improvements have been materially adversely affected and the estimated cost of the resulting Restoration would exceed \$2,000,000.00. The term “**Maximum Required Restoration Cost**” shall mean and refer to the total of (i) the insurance proceeds payable in respect of any loss which is the subject of the Restoration for which such determination is to be made (excluding the proceeds of any business interruption or rent loss insurance) plus the deductible amount under any applicable insurance policy or, in the case of any taking which is the subject of such Restoration, the portion of any Award (as hereinafter defined) payable in respect thereof which is available for such Restoration, *plus* (ii) any additional insurance proceeds that would have been payable in respect of any such loss if Tenant had complied with all relevant obligations of Tenant under this Lease and all relevant obligations of Tenant under all insurance policies (excluding the proceeds of any business interruption or rent loss insurance), *less* (iii) necessary and proper expenses paid or incurred by Tenant in the adjustment and collection of the insurance proceeds (including, without limitation reasonable attorneys’ fees and disbursements).

(d) Tenant’s Obligations Not Affected. Tenant shall be obligated to carry out, or cause to be carried out, the Restoration pursuant to Section 12(b) or the Demolition pursuant to Section 12(c), as the case may be, regardless (except for Landlord’s negligence or willful misconduct) of the cause of the loss which is the subject of such Restoration or Demolition, whether or not insurance shall have been in effect with respect to such loss, whether or not any proceeds from any such insurance shall be paid by the insurer, and whether or not any such insurance proceeds shall be sufficient to cover the cost of such Restoration or Demolition. Anything herein to the contrary notwithstanding, unless caused by Landlord’s negligence or willful misconduct, Landlord shall not be obligated to carry out any Restoration or Demolition. Landlord shall not be liable for any inconvenience, loss of business or annoyance arising from any damage or destruction of or to the Improvements or from any Restoration or Demolition, whether carried out by Landlord or Tenant.

(e) Survival. The provisions of this Section 12 shall survive the expiration or earlier termination of this Lease.

13. CONDEMNATION.

(a) Notice. Landlord and Tenant each agree to give the other written notice of any taking by exercise of the power of condemnation or eminent domain, whether by legal

proceedings or otherwise ("**Taking**") of all or any portion of the Premises promptly after receiving notice thereof. Landlord agrees not to initiate or endorse any Taking which would materially interfere with Tenant's ability to use the Premises for the use(s) permitted under this Lease.

(b) Total Taking. In the event of a Taking (other than for temporary use) of the entire Premises or such a substantial part of the Premises that the remaining portion of the Premises, after Reconstruction, would be unsuitable for the continued use and occupancy for the uses permitted hereunder (a "**Total Taking**"):

(i) this Lease shall terminate as of the date that possession is delivered to the condemning authority;

(ii) Lease Payments shall be apportioned as of the date the Lease terminates; and

(iii) any condemnation award or payment shall be applied first to reimburse Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award (including, without limitation reasonable attorneys' fees and disbursements). The amount of any condemnation award or payment remaining after first reimbursing Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award or payment (including, without limitation reasonable attorneys' fees and disbursements) (the "**Net Condemnation Proceeds**") shall be apportioned between Landlord and Tenant in the manner set forth in this Section.

(c) Partial Taking. In the event of any Taking (other than for temporary use) which is not a Total Taking:

(i) this Lease shall remain in full force and effect as to the portion of the Premises remaining immediately after such Partial Taking;

(ii) there shall be an equitable abatement of the Lease Payments payable under this Lease based on the portion of the Premises taken;

(iii) any condemnation award or payment shall be allocated first to the Leasehold Mortgagee, to the extent required by the Leasehold Mortgage or any related loan documents, and then to reimburse Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award (including, without limitation reasonable attorneys' fees and disbursements);

(iv) Tenant shall proceed with due diligence to repair, restore and replace the Premises as nearly as possible to its condition and character immediately prior to such Partial Taking (the "**Reconstruction**"), except for any reduction in area caused thereby. The work performed under this Section shall be performed in accordance with the provisions of Section 4;

(v) the Net Condemnation Proceeds and any sums deposited by Tenant pursuant to Section 13(c)(vi) (collectively, the “**Reconstruction Funds**”) shall be held, invested and disbursed by the Insurance Depository to pay the costs of Reconstruction, subject to substantially the same terms and conditions as are applicable to the Net Insurance Proceeds under Section 12;

(vi) Tenant shall be solely responsible for any costs of Reconstruction which are in excess of the Net Condemnation Proceeds. If, at any time, Landlord reasonably determines that the Net Condemnation Proceeds will be insufficient to pay the remaining costs of Reconstruction, Tenant shall deposit the difference with the Insurance Depository, and such amount shall be held, invested and disbursed in the same manner as the Net Condemnation Proceeds;

(vii) any balance of the Reconstruction Funds remaining after completion of the Reconstruction shall be apportioned between Landlord and Tenant in accordance with the provisions of this Section 13.

(d) Net Condemnation Proceeds/Reconstruction Funds.

(i) In the event of a Total Taking, the Net Condemnation Proceeds shall be allocated first to the Leasehold Mortgagee, to the extent required by the Leasehold Mortgage or any related loan documents, and then apportioned between Landlord and Tenant in proportion to the fair market value of their respective interests in the Premises immediately prior to the Taking, as if such Taking had not occurred.

(ii) In the event of a Partial Taking, any Reconstruction Funds remaining after completion of the Reconstruction shall be applied first to reimburse Tenant for any sums deposited by Tenant pursuant to Section 13(c)(iv). The balance, if any, shall be apportioned between Landlord and Tenant in proportion to the fair market value of their respective interests in the Premises immediately prior to the Taking, as if such Taking had not occurred.

(iii) In determining the fair market value of Landlord’s interest in the Premises, due consideration shall be given to the fair market value of the Premises, as encumbered by the Lease, taking into account the remaining useful life of the Improvements at the expiration of the Term, as if such Taking had not occurred.

(e) Procedure for Apportioning Funds.

(i) Landlord and Tenant shall attempt, in good faith, to agree upon the apportionment of the Net Condemnation Proceeds or remaining Reconstruction Funds between Landlord and Tenant.

(ii) In the event that Landlord and Tenant are unable to agree upon the apportionment, either party shall have the right to submit such dispute (an “**Apportionment Dispute**”) to arbitration in accordance with the provisions of this Section and the arbitration rules of the American Arbitration Association then in existence.

(iii) During the first ten (10) days after either party notifies the other of its desire to submit the Apportionment Dispute to arbitration, Landlord and Tenant shall attempt to agree upon a single person (the “**Expert**”) who (a) shall be MAI certified, (b) shall have a minimum of ten (10) years’ experience in appraisal of real estate in the State in which the Premises are located, and (c) has not conducted within the previous three (3) years, does not presently conduct, and does not anticipate conducting a material amount of business with either Landlord or Tenant or their Affiliates, or otherwise have a financial interest in either Landlord or Tenant or their Affiliates and who is otherwise independent (the “**Expert Qualifications**”). If the parties agree upon a single Expert, each of them shall be responsible for one-half of the costs of the Expert so appointed. If Landlord and Tenant are unable to agree upon a single Expert, then within ten (10) days after the expiration of the period for agreeing upon a single Expert, each party, by giving notice to the other, shall appoint an Expert who meets the Expert Qualifications. Such notice shall be accompanied by a statement of all business conducted by the party making the appointment, and its Affiliates, with the Expert so appointed. If a party does not appoint an Expert within ten (10) days after the other party has given notice of the name of its Expert, the single Expert selected shall then be responsible for deciding the Apportionment Dispute.

(iv) If the two Experts are appointed by the parties as provided in this Section, they shall meet promptly and attempt to decide the Apportionment Dispute in accordance with the provisions of this Section. If they are unable to agree upon a resolution of the Apportionment Dispute within twenty (20) days after the second Expert has been appointed, the two Experts shall attempt to select a third Expert meeting the Expert Qualifications, within ten (10) days after the expiration of the period for the two Experts to render a decision. If the two Experts are unable to agree upon a third Expert within such period, either of the parties to this Lease may apply to the American Arbitration Association for the appointment of a third Expert who meets the Expert Qualifications. The third Expert, whether selected by the two Experts or by the American Arbitration Association, shall then be responsible for deciding the Apportionment Dispute. Each of the parties shall be responsible for the costs of its own Expert and one-half of the costs of the third Expert.

(v) In rendering a decision, the Expert(s) shall be entitled to solicit and receive both oral and written evidence, to conduct hearings and meetings and to consider any and all evidence which he deems necessary or appropriate to render his decision; provided, however, that in no event shall the Expert(s) conduct any *ex parte* hearings or otherwise receive oral evidence or testimony from any party outside the presence of the other party or, in the case of written evidence, unless a copy of such evidence is simultaneously delivered to the other party. The Expert(s) shall have no power to change the provisions of this Lease in any respect, and the jurisdiction of the Expert(s) is expressly limited accordingly.

(vi) The Expert(s) shall render a decision as soon as possible. Such decision shall be binding, final and conclusive on the parties (except in the case of manifest error), and judgment thereon may be entered in a court of competent jurisdiction.

(f) Taking For Temporary Use. In the event of a Taking of all or any portion of the Premises for temporary use or occupancy (a “**Temporary Taking**”):

(i) this Lease shall not terminate, there shall be no reduction in the Lease Payments payable under this Lease, and Tenant shall continue to perform and observe all of its obligations under this Lease as though such Taking had not occurred except only to the extent that it may be prevented from so doing;

(ii) any condemnation award or payment shall be applied first to reimburse Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award (including, without limitation reasonable attorneys' fees and disbursements);

(iii) the Net Condemnation Proceeds shall be held by the Insurance Depository and applied to the payment of Lease Payments coming due under this Lease. If the Temporary Taking extends beyond the expiration of the Term, Landlord shall be entitled to the portion of the Net Condemnation Proceeds allocable to the period after the expiration date;

(iv) at the termination of the Temporary Taking (whether prior or subsequent to the expiration date), Tenant shall proceed with due diligence to repair, restore and replace the Premises as nearly as possible to its condition prior to such Temporary Taking. The portion of the Net Condemnation Proceeds allocable to such Reconstruction shall be held, invested and disbursed by the Insurance Depository to pay the costs of Reconstruction upon substantially the same terms and conditions as are applicable to the Restoration Funds under Section 12. Tenant shall be responsible for any costs in excess of the amount of the award;

(v) any balance remaining after application of the condemnation award pursuant to Section 13(f)(ii), 13(f)(iii) and 13(f)(iv) shall be paid to Tenant.

(g) Survival. The provisions of this Article shall survive the expiration or earlier termination of this Lease.

14. LANDLORD ENCUMBRANCES. It is expressly understood and agreed that Landlord's fee interest in the Land is not subordinate to any Leasehold Mortgage (as hereinafter defined). Tenant has no right to, and shall not, place or create any mortgage or other lien or encumbrance purporting to encumber Landlord's fee interest in the Land. In the event Landlord elects to encumber the Land or any portion thereof with a fee mortgage, such fee mortgage shall be subordinate to Tenant's rights under this Lease and upon Tenant's request, Landlord shall execute and cause such fee mortgagee to enter into a recognition, non-disturbance and attornment agreement with Tenant, substantially in the form attached hereto as Exhibit F or such other form as Landlord, Tenant, such fee mortgagee and any Leasehold Mortgagee may mutually agree to.

15. LEASEHOLD MORTGAGE.

(a) Tenant may from time to time, and without the consent of Landlord, secure financing (which may include, without limitation, mortgage loans, general credit lines, bond financing, including Community Development District bond financing, and CPACE financing) from banks, insurance companies, other financial institutions or other lenders (each one, a

“Leasehold Mortgage”), granting to such Leasehold Mortgagee as security for such financing or general credit lines a mortgage encumbering Tenant’s leasehold interest in the Premises (which may include a collateral assignment of Tenant’s leasehold interest in the Premises with rights of reassignment, hereinafter a **“Leasehold Mortgage”**) and/or a security interest in any furnishings, fixtures, equipment and personalty purchased by or belonging to Tenant, or leased from third parties by Tenant and installed on the Premises by Tenant. To the extent any provision in this Section conflict or are inconsistent with any other provision of this Lease, the provisions of this Section shall control.

Tenant may also, with Landlord’s prior written consent, which shall not be unreasonably withheld, conditioned or delayed, apply for any county, state and federal grants that may be available to Landlord (including, without limitation, those available from the Florida Navigational District) for the financial benefit the Marina (collectively, the **“Grants”**) on behalf of Landlord. Landlord agrees to reasonably cooperate with Tenant in connection with Tenant’s application for any such Grants, provided that Landlord shall not be required to incur any cost or liability in connection therewith and Tenant shall be solely responsible for any costs incurred in connection therewith, including without limitation any contribution requirements.

(b) If Tenant shall enter into any such Leasehold Mortgage, the Tenant or Leasehold Mortgagee shall forward to Landlord a copy of such Leasehold Mortgage together with a written notice setting forth the name of the Leasehold Mortgagee and its notice information (address for certified mail and electronic mail (e-mail)).

(c) When giving notice to Tenant with respect to any default under the provisions of this Lease, Landlord shall also serve a copy of such notice upon the Leasehold Mortgagee, in accordance with such Leasehold Mortgagee’s preferred form of notice as previously established pursuant to clause (b) above. No such notice to Tenant shall be deemed to have been given unless a copy of such notice has been mailed to such Leasehold Mortgagee, which notice must specify the nature of each such default.

(d) The Leasehold Mortgagee, upon mailing by Landlord of the notice referred to in subparagraph (c) of this Section, shall have, in addition to any period of grace extended to Tenant under the terms and conditions of this Lease, a period of ninety (90) days within which to cure the default or cause the same to be cured or to commence to cure such default with diligence and continuity; provided, however, that as to any default of Tenant for failure to make Lease Payments or to pay taxes, insurance or other monetary obligations of Tenant hereunder, the Leasehold Mortgagee shall be given written notice of such default by certified mail by Landlord, and the Leasehold Mortgagee shall have thirty (30) additional days from the date the notice of default was mailed within which to cure such default. The Leasehold Mortgagee’s decision to cure, or cause to be cured, any default under the Lease shall be at the Leasehold Mortgagee’s sole discretion and election and Leasehold Mortgagee shall not be required to cure any non-monetary default not within such Leasehold Mortgagee’s control such as an act of bankruptcy.

(e) Each Leasehold Mortgagee shall have the right, but not the obligation, to perform any covenant or agreement under this Lease to be performed by Tenant, and Landlord shall accept such performance by any Leasehold Mortgagee as if performed by Tenant. In case Tenant shall default under any of the provisions of this Lease, the Leasehold Mortgagee shall have

the right (but not the obligation) to cure such default whether the same consists of the failure to make Lease Payments or to pay taxes, insurance, or other monetary obligation or the failure to perform any other matter or thing which Tenant is required to do or perform, and Landlord shall accept such performance on the part of the Leasehold Mortgagee as though the same had been done or performed by Tenant.

(f) In the case of any default by Tenant, other than in the payment of Lease Payments under this Lease, Landlord, so long as no monetary default beyond any applicable notice and cure periods shall exist, will take no action to effect a termination of the Term of this Lease without first giving to the Leasehold Mortgagee a reasonable time within which either (i) to obtain possession of the Premises (including possession by a receiver) and cure such default in the case of a default which is susceptible of being cured when the leasehold mortgagee has obtained possession; or (ii) to institute foreclosure proceedings and complete such foreclosure or otherwise acquire Tenant's interest under this Lease with diligence and continuity and thereafter to commence and diligently proceed to cure such default; provided, however, that the leasehold mortgagee shall not be required to continue such possession or continue such foreclosure proceedings if the default which would have been the reason for serving such a notice shall be cured, and provided further, that nothing in this Section shall preclude Landlord from exercising any rights or remedies under this Lease with respect to any other default by Tenant during any period of such forbearance.

(g) In the event of the termination of this Lease or of any succeeding lease made pursuant to the provisions of this Section prior to its stated expiration date, Landlord will quit claim to Leasehold Mortgagee any interest in the Improvements and, at the same time, enter into a new lease of the Premises upon the same terms and conditions as this Lease for the remainder of the Term with the Leasehold Mortgagee or, at the request of such Leasehold Mortgagee, to a corporation or other entity approved to conduct business in the State of Florida, formed by or on behalf of such Leasehold Mortgagee or by or on behalf of the holder of the note secured by the Leasehold Mortgage held by such Leasehold Mortgagee, for the remainder of the Term, effective on the date of such termination, upon the covenants, agreements, terms, provisions and limitations contained in this Lease (including, without limitation, the Lease Payments), provided that such Leasehold Mortgagee makes written request and executes, acknowledges and delivers to Landlord such new lease within thirty (30) days from the date of such termination and such written request and such new lease is accompanied by payment to Landlord of all amounts then due to Landlord, including reasonable attorneys' fees, court costs and disbursements incurred by Landlord in connection with any such default and termination as well as in connection with the execution and delivery of such new lease, less the net income collected by Landlord subsequent to the date of termination of this Lease and prior to the execution and delivery of the new lease, any excess of such net income over the aforesaid sums and expenses to be applied in payment of the Lease Payments thereafter becoming due under such new lease. In no event, however, shall such mortgagee or its nominee or designee be required to cure a default under this Lease which is not subject to being cured by such mortgagee or its nominee or designee in order to obtain a new lease. Any new lease referred to in this Section shall not require any execution, acknowledgment or delivery by Landlord in order to become effective as against Landlord and Landlord shall be deemed to have executed, acknowledged and delivered any such new lease immediately upon receipt by Landlord of such new lease accompanied by (i) payment to Landlord of all amounts then due to Landlord of which the Leasehold Mortgagee shall theretofore have received written

notice; and (ii) an agreement by the Leasehold Mortgagee to pay all other amounts then due to Landlord of which the Leasehold Mortgagee shall not theretofore have received written notice. In addition, immediately upon receipt by Landlord of such new lease, as provided in this subparagraph, Landlord shall be deemed to have executed, acknowledged and delivered to the Leasehold Mortgagee an assignment of all subleases covering the Premises which theretofore may have been assigned and transferred to Landlord and all subleases under which subtenants shall be required to attorn to Landlord pursuant to the terms and conditions of such subleases or this Lease. Such assignment by Landlord shall be deemed to be without recourse as against Landlord. Within ten (10) days after a written request therefore by the Leasehold Mortgagee, such assignment or assignments shall be reduced to writing in recordable form and executed, acknowledged and delivered by Landlord to the Leasehold Mortgagee.

(h) The Leasehold Mortgagee may become the legal owner and holder of this Lease by foreclosure of its mortgage or as a result of the assignment or quitclaim conveyance of this Lease and the Improvements in lieu of foreclosure, whereupon such Leasehold Mortgagee shall immediately become and remain liable under this Lease as provided in subparagraph (j) below, except that such Leasehold Mortgagee may assign this Lease without Landlord's consent to any assignee at any time, provided that prior notice is given to Landlord in accordance with this Lease.

(i) In the event that a Leasehold Mortgagee shall become the owner or holder of Tenant's interest by foreclosure of its mortgage or by assignment of this Lease in lieu of foreclosure or otherwise, the term "Tenant," as used in this Lease, means only the owner or holder of Tenant's interest for the time being so that, in the event of a sale, assignment or other disposition of Tenant's interest in this Lease by the Leasehold Mortgagee, the Leasehold Mortgagee shall be entirely freed and relieved of all covenants and obligations of Tenant under this Lease and it shall be deemed and construed, without further agreement between Landlord and the Leasehold Mortgagee or between Landlord, the Leasehold Mortgagee and the Leasehold Mortgagee's purchaser or assignee at any such sale or upon assignment of Tenant's interest, that the purchaser or assignee of Tenant's interest has assumed and agreed to carry out any and all covenants and obligations of Tenant. The Leasehold Mortgagee's purchaser or assignee shall sign an Assignment and Assumption Agreement of this Lease.

(j) Within ten (10) days after written request by Tenant or by Tenant's Leasehold Mortgagee, or in the event that upon any sale, assignment or mortgaging of Tenant's interest in this Lease by Tenant or Tenant's Leasehold Mortgagee, an offset statement shall be required from Landlord, Landlord agrees to deliver in recordable form a certificate to any proposed Leasehold Mortgagee, purchaser, assignee or to Tenant, certifying (if such be the case) (i) the amount of the Lease Payments due under the Lease, if any, and the date to which Lease Payments have been made; (ii) whether this Lease is in full force and effect; (iii) whether Landlord has any knowledge of any default under this Lease, or if any default exists, specifying the nature of the default; and (iv) whether there are no defenses or offsets which may be asserted by Landlord against Tenant in respect of obligations pursuant to this Lease as of the date of the estoppel. The estoppel letter shall be certified to Landlord and the Leasehold Mortgagee and none other.

(k) Reference in this Lease to acquisition of Tenant's interests in this Lease by the Leasehold Mortgagee shall be deemed to refer, where circumstances require, to acquisition of

Tenant's interest in this Lease by any purchaser at a sale on foreclosure of the Leasehold Mortgage and provisions applicable to the Leasehold Mortgagee in such instance or instances shall also be applicable to any such purchaser.

(l) So long as Tenant's interest in this Lease shall be mortgaged to a Leasehold Mortgagee, the parties agree for the benefit of such Leasehold Mortgagee that Landlord shall not sell, grant or convey to Tenant all or any portion of Landlord's fee simple title to the Premises without the prior written consent of such Leasehold Mortgagee. In the event of any such sale, grant or conveyance by Landlord to Tenant, Landlord and Tenant agree that no such sale, grant or conveyance shall create a merger of this Lease into a fee simple title to the Premises. This subparagraph (l) shall not be construed to prevent a sale, grant or conveyance of Landlord's fee simple title by Landlord to any person, firm or corporation other than Tenant, its successors, legal representatives and assigns.

(m) Reference in this Lease to a Leasehold Mortgagee shall be deemed to refer where circumstances require, to any assignee (subject to the provisions of subparagraph (i), above) of a Leasehold Mortgagee; provided that such assignee shall forward to Landlord a copy of such assignment of Leasehold Mortgage, together with a written notice setting forth the name and address of the assignee and its notice information (address for certified mail and electronic mail (e-mail)).

(n) Any Leasehold Mortgage shall be specifically subject and subordinate to Landlord's rights under this Lease. The sentence immediately preceding shall not be deemed or construed (by implication or otherwise) to impose or establish upon Tenant's interest in this Lease or upon the lien of any Leasehold Mortgage the superiority of any lien or encumbrance, including, without limitation, the lien of any fee mortgage, judgment or tax created directly or indirectly by, through or against Landlord or Landlord's interest in this Lease. Despite any provision which is or may appear to be to the contrary in this Lease, under no circumstances whatsoever shall the fee simple title interest of Landlord in the Premises, or any portion of them, be encumbered or subordinated, except for a mortgage on Tenant's leasehold interest.

(o) No Leasehold Mortgagee or other person succeeding to the interest of Tenant in this Lease through or subsequent to an enforcement proceeding shall be liable under this Lease, unless and until such time as it becomes the tenant of the leasehold estate, and then only for such obligations of Tenant which accrue during the period while it remains the tenant of the leasehold estate.

(p) Notwithstanding any provision in this Lease to the contrary, in the event of any Casualty or Taking of the Premises or any portion thereof and if allowed by law or its agreements with Tenant, the most senior Leasehold Mortgagee (or such other Leasehold Mortgagee, in order of lien priority, if the Leasehold Mortgagee having the most senior lien shall not request or shall not be permitted by law or its agreements with Tenant to do so) shall be permitted to receive insurance proceeds and/or condemnation awards otherwise payable to Tenant and shall be permitted (but shall not be obligated except as required by law or its agreements with Tenant or as provided in the next sentence) to restore the Premises. In addition, if such Leasehold Mortgagee (by reason of its acquiring Tenant's leasehold estate) shall be obligated under this Lease

to repair or restore the Premises, such obligation shall be limited to the amount of such proceeds or awards actually received by such Leasehold Mortgagee.

(q) Upon Tenant's request, and at no material cost to Landlord, Landlord shall execute such documents or instruments confirming Tenant's right and authority to enter into a Leasehold Mortgage and/or granting a security interest in this Lease and confirming that Landlord will give such Leasehold Mortgagee notice and the right to cure any Default of Tenant as provided herein. In addition, Landlord, upon the request of Tenant or any Leasehold Mortgagee, shall execute such reasonable modifications or amendments of this Lease as shall be required by such Leasehold Mortgagee or by any person to which Tenant has made application for a Leasehold Mortgage provided such modifications or amendments do not, taken as a whole, materially affect Tenant's obligations or materially affect Landlord's rights under this Lease. Landlord shall not unreasonably refuse any such request for such modification or amendment. Further, Landlord agrees to enter into a triparty agreement with Tenant and its lender, upon terms and conditions acceptable to such lender and to Landlord, to set forth the rights of Tenant's lender substantially as provided in this Section. In no case shall Landlord be required to guarantee any loan, provide any financing, or mortgage any of its property.

(r) Landlord and Tenant agree that they will make good faith efforts to assist one another so that Tenant can obtain a commercially reasonable loan to finance the construction of the Marina Restaurant Component.

16. LANDLORD NON-DISTURBANCE AND RECOGNITION AGREEMENT.

Tenant may enter into one or more subleases for the Premises with subtenants. Provided that Tenant obtain the prior written consent of the subject sublease(s) from Landlord, and Landlord agrees that such consent shall not be unreasonably withheld, conditioned, or delayed, then:

(a) Upon any termination of this Lease, provided the applicable subtenant of the Premises (or any portion thereof) is not in default under its sublease beyond any applicable notice and cure periods, (i) Landlord shall not disturb such subtenant's possession of its subleased premises, nor shall any of such subtenant's rights under its sublease be affected in any way by reason of any default under this Lease by Tenant, provided such subtenant shall attorn and recognize Landlord, as the subtenant's sublandlord under its sublease and (ii) Landlord shall recognize such subtenant's rights under its sublease, as such subtenant's sublandlord under its sublease, and accept such subtenant's attornment.

(b) Upon any such attornment and recognition, the applicable sublease shall continue in full force and effect as, or as if it were, a direct lease between Landlord and the subtenant upon all of the then executory terms, conditions and covenants as are set forth in the sublease prior to the date of attornment, and shall be applicable after such attornment and recognition provided, however, at no time shall Landlord be (i) liable for any prior default by Tenant, as sublandlord under the sublease; (ii) responsible for any monies owing by Tenant, as sublandlord under the sublease; (iii) required to account for any security deposit, other than any security deposit actually delivered to Landlord or for any rent that the subtenant might have paid for more than the current month to Tenant; nor (v) liable for the breach of any representation or warranty (of any nature whatsoever) made by Tenant or to any other party for matters arising prior to the date of attornment.

(c) Upon the request of a subtenant of the Premises (or any portion thereof), Landlord shall enter into a commercially reasonable non-disturbance, attornment and recognition agreement with the subtenant setting forth the terms and conditions of this Section 16 and such other terms as mutually may be agreed upon by Landlord and the subtenant.

17. COVENANT OF QUIET ENJOYMENT. Landlord covenants and warrants that, provided Tenant is not in breach of any material term of this Lease beyond any applicable notice and cure period, Tenant shall peacefully have and enjoy the sole possession of the Premises during the Term free from the adverse claims of any persons, firms or corporations claiming by, through or under Landlord. Landlord agrees to execute any and all easements or rights of way on, over or under the Premises or any part thereof at Tenant's request which are or may be needed or required by Tenant in conjunction with Tenant's use and enjoyment of the Premises; and Landlord agrees to execute any other public utility or governmental body related documents or agreements in the form customarily provided by such public utility or governmental body, which is necessary to fulfill the intent and purposes of this Lease, including, without limitation, the facilitation of, a successful prosecution of all Improvements and construction, signage rights, parking, access, drainage, utilities, communications, lighting, governmental services, the operations by Tenant under this Lease, and all other matters and things contemplated or impliedly necessary under this Lease for its full effectuation, performance or realization. Landlord agrees not to file or cause any zoning change to be made that would affect the Premises without the prior written approval of Tenant. Landlord warrants and represents that there are no mortgages or deeds of trust applicable to the Premises as of the Effective Date.

Landlord represents and warrants that the Premises are owned in fee simple by Landlord; that it is seized of the Premises in fee, subject only to the exceptions set forth on Exhibit D hereto, and that it has entered into this Lease with proper authority. If, at any time during the Term, any indebtedness, lien, assessment, claim, or other matter whatsoever shall arise or shall be asserted which in any way interferes or threatens to interfere with Tenant's use of the Premises as herein provided or referenced, and such indebtedness, lien, assessment, claim, or other matter arises due to Landlord's breach of this Lease or any act or omission of Landlord from and after the Effective Date, then Tenant shall have the right to expend such sums as are necessary to abate said threat or interference and deduct the same from consideration due Landlord until Tenant is reimbursed in full.

18. ASSIGNMENT AND SUBLETTING.

(a) Except as otherwise expressly provided herein, Tenant shall be permitted to sublease any portion of the Premises, in whole or in part, in any manner whatsoever, to subtenants (a "**Premises Tenant**") pursuant to a sublease in the ordinary course of its business (a "**Tenant Lease**") without the consent of Landlord, if the use specified in the Tenant Lease is permitted hereunder and by current and applicable zoning requirements. Tenant also may transfer, license, lease, sublease, and/or assign this Lease and its rights and interests hereunder, without the consent of Landlord, (i) at any time, to an Affiliate (as such term is defined in the Comprehensive Agreement), provided that Tenant or the Developer or a manager who is a knowledgeable manager reasonably approved by Landlord is the manager of such Affiliate; and (ii) from and after the issuance of a certificate of occupancy with respect to the Marina Restaurant Component, to any third party. Tenant shall also be permitted to transfer, convey or pledge its interest in this Lease

to a Leasehold Mortgagee without the consent of Landlord. Any such sublease, transfer, conveyance or pledge by the Tenant shall be subject to all of the terms and provisions of this Lease. Except as otherwise expressly permitted hereunder, if Tenant seeks to assign, transfer or sell its leasehold interest in this Lease, the express prior written consent of Landlord shall be required, which consent shall not be unreasonably withheld, conditioned or delayed. Any such consent to an assignment shall be subject to all of the terms and provisions of this Lease and, provided that the assignee agrees in writing to assume all of the Tenant's rights and obligations under this Lease, shall release Tenant from its obligations under this Lease. Landlord's consent shall not be required for Premises Tenant's certificates of occupancy, building permits, tenant allowances or buildout terms and procedures except as may otherwise be required by Landlord by virtue of Landlord being the Governmental Authority overseeing these items in its regulatory capacity. Within sixty (60) days of executing a Tenant Lease with a Premises Tenant, Lessee shall notify Lessor the Tenant Lease has been executed and the identity of the Premises Tenant.

(b) Should Tenant take any action to assign this Lease without the prior written consent of Landlord as provided in Section 18(a), then any such assignment shall be null and void and of no force and effect.

(c) Any successor or assignee of Tenant's rights and/or obligations under this Lease shall expressly assume in writing performance of such rights and/or obligations and deliver same to Landlord within ten (10) days after consummation of the assignment, transfer or sale.

19. NOTICES. All notices, requests, consents, demands, approvals or other communications required or permitted under this Lease shall be in writing, addressed to the person identified below, and delivered either by: (a) hand delivery, (b) overnight courier by a nationally recognized courier, with all fees prepaid; Registered or Certified Mail, return receipt requested and postage prepaid; or delivered by email with "FORMAL NOTICE UNDER GROUND LEASE" in the subject line:

If to Landlord: Town of Lake Park
 Attention: Town Manager
 535 Park Avenue
 Lake Park, Florida 33403

With a copy to:

Town of Lake Park
 Attention: Town Attorney
 535 Park Avenue
 Lake Park, Florida 33403

If to Tenant: FD P3 LP RESTAURANT, LLC,
 c/o Forest Development P3 LPM, LLC
 Attn: Peter Baytarian
 11231 US Highway 1, Suite 354

North Palm Beach, Florida 33408
info@forestdevelopment.com

And to:

Saul Ewing LLP
Attn: Anthony Kang
701 Brickell Avenue, 17th Floor
Miami, Florida 33131
Anthony.kang@saul.com

With a copy to:

Zabik & Associates, Inc.
Attn: Larry Zabik
11398 Okeechobee Blvd, Suite 2
Royal Palm Beach, Florida 33411
lzabik@zabikandassociates.com

Any and all tax notices and information shall also be sent to: Tenant

Each such notice shall be deemed delivered: (i) if delivered by hand, the date the receipt is signed; (ii) if sent by overnight courier, on the courier's confirmation of delivery date, or (iii) if sent by Registered or Certified Mail, upon receipt as indicated by the date on the signed return receipt.

Landlord and Tenant agree that any and all notices given by either party shall be provided simultaneously to any assignee of Tenant or any lender to Tenant when such assignee or lender has been previously identified in writing to the parties along with the appropriate address for such notices. Either Party may, at any time, change its address for the above purposes by sending a notice to the other party stating the change and setting forth the new address.

20. MISCELLANEOUS.

(a) Captions. Captions or headings of sections are for convenience only and shall not be considered in construing the meaning of the contents of such section.

(b) Partial Invalidity. If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

(c) Prevailing Party. Should Landlord or Tenant institute any legal proceedings against the other for breach of any provisions herein contained, each party in such action shall be

responsible for its own conduct costs and litigation expenses including reasonable attorneys' fees through all levels of appeal.

(d) No Prior Agreements / No Third-Party Beneficiaries. This Lease supersedes and cancels all prior negotiations between the parties, and all other negotiations and understandings are merged into this Lease. This Lease, together with the terms and conditions of the Comprehensive Agreement applicable to the Marina Restaurant Component, constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof. The parties acknowledge that there are no other promises, agreements, conditions, undertakings, warranties, or representations, oral or written, express or implied, between and among them, except as set forth, referenced, or incorporated herein or in the Comprehensive Agreement (to the extent incorporated herein). Furthermore, this Lease is intended solely for the benefit of the parties hereto expressly noted herein and whose signatures appear hereon and their respective permitted successors and assigns, as applicable. No third party shall have any rights or interest herein and there are no and shall be no third-party beneficiaries hereto.

(e) Amendments and Modifications/No Oral Modifications. All amendments or modifications to this Lease must be in writing signed by the Parties. No purported amendments or modifications to this Lease which are oral shall be effective, binding or enforceable.

(f) Interpretation and Gender. The singular shall include the plural, and the masculine, feminine or neuter shall include either of the others as appropriate in context.

(g) Successors and Assigns. All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors and assigns of the said parties; they shall all be bound jointly and severally by the terms, covenants and agreements herein.

(h) No Waiver. The failure to enforce any particular provision of this Lease on any particular occasion shall not be deemed a waiver by either party of any of its rights hereunder, nor shall it be deemed to be a waiver of subsequent or continuing breaches of that provision.

(i) Estoppel Certificates. Landlord and Tenant agrees, from time to time as may be requested by each other, to execute, acknowledge and deliver within thirty (30) days after being requested to do so an estoppel letter certifying the following to such party as it reasonably may designate, including any Leasehold Mortgagee: (a) that (i) this Lease is in full force and effect and has not been amended, modified or superseded; (ii) Landlord and Tenant are not in default under this Lease; (iii) Tenant has no defense, offset or counterclaim under this Lease or otherwise against Landlord with respect to this Lease or the Premises; (b) the date to which Lease Payments have been paid; and (c) such other information as the requesting party may reasonably request.

(j) Calculation of Time Periods. In the computation of any time periods hereunder shall exclude Saturdays, Sundays, and state or national legal holidays, and any time period provided for herein which shall end on Saturday, Sunday, or a legal holiday shall extend to 6:00 p.m. eastern time of the next business day.

(k) Florida Law and Venue. This Lease and all of its provisions shall be construed in accordance with the laws of the State of Florida. In the case of any legal proceedings, venue shall be Palm Beach County.

(l) Severability. In the event any provision of this Lease is prohibited, unenforceable or invalid under the laws of any jurisdiction, including those of the State of Florida, such prohibition, or unenforceable or invalid provision shall not in any fashion affect the enforceability or validity of the remaining provisions hereof.

(m) Construction. This Lease shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that all parties have contributed substantially and materially to the preparation of this Lease.

(n) No Cross Default. The Comprehensive Agreement contemplates that the "Project" (as defined in the Comprehensive Agreement) will be comprised of the "Hotel Component," the "Boat Storage Component," the "Public Marina Component" and the "Marina Restaurant Component" (collectively the "**Components**" and individually a "**Component**"). The Developer has created a separate entity to be the tenant under this Lease and separate entities to be the tenants under separate ground leases with Landlord with respect to the Boat Storage Component (the "**Boat Storage Lease**"), the Public Marina Component ("**Marina Lease**"), and the Hotel Component (the "**Hotel Lease**"). The Boat Storage Lease, the Marina Lease and the Hotel Lease are collectively referred to herein as the "**Other Leases**" and individually as an "**Other Lease**").

Landlord and Tenant hereby agree that the rights and obligation under the Comprehensive Agreement shall be bifurcated so that (i) any rights and obligations with respect to the Marina Restaurant Component under the Comprehensive Agreement shall only benefit and be required to be performed by the Tenant under this Lease, any obligation under this Lease shall only apply to the Marina Restaurant Component under the Comprehensive Agreement, and any breach of the obligations under this Lease or the rights and obligations under the Comprehensive Agreement with respect to the Marina Restaurant Component shall not affect or constitute a default under the Other Leases; (ii) any rights and obligations with respect to any Component (other than the Marina Restaurant Component) under the Comprehensive Agreement shall only benefit and be required to be performed by the tenant under the applicable Other Lease, any obligation under the applicable Other Lease shall only apply to the applicable Component of such Other Lease under the Comprehensive Agreement, and any breach of the obligations under such Other Lease or the rights and obligations under the Comprehensive Agreement with respect to the Component applicable to such Other Lease shall not affect or constitute a default under this Lease; and (iii) to the extent of any inconsistency between the terms of this Lease and the terms of the Comprehensive Agreement, the terms of this Lease shall prevail and control.

(o) Landlord Approval. Landlord shall act on requests from Tenant for any consent or approval hereunder in a commercially reasonable manner and shall use commercially reasonable efforts to respond to any such request within twenty (20) days following Landlord's receipt thereof (unless another time period for such response is expressly provided for herein). Landlord's response may consist of an approval or disapproval of the request, or a conditional

approval thereof subject to specified conditions, or a request for further data or information, or any combination thereof. If Landlord does not approve, reject or request additional information regarding any request hereunder within twenty (20) days following Landlord's receipt thereof (or another time period expressly provided for herein with respect thereto), Tenant may provide to Landlord a second written request, which shall include a legend, printed in capital letters and boldface type, to the following effect: **"THIS COMMUNICATION REQUIRES IMMEDIATE RESPONSE. FAILURE TO RESPOND WITHIN TEN (10) DAYS FROM THE RECEIPT OF THIS COMMUNICATION SHALL CONSTITUTE A DEEMED APPROVAL BY LANDLORD OF THE ACTION REQUESTED BY TENANT."** Landlord shall be deemed to have approved or consented to such action if Landlord fails to object to or request additional information with respect thereto within ten (10) days of such second request.

Wherever in this Lease the approval or consent of Landlord is required, it is understood and agreed that, unless specifically stated to the contrary, such approval or consent shall be granted or withheld in the reasonable discretion of Landlord or of the Town Manager) of Landlord (the **"Town Manager"**) (as applicable), within a reasonable time, and shall not be unreasonably withheld, conditioned or delayed. Except as may be otherwise specifically provided herein, the following actions under this Lease shall be taken or not taken by the Town Manager in the discretion of the Town Manager acting reasonably:

- (i) The exercise of Landlord's rights of entry and inspection;
- (ii) The exercise of Landlord's right or obligation to execute a joinder in (a) applications for land development approvals or other governmental approvals (including permits) which are necessary for Tenant to obtain from governmental authorities, and where such applications require evidence of the consent of the property owner, and (b) any easement, declaration, amendment or creation of an agreement affecting title to the Premises and any other document as may be requested by Tenant in connection with the development and/or operation of the Premises;
- (iii) The exercise of Landlord's right to receive and approve or not approve and specify the basis for such disapproval the form of certificates of insurance, policies, limits, and coverages of insurance, bonds, and Environmental Assessments;
- (iv) The execution of estoppel statements (or any modifications of the terms thereof) to be given by Landlord under this Lease;
- (v) The approval, if required, of any assignment or sublease; and
- (vi) Other provisions of this Lease where the act, approval or consent of the Landlord is expressly authorized or required, except any amendment to this Lease shall require the written consent of the Town Commission of the Landlord.

(p) Further Assurances. Each Party will promptly cooperate each with the other and will execute and deliver any and all written further assurances and/or documents that are reasonably necessary, convenient, or desirable to evidence, complete or perfect (or any combination thereof) the transactions contemplated by this Lease, so long as no further assurance or document to be executed operates to impose any new or additional obligation or liability upon

any Party. Each Party will so perform all other acts that are reasonably necessary, convenient, or desirable for any such purpose, so long as no new or additional obligations or liabilities are incurred as a result thereof.

Additionally, Landlord further agrees that it will execute such documents and perform such acts as Tenant may reasonably require in connection with the development and/or operation of the Premises, including, but not limited to, executing such easements, documents affecting title to the Premises, applications for governmental approvals, modifications and/or termination of existing easements and/or restrictions affecting the Premises, creation of declarations affecting the Premises and such other documents and acts as reasonably requested by Tenant in connection with its development and/or operation of the Premises, provided that such cooperation shall be subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed.

21. DELAYS. In any case where either party hereto is required to do any act, such party shall be excused from the performance thereof for the duration of delays caused or resulting from Acts of God, war, civil commotion, fire or other casualty, labor difficulties, general shortages of labor, materials or equipment, government regulations, moratorium, other causes beyond such party's reasonable control or circumstances or events characterized at law as "force majeure", whether the time for such performance shall be designated by a fixed date, a fixed period of time, or a "reasonable" period of time. In addition, should any lawsuit, legal proceeding, investigation or other legal matter be filed or commenced against Landlord, Tenant, or any other party related to this Lease, which materially affects this Lease, all time periods contained in this Lease shall be delayed until such legal matter is resolved in its entirety, including any and all appellate proceedings or the like. Notwithstanding anything to the contrary set forth in this Section 21 or elsewhere in this Lease, no event of force majeure (or any event deemed to be beyond the control of Tenant) shall be construed to apply to any of Landlord's or Tenant's monetary obligations hereunder or to permit or allow either Landlord or Tenant to delay or defer any such obligation.

22. ENVIRONMENTAL MATTERS.

(a) For purposes hereof, the following terms shall have the following meanings:

(i) **"Environmental Laws"** shall mean all Federal, state and local laws, statutes, ordinances, codes, rules, regulations and other requirements respecting the environment, including but not limited to those respecting: (A) the generation, use, handling, processing, storage, treatment, transportation, or disposal of any solid or hazardous wastes, or any hazardous or toxic substances or materials; (B) pollution or contamination of land, improvements, air (including indoor air), or water (including groundwater); (C) emissions, spills, releases, or discharges of any substance onto or into the land, improvements, air (including indoor air), or water (including groundwater), or any sewer or septic system; (D) protection of wetlands; (E) aboveground or underground storage tanks; (F) air quality (including indoor air quality) or water quality (including groundwater quality); and (G) protection of endangered species. Without limiting the generality of the foregoing, the term "Environmental Laws" includes the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C., Sec. 9601, et seq.; the Resource Conservation and Recovery Act, as amended, 42

U.S.C., Sec. 6901, et seq., and the Toxic Substance Control Act of 1976, as amended, 15 U.S.C., Sec. 2601, et seq.

(ii) **“Environmental Violation”** shall mean (A) any direct or indirect discharge, disposal, spillage, emission, escape, pumping, pouring, injection, leaching, release, seepage, filtration or transporting of any Hazardous Substance at, upon, under, onto or within the Premises, or from the Premises to the environment, in violation of any Environmental Law or in excess of any reportable quantity established under any Environmental Law or which could result in any liability to any Governmental Authority or any other person for the costs of any removal or remedial action or natural resources damage or for bodily injury or property damage, (B) any deposit, storage, dumping, placement or use of any Hazardous Substance at, upon, under or within the Premises or which extends to any adjoining property in violation of any Environmental Law or in excess of any reportable quantity established under any Environmental Law or which could result in any liability to any Governmental Authority or any other person for the costs of any removal or remedial action or natural resources damage or for bodily injury or property damage, (C) the abandonment or discarding of any barrels, containers or other receptacles containing any Hazardous Substances in violation of any Environmental Laws, or (D) any violation of or noncompliance with any Environmental Law.

(iii) **“Governmental Authority”** shall mean any federal, state, county or municipal government, or political subdivision thereof, any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality, special service district or public body, or any court or administrative tribunal.

(iv) **“Hazardous Substances”** shall mean any substance, material or waste defined as a pollutant or contaminant, or as a hazardous, toxic or dangerous substance, material or waste, under any Environmental Law, including, without limitation, petroleum, petroleum products, PCBs and asbestos.

(b) Tenant shall not use, or permit its agents, employees, contractors, subtenants, licensees or invitees to use the Premises for the purpose of treating, producing, handling, transferring, processing, transporting, disposing, using or storing a Hazardous Substance in violation of any Environmental Law. Tenant shall, at Tenant’s own expense, comply with all Environmental Laws as the same affect the Premises or the operations and activities of Tenant, its agents, employees, contractors, subtenants, licensees or invitees (collectively, **“Tenant Parties”**) on or about the Premises.

(c) In the event Tenant becomes aware of any Environmental Violation or any suspected Environmental Violation at the Premises, Tenant shall promptly (a) notify Landlord of such Environmental Violation or suspected Environmental Violation, and (b) deliver to Landlord any notice filed by or received by Tenant with or from any Governmental Authority relating thereto immediately upon filing or receipt thereof.

(d) In the event that, in the reasonable opinion of Landlord, there is a basis to believe that an Environmental Violation exists, Landlord shall have the right to have its environmental consultants (**“Site Reviewers”**) visit the Premises and perform environmental site

investigations and assessments (“**Site Assessments**”) on the Premises for the purpose of determining whether there exists on the Premises any Environmental Violation or any condition which is likely to result in any Environmental Violation. Such Site Assessments may include both above and below the ground testing for Environmental Violations and such other tests as may be necessary, in the opinion of the Site Reviewers, to conduct the Site Assessments. The Site Reviewers shall use their good faith diligent efforts to minimize any interference with the operations of Tenant and other occupants of the Premises. Tenant shall supply to the Site Reviewers such historical and operational information regarding the Premises as may be reasonably requested by the Site Reviewers to facilitate the Site Assessments and shall make available for meetings with the Site Reviewers appropriate personnel having knowledge of such matters.

(e) In the event that there exists any Environmental Violation caused by any Tenant Party, Tenant shall, at its own cost and expense:

(i) promptly and diligently take any and all actions necessary to return the Premises to a condition which is in compliance with Environmental Laws, and which will not impede or limit further development of the Premises;

(ii) provide Landlord, within ten (10) days after Landlord’s request therefor, adequate financial assurances that Tenant will effect remediation in accordance with applicable Environmental Laws. Such financial assurances shall be a bond or letter of credit in form and substance reasonably satisfactory to Landlord and in an amount equal to Landlord’s reasonable estimate of the anticipated cost of such remedial action;

(iii) without limiting the generality of Section 22(e)(i), make all submissions and provide all information required by Environmental Laws. Tenant shall comply with all requests of the United States Environmental Protection Agency, the Florida Department of Environmental Protection and any other Governmental Authority having jurisdiction over the Premises, including any request that a cleanup plan be prepared and that a cleanup be undertaken with respect to the Premises. In such event, Tenant shall, at Tenant’s own expense, prepare and submit appropriate documents, and carry out the approved plans, or take such other action as may be appropriate to eliminate any environmental harm or threat to public health or welfare and to eliminate any potential liability of Landlord or Tenant. Any submissions made by Tenant pursuant to this Section and any action taken by Tenant pursuant to such submissions shall be subject to the prior review and approval of Landlord, which approval shall not be unreasonably withheld.

(f) Tenant shall indemnify, defend and save Landlord harmless from all claims, actions, suits, proceedings, losses, damages, liabilities, fines and expenses (including without limitation fees of attorneys, investigators and experts) arising or alleged to arise from or in connection with (a) any Environmental Violations, and (b) Tenant’s failure to provide all information, make all submissions and take all actions with respect to the Premises required by any Governmental Authority in connection with any Environmental Violations.

22. RADON. Section 404.056 (6), Fla. Stat., requires the inclusion of the following “Notification on Real Estate Documents” at the time of, or prior to, contract for sale and purchase

of any building or execution of a rental agreement for any building: "Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department."

23. SURRENDER. Upon the expiration or any earlier termination of the Term:

(a) Tenant shall surrender the Premises to Landlord, in good order, condition and repair, reasonable wear and tear, Casualty and Taking excepted;

(b) all right, title and interest of Tenant in and to the Premises shall automatically cease and terminate; and

(c) Tenant shall deliver the following to Landlord, to the extent in the possession or control of Tenant: (a) executed counterparts of any subleases, occupancy, license and concession agreements; (b) executed counterparts of any service and maintenance contracts then affecting the Premises; (c) true and complete maintenance records for the Premises; (d) any original licenses and permits then pertaining to the Premises, including, without limitation, the then existing certificate of occupancy for the Premises; and (e) any warranties and guaranties then in effect which Tenant has received in connection with any work or services performed or equipment installed in the Premises, together with a duly executed assignment thereof to Landlord. Nothing herein contained shall be or be deemed to be a consent by Landlord to any sublease, occupancy, license, concession agreement, service or maintenance contract for a term to expire later than the Expiration Date.

Notwithstanding the foregoing to the contrary, Landlord shall have the right to elect upon the expiration or any earlier termination of the Term, by written notice to Tenant no later than six (6) months prior to the date of such expiration or earlier termination, to require Tenant to raze the Improvements, and clear, grade and seed the former location thereof and put the Premises in good, safe, lawful, clean and orderly condition, in which event Tenant, at its sole cost and expense, shall do so at its sole cost and expense within one hundred and eighty (180) days of such expiration or termination.

24. RIGHT OF FIRST REFUSAL. From and after the date hereof and during the Term, Landlord shall not sell, transfer or otherwise dispose of or convey all or part of Landlord's fee interest in the Premises to any third party until and unless Landlord shall have obtained a bona fide offer therefor (the "**Landlord's Offer**"), delivered written notice thereof to Tenant, which notice shall contain a true and accurate copy of Landlord's Offer, and offered to sell, transfer or otherwise dispose of such fee interest to Tenant at the same price and, except as hereafter provided, upon the same terms and conditions as contained in Landlord's Offer, and Tenant has not elected to exercise its right of first refusal in accordance herewith.

If Tenant shall either deliver written notice of rejection of Landlord's Offer to Landlord or fail to deliver written notice of acceptance of Landlord's Offer within thirty (30) days after the date of receipt of Landlord's notice, Landlord's fee interest in the Premises may, during the one

hundred eighty (180) days thereafter, be sold, transferred or otherwise disposed of to the original offeror at the same price and upon the same terms and conditions as contained in Landlord's Offer.

In the event Tenant rejects Landlord's Offer or fails to accept Landlord's Offer in accordance herewith, this Lease and all of its terms and conditions (including this right of first refusal) shall nevertheless remain in full force and effect and Landlord and any purchaser or purchasers of the Premises shall be bound thereby.

Failure of Tenant to exercise its right of first refusal on one or more occasions shall not affect Tenant's right to exercise it on any subsequent occasion. Any sale or transfer of the Premises, or any part thereof, other than in strict compliance with the terms of this Section shall be null and void and of no effect as to Tenant, and Tenant shall be entitled to purchase the Premises from the purchaser upon the same terms and conditions and at the same price specified in Landlord's Offer, provided Tenant notifies Landlord of its election thirty (30) days after receipt of notice that complies with the requirements hereof. The making of Lease Payments to such purchaser or otherwise treating such purchaser as Landlord shall not be deemed to be a waiver of Tenant's right of first refusal or any other right or privilege of Tenant and shall not create an estoppel with respect thereto.

Any sale or transfer of Landlord's interest in the Premises, or any part thereof shall be expressly made subject to all of the terms, covenants and conditions of this Lease. In the event Landlord's Offer provides for the sale and purchase of Landlord's interest in the Premises and other property, Tenant shall only be required to purchase all the Premises in the event it desires to exercise its right of first refusal hereunder.

In the event Tenant exercises its right of first refusal then, notwithstanding the terms of Landlord's Offer (i) Landlord shall convey title to the Premises by warranty deed approved by Tenant and the title company; (ii) title to the Premises shall be free and clear of any liens and encumbrances except the lien for current taxes which are not delinquent at the time of closing and such other exceptions to title as may have been created by Tenant during the Term or as existed on the date hereof and/or were approved by Tenant thereafter; and (iii) title to the Premises shall otherwise comply with the terms of this Lease as they pertain to condition of title. Upon such election by Tenant, Landlord and Tenant agree to act in good faith to consummate a purchase agreement for the Premises incorporating the express terms of Landlord's Offer and other customary terms and provisions for similar transactions of similar property located in the same geographic area as the Premises.

25. NO BROKER. Landlord and Tenant represent and warrant to each other that no broker or finder was involved in arranging or bringing about this transaction and that there are no claims or rights for commissions, finders' fees or other compensation (collectively, "**compensation**") by any person or entity. If any broker or finder asserts a claim for compensation based upon any actual or alleged contact, dealings or communication with Landlord or Tenant, then the party through whom such broker or finder makes its claim shall indemnify and hold the other party (the "**Indemnified Party**") harmless from and against any and all claims, damages, judgments, suits, liabilities, losses, costs and expenses (including without limitation, reasonable

attorneys' fees and court costs) suffered or incurred by or brought against the Indemnified Party in connection with such claim for compensation..

26. MEMORANDUM OF LEASE. Immediately following the execution of this Lease, the parties shall execute and record a Memorandum of Lease in the public records in the form attached hereto as Exhibit E.

27. WAIVER OF TRIAL BY JURY. THE PARTIES HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE OR THE RELATIONSHIP OF THE PARTIES CREATED HEREBY. THE PARTIES FURTHER HEREBY WAIVE THE RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN WAIVED. THE FOREGOING WAIVERS ARE IRREVOCABLE AND MUTUALLY, KNOWINGLY, WILLINGLY, INTENTIONALLY AND VOLUNTARILY MADE AFTER EACH PARTY HAS HAD THE BENEFIT OF OR OPPORTUNITY TO GAIN LEGAL ADVICE AND COUNSEL. EACH PARTY REPRESENTS, WARRANTS AND AFFIRMS TO THE OTHER THAT NO PARTY HAS IN ANY WAY AGREED, REPRESENTED OR OTHERWISE SUGGESTED OR IMPLIED THAT IT WILL NOT FULLY ENFORCE THE FOREGOING WAIVERS IN ALL INSTANCES.

[The Balance of the Page Intentionally Left Blank – Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be duly executed by their duly authorized officer where applicable and sealed as of the date first above written.

TENANT:

FD P3 LP RESTAURANT, LLC,
a Florida limited liability company

By: _____

Name: _____

Title: _____

Date: _____

PETER SEXTARIAN
MANAGING PARTNER

5/17/24

LANDLORD:

TOWN OF LAKE PARK, FLORIDA

Attest;

_____,
a Florida municipal corporation

By: _____

Mayor

By: _____

Deputy Town Clerk

Date: _____

5-15-24

Approved as to form and legal sufficiency

By: _____

Town Attorney



Exhibit A

Site Plan

42007160.6
51651338.2

Exhibit A – Site Plan

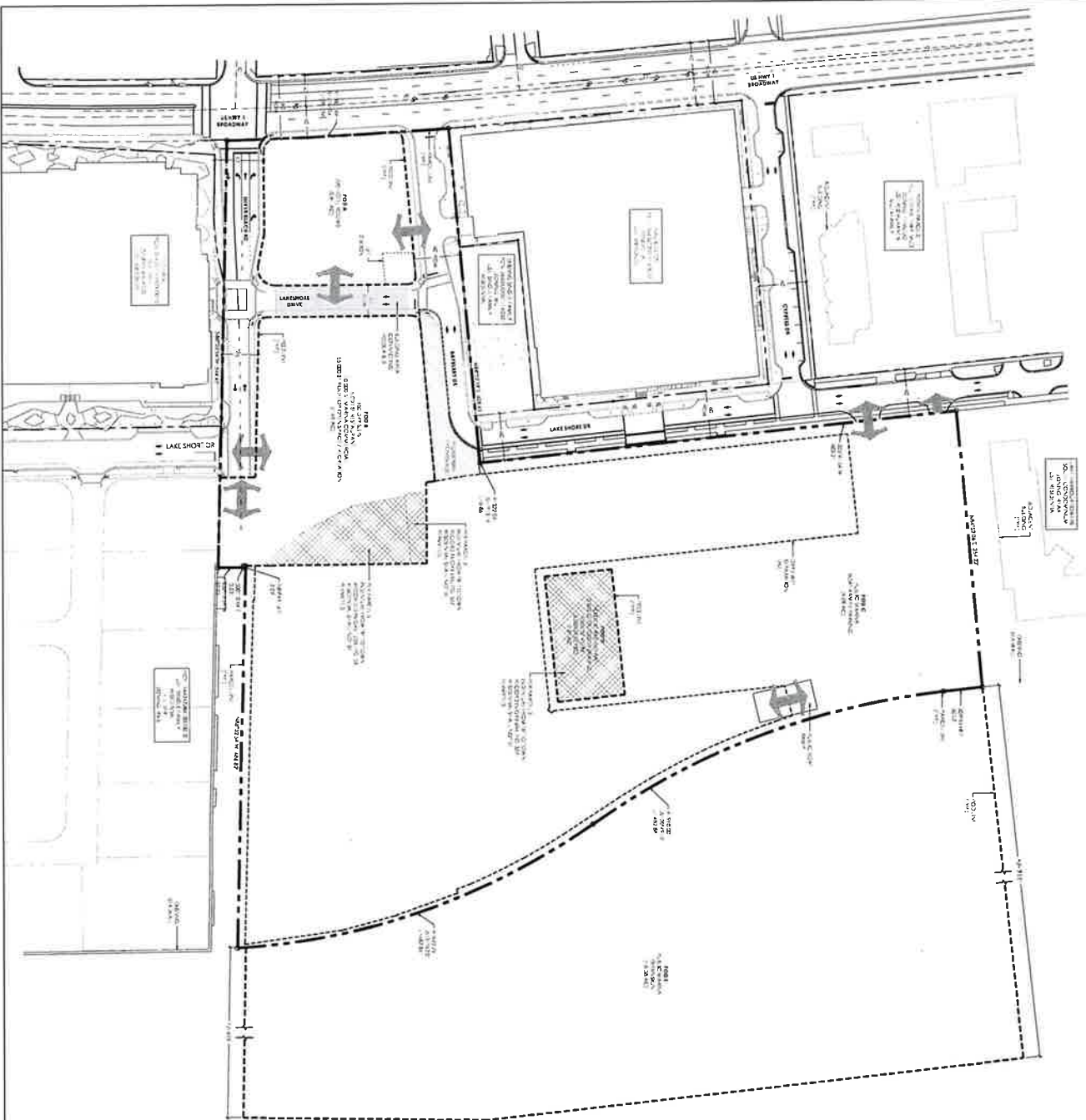
[illegible]

Exhibit B

Legal Description of the Premises

DESCRIPTION:

A PORTION OF FILLED-IN LANDS OF LAKE WORTH, LYING IN SECTION 21, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 31, BLOCK 114, KELSEY CITY (NOW KNOWN AS THE TOWN OF LAKE PARK), ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, PAGES 15 AND 23 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG THE EASTERLY PROLONGATION OF THE NORTH LINE OF SAID LOT 31, BLOCK 114, N84°52'19"E, A DISTANCE OF 60.00 FEET TO A POINT OF INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF LAKE SHORE DRIVE, AS SHOWN ON SAID PLAT; THENCE ALONG SAID EAST RIGHT-OF-WAY LINE, THE FOLLOWING TWO (2) COURSES AND DISTANCES: SAID POINT BEING ON THE ARC OF A NON-TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S85°31'22"W, A RADIAL DISTANCE OF 322.04 FEET; THENCE NORTHERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 01°13'16", A DISTANCE OF 6.86 FEET TO A POINT OF TANGENCY; THENCE N05°41'54"W, A DISTANCE OF 59.66 FEET; THENCE N84°18'06"E, A DISTANCE OF 152.83 FEET TO THE POINT OF BEGINNING; THENCE N05°45'59"W, A DISTANCE OF 85.01 FEET; THENCE N84°16'22"E, A DISTANCE OF 161.14 FEET; THENCE S05°41'01"E, A DISTANCE OF 84.99 FEET; THENCE S84°16'06"W, A DISTANCE OF 161.02 FEET TO THE POINT OF BEGINNING.

CONTAINING 13,692 SQUARE FEET OR 0.3143 ACRES, MORE OR LESS.

SURVEYOR'S NOTES:

1. SURVEY MAPS OR THE COPIES THEREOF ARE NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND ORIGINAL SEAL, OR THE AUTHENTICATED ELECTRONIC SIGNATURE AND SEAL, OF A FLORIDA LICENSED PROFESSIONAL LAND SURVEYOR AND MAPPER.
2. ADDITIONS OR DELETIONS TO SURVEY MAPS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
3. LANDS SHOWN HEREON WERE NOT ABSTRACTED, BY THE SURVEYOR, FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD. THERE MAY BE EASEMENTS AND OTHER INSTRUMENTS OF RECORD NOT SHOWN ON THIS SKETCH.
4. BEARINGS SHOWN HEREON ARE RELATIVE TO A GRID BEARING OF N84°52'19"E, ALONG THE NORTH LINE OF LOT 31, BLOCK 114, KELSEY CITY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, PAGES 15 AND 23 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, RELATIVE TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, TRANSVERSE MERCATOR PROJECTION, NORTH AMERICAN DATUM OF 1983, (90 ADJUSTMENT).
5. THE LAND DESCRIPTION SHOWN HEREON WAS PREPARED BY THE SURVEYOR.
6. DATA SHOWN HEREON WAS COMPILED FROM THE INSTRUMENTS OF RECORD RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND DOES NOT CONSTITUTE A FIELD SURVEY AS SUCH.
7. INSTRUMENTS OF RECORD SHOWN HEREON ARE RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, UNLESS OTHERWISE SHOWN.

CERTIFICATE:

I HEREBY CERTIFY THAT THE ATTACHED SKETCH AND DESCRIPTION OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION ON DECEMBER 12, 2023. I FURTHER CERTIFY THAT THIS SKETCH AND DESCRIPTION MEETS THE STANDARDS OF PRACTICE SET FORTH IN RULE 5J-17, FLORIDA ADMINISTRATIVE CODE, ADOPTED BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS PURSUANT TO FLORIDA STATUTES CHAPTER 472.027.

THIS IS NOT A SURVEY

SHEET 1 OF 4



CAULFIELD & WHEELER, INC.

CIVIL ENGINEERING
LANDSCAPE ARCHITECTURE - SURVEYING
7900 GLADES ROAD - SUITE 100
BOCA RATON, FLORIDA 33434
PHONE (561)-392-1991 / FAX (561)-750-1452

DAVID E. ROHAL
PROFESSIONAL LAND
SURVEYOR NO. 4315
STATE OF FLORIDA
LB 3591

**POD D
LAKE PARK MARINA REDEVELOPMENT
SKETCH AND DESCRIPTION**

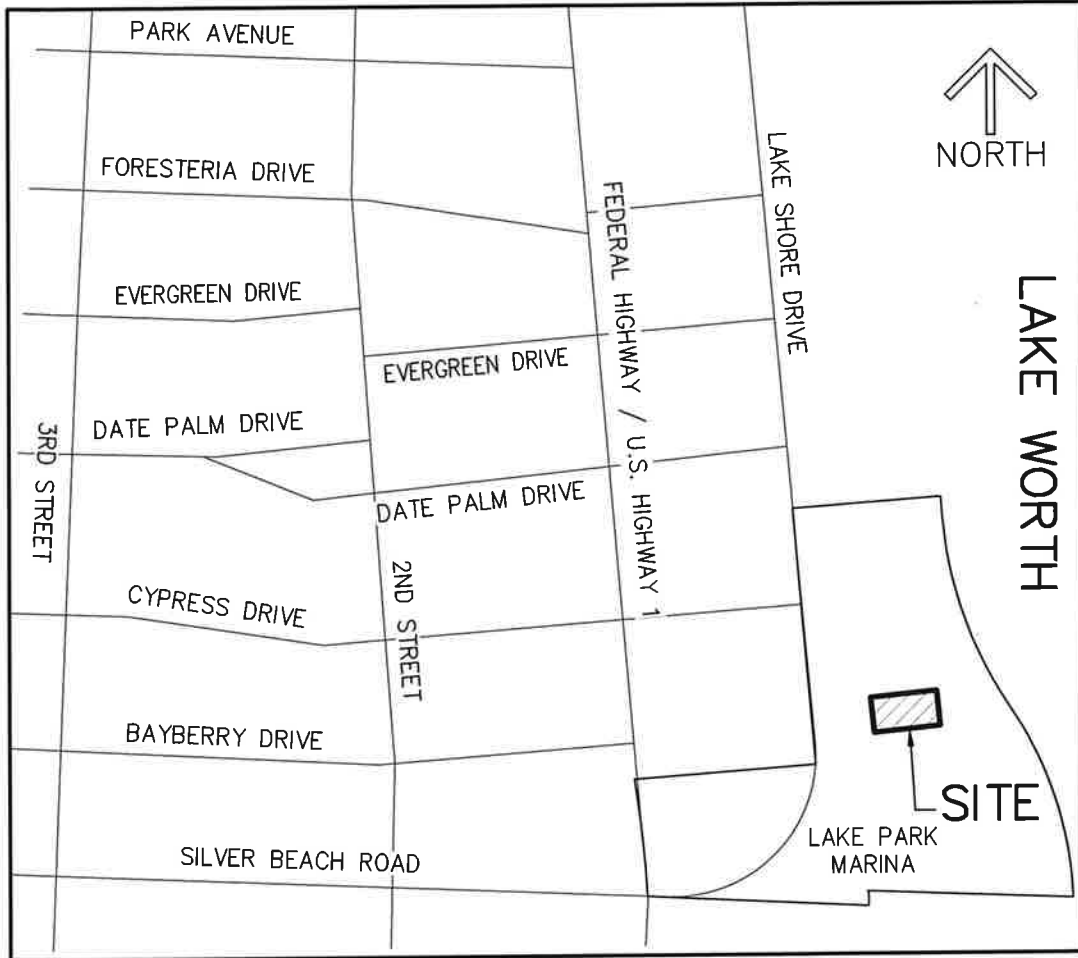
DATE 12-12-2023

DRAWN BY SAS

F.B./ PG. N/A

SCALE NONE

JOB NO. 10089- POD D



LOCATION MAP
(NOT TO SCALE)

LEGEND/ABBREVIATIONS:

21-42-43 - SECTION 21, TOWNSHIP 42 SOUTH, RANGE 43 EAST
 FDOT - FLORIDA DEPARTMENT OF TRANSPORTATION
 P.O.B. - POINT OF BEGINNING
 CL - CENTERLINE
 O.R.B. - OFFICIAL RECORDS BOOK
 P.B. - PLAT BOOK
 P.O.C. - POINT OF COMMENCEMENT
 R/W - RIGHT-OF-WAY
 PG(S). - PAGE(S)
 TIIF - TRUSTEES OF THE INTERNAL IMPROVEMENT FUND

LB - LICENSED BUSINESS
 PBC - PALM BEACH COUNTY
 SUA - SEACOAST UTILITY AUTHORITY

THIS IS NOT A SURVEY

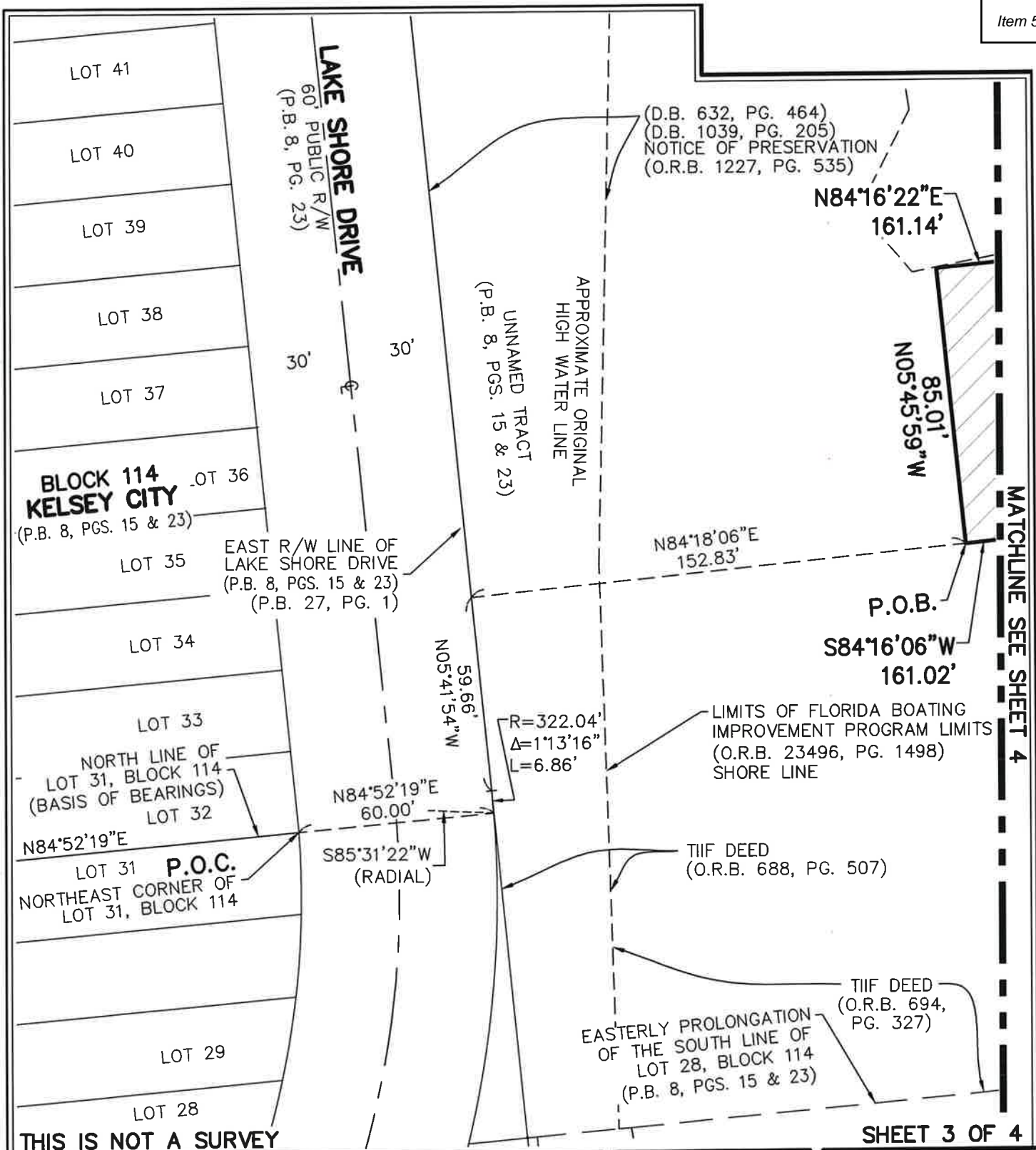
SHEET 2 OF 4



CAULFIELD & WHEELER, INC.
 CIVIL ENGINEERING
 LANDSCAPE ARCHITECTURE - SURVEYING
 7900 GLADES ROAD - SUITE 100
 BOCA RATON, FLORIDA 33434
 PHONE (561)-392-1991 / FAX (561)-750-1452

POD D
LAKE PARK MARINA REDEVELOPMENT
SKETCH AND DESCRIPTION

DATE	12-12-2023
DRAWN BY	SAS
F.B./ PG.	N/A
SCALE	NONE
JOB NO.	10089- POD D



CAULFIELD & WHEELER, INC.
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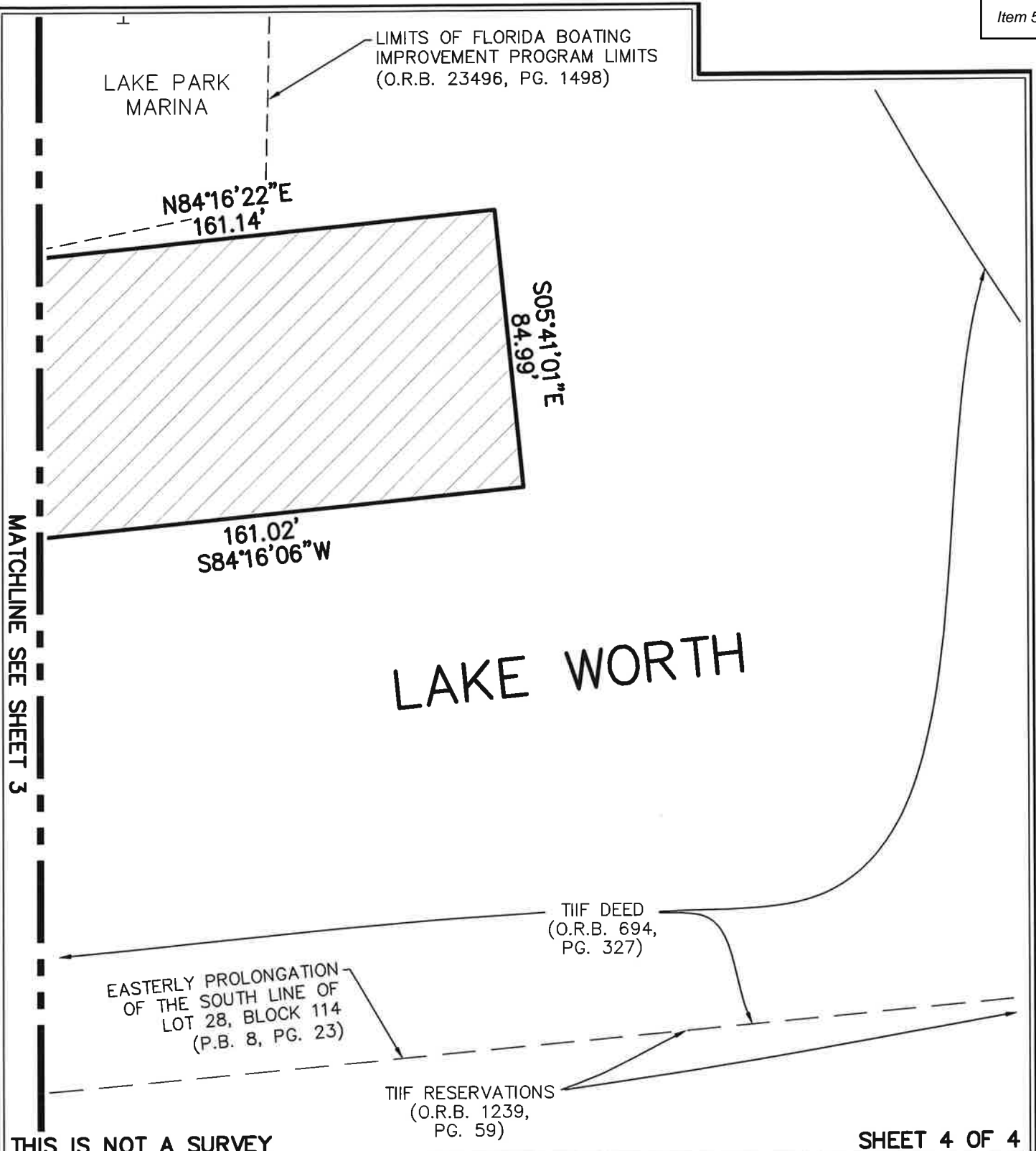
**POD D
LAKE PARK MARINA REDEVELOPMENT
SKETCH AND DESCRIPTION**

NORTH

0 20' 40'

1 INCH = 40 FEET

DATE	12-12-2023
DRAWN BY	SAS
F.B./ PG.	N/A
SCALE	1"=40'
JOB NO.	10089- POD D

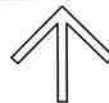


SHEET 4 OF 4



CAULFIELD & WHEELER, INC.

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 PHONE (561)-392-1991 / FAX (561)-750-1452



NORTH



1 INCH = 40 FEET

DATE 12-12-2023

DRAWN BY SAS

F.B./ PG. N/A

SCALE 1"=40'

JOB NO. 10089- POD D

POD D
 LAKE PARK MARINA REDEVELOPMENT
 SKETCH AND DESCRIPTION

Exhibit C**Lease Payments**

Period	Lease Payment
Calendar Year 2024	\$0
Calendar Year 2025	\$75,000.00
Calendar Year 2026	\$75,000.00
Calendar Year 2027	\$75,000.00
Calendar Year 2028	\$75,000.00
Calendar Year 2029	\$75,000.00
Calendar Year 2030	\$75,000.00
Calendar Year 2031	\$75,000.00
Calendar Year 2032	\$75,000.00
Calendar Year 2033	\$75,000.00
Calendar Year 2034	\$75,000.00

Lease Payments shall be made on or before May 1 of each calendar year from 2025 to 2034

No Lease Payments shall be due or payable commencing with calendar year 2035

Exhibit D

Permitted Title Exceptions

1. Right of way easement for the construction and maintenance of telephone and electric light lines, water and sewer systems and other public utilities expressly reserved upon, over, and under the rear five (5) feet of all lots shown on the Plat of Kelsey City (a/k/a Lake Park), according to the Plat thereof recorded in Plat Book 8, Pages 15 through 18, 23, 27 and 34 through 37, Public Records of Palm Beach County, Florida (All)
2. Right of Reverter contained in fee determinable conveyance Deed recorded in Deed Book 632, Page 464 as affected by Deed recorded in Deed Book 1039, Page 205 (Page 212), and by Official Records Book 1227, Page 535 Public Records of Palm Beach County, Florida (Parcel 6)
3. Right of Reverter contained in Right of Way Deed recorded in Deed Book 922, Page 533, Public Records of Palm Beach County, Florida. (Parcel 5)
4. Automatic phosphate, metals, minerals and petroleum reservations pursuant to Fla. Stat. 270.11(1) due to lack of express waiver in Deed by Trustees of the Internal Improvement Fund of Florida recorded in Official Records Book 688, Page 507, Public Records of Palm Beach County, Florida (Parcel 6)
5. Right of Reverter and oil, gas and mineral reservations contained in Official Records Book 694, Page 327, Public Records of Palm Beach County, Florida (Parcel 6)
6. Terms and conditions of Dedication by the Trustees of the Internal Improvement Fund of Florida recorded in Official Records Book 1633, Page 606, Public Records of Palm Beach County, Florida (Parcel 6)
7. Easement Grant recorded in Official Records Book 1154, Page 30, of the Public Records of Palm Beach County, Florida. (Parcel 6)
8. Right of Reverter and oil, gas and mineral reservations contained in Deed by the Trustees of the Internal Improvement Fund of Florida recorded in Official Records Book 1239, Page 59, Public Records of Palm Beach County, Florida (Parcel 5)
9. Terms and conditions of Dedication by the Trustees of the Internal Improvement Fund of Florida recorded in Official Records Book 1633, Page 606, Public Records of Palm Beach County, Florida. (Parcel 6)
10. Easement reserved in Quit Claim Deed recorded in Official Records Book 1668, Page 877, of the Public Records of Palm Beach County, Florida. (Lot 20)
11. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 6729, Page 439, of the Public Records of Palm Beach County, Florida. (Parcel 5)
12. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 7203, Page 1509, of the Public Records of Palm Beach County, Florida. (Lot 24)
13. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 7209,

42007160.6

Exhibit D – Permitted Title Exceptions

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Page 1673, of the Public Records of Palm Beach County, Florida. (West portion - Lots 16-24)

14. Sovereignty Submerged Lands Easement recorded in Official Records Book 11909, Page 636, as affected by Sovereignty Submerged Lands Easement Modification to Increase Square Footage recorded in Official Records Book 23335, Page 614, of the Public Records of Palm Beach County, Florida. (Parcels 6)
15. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 15608, Page 281, of the Public Records of Palm Beach County, Florida. (Lots 25)
16. Easement in favor of Florida Power & Light Company recorded in Official Records Book 18239, Page 594, of the Public Records of Palm Beach County, Florida. (Parcel 5)
17. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 18788, Page 1303, of the Public Records of Palm Beach County, Florida. (Lots 27-30)
18. Terms and conditions of Palm Beach County Florida Boating Improvement Program Notice of Limitation of Use recorded in Official Records Book 23496, Page 1498, of the Public Records of Palm Beach County, Florida. (Parcels 5-6)
19. Easement granted to Florida Public Utilities Company recorded in Official Records Book 23690, Page 1601, of the Public Records of Palm Beach County, Florida. (Parcel 6)
20. Terms and conditions of the unrecorded Lease between Town of Lake Park and T-Mobile South LLC evidenced by Memorandum of Lease recorded in Official Records Book 27270, Page 1224, of the Public Records of Palm Beach County, Florida. (Marina Parcels)
21. Terms and conditions of the unrecorded Lease between Town of Lake Park and T-Mobile South LLC evidenced by Memorandum of Lease recorded in Official Records Book 27388, Page 1280, of the Public Records of Palm Beach County, Florida. (Lot 25)
22. Temporary Easement granted to Florida Power and Light Company recorded in Official Records Book 33982, Page 1490, of the Public Records of Palm Beach County, Florida. (Parcels 1-4)
23. Rights of the United States Government to that part of the Land, if any, being artificially filled in land in what was formerly navigable waters arising by reason of the United States Government control over navigable waters in the interest of navigation and commerce.
24. The right, title or interest, if any, of the public to use as a public beach or recreation area any part of the Land lying between the water abutting the Land and the most inland of any of the following: (a) the natural line of vegetation; (b) the most extreme high water mark; (c) the bulkhead line, or (d) any other line which has been or which hereafter may be legally established as relating to such public use.

Exhibit E**Form of Memorandum of Lease**

This instrument was prepared by:

Saul Ewing LLP
 Attention: Anthony Kang
 701 Brickell Avenue, FL 17
 Miami, Florida 33131

MEMORANDUM OF GROUND LEASE

THIS MEMORANDUM OF GROUND LEASE ("Memorandum") is made as of the ____ day of _____, 2023, by and between TOWN OF LAKE PARK, FLORIDA, a Florida municipal corporation, having an address of _____ ("Landlord"), and _____, a Florida limited liability company, having an address of _____ ("Tenant").

WITNESSETH:

1. That by Ground Lease of even date hereof (the "Lease"), Landlord has demised and leased to Tenant and Tenant has rented from Landlord that certain real property located in Palm Beach County, Florida, as more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Premises"), and the rights, easements and privileges granted to Tenant in the Lease.

2. The term of the Lease shall commence on _____, ____ (the "Commencement Date") and shall expire at 12:00 Midnight on the ninety-ninth (99th) anniversary of the Commencement Date, unless sooner terminated as set forth in the Lease.

3. Pursuant to Florida Statutes Section 713.10 (2023), notice is hereby given that the Lease includes the following provision:

Tenant acknowledges and agrees that the interest of the Landlord in the Premises shall not be subject to liens for improvements made by the Tenant. Tenant shall not at any time permit any mechanics', laborers' or materialmen's liens to stand against the Premises for any labor or material furnished to Tenant or claimed to have been furnished to Tenant or Tenant's agents, contractors or subtenants, in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction or sufferance of Tenant.

Exhibit E – Memorandum of Lease

Page 1

4. For all other terms and provisions of the Lease, reference is hereby made to the Lease itself, and all persons are hereby placed on notice of the existence of the Lease and of its terms and provisions. The Lease and exhibits thereto are hereby incorporated by reference in this Memorandum. In the event of any conflict between the provisions of this Memorandum and the Lease, the provisions of the Lease shall govern, control and prevail.

5. Upon the expiration or earlier termination of the Lease for any reason whatsoever, Landlord shall be entitled to unilaterally execute and record a termination of this Memorandum which shall terminate and release this Memorandum. Tenant acknowledges and agrees that Tenant shall not be required to join in or execute such termination and that such termination, as executed only by Landlord, shall be effective to terminate this Memorandum without the joinder or execution by Tenant.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, Landlord and Tenant have caused this Memorandum of Lease to be duly executed and sealed as of the date first above written.

TOWN OF LAKE PARK, FLORIDA

_____,
a Florida municipal corporation

Attest;

By: _____
Mayor

By: _____
Town Clerk

Date: _____

Approved as to form and legal sufficiency

By: _____
Town Attorney

STATE OF FLORIDA)
)SS:
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this ____ day of _____, 2023, by _____ as Mayor of the Town of Lake Park, Florida, a Florida municipal corporation, on behalf of the Town. He/She is personally known to me or has produced _____ as identification.

Print Name:

Notary Public
My Commission Expires:

[SIGNATURES CONTINUE ON NEXT PAGE]

Witnesses:

TENANT:

_____ By: _____

Print Name: _____ Print Name: _____

Title: _____

Print Name: _____

STATE OF _____)

_____)SS:

COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this ____ day of _____, 2023, by _____ as a/the _____ of _____, LLC, a _____ limited liability company, on behalf of said entity. He/She is personally known to me or has produced _____ as identification.

Print Name: _____

Notary Public

My Commission Expires:

EXHIBIT "A"
LEGAL DESCRIPTION

[SEE ATTACHED]

Exhibit F**Form of Non-Disturbance and Attornment Agreement**

Return to: (enclose self-addressed stamped envelope)

Name: _____

Address: _____

_____This Instrument Prepared by: _____

SPACE ABOVE THIS LINE FOR PROCESSING DATA

**NON-DISTURBANCE AGREEMENT BY FEE MORTGAGEE
AS TO A LEASEHOLD MORTGAGE(S)**

THIS NON-DISTURBANCE AGREEMENT (this "**Agreement**") by and between Town of Lake Park, Florida ("**Lessor**" or "**Town**"), having an address at _____, _____, having an address at _____ ("**Tenant**"), _____, having an address at _____ ("**Lender**"), and _____, having an address at _____ ("**Fee Mortgagee**").

WITNESSETH:

WHEREAS, Tenant is the lessee under that certain Ground Lease with the Lessor dated _____, as may be amended from time to time (the "**Lease**") with respect to the "Premises" demised under the Lease; and

WHEREAS, Fee Mortgagee has extended a loan to the Town (as may be amended, modified, substituted, or replaced), referred to herein as the "**Fee Loan**." The Fee Loan is secured by, among other things, a mortgage which encumbers the Town's interest in the Lease and the Premises, as same may be amended from time to time, together with an assignment of leases (collectively, the "**Fee Mortgage**"); and

WHEREAS, pursuant to the terms of the Lease, Tenant has obtained and may in the future obtain certain loans ("**Loan(s)**") from lender(s) selected by Tenant (each, together with each lender(s)' respective successors and assigns, a "**Lender**"), which Loan(s) are and shall be secured by a leasehold mortgage(s) encumbering Tenant's rights in and to the Lease and the Premises ("**Leasehold Mortgage**"). Notwithstanding anything herein to the contrary, any lender(s) selected by Tenant shall not become a "Lender" under this Agreement until such time as such lender has provided a Lender Notice, as provided in Section 5 of this Agreement.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties intending to be legally bound, hereby agree as follows:

1. The recitations heretofore set forth are true and correct and are incorporated herein by this reference.

2. Fee Mortgagee, Town, Tenant and Lender (after the "**Lender Notice**," as hereinafter defined, is provided for such Lender and after such Lender agrees to be bound by this Agreement) are individually a "**Party**" and collectively "**Parties**."

3. If and as applicable, Tenant expressly acknowledges that Town has executed and delivered to Fee Mortgagee an Assignment of Leases and Rents (the "**Assignment of Leases**"), which assigns the Lease and the rent and all other sums due thereunder to Fee Mortgagee as security for the Fee Loan. For the avoidance of doubt, Fee Mortgagee expressly acknowledges and agrees that no property of any kind owned by Tenant (including, without limitation, any improvements, fixtures, personal property or other property owned by Tenant) are collateral for the Fee Loan and that Fee Mortgagee has no security interest in or pledge of any of Tenant's property or any of its rights in the Lease (or derived therefrom other than any residual rights that the Town has to such assets commencing upon the expiration or earlier termination of the Lease or New Lease, as applicable). Tenant acknowledges that the interest of the Town under the Lease has been assigned to Fee Mortgagee solely as security for the purposes specified in said assignments, and Fee Mortgagee shall have no duty, liability or obligation whatsoever under the Lease or any extension or renewal thereof, either by virtue of said assignments or by any subsequent receipt or collection of rents thereunder, except (i) as provided herein, or (ii) upon Fee Mortgagee exercising control over the Town's interest in the Lease. Tenant further agrees that only upon receipt of a written notice from Fee Mortgagee of an event of default by the Town under the Fee Loan, Tenant will thereafter, if requested by Fee Mortgagee (and after Tenant notifies the Town of the request received from Fee Mortgagee), pay rent to Fee Mortgagee in accordance with the terms of the Lease. Town shall have no claim against Tenant for any amounts paid to Fee Mortgagee pursuant to any such notice. Fee Mortgagee hereby agrees that it will only send such a notice if in its good faith judgment an event of default has occurred and has not been cured. To the extent Fee Mortgagee previously sent a notice to Tenant of such event of a default requesting payment of rent be paid to Fee Mortgagee, then at such time as such event of default has been cured and the cure accepted by Fee Mortgagee, Fee Mortgagee shall notify the Tenant in writing to again pay Sublessor such rents. Notwithstanding the foregoing provisions or any other provision herein to the contrary, Tenant shall be under no obligation to pay any rent or perform any other obligation set forth in the Lease to Fee Mortgagee unless and until Tenant receives written notice

Exhibit F – Non-Disturbance Agreement

Page 2

from Fee Mortgagee that the Town is in default under the Fee Loan and Fee Mortgagee is entitled to the rent under the Lease.

4. Tenant shall have the right to mortgage, assign, pledge and hypothecate its interest in the Lease to any Lender as security for Loan(s). In connection with any financing obtained by Tenant (regardless of whether structured as mortgage financing, mezzanine financing or another type of financing), Fee Mortgagee shall execute such documents Lender may reasonably request in order to facilitate such financing ("**Future Non-Disturbance Agreement**"). For the avoidance of doubt, Fee Mortgagee's and the Town's agreement to provide the Non-Disturbance Agreement contemplated in the Lease as referenced herein shall only be for the benefit of first lien lenders with respect to Tenant's interests in the Lease or first lien lenders with respect to the ownership interests in Tenant and to the extent that there are any other subordinate sub-leasehold mortgages and/or subordinate liens given by Tenant as for any interest in Tenant, Fee Mortgagee and the Town shall have no obligation to provide the future Non-Disturbance Agreement to such parties.

5. Within a reasonable time after Tenant obtains a loan from Lender, Tenant shall notify the Town and Fee Mortgagee in writing ("**Lender Notice**") of the following, to wit: (i) the name and address and other contact information of the Lender, and (ii) confirming to the Town and Fee Mortgagee that Tenant has executed and delivered to Lender the Leasehold Mortgage, if applicable, or security interest in the ownership interests in Tenant given to Lender, if applicable. Further, notwithstanding anything to the contrary contained herein, upon delivery of the Lender Notice, Lender shall be deemed to be bound by this Agreement, whereupon Lender shall be deemed to be a "Leasehold Mortgagee" and entitled to all of the protections afforded a "Leasehold Mortgagee" thereunder, as provided in this Agreement. The delivery of Lender's Notice shall be deemed to be an agreement by such Lender of the obligations of Lender set forth herein.

6. Tenant and any Lender (to the extent it has provided a Lender Notice) shall provide Fee Mortgagee, in the manner provided for herein for giving of notices, a copy of each notice of default given to the Town in connection with the Lease, and Fee Mortgagee shall have the right, but not the obligation, to remedy or cause to be remedied any default of the Town under the Lease, so long as such remedy is completed within any notice or grace period provided under the Lease and prior to Tenant electing to terminate the Lease due to any non-monetary default. In connection with any non-monetary defaults, the Tenant hereby agrees that, provided Fee Mortgagee has commenced to cure such non-monetary default and is proceeding with commercially reasonable diligence to complete such cure, Fee Mortgagee shall have an additional period of time as may be reasonable to enable Fee Mortgagee to remedy, or cause to be remedied, any such non-monetary default in addition to the period given to the Town for remedying, or causing to be remedied, such non-monetary default, and Tenant shall accept performance by Fee Mortgagee as performance by the Town.

7. To the extent Fee Mortgagee or any other party (each a "**New Lessor**") shall acquire the interest of the Town under the Lease, the following shall be binding upon New Lessor:

(i) So long as Tenant recognizes the New Lessor and Tenant is not in default under the Lease (beyond any period given to Tenant by the terms of the Lease to cure such default) and is paying rent to the New Lessor under the Lease, New Lessor shall not, whether in the exercise of any of its rights under the Lease or otherwise, disturb Tenant's possession of the

Premises or deprive Tenant of any right or privilege granted to or inuring to the benefit of Tenant under the Lease; nor shall Tenant be named as a party in any foreclosure proceeding except to the extent required by law.

(ii) New Lessor shall recognize and keep the Lease as a direct sublease between Tenant and New Lessor, without the necessity of executing a new lease. In such event, New Lessor shall succeed to the interest of the Town under the Lease, the Tenant shall attorn (subject to the terms of this Agreement) to the New Lessor, in each case to be effective and self-operative without the execution of any further instruments.

(iii) Notwithstanding the foregoing, upon the request of either New Lessor and/or Tenant, the other Party shall promptly execute and deliver a commercially reasonable instrument in recordable form (an "**Attornment and Recognition Agreement**") that (i) as to the Lease, evidences the foregoing attornment by Tenant to New Lessor, and (ii) evidences the recognition of the Lease as a direct Lease between New Lessor and Tenant.

(iv) At the option of the New Lessor (which may be exercised at any time after an Attornment and Recognition Agreement is executed by New Lessor and Tenant), the New Lessor may enter into a new lease with the Tenant for the Premises (a "**New Lease**"). The New Lease shall contain the exact same terms and conditions contained in the Lease, whereupon the New Lease shall replace the Lease and be deemed a replacement Lease between Tenant and the New Lessor, and a new Non-Disturbance Agreement (similar in form to this Agreement as to such New Lease) shall be executed by New Lessor and Tenant.

(v) After New Lessor, or its successors and assigns, shall succeed to the interest of the Town under the Lease (or enter into a New Lease), New Lessor and Tenant, or their respective successors and assigns, shall be bound to each other under all of the terms, covenants and conditions of each of the Lease or New Lease, if applicable, and Tenant and New Lessor shall, from and after such succession by New Lessor to the interest of the Town under each of the Lease (or the entry of New Lease, if applicable) shall each have the same remedies against each other, or their respective successors and assigns, for the breach of any agreement or covenant or duty contained in each of the Lease or New Lease, if applicable, might have had against the other under the Lease as if such parties had been the original lessor or lessee (as applicable) under the Lease, provided, however, notwithstanding anything in the Lease (or New Lease, if applicable) or in this Agreement to the contrary, New Lessor, its successors and assigns, shall not be:

a. bound by any rent, additional rent or other amounts which Tenant might have paid for more than the current month except the most recent payment of rent paid by Tenant as required under the Lease, or to the extent such money was actually received by New Lessor; or

b. accountable for any money deposited with Lessor for any matter, including, capital improvement reserves, except to the extent such money was actually received by New Lessor; or

c. liable for any indemnities of the Town under the Lease for any period prior to New Lessor becoming the lessor under the Lease or New Lease; or

Exhibit F – Non-Disturbance Agreement

Page 4

d. liable for any act or omission of the Town (or its members, officers, managers, employees, contractors, or agents) that occurred prior to such party becoming the New Lessor (and additionally, Tenant agrees that any such act or omission is not a defense or excuse to Tenant's continued performance under the Lease); provided, however, that except as otherwise expressly provided in this Agreement, New Lessor shall only be obligated for all obligations of the sublessor under the Lease to be performed from and after the date the New Lessor succeeded to the interest of the Town under the Lease; or

e. liable for the Town's breach of any agreement or covenant or duty contained in the Lease which occurred prior to the date the New Lessor succeeded to the interest of the Town (and additionally, Tenant agrees that no such breach is a defense or excuse to its continued performance under the Lease); provided, however, that except as otherwise expressly provided in this Agreement, New Lessor shall only be obligated for all obligations of the sublessor under the Lease to be performed from and after the date the New Lessor succeeded to the interest of the Town under the Lease.

Except as provided in this Agreement, Lessor and Tenant shall have their respective rights or remedies available to it under the Lease (or comparable provisions in the New Lease).

(vi) New Lessor shall, in the manner provided for herein for giving of notices, provide promptly to the Lender (to the extent it has provided a Lender Notice) a copy of each notice of default given by New Lessor to the Tenant in connection with the Lease or New Lease, if applicable.

(vii) Lender shall have the right, but not an obligation, to remedy or cause to be remedied any default of Tenant so long as such remedy is completed within any notice or grace period provided under the Lease or New Lease, if applicable, to Tenant as extended if Lender is diligently pursuing the completion of a non-monetary default of Tenant, as such extension is permitted under the Lease or New Lease, if applicable, and New Lessor shall accept performance by the Lender as performance by the Tenant under the Lease or New Lease, if applicable. Provided Lender satisfies the requirements of this Paragraph 7, any defaults by Tenant of any covenants and agreements which are not within the reasonable power of Lender or any nominee to perform shall not be enforced by New Lessor against Lender (but may be enforced against the Tenant), provided the same shall not be deemed to be a waiver of such obligations from and after the date Lender or its nominee acquires Tenant's interest in the Lease or New Lease, if applicable, or the interest in the Tenant, as applicable.

(viii) In case of a default by the Tenant under the Lease or New Lease, if applicable, beyond any applicable notice and cure period, other than a default in the payment of money and under such circumstances New Lessor having the right to terminate after all cure periods, if any, have expired, the New Lessor shall take no action to effect a termination of the Lease or New Lease, if applicable, by service of a notice or otherwise, without first giving Lender (to the extent it has provided a Lender Notice) a commercially reasonable time within which to either:

a. obtain possession of the Premises and the Tenant's improvements located thereon ("**Improvements**") (including possession by a receiver) and to cure such default in case of a default which is within the power of the Lender to cure, it being understood that the payment of money is within the Lender's power to cure, when such Lender has obtained possession of the Premises and the Improvements; or

b. initiate and complete foreclosure proceedings or otherwise acquire Tenant's leasehold interest under the Lease (or New Lease, as applicable), provided the New Lessor may seek to intervene and Lender consents to such intervention in said foreclosure proceedings and obtain an order authorizing the Lender to commence to cure such default as described by New Lessor and, if such order is obtained, Lender shall have a reasonable time thereafter to proceed diligently to cure such non-monetary defaults within its control to cure and to cure all monetary defaults and the New Lessor will not need to wait until the foreclosure proceedings are concluded. Upon issuance of such orders in the judicial proceedings and if Lender fails to diligently proceed to cure such default, New Lessor has the right to enter the Premises and cure such default, the cost and expenses of which shall be added to the Lease or New Lease, if applicable, as additional rent. Lender shall diligently proceed with the appointment of a receiver to operate and maintain the Premises under the Lease or New Lease, if applicable.

The provisions of Paragraph 7(viii) above are conditioned on the following: Lender, within the forty-five (45) days of receipt of a notice of default under the Lease or New Lease, if applicable, shall (i) notify New Lessor of its election to proceed with due diligence to promptly acquire possession of the Premises and any Improvements or to foreclose its Leasehold Mortgage or otherwise to extinguish Tenant's interest in the Lease or New Lease, if applicable; and (ii) deliver to New Lessor an instrument in writing duly executed and acknowledged, whereby the Lender agrees that (x) during the period Lender is enforcing its remedies and/or during the pendency of any foreclosure or other proceeding and until the interest of Tenant in the Lease or New Lease, if applicable, shall terminate, as the case may be, it will pay or cause to be paid to New Lessor (on behalf of Tenant) all monetary obligations of Tenant including rent (based on gross revenue Lender is able to collect), payment of taxes and insurance then due and from time to time becoming due under the Lease or New Lease, if applicable, which is to be remitted to New Lessor giving credit, however, for any net income actually collected by New Lessor (as applicable) in connection with the Premises, and (y) if delivery of possession of the Premises and the Improvements shall be made to Lender or its nominee, whether voluntarily or pursuant to any foreclosure or other proceedings or otherwise, such holder shall, promptly following such delivery of possession, perform or cause such nominee to perform, as the case may be, all covenants and agreements contained in the Lease or New Lease, if applicable, on Tenant's part to be performed to the extent that Tenant shall have failed to perform the same to the date of delivery of possession, as aforesaid except such covenants and agreements which are not within the reasonable power of the Lender or such nominee to perform but the payment of rent (based on gross revenue Lender is able to collect), taxes and insurance shall be deemed activity within the power of the Lender or its nominee to perform. Upon such extinguishment of Tenant's interest in the Lease or New Lease, if applicable, and such performance by such holder or such nominee, or by any purchaser of the Tenant's interest in the Lease pursuant to any foreclosure proceedings, New Lessor's rights to serve notice of election to end the term of the Lease or New Lease, if applicable, based on any non-monetary default which is not within the

Exhibit F – Non-Disturbance Agreement

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power of such holder or nominee or such purchaser to perform, shall be deemed to be and shall be waived. If prior to any sale pursuant to any proceedings brought in foreclosure of the Loan(s), or if, prior to the date on which Tenant's interest in the Lease or New Lease, if applicable, shall otherwise be extinguished, the default in respect of which New Lessor shall have given notice shall have been remedied and possession of the Premises and the Improvements restored to Tenant, the obligations of the Lender pursuant to the instrument referred to in clause (x) of this paragraph shall be null and void (subject to a new right to cure for other defaults) and of no further force and effect. Nothing herein contained shall affect the right of New Lessor, upon the subsequent occurrence of any default by Tenant, to exercise any right or remedy reserved in the Lease or New Lease, if applicable, to New Lessor, subject to the rights of the Lender pursuant to this Agreement with respect to such default. Notwithstanding anything contained in this Agreement to the contrary, New Lessor shall not be required to waive monetary defaults such as payment of rent, taxes, insurance and other financial obligations under the Lease or New Lease, if applicable, giving credit, however, for any net income actually collected by New Lessor in connection with the Premises. Further, both parties agree payment of rent (based on gross rent Lender is able to collect), and payment of taxes, insurance and other monetary obligations shall never be deemed "not within the reasonable power of the Lender or such nominee to perform" or a default not susceptible of being cured and upon Lender or its designee becoming the Tenant, such party shall perform the deferred maintenance and other obligations within its reasonable control to the extent such matters could not be cured previously.

(ix) Upon (a) a foreclosure or deed in lieu of foreclosure, whereby the Tenant's interest in the Lease or New Lease, if applicable, is transferred to the Lender or foreclosure of ownership interests in Tenant or a transfer in lieu of foreclosure of ownership interests in Tenant, or its first assignee or (b) if such Lender is unable (despite commercially reasonable efforts to do so) to perform the cure within its cure period as provided in Section 7 (xi) and the Lease or New Lease, if applicable, is terminated or (c) if New Lessor shall give notice thereof to the Lender and in either of such cases, upon written request by the Lender given to New Lessor within thirty (30) days after such foreclosure (as provided in Section 7(xii)(a)) or the notice from New Lessor to the Lender of the termination of the Lease or New Lease, if applicable (as provided in Section 7(xii)(b)) to enter a "New Lease" (as hereinafter defined), New Lessor shall enter into and deliver a new lease ("**New Lease**") of the Premises with the Lender or its designee for the remainder of the term of the Lease or New Lease, if applicable, upon the exact same terms and conditions as contained in the Lease or New Lease, if applicable, including all right to the extensions thereof and dated as of the date of termination of the Lease or New Lease, if applicable, and convey to the Lender (or its designee) by quit claim bill of sale, a term of years in and to the Improvements, reserving to New Lessor the reversion of title to the Improvements upon the termination of the New Lease. The estate of the Lender (or its designee) as lessee under the New Lease shall have priority equal to the estate of the Tenant under the Lease or New Lease, if applicable (that is, there shall be no charge, lien or burden upon the Premises prior to or superior to the estate granted by such New Lease which was not prior to or superior to the estate of the Tenant under the Lease or New Lease, if applicable, as of the date immediately preceding the date the Lease or New Lease, if applicable, went in default. The quit claim bill of sale to the Improvements shall recite that the grantee holds title to the Improvements only so long as the New Lease shall continue in full force and effect, that upon termination of the New Lease, title to the Improvements shall revert to New Lessor automatically without payment. Nothing herein contained shall be deemed to impose any

obligation upon New Lessor or to cause the delivery of physical possession of the Premises and the Improvements to the Lender or its designee or to disavow any recognition of the Lease or New Lease, if applicable, or the rights of the Tenant pursuant to the terms of the Lease or New Lease, if applicable. The Lender or its designee shall pay all reasonable expenses, including reasonable attorneys' fees, incident to the execution and delivery of such New Lease and quit claim bill of sale to the extent requested by the Lender. If there be more than one (1) Leasehold Mortgage, the right to request and obtain a New Lease shall be limited solely to the Lender having the highest priority lien. New Lessor reserves the right to require a written legal opinion, at Lender's expense, as to whether or not such Leasehold Mortgage is a first lien on the Tenant's rights under the Lease or New Lease, if applicable.

However, if the Leasehold Mortgage is foreclosed, the purchaser who shall have acquired the Tenant's leasehold estate at the foreclosure sale shall execute and deliver such evidence of acquiring such leasehold estate to New Lessor. If Lender is the purchaser, it may assign its interest in the Lease or New Lease, if applicable, to any person, firm, corporation or entity designated by it who satisfies the minimum standard as expressly specified in the Lease or New Lease, if applicable, and such assignee shall execute and deliver such assignment to New Lessor in form reasonably acceptable to New Lessor, whereupon the Lender shall have no liability or obligation thereunder.

8. (a) Without the prior written consent of Fee Mortgagee (while its lien encumbers the Town's interest in the Lease or New Lease, if applicable) the Town and Tenant, shall not consent to or accept any voluntary cancellation, termination or surrender of the Lease (other than to enforce a default thereunder not cured within the applicable cure period). Without the prior written consent of Fee Mortgagee (while its lien encumbers the Town's interest in the Lease or New Lease, if applicable), which consent shall not be unreasonably withheld, conditioned or delayed, the Town and Tenant shall not, in any material respect, modify or amend the Lease or New Lease, if applicable, which materially changes the term, the rent, or otherwise materially increases the obligations of the Town or material decreases the obligations of Tenant under the Lease or New Lease, if applicable (a "**Lease Modification**"). In the event the Town sends its request for approval of a Lease Modification to Fee Mortgagee as a "Time Sensitive Request of Lender", then the Lender shall be deemed to have approved such request if the Fee Mortgagee does not disapprove same and specify the basis for such disapproval within twenty (20) days of request.

(b) Without the prior written consent of Lender (to the extent it has provided a Lender Notice and while its lien encumbers any Tenant interest in the Lease or New Lease, if applicable), the Town and Tenant shall not (i) consent to or accept any violation, cancellation, termination or surrender of the Lease or New Lease, if applicable (other than to enforce a default thereunder not cured within the applicable cure period (but subject to the terms hereof)), or (ii) modify or amend the Lease or New Lease, if applicable, in any material manner which changes the term, the rent, or otherwise materially increases the obligations of Tenant or material decreases the obligations of the Town or the rights of Tenant under the Lease or New Lease, if applicable (in each case, a "**Material Lease Modification**"). In the event the Town or Tenant sends a request to Lender for approval of a Material Lease Modification, any such consent of Lender shall not be

unreasonably withheld and shall be subject to the terms and provisions attached hereto as Exhibit A.

9. The Town and New Lessor agree that the restrictions on "Assignment" (as defined in the Lease or New Lease, if applicable) do not apply to either (a) an assignment of the Leasehold interest of Tenant as it relates to Lender (to the extent it has provided a Lender Notice) pursuant to the Leasehold Mortgage or the foreclosure of the Leasehold Mortgage or assignment in lieu of the foreclosure of the Leasehold Mortgage or (b) a pledge of ownership interests in the Tenant as it relates to Lender by its owner or the foreclosure on the ownership interests of Tenant or the assignment in lieu of the foreclosure of ownership interests in the Tenant, provided however, any subsequent assignment by Lender to a third party shall be subject to compliance with the minimum standards relating to an assignee as specified in the Lease or New Lease, if applicable.

10. The parties acknowledge that any Loan(s) obtained by Tenant are leasehold security interests on the Tenant's interest in the Premises and do not encumber or subordinate the fee simple title of the Town, the leasehold interest of Lessor, or any lien and/or leasehold interest held by Fee Mortgagee.

11. Any notice required or permitted to be given by the terms of this Agreement or under any applicable law by either party shall be in writing and shall be either hand delivered or sent by certified mail, postage prepaid, return receipt requested. Such written notice shall be addressed as follows:

As to Fee Mortgagee:

With a copy to:

As to Town:

With a copy to:

As to Lender:

The name and address of the Lender and its
representatives as set forth in the Lender Notice

As to Tenant:

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unless the address is changed by the party by like notice given to the other parties. Notice shall be in writing, mailed certified mail, return receipt requested, postage prepaid and shall be deemed delivered three (3) business days after being properly mailed or upon hand delivery to the address indicated. Notwithstanding the foregoing, notices, requests or demands or other communications referred to in this Agreement may be sent by email (except that requests for Material Lease Modification approvals whereby the provisions of Exhibit A would be applicable must always be sent by certified mail return receipt requested or a nationally recognized delivery service such as Federal Express in addition to email) or by nationally recognized delivery service such as Federal Express, but shall only be deemed to have been given when received

12. This Agreement shall not be changed, modified or amended except by an instrument in writing and executed by all Parties to this Agreement.

13. This Agreement may be executed in any number of counterparts, each of which, when executed, shall be deemed an original and all of which shall be deemed one and the same instrument. Facsimile transmission signatures of this Agreement shall be deemed to be original signatures.

14. This Agreement is governed by Florida law and Palm Beach County, Florida is the agreed upon venue.

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

[Signature Pages to Follow]

LESSOR:

Town of Lake Park Florida

Print Name: _____

By: _____
Name: _____
Title: _____

Print Name: _____

Date: _____

STATE OF _____)
) SS:
COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2023.

Notary Public

Typed, print d or stamped name of Notary Public

My Commission Expires:

TENANT:

By:

Title:

Date:

STATE OF _____)
) SS:
COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2023.

Notary Public

Typed, printed or stamped name of Notary Public

My Commission Expires:

WITNESSES:

LENDER:

Print Name: _____

By: _____

Name: _____

Title: _____

Print Name: _____

Date: _____

STATE OF _____)
) SS:
 COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said bank. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2023.

 Notary Public

 Typed, print d or stamped name of Notary Public

My Commission Expires:

WITNESSES:

FEE MORTGAGEE:

Print Name: _____

By: _____

Name: _____

Title: _____

Print Name: _____

Date: _____

STATE OF _____)
) SS:
 COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2023.

 Notary Public

 Typed, print d or stamped name of Notary Public

My Commission Expires:

Exhibit A

If Tenant makes a written request of Lender in accordance with the terms of this Agreement to make a material modification or amendment to the Lease, accompanied by all such background information and explanations as may be reasonably necessary for Lender to determine whether to consent to or approve the request, and does not receive a consent, approval or rejection from Lender within five (5) business days after Lender's receipt of such request, then Tenant may provide Lender with a second written notice of any such request, with a copy of such first request, and if such second written notice includes, printed in capital letters of boldface type and at least 12 point font, a legend substantially to the following effect:

“THIS COMMUNICATION REQUIRES IMMEDIATE RESPONSE. FAILURE TO RESPOND WITHIN TEN (10) CALENDAR DAYS (OR LONGER PERIOD AS PROVIDED IN THAT CERTAIN NON-DISTURBANCE AGREEMENT DATED AS OF _____) FROM THE RECEIPT OF THIS COMMUNICATION SHALL CONSTITUTE A DEEMED CONSENT OR APPROVAL BY THE ADDRESSEE OF THE ACTION REQUESTED BY THE ADDRESSOR.”

and if the foregoing legend is included by the Tenant in the second written request to Lender, such request shall be deemed to have approved or consented to the item for which Tenant sought Lender's consent or approval for all purposes hereunder unless Lender denies the such request within ten (10) calendar days of Lender's receipt of such second written request; provided, however, that if Lender in writing notifies Tenant (including the basis for the need for additional time) within such ten (10) calendar day period that the nature of the request is such that more than ten (10) calendar days are required in order for the Lender to properly assess the request and respond to Tenant (including without limitation, as a result of loan approval authority for the requested change being a prerequisite to Lender's and/or any Loan participant's response to the request), then such period shall be extended for up to an additional twenty (20) calendar days (i.e. a total of thirty (30) calendar days after Lender's receipt of the second written request) for Lender and/or any Loan participant to properly assess the request and respond to Tenant so long as Lender and/or such Loan participant(s) have commenced their assessment within such ten (10) calendar days period and thereafter diligently conducts their review and determination of whether or not to approve or consent to such request.

GROUND LEASE FOR THE PUBLIC MARINA COMPONENT

GROUND LEASE
(Public Marina Component)

THIS GROUND LEASE (this “Lease”), dated as of May 15, 2024 (the “Effective Date”), is entered into by and between the **TOWN OF LAKE PARK, FLORIDA**, a Florida municipal corporation (“Landlord”), and **FD P3 LP MARINA, LLC**, a Florida limited liability company (“Tenant”) (collectively, the “Parties” and individually, a “Party”).

WHEREAS, in accordance with Florida Statutes §255.065, Forest Development P3 LPM, LLC, a Florida limited liability company (the “Developer”), an affiliate of Tenant, submitted to Landlord an unsolicited proposal for a Qualifying Project (the “Proposal for Redevelopment”) involving the redevelopment of six (6) parcels of land owned by Landlord (the “Land”), comprising approximately +/-12.01 acres generally located on the intracoastal waterway east of Federal Highway and north of Silver Beach Road in the Town of Lake Park, Florida, and commonly known as Lake Park Harbor Marina (the “Marina”); and

WHEREAS, the Town Commission selected the Developer’s Proposal for Redevelopment; and

WHEREAS, in accordance with said §255.065, Landlord and Developer entered into that certain Comprehensive Agreement dated as of August 2, 2023 (as the same may be amended or supplemented, collectively, the “Comprehensive Agreement”), memorializing their respective rights and obligations with respect to the redevelopment of the Marina; and

WHEREAS, all capitalized terms used but not otherwise defined in this Lease shall have the respective meanings ascribed to them in the Comprehensive Agreement; and

WHEREAS, pursuant to the Comprehensive Agreement, Landlord and Developer have agreed that Landlord and four (4) special purpose entities formed by Developer shall enter into four (4) separate ground leases for portions of the Marina, on which will be developed the “Hotel Component,” the “Boat Storage Component,” the “Public Marina Component” and the “Marina Restaurant Component” (as defined in the Comprehensive Agreement); and

WHEREAS, the Public Marina Component will include, among other things, wet slips, boat ramp, outdoor showers, public restrooms, a ships store, vehicle and boat trailer parking, fueling and pump out stations, floating docks, and public space; and

WHEREAS, in accordance with the Comprehensive Agreement, Landlord and Tenant desire to enter into this Lease to document Tenant’s lease from Landlord of a portion of the Marina hereinafter described on which will be developed the Public Marina Component, all in accordance with the terms and conditions hereinafter set out.

NOW, THEREFORE, for and in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. DEMISE. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, all of the area shown on the plan attached hereto as Exhibit A and made a part hereof (the “**Site Plan**”), and more particularly described on Exhibit B, attached hereto and made a part hereof, together with all appurtenant easements and rights thereto, as same may be amended by Tenant as provided in Section 17 of this Lease (collectively, the “**Premises**”). Landlord and Tenant hereby acknowledge and agree that this Lease shall be subject to the terms, conditions and provisions of the Comprehensive Agreement only to the extent the same pertain to the Public Marina Component and that only a default under the terms of the Comprehensive Agreement that pertain to the Public Marina Component shall constitute a default under this Lease.

2. TERM. The term of this Lease (the “**Term**”) shall be ninety-nine (99) years, commencing on the later of (i) the Effective Date; (ii) the earlier of (A) the date of the modification or termination of the Deed Restrictions and Reverter Clauses to Landlord’s and Developer’s reasonable satisfaction, and (B) the date that Developer notifies Landlord in writing that it intends to proceed with the Project even if the Deed Restrictions and Reverter Clauses are not fully terminated; (iii) August 2, 2025 (the “**Commencement Date**”). Notwithstanding the foregoing, in the event that the Deed Restrictions and Reverter Clauses have not been terminated or modified to the Developer’s reasonable satisfaction and the Developer has not notified Landlord in writing that it intends to proceed with the Project despite the fact that the Deed Restrictions and Reverter Clauses have not been fully terminated, Tenant shall have the right to terminate this Lease by written notice to Landlord on or before August 2, 2025.

3. LEASE PAYMENTS. As consideration for Landlord’s execution of this Lease with Tenant, Tenant shall make payments to Landlord in accordance with the schedule attached hereto as Exhibit C (the “**Lease Payments**”). During the Term, Tenant shall also be responsible for all real estate taxes (including ad valorem taxes and non-ad valorem assessments) assessed with respect to the Premises and for all expenses incurred in connection with the ownership, operation, maintenance, repair, occupancy or use of the Premises. In addition, Tenant shall pay or cause the Developer to pay the portion of the P3 Assessment Fee in the total amount of Three Hundred Thousand and 00/100 Dollars (\$300,000.00) and the Building Permit Fee (as such terms are defined in the Comprehensive Agreement) applicable to the Public Marina Component, which payments shall be made on or before August 2, 2024 in accordance with the Comprehensive Agreement. Except as otherwise expressly set forth in this Lease, Landlord shall not be responsible for any costs, expenses, or charges of any kind or nature respecting the Premises and Landlord shall not be required to render any services of any kind to Tenant or to the Premises. Landlord shall receive the Lease Payments free and clear of any and all impositions, taxes, liens, charges, deductions or expenses of any nature whatsoever in connection with the ownership, operation, maintenance, repair, occupancy or use of the Premises.

4. IMPROVEMENTS. Tenant hereby agrees to develop the Public Marina Component on the Premises in accordance with the terms and conditions of the Comprehensive Agreement, to the extent such terms and conditions apply to the Public Marina Component, and the Site Plan attached hereto and made a part hereof as Schedule 4, as same may be amended from time to time, as approved by applicable governmental authorities including, but not limited to, outdoor showers, public restrooms, parking of vehicles and boats, marina dock use and boat latch areas. Tenant covenants that the construction of all improvements at the Premises (the

“Improvements”) shall be at Tenant’s sole cost and expense and in accordance with all applicable legal requirements. Tenant acknowledges and agrees that the interest of the Landlord in the Premises shall not be subject to liens for improvements made by the Tenant. Tenant shall not at any time permit any mechanics’, laborers’ or materialmen’s liens to stand against the Premises for any labor or material furnished to Tenant or claimed to have been furnished to Tenant or Tenant’s agents, contractors or subtenants, in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction or sufferance of Tenant. Tenant shall notify any contractor engaged in the construction of the Improvements of the foregoing, and the knowing or willful failure of the Tenant to provide such notice to the contractor(s) shall render the contract between the Tenant and the contractor voidable at the option of the contractor. In the event any such lien is filed against the fee simple interest in the Premises as a result of any construction thereon by Tenant or on Tenant’s behalf, then and in that event, Tenant shall cause said lien to be discharged or bonded over within thirty (30) days of Tenant’s actual knowledge of same. The failure to do so shall, at the option of Landlord, constitute a breach of this Lease. If Tenant fails to have such lien or claim for lien so released or to deliver such bond to Landlord, Landlord, without investigating the validity of such lien, shall have the right to pay or discharge the same, and Tenant shall reimburse Landlord upon demand for the amount so paid by Landlord, including Landlord’s reasonable expenses and attorneys’ fees.

Subject to the terms and conditions of this Lease, until the expiration or earlier termination of this Lease, (a) all Improvements shall be and remain the property of Tenant, and (b) Tenant shall have the rights and benefits of ownership of the Improvements, including, without limitation the right to claim depreciation of the Improvements for tax purposes.

5. **USE OF PREMISES.** It is expressly agreed that the Premises may be used during the Term only for any purposes permitted pursuant to the Comprehensive Agreement or as may permitted by the applicable governmental authority and may not use the Premises for any purpose in violation of the Deed Restrictions and Reverter Clauses to the extent the same have not been amended or terminated of record. It is the obligation of the Developer to work out alternative locations that would provide for seamless operation of current users in that location during construction. Tenant, its agents, employees, customers, and invitees shall have free and unobstructed right to use the Premises for such purposes. Tenant shall comply with and abide by all federal, state, county, municipal, and other governmental statutes, ordinances, laws, and regulations affecting the Premises, the Improvements, or any activity or condition on or at the Premises. Tenant shall have access to the Premises twenty-four (24) hours per day, 365 days per year. Tenant shall have the right to place signs at the Premises provided such signs comply with the local ordinances and regulations. Upon the expiration of the Term, upon Landlord’s request, Tenant shall remove all signage and shall restore and repair any damage caused by the installation or removal of such signs.

6. **MAINTENANCE AND REPAIR.** Throughout the Term, Tenant, at its sole cost and expense, shall (a) keep and maintain the Premises including all Improvements of every kind thereon and appurtenances thereto, in good order and condition, and (b) make such repairs, replacements and renewals (collectively, **“Repairs”**) to the Premises as may be necessary or appropriate to keep and maintain the Premises in good order and condition, whether such Repairs are ordinary or extraordinary, foreseen or unforeseen. Without limiting the generality of the

foregoing, Tenant shall keep and maintain all portions of the Premises and all driveways, sidewalks, parking areas, curbs and access ways adjoining the Premises in a clean and orderly condition, and shall keep and maintain all open areas of the Premises in a neat and orderly condition and perform all necessary landscaping work. All Repairs shall be promptly made with materials and equipment, which are at least equal in quality to those in place. Landlord shall not be obligated to make any repairs or replacements of any kind, nature, or description, whatsoever, to the Premises or the Improvements thereon.

7. INDEMNIFICATION.

(a) Subject to the subrogation provisions of this Lease, Tenant agrees to indemnify and hold Landlord and its former and current elected and appointed officials, agents, consultants and employees (collectively, "**Landlord Parties**") harmless, to the fullest extent permitted by law, from all liabilities, losses, interest, damages, costs and/or expenses (including, without limitation, reasonable attorneys' fees, whether suit is instituted or not, and if instituted, whether incurred at any trial, appellate or post judgment level), threatened or assessed against, levied upon, or collected from, any Landlord Party arising out of, from, or in any way connected with or arising from the negligence, recklessness, or intentional wrongful misconduct of Tenant in the performance of its obligations under this Lease. Notwithstanding the foregoing, Tenant shall not be required to indemnify any Landlord Party with respect to any liability, loss, damages, costs or expenses suffered as a result of the negligence and/or willful misconduct of such Landlord Party. To the extent this indemnification clause or any other indemnification clause in this Lease is subject to the provisions of Chapter 725, Florida Statutes, and such does not comply with Chapter 725, Florida Statutes, as such may be amended, such provision shall hereby be interpreted as the parties' intention for the indemnification clauses and to comply with Chapter 725, Florida Statutes, as such may be amended.

(b) Tenant shall not have any obligation to indemnify or defend the Landlord Parties against any claims brought against any Landlord Party by any third party challenging: (i) Landlord's legal authority to lease all or any portion of the Premises; (ii) the Town Commission's judgment in leasing all or any portion of the Premises; or (iii) Landlord's decision to enter into this Lease or the terms and provisions of this Lease, regardless of whether such claim seeks monetary damages or injunctive, declaratory or other relief. Provided however, that if any third party brings any claims against Landlord and Tenant, Tenant shall have the responsibility to defend the allegations against it. The provisions of this Section shall survive the expiration or earlier termination of this Lease. Any tort liability to which Landlord is exposed under this Lease shall be limited to the extent permitted by applicable law and subject to the provisions and monetary limitations of Section § 768.28, Florida Statutes, as it may be amended. Landlord expressly does not waive any of its rights and immunities under § 768.25.

8. TAXES. During the Term, Tenant shall assume full responsibility for and shall pay all taxes and assessments that accrue to the Premises or to the Improvements thereon, including sales and property taxes (including ad valorem taxes and non-ad valorem assessments). Tenant shall obtain, if available, a separate tax billing or assessment for the Premises, and Tenant shall pay the ad valorem real property taxes attributable to the Premises only. If a separate billing or assessment for the Premises is not available, Tenant shall pay its pro rata share of the cost incurred by Landlord for real property taxes upon the Project. Tenant agrees to reimburse Landlord within thirty (30) days after receipt of an itemized statement showing the pro rata amount due by Tenant.

In no event shall Tenant be obligated to pay any of Landlord's administrative fees relating to taxes nor shall Tenant be obligated to pay any interest or penalties imposed for late payment or otherwise unless caused by Tenant. Any real property taxes shall be apportioned so that Tenant shall pay only that portion of real property taxes or installments thereof as fall within the Term. Tenant shall not be obligated to pay any income tax, excise tax or other similar tax or charge, or inheritance, franchise, capital levy transfer, estate, succession or other similar tax or charge that may be payable by or chargeable to Landlord under any present or future law of the United States or the state in which the Premises are located or imposed by any political or taxing subdivision thereof. Tenant shall have the right, by appropriate proceedings, to protest or contest any assessment or reassessment for real property taxes, or any special assessment, or the validity of either, or of any change in assessments or the tax rate and Landlord agrees to reasonably cooperate with Tenant in any such protest or contest. If Landlord is unwilling to pursue such protest or contest, then Tenant may do so in Landlord's name at Tenant's expense. Landlord agrees not to initiate or endorse any action or application which would increase Tenant's monetary obligations under this Section.

9. INSURANCE; WAIVER OF SUBROGATION. During the Term, Tenant shall comply with all of the insurance requirements imposed upon the Developer pursuant to the Comprehensive Agreement only to the extent the same are applicable to the Public Marina Component.

Landlord and Tenant, for themselves and their respective insurers, hereby release each other of and from any and all claims, demands, actions and causes of action, (including, without limitation, subrogation claims), for loss or damage to their respective property located within or upon, or constituting a part of the Premises, even if the loss or damage shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible, which loss or damage is covered by valid and collectible insurance policies, to the extent that such loss or damage is recoverable under such policies or, in the case of Landlord, if Landlord elects to self-insure. Landlord and Tenant shall each cause each insurance policy obtained by it to provide that each insurance company waives all rights of recovery by way of subrogation against the other party in connection with any damage covered by any such policy. The foregoing waiver of subrogation shall also apply in the event that Landlord elects to self-insure.

10. UTILITIES. During the Term, Tenant, at its sole cost and expense, shall take such action as may be necessary to procure the utility services required for Tenant's operation of the

Premises, including, without limitation, making arrangements to extend and connect utility lines to and within the Premises. Tenant shall pay all charges for utility services used on the Premises during the Term. At Landlord's request from time to time (but no more frequently than twice in any calendar year), Tenant shall deliver to Landlord receipts or other evidence satisfactory to Landlord indicating the timely payment of utility expenses. Notwithstanding the foregoing obligation, Landlord understands and agrees that the Tenant may, at Tenant's sole discretion, charge the marina customers a license fee and/or rent including, but not limited to, a charge for reimbursement of utility expenses related to and in connection with the marina customer's use of the marina or other portions of the Premises.

Landlord makes no representation or warranty with respect to the availability or sufficiency of any utility service to the Premises. Landlord is not required to furnish any utility services to Tenant and shall not be liable for the failure of any utility services or for the untenability of the Premises or other damage or loss resulting from the unavailability, interruption, inadequacy or termination of, any utility services.

11. DEFAULT. The following conditions shall be considered a "**Default**" by Tenant hereunder:

(a) Tenant's failure to pay any monetary sum as provided in this Lease which continues for thirty (30) days following Tenant's receipt of notice from Landlord to that effect (a "**Monetary Default**"); and

(b) Tenant's failure to observe or perform any of the covenants, conditions or provisions of this Lease that Tenant must observe or perform, other than a Monetary Default, where the failure continues for a period of ninety (90) days after Tenant's receipt of written notice from Landlord; provided, however, that if the nature of the obligation that Tenant has failed to perform is such that more than ninety (90) are reasonably required for its cure, a Default will not occur so long as Tenant commences the cure within such ninety (90)-day period and continuously prosecutes the cure to completion (a "**Non-Monetary Default**")

If a Monetary Default occurs hereunder, then in addition to any other lawful or equitable right or remedy which Landlord may have, including any rights or remedies available to Landlord under the Comprehensive Agreement (to the extent applicable to the Public Marina Component), Landlord may, subject to any and all cure and notice provisions contained in this Lease, do the following: (i) commence a proceeding to terminate this Lease, or (ii) repossess the Premises, with or without terminating this Lease.

If a Non-Monetary Default occurs and is continuing, then in addition to any other lawful or equitable right or remedy which Landlord may have, including any rights or remedies available to Landlord under the Comprehensive Agreement (to the extent applicable to the Public Marina Component), Landlord shall have the right, in its sole election, then, or at any time thereafter while such Default shall continue to (i) remedy the same and charge Tenant for the reasonable costs thereof (including reasonable interest thereon), (ii) sue for specific performance of Tenant's obligations under this Lease; or (iii) commence a proceeding to terminate this Lease.

In the event of the occurrence of any Landlord's default as is detailed in this Lease which is not cured within sixty (60) days of Tenant's notice to Landlord, or such longer period of time as may be necessary to cure defaults which are not subject to being cured within such sixty (60) day period, Tenant shall have the right, in its sole election, then, or at any time thereafter while such Landlord's default shall continue to (i) remedy the same and charge Landlord for the costs thereof (including reasonable interest thereon), or (ii) sue for specific performance of Landlord's obligations under this Lease; or (iii) such other remedy as may be available at law or in equity.

Subject to the terms of this Section, all rights and remedies of Landlord and Tenant are cumulative, and the exercise of any one shall not be an election excluding Landlord or Tenant at any other time from exercising a different or inconsistent remedy. No waiver by Landlord or Tenant of any covenant or condition shall be deemed to imply or constitute a further waiver of the same at a later time.

12. CASUALTY.

(a) General. If at any time during the Term, any Improvements are damaged or destroyed by fire or other casualty (a "**Casualty**"), Tenant shall promptly give written notice thereof to Landlord. Tenant's obligations under this Lease shall not be affected by any Casualty except as provided in this Section. Lease Payments shall not abate during the period when the Premises are not usable by Tenant due to damage or destruction, provided, however, Tenant shall receive a credit against the Lease Payments for the relevant period in an amount equal to any insurance proceeds actually received by Landlord with respect to such period.

(b) Restoration.

(i) Upon the occurrence of a Casualty, unless this Lease is terminated pursuant to Section 12(c), Tenant shall proceed, at its sole cost and expense and with commercially reasonable diligence, to carry out or cause to be carried out any necessary demolition and debris removal and to repair, restore, replace or rebuild the Improvements as nearly as reasonably practical to their condition, quality and character immediately prior to such damage or destruction, with such changes or alterations as may be approved by Landlord or as may be required by Governmental Authority (the "**Restoration**").

(ii) All insurance proceeds shall be applied first to reimburse Tenant for the necessary and proper expenses paid or incurred by Tenant in the adjustment and collection of the insurance proceeds (including, without limitation reasonable attorneys' fees and disbursements) (the "**Net Insurance Proceeds**"). The balance remaining shall be paid and applied in accordance with the provisions of this Section 12(b). In the event of a Casualty resulting in damage to the Improvements of less than \$2,000,000.00, the Net Insurance Proceeds shall be paid directly to Tenant and used by Tenant to pay the costs of the Restoration of the Improvements, subject to and in accordance with the provisions of this Section 12(b) and any Leasehold Mortgage. In the event of a Casualty resulting in damage to the Improvements of \$2,000,000.00 or more, the Net Insurance Proceeds shall be paid to the Insurance Depository (as hereinafter defined) and shall be held, invested and disbursed, subject to and in accordance with the provisions of this Section 12(b) and any leasehold mortgage. The "**Insurance Depository**" shall mean an institutional lender

jointly selected by Landlord and Tenant (or if the provisions of any leasehold mortgage so provide, as selected by the holder of any Leasehold Mortgage (and may be the Leasehold Mortgagee)) to perform the functions described herein.

(iii) Subject to the terms of any Leasehold Mortgage, the Insurance Depository shall invest and reinvest the Net Insurance Proceeds in United States government securities backed by the full faith and credit of the United States government. The income from the investment of the Net Insurance Proceeds shall be part of the Net Insurance Proceeds and shall be held, invested, and disbursed in the same manner as the balance of the Net Insurance Proceeds. All reasonable costs, fees, expenses and charges of the Insurance Depository in connection with the collection, investment, administration and disbursement of the Net Insurance Proceeds shall be paid by Tenant upon demand by the Insurance Depository. In the event that Tenant shall fail to pay such costs, fees, expenses and charges upon demand, the Insurance Depository may deduct the amount thereof from the Net Insurance Proceeds.

(iv) The Insurance Depository shall disburse the Net Insurance Proceeds from time to time in accordance with requests for disbursement (each, a “**Disbursement Request**”) made by Tenant and approved by the then Leasehold Mortgagee, or, if there is no Leasehold Mortgagee, Landlord. No disbursement of Net Insurance Proceeds shall be made without the prior written approval of the then Leasehold Mortgagee, or, if there is no Leasehold Mortgagee, Landlord. Landlord shall be obligated to approve a Disbursement Request provided that Tenant has complied with the requirements of this Section.

(v) Subject to the other requirements of this Lease, Net Insurance Proceeds shall be disbursed periodically by the Insurance Depository as the Restoration progresses in amounts not exceeding 90% of the value of labor and materials incorporated into the work. The remaining 10% will be disbursed upon final completion of the Restoration.

(vi) If at any time during the course of the Restoration the then Leasehold Mortgagee, or, if there is no Leasehold Mortgagee, Landlord, reasonably determines that the undisbursed portion of the Net Insurance Proceeds will not be sufficient to complete the Restoration, Tenant shall deposit the difference, as reasonably determined by Leasehold Mortgagee or Landlord, as applicable, with the Insurance Depository, and such amount shall be held, invested and disbursed in the same manner as the balance of the Net Insurance Proceeds.

(vii) All Restoration work shall be performed by Tenant in accordance with the provisions of Section 4.

(viii) Except as otherwise provided in any Leasehold Mortgage or any related loan documents, in the event that (a) Tenant shall fail to commence or complete the Restoration as required by this Section or otherwise defaults in the performance of its obligations under this Section, or (b) a default beyond any applicable notice and cure periods shall occur before or during the course of the Restoration, the Net Insurance Proceeds shall be paid to and retained by Landlord.

(ix) Upon final completion of the Restoration and compliance with the requirements for the final disbursement, any excess Net Insurance Proceeds shall be paid to Tenant.

(c) Termination by Tenant.

(i) Subject to the terms of any Leasehold Mortgage or any related loan documents, upon the occurrence of Casualty during the last thirty (30) years of the Term or if at any time during the Term the Improvements are substantially destroyed and estimated cost of the Restoration would exceed one hundred ten percent (110%) of the Maximum Required Restoration Cost (as hereinafter defined), then, instead of carrying out the resulting Restoration, Tenant, at its option, may elect to terminate this Lease by written notice to Landlord given within thirty (30) days after the Casualty or the estimated cost of such Restoration shall have been determined, whichever last occurs. After making such election, Tenant shall proceed with reasonable diligence to

(A) demolish the damaged portion of the Improvements to street grade;

(B) remove all debris from the Premises;

(C) put the Premises in good, safe, lawful, clean and orderly condition (collectively, the "**Demolition**"). The Demolition shall be carried out at Tenant's sole cost and expense. Upon completion of the Demolition, as certified by the architect handling the Demolition and upon payment of all Lease Payments payable under this Lease through the date of such completion, this Lease shall expire and terminate with the same force and effect as though the date of such completion were the Termination Date; and

(D) provide evidence reasonably satisfactory to Landlord that all subleases have been terminated.

The term "**substantially destroyed**" shall mean and refer to that condition where the use and occupancy of substantially all the Improvements have been materially adversely affected and the estimated cost of the resulting Restoration would exceed \$2,000,000.00. The term "**Maximum Required Restoration Cost**" shall mean and refer to the total of (i) the insurance proceeds payable in respect of any loss which is the subject of the Restoration for which such determination is to be made (excluding the proceeds of any business interruption or rent loss insurance) plus the deductible amount under any applicable insurance policy or, in the case of any taking which is the subject of such Restoration, the portion of any Award (as hereinafter defined) payable in respect thereof which is available for such Restoration, *plus* (ii) any additional insurance proceeds that would have been payable in respect of any such loss if Tenant had complied with all relevant obligations of Tenant under this Lease and all relevant obligations of Tenant under all insurance policies (excluding the proceeds of any business interruption or rent loss insurance), *less* (iii) necessary and proper expenses paid or incurred by Tenant in the adjustment and collection of the insurance proceeds (including, without limitation reasonable attorneys' fees and disbursements).

(d) Tenant's Obligations Not Affected. Tenant shall be obligated to carry out, or cause to be carried out, the Restoration pursuant to Section 12(b) or the Demolition pursuant to Section 12(c), as the case may be, regardless (except for Landlord's negligence or willful misconduct) of the cause of the loss which is the subject of such Restoration or Demolition, whether or not insurance shall have been in effect with respect to such loss, whether or not any proceeds from any such insurance shall be paid by the insurer, and whether or not any such insurance proceeds shall be sufficient to cover the cost of such Restoration or Demolition. Anything herein to the contrary notwithstanding, unless caused by Landlord's negligence or willful misconduct, Landlord shall not be obligated to carry out any Restoration or Demolition. Landlord shall not be liable for any inconvenience, loss of business or annoyance arising from any damage or destruction of or to the Improvements or from any Restoration or Demolition, whether carried out by Landlord or Tenant.

(e) Survival. The provisions of this Section 12 shall survive the expiration or earlier termination of this Lease.

13. CONDEMNATION.

(a) Notice. Landlord and Tenant each agree to give the other written notice of any taking by exercise of the power of condemnation or eminent domain, whether by legal proceedings or otherwise ("**Taking**") of all or any portion of the Premises promptly after receiving notice thereof. Landlord agrees not to initiate or endorse any Taking which would materially interfere with Tenant's ability to use the Premises for the use(s) permitted under this Lease.

(b) Total Taking. In the event of a Taking (other than for temporary use) of the entire Premises or such a substantial part of the Premises that the remaining portion of the Premises, after Reconstruction, would be unsuitable for the continued use and occupancy for the uses permitted hereunder (a "**Total Taking**"):

(i) this Lease shall terminate as of the date that possession is delivered to the condemning authority;

(ii) Lease Payments shall be apportioned as of the date the Lease terminates; and

(iii) any condemnation award or payment shall be applied first to reimburse Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award (including, without limitation reasonable attorneys' fees and disbursements). The amount of any condemnation award or payment remaining after first reimbursing Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award or payment (including, without limitation reasonable attorneys' fees and disbursements) (the "**Net Condemnation Proceeds**") shall be apportioned between Landlord and Tenant in the manner set forth in this Section.

(c) Partial Taking. In the event of any Taking (other than for temporary use) which is not a Total Taking:

(i) this Lease shall remain in full force and effect as to the portion of the Premises remaining immediately after such Partial Taking;

(ii) there shall be an equitable abatement of the Lease Payments payable under this Lease based on the portion of the Premises taken;

(iii) any condemnation award or payment shall be allocated first to the Leasehold Mortgagee, to the extent required by the Leasehold Mortgage or any related loan documents, and then to reimburse Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award (including, without limitation reasonable attorneys' fees and disbursements);

(iv) Tenant shall proceed with due diligence to repair, restore and replace the Premises as nearly as possible to its condition and character immediately prior to such Partial Taking (the "**Reconstruction**"), except for any reduction in area caused thereby. The work performed under this Section shall be performed in accordance with the provisions of Section 4;

(v) the Net Condemnation Proceeds and any sums deposited by Tenant pursuant to Section 13(c)(vi) (collectively, the "**Reconstruction Funds**") shall be held, invested and disbursed by the Insurance Depository to pay the costs of Reconstruction, subject to substantially the same terms and conditions as are applicable to the Net Insurance Proceeds under Section 12;

(vi) Tenant shall be solely responsible for any costs of Reconstruction which are in excess of the Net Condemnation Proceeds. If, at any time, Landlord reasonably determines that the Net Condemnation Proceeds will be insufficient to pay the remaining costs of Reconstruction, Tenant shall deposit the difference with the Insurance Depository, and such amount shall be held, invested and disbursed in the same manner as the Net Condemnation Proceeds;

(vii) any balance of the Reconstruction Funds remaining after completion of the Reconstruction shall be apportioned between Landlord and Tenant in accordance with the provisions of this Section 13.

(d) Net Condemnation Proceeds/Reconstruction Funds.

(i) In the event of a Total Taking, the Net Condemnation Proceeds shall be allocated first to the Leasehold Mortgagee, to the extent required by the Leasehold Mortgage or any related loan documents, and then apportioned between Landlord and Tenant in proportion to the fair market value of their respective interests in the Premises immediately prior to the Taking, as if such Taking had not occurred.

(ii) In the event of a Partial Taking, any Reconstruction Funds remaining after completion of the Reconstruction shall be applied first to reimburse Tenant for any sums deposited by Tenant pursuant to Section 13(c)(iv). The balance, if any, shall be apportioned between Landlord and Tenant in proportion to the fair market value of their respective interests in the Premises immediately prior to the Taking, as if such Taking had not occurred.

(iii) In determining the fair market value of Landlord's interest in the Premises, due consideration shall be given to the fair market value of the Premises, as encumbered by the Lease, taking into account the remaining useful life of the Improvements at the expiration of the Term, as if such Taking had not occurred.

(e) Procedure for Apportioning Funds.

(i) Landlord and Tenant shall attempt, in good faith, to agree upon the apportionment of the Net Condemnation Proceeds or remaining Reconstruction Funds between Landlord and Tenant.

(ii) In the event that Landlord and Tenant are unable to agree upon the apportionment, either party shall have the right to submit such dispute (an "**Apportionment Dispute**") to arbitration in accordance with the provisions of this Section and the arbitration rules of the American Arbitration Association then in existence.

(iii) During the first ten (10) days after either party notifies the other of its desire to submit the Apportionment Dispute to arbitration, Landlord and Tenant shall attempt to agree upon a single person (the "**Expert**") who (a) shall be MAI certified, (b) shall have a minimum of ten (10) years' experience in appraisal of real estate in the State in which the Premises are located, and (c) has not conducted within the previous three (3) years, does not presently conduct, and does not anticipate conducting a material amount of business with either Landlord or Tenant or their Affiliates, or otherwise have a financial interest in either Landlord or Tenant or their Affiliates and who is otherwise independent (the "**Expert Qualifications**"). If the parties agree upon a single Expert, each of them shall be responsible for one-half of the costs of the Expert so appointed. If Landlord and Tenant are unable to agree upon a single Expert, then within ten (10) days after the expiration of the period for agreeing upon a single Expert, each party, by giving notice to the other, shall appoint an Expert who meets the Expert Qualifications. Such notice shall be accompanied by a statement of all business conducted by the party making the appointment, and its Affiliates, with the Expert so appointed. If a party does not appoint an Expert within ten (10) days after the other party has given notice of the name of its Expert, the single Expert selected shall then be responsible for deciding the Apportionment Dispute.

(iv) If the two Experts are appointed by the parties as provided in this Section, they shall meet promptly and attempt to decide the Apportionment Dispute in accordance with the provisions of this Section. If they are unable to agree upon a resolution of the Apportionment Dispute within twenty (20) days after the second Expert has been appointed, the two Experts shall attempt to select a third Expert meeting the Expert Qualifications, within ten (10) days after the expiration of the period for the two Experts to render a decision. If the two Experts are unable to agree upon a third Expert within such period, either of the parties to this

Lease may apply to the American Arbitration Association for the appointment of a third Expert who meets the Expert Qualifications. The third Expert, whether selected by the two Experts or by the American Arbitration Association, shall then be responsible for deciding the Apportionment Dispute. Each of the parties shall be responsible for the costs of its own Expert and one-half of the costs of the third Expert.

(v) In rendering a decision, the Expert(s) shall be entitled to solicit and receive both oral and written evidence, to conduct hearings and meetings and to consider any and all evidence which he deems necessary or appropriate to render his decision; provided, however, that in no event shall the Expert(s) conduct any *ex parte* hearings or otherwise receive oral evidence or testimony from any party outside the presence of the other party or, in the case of written evidence, unless a copy of such evidence is simultaneously delivered to the other party. The Expert(s) shall have no power to change the provisions of this Lease in any respect, and the jurisdiction of the Expert(s) is expressly limited accordingly.

(vi) The Expert(s) shall render a decision as soon as possible. Such decision shall be binding, final and conclusive on the parties (except in the case of manifest error), and judgment thereon may be entered in a court of competent jurisdiction.

(f) Taking For Temporary Use. In the event of a Taking of all or any portion of the Premises for temporary use or occupancy (a "**Temporary Taking**"):

(i) this Lease shall not terminate, there shall be no reduction in the Lease Payments payable under this Lease, and Tenant shall continue to perform and observe all of its obligations under this Lease as though such Taking had not occurred except only to the extent that it may be prevented from so doing;

(ii) any condemnation award or payment shall be applied first to reimburse Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award (including, without limitation reasonable attorneys' fees and disbursements);

(iii) the Net Condemnation Proceeds shall be held by the Insurance Depository and applied to the payment of Lease Payments coming due under this Lease. If the Temporary Taking extends beyond the expiration of the Term, Landlord shall be entitled to the portion of the Net Condemnation Proceeds allocable to the period after the expiration date;

(iv) at the termination of the Temporary Taking (whether prior or subsequent to the expiration date), Tenant shall proceed with due diligence to repair, restore and replace the Premises as nearly as possible to its condition prior to such Temporary Taking. The portion of the Net Condemnation Proceeds allocable to such Reconstruction shall be held, invested and disbursed by the Insurance Depository to pay the costs of Reconstruction upon substantially the same terms and conditions as are applicable to the Restoration Funds under Section 12. Tenant shall be responsible for any costs in excess of the amount of the award;

(v) any balance remaining after application of the condemnation award pursuant to Section 13(f)(ii), 13(f)(iii) and 13(f)(iv) shall be paid to Tenant.

(g) Survival. The provisions of this Article shall survive the expiration or earlier termination of this Lease.

14. LANDLORD ENCUMBRANCES. It is expressly understood and agreed that Landlord's fee interest in the Land is not subordinate to any Leasehold Mortgage (as hereinafter defined). Tenant has no right to, and shall not, place or create any mortgage or other lien or encumbrance purporting to encumber Landlord's fee interest in the Land. In the event Landlord elects to encumber the Land or any portion thereof with a fee mortgage, such fee mortgage shall be subordinate to Tenant's rights under this Lease and upon Tenant's request, Landlord shall execute and cause such fee mortgagee to enter into a recognition, non-disturbance and attornment agreement with Tenant, substantially in the form attached hereto as Exhibit F or such other form as Landlord, Tenant, such fee mortgagee and any Leasehold Mortgagee may mutually agree to.

15. LEASEHOLD MORTGAGE.

(a) Tenant may from time to time, and without the consent of Landlord, secure financing (which may include, without limitation, mortgage loans, general credit lines, bond financing, including Community Development District bond financing, and CPACE financing) from banks, insurance companies, other financial institutions or other lenders (each one, a "**Leasehold Mortgagee**"), granting to such Leasehold Mortgagee as security for such financing or general credit lines a mortgage encumbering Tenant's leasehold interest in the Premises (which may include a collateral assignment of Tenant's leasehold interest in the Premises with rights of reassignment, hereinafter a "**Leasehold Mortgage**") and/or a security interest in any furnishings, fixtures, equipment and personalty purchased by or belonging to Tenant, or leased from third parties by Tenant and installed on the Premises by Tenant. To the extent any provision in this Section conflict or are inconsistent with any other provision of this Lease, the provisions of this Section shall control.

Tenant may also, with Landlord's prior written consent, which shall not be unreasonably withheld, conditioned or delayed, apply for any county, state and federal grants that may be available to Landlord (including, without limitation, those available from the Florida Navigational District) for the financial benefit the Marina (collectively, the "**Grants**") on behalf of Landlord. Landlord agrees to reasonably cooperate with Tenant in connection with Tenant's application for any such Grants, provided that Landlord shall not be required to incur any cost or liability in connection therewith and Tenant shall be solely responsible for any costs incurred in connection therewith, including without limitation any contribution requirements.

(b) If Tenant shall enter into any such Leasehold Mortgage, the Tenant or Leasehold Mortgagee shall forward to Landlord a copy of such Leasehold Mortgage together with a written notice setting forth the name of the Leasehold Mortgagee and its notice information (address for certified mail and electronic mail (e-mail)).

(c) When giving notice to Tenant with respect to any default under the provisions of this Lease, Landlord shall also serve a copy of such notice upon the Leasehold Mortgagee, in accordance with such Leasehold Mortgagee's preferred form of notice as previously established pursuant to clause (b) above. No such notice to Tenant shall be deemed to have been given unless a copy of such notice has been mailed to such Leasehold Mortgagee, which notice must specify the nature of each such default.

(d) The Leasehold Mortgagee, upon mailing by Landlord of the notice referred to in subparagraph (c) of this Section, shall have, in addition to any period of grace extended to Tenant under the terms and conditions of this Lease, a period of ninety (90) days within which to cure the default or cause the same to be cured or to commence to cure such default with diligence and continuity; provided, however, that as to any default of Tenant for failure to make Lease Payments or to pay taxes, insurance or other monetary obligations of Tenant hereunder, the Leasehold Mortgagee shall be given written notice of such default by certified mail by Landlord, and the Leasehold Mortgagee shall have thirty (30) additional days from the date the notice of default was mailed within which to cure such default. The Leasehold Mortgagee's decision to cure, or cause to be cured, any default under the Lease shall be at the Leasehold Mortgagee's sole discretion and election and Leasehold Mortgagee shall not be required to cure any non-monetary default not within such Leasehold Mortgagee's control such as an act of bankruptcy.

(e) Each Leasehold Mortgagee shall have the right, but not the obligation, to perform any covenant or agreement under this Lease to be performed by Tenant, and Landlord shall accept such performance by any Leasehold Mortgagee as if performed by Tenant. In case Tenant shall default under any of the provisions of this Lease, the Leasehold Mortgagee shall have the right (but not the obligation) to cure such default whether the same consists of the failure to make Lease Payments or to pay taxes, insurance, or other monetary obligation or the failure to perform any other matter or thing which Tenant is required to do or perform, and Landlord shall accept such performance on the part of the Leasehold Mortgagee as though the same had been done or performed by Tenant.

(f) In the case of any default by Tenant, other than in the payment of Lease Payments under this Lease, Landlord, so long as no monetary default beyond any applicable notice and cure periods shall exist, will take no action to effect a termination of the Term of this Lease without first giving to the Leasehold Mortgagee a reasonable time within which either (i) to obtain possession of the Premises (including possession by a receiver) and cure such default in the case of a default which is susceptible of being cured when the leasehold mortgagee has obtained possession; or (ii) to institute foreclosure proceedings and complete such foreclosure or otherwise acquire Tenant's interest under this Lease with diligence and continuity and thereafter to commence and diligently proceed to cure such default; provided, however, that the leasehold mortgagee shall not be required to continue such possession or continue such foreclosure proceedings if the default which would have been the reason for serving such a notice shall be cured, and provided further, that nothing in this Section shall preclude Landlord from exercising any rights or remedies under this Lease with respect to any other default by Tenant during any period of such forbearance.

(g) In the event of the termination of this Lease or of any succeeding lease made pursuant to the provisions of this Section prior to its stated expiration date, Landlord will quit claim

to Leasehold Mortgagee any interest in the Improvements and, at the same time, enter into a new lease of the Premises upon the same terms and conditions as this Lease for the remainder of the Term with the Leasehold Mortgagee or, at the request of such Leasehold Mortgagee, to a corporation or other entity approved to conduct business in the State of Florida, formed by or on behalf of such Leasehold Mortgagee or by or on behalf of the holder of the note secured by the Leasehold Mortgage held by such Leasehold Mortgagee, for the remainder of the Term, effective on the date of such termination, upon the covenants, agreements, terms, provisions and limitations contained in this Lease (including, without limitation, the Lease Payments), provided that such Leasehold Mortgagee makes written request and executes, acknowledges and delivers to Landlord such new lease within thirty (30) days from the date of such termination and such written request and such new lease is accompanied by payment to Landlord of all amounts then due to Landlord, including reasonable attorneys' fees, court costs and disbursements incurred by Landlord in connection with any such default and termination as well as in connection with the execution and delivery of such new lease, less the net income collected by Landlord subsequent to the date of termination of this Lease and prior to the execution and delivery of the new lease, any excess of such net income over the aforesaid sums and expenses to be applied in payment of the Lease Payments thereafter becoming due under such new lease. In no event, however, shall such mortgagee or its nominee or designee be required to cure a default under this Lease which is not subject to being cured by such mortgagee or its nominee or designee in order to obtain a new lease. Any new lease referred to in this Section shall not require any execution, acknowledgment or delivery by Landlord in order to become effective as against Landlord and Landlord shall be deemed to have executed, acknowledged and delivered any such new lease immediately upon receipt by Landlord of such new lease accompanied by (i) payment to Landlord of all amounts then due to Landlord of which the Leasehold Mortgagee shall theretofore have received written notice; and (ii) an agreement by the Leasehold Mortgagee to pay all other amounts then due to Landlord of which the Leasehold Mortgagee shall not theretofore have received written notice. In addition, immediately upon receipt by Landlord of such new lease, as provided in this subparagraph, Landlord shall be deemed to have executed, acknowledged and delivered to the Leasehold Mortgagee an assignment of all subleases covering the Premises which theretofore may have been assigned and transferred to Landlord and all subleases under which subtenants shall be required to attorn to Landlord pursuant to the terms and conditions of such subleases or this Lease. Such assignment by Landlord shall be deemed to be without recourse as against Landlord. Within ten (10) days after a written request therefore by the Leasehold Mortgagee, such assignment or assignments shall be reduced to writing in recordable form and executed, acknowledged and delivered by Landlord to the Leasehold Mortgagee.

(h) The Leasehold Mortgagee may become the legal owner and holder of this Lease by foreclosure of its mortgage or as a result of the assignment or quitclaim conveyance of this Lease and the Improvements in lieu of foreclosure, whereupon such Leasehold Mortgagee shall immediately become and remain liable under this Lease as provided in subparagraph (j) below, except that such Leasehold Mortgagee may assign this Lease without Landlord's consent to any assignee at any time, provided that prior notice is given to Landlord in accordance with this Lease.

(i) In the event that a Leasehold Mortgagee shall become the owner or holder of Tenant's interest by foreclosure of its mortgage or by assignment of this Lease in lieu of foreclosure or otherwise, the term "Tenant," as used in this Lease, means only the owner or holder

of Tenant's interest for the time being so that, in the event of a sale, assignment or other disposition of Tenant's interest in this Lease by the Leasehold Mortgagee, the Leasehold Mortgagee shall be entirely freed and relieved of all covenants and obligations of Tenant under this Lease and it shall be deemed and construed, without further agreement between Landlord and the Leasehold Mortgagee or between Landlord, the Leasehold Mortgagee and the Leasehold Mortgagee's purchaser or assignee at any such sale or upon assignment of Tenant's interest, that the purchaser or assignee of Tenant's interest has assumed and agreed to carry out any and all covenants and obligations of Tenant. The Leasehold Mortgagee's purchaser or assignee shall sign an Assignment and Assumption Agreement of this Lease.

(j) Within ten (10) days after written request by Tenant or by Tenant's Leasehold Mortgagee, or in the event that upon any sale, assignment or mortgaging of Tenant's interest in this Lease by Tenant or Tenant's Leasehold Mortgagee, an offset statement shall be required from Landlord, Landlord agrees to deliver in recordable form a certificate to any proposed Leasehold Mortgagee, purchaser, assignee or to Tenant, certifying (if such be the case) (i) the amount of the Lease Payments due under the Lease, if any, and the date to which Lease Payments have been made; (ii) whether this Lease is in full force and effect; (iii) whether Landlord has any knowledge of any default under this Lease, or if any default exists, specifying the nature of the default; and (iv) whether there are no defenses or offsets which may be asserted by Landlord against Tenant in respect of obligations pursuant to this Lease as of the date of the estoppel. The estoppel letter shall be certified to Landlord and the Leasehold Mortgagee and none other.

(k) Reference in this Lease to acquisition of Tenant's interests in this Lease by the Leasehold Mortgagee shall be deemed to refer, where circumstances require, to acquisition of Tenant's interest in this Lease by any purchaser at a sale on foreclosure of the Leasehold Mortgage and provisions applicable to the Leasehold Mortgagee in such instance or instances shall also be applicable to any such purchaser.

(l) So long as Tenant's interest in this Lease shall be mortgaged to a Leasehold Mortgagee, the parties agree for the benefit of such Leasehold Mortgagee that Landlord shall not sell, grant or convey to Tenant all or any portion of Landlord's fee simple title to the Premises without the prior written consent of such Leasehold Mortgagee. In the event of any such sale, grant or conveyance by Landlord to Tenant, Landlord and Tenant agree that no such sale, grant or conveyance shall create a merger of this Lease into a fee simple title to the Premises. This subparagraph (l) shall not be construed to prevent a sale, grant or conveyance of Landlord's fee simple title by Landlord to any person, firm or corporation other than Tenant, its successors, legal representatives and assigns.

(m) Reference in this Lease to a Leasehold Mortgagee shall be deemed to refer where circumstances require, to any assignee (subject to the provisions of subparagraph (i), above) of a Leasehold Mortgagee; provided that such assignee shall forward to Landlord a copy of such assignment of Leasehold Mortgage, together with a written notice setting forth the name and address of the assignee and its notice information (address for certified mail and electronic mail (e-mail)).

(n) Any Leasehold Mortgage shall be specifically subject and subordinate to Landlord's rights under this Lease. The sentence immediately preceding shall not be deemed or

construed (by implication or otherwise) to impose or establish upon Tenant's interest in this Lease or upon the lien of any Leasehold Mortgage the superiority of any lien or encumbrance, including, without limitation, the lien of any fee mortgage, judgment or tax created directly or indirectly by, through or against Landlord or Landlord's interest in this Lease. Despite any provision which is or may appear to be to the contrary in this Lease, under no circumstances whatsoever shall the fee simple title interest of Landlord in the Premises, or any portion of them, be encumbered or subordinated, except for a mortgage on Tenant's leasehold interest.

(o) No Leasehold Mortgagee or other person succeeding to the interest of Tenant in this Lease through or subsequent to an enforcement proceeding shall be liable under this Lease, unless and until such time as it becomes the tenant of the leasehold estate, and then only for such obligations of Tenant which accrue during the period while it remains the tenant of the leasehold estate.

(p) Notwithstanding any provision in this Lease to the contrary, in the event of any Casualty or Taking of the Premises or any portion thereof and if allowed by law or its agreements with Tenant, the most senior Leasehold Mortgagee (or such other Leasehold Mortgagee, in order of lien priority, if the Leasehold Mortgagee having the most senior lien shall not request or shall not be permitted by law or its agreements with Tenant to do so) shall be permitted to receive insurance proceeds and/or condemnation awards otherwise payable to Tenant and shall be permitted (but shall not be obligated except as required by law or its agreements with Tenant or as provided in the next sentence) to restore the Premises. In addition, if such Leasehold Mortgagee (by reason of its acquiring Tenant's leasehold estate) shall be obligated under this Lease to repair or restore the Premises, such obligation shall be limited to the amount of such proceeds or awards actually received by such Leasehold Mortgagee.

(q) Upon Tenant's request, and at no material cost to Landlord, Landlord shall execute such documents or instruments confirming Tenant's right and authority to enter into a Leasehold Mortgage and/or granting a security interest in this Lease and confirming that Landlord will give such Leasehold Mortgagee notice and the right to cure any Default of Tenant as provided herein. In addition, Landlord, upon the request of Tenant or any Leasehold Mortgagee, shall execute such reasonable modifications or amendments of this Lease as shall be required by such Leasehold Mortgagee or by any person to which Tenant has made application for a Leasehold Mortgage provided such modifications or amendments do not, taken as a whole, materially affect Tenant's obligations or materially affect Landlord's rights under this Lease. Landlord shall not unreasonably refuse any such request for such modification or amendment. Further, Landlord agrees to enter into a triparty agreement with Tenant and its lender, upon terms and conditions acceptable to such lender and to Landlord, to set forth the rights of Tenant's lender substantially as provided in this Section. In no case shall Landlord be required to guarantee any loan, provide any financing, or mortgage any of its property.

(r) Landlord and Tenant agree that they will make good faith efforts to assist one another so that Tenant can obtain a commercially reasonable loan to finance the construction of the Public Marina Component.

16. LANDLORD NON-DISTURBANCE AND RECOGNITION AGREEMENT.

Tenant may enter into one or more subleases for the Premises with subtenants without the consent of Landlord. Provided, in the event the Tenant desires a non-disturbance agreement for a subtenant ("NDA"), the Tenant shall obtain the prior written consent of the subject sublease(s) from Landlord, and Landlord (in connection with entering into such NDA) agrees that such consent shall not be unreasonably withheld, conditioned, or delayed, whereupon:

(a) Upon any termination of this Lease, provided the applicable subtenant of the Premises (or any portion thereof) is not in default under its sublease beyond any applicable notice and cure periods, (i) Landlord shall not disturb such subtenant's possession of its subleased premises, nor shall any of such subtenant's rights under its sublease be affected in any way by reason of any default under this Lease by Tenant, provided such subtenant shall attorn and recognize Landlord, as the subtenant's sublandlord under its sublease and (ii) Landlord shall recognize such subtenant's rights under its sublease, as such subtenant's sublandlord under its sublease, and accept such subtenant's attornment.

(b) Upon any such attornment and recognition, the applicable sublease shall continue in full force and effect as, or as if it were, a direct lease between Landlord and the subtenant upon all of the then executory terms, conditions and covenants as are set forth in the sublease prior to the date of attornment, and shall be applicable after such attornment and recognition provided, however, at no time shall Landlord be (i) liable for any prior default by Tenant, as sublandlord under the sublease; (ii) responsible for any monies owing by Tenant, as sublandlord under the sublease; (iii) required to account for any security deposit, other than any security deposit actually delivered to Landlord or for any rent that the subtenant might have paid for more than the current month to Tenant; nor (v) liable for the breach of any representation or warranty (of any nature whatsoever) made by Tenant or to any other party for matters arising prior to the date of attornment.

(c) Upon the request of a subtenant of the Premises (or any portion thereof), Landlord shall enter into a commercially reasonable non-disturbance, attornment and recognition agreement with the subtenant setting forth the terms and conditions of this Section 16 and such other terms as mutually may be agreed upon by Landlord and the subtenant.

17. COVENANT OF QUIET ENJOYMENT. Landlord covenants and warrants that, provided Tenant is not in breach of any material term of this Lease beyond any applicable notice and cure period, Tenant shall peacefully have and enjoy the sole possession of the Premises during the Term free from the adverse claims of any persons, firms or corporations claiming by, through or under Landlord. Landlord agrees upon the written request of the Tenant, that Landlord will (i) apply for a submerged land lease (on terms to be coordinated with the Tenant in connection with such application), as Tenant may request and, upon obtaining such submerged land lease to include such area as part of the Premises leased/subleased by Landlord to Tenant; (ii) execute any and all easements or rights of way on, over or under the Premises or any part thereof at Tenant's request which are or may be needed or required by Tenant in conjunction with Tenant's use and enjoyment of the Premises; and (iii) execute any other public utility or governmental body related documents or agreements in the form customarily provided by such public utility or governmental body, which is necessary to fulfill the intent and purposes of this Lease, including, without limitation, the facilitation of, a successful prosecution of all Improvements and construction, signage rights, parking, access, drainage, utilities, communications, lighting, governmental services, the

operations by Tenant under this Lease, and all other matters and things contemplated or impliedly necessary under this Lease for its full effectuation, performance or realization. Landlord agrees not to file or cause any zoning change to be made that would affect the Premises without the prior written approval of Tenant. Landlord warrants and represents that there are no mortgages or deeds of trust applicable to the Premises as of the Effective Date.

Landlord represents and warrants that the Premises are owned in fee simple by Landlord; that it is seized of the Premises in fee, subject only to the exceptions set forth on Exhibit D hereto, and that it has entered into this Lease with proper authority. If, at any time during the Term, any indebtedness, lien, assessment, claim, or other matter whatsoever shall arise or shall be asserted which in any way interferes or threatens to interfere with Tenant's use of the Premises as herein provided or referenced, and such indebtedness, lien, assessment, claim, or other matter arises due to Landlord's breach of this Lease or any act or omission of Landlord from and after the Effective Date, then Tenant shall have the right to expend such sums as are necessary to abate said threat or interference and deduct the same from consideration due Landlord until Tenant is reimbursed in full.

18. ASSIGNMENT AND SUBLETTING.

(a) Except as otherwise expressly provided herein, Tenant shall be permitted to sublease or license any portion of the Premises, in whole or in part, in any manner whatsoever, to subtenants (a "**Premises Tenant**") pursuant to a sublease in the ordinary course of its business (a "**Tenant Lease**") without the consent of Landlord, if the use specified in the Tenant Lease is permitted hereunder and by current and applicable zoning requirements. Tenant also may transfer, license, lease, sublease, and/or assign this Lease and its rights and interests hereunder, without the consent of Landlord, (i) at any time, to an Affiliate (as such term is defined in the Comprehensive Agreement), provided that Tenant or the Developer or a manager who is a knowledgeable manager reasonably approved by Landlord is the manager of such Affiliate; and (ii) from and after the issuance of a certificate of occupancy with respect to the Public Marina Component, to any third party. Tenant shall also be permitted to, at any time, transfer, convey or pledge its interest in this Lease to a Leasehold Mortgagee without the consent of Landlord. Any such sublease, transfer, conveyance or pledge by the Tenant shall be subject to all of the terms and provisions of this Lease. Except as otherwise expressly permitted hereunder, if Tenant seeks to assign, transfer or sell its leasehold interest in this Lease, the express prior written consent of Landlord shall be required, which consent shall not be unreasonably withheld, conditioned or delayed. Any such consent to an assignment shall be subject to all of the terms and provisions of this Lease and, provided that the assignee agrees in writing to assume all of the Tenant's rights and obligations under this Lease, shall release Tenant from its obligations under this Lease. Landlord's consent shall not be required for Premises Tenant's certificates of occupancy, building permits, tenant allowances or buildout terms and procedures except as may otherwise be required by Landlord by virtue of Landlord being the Governmental Authority overseeing these items in its regulatory capacity. Within sixty (60) days of executing a Tenant Lease with a Premises Tenant, Lessee shall notify Lessor the Tenant Lease has been executed and the identity of the Premises Tenant.

(b) Should Tenant take any action to assign this Lease without the prior written consent of Landlord as provided in Section 18(a), then any such assignment shall be null and void and of no force and effect.

(c) Any successor or assignee of Tenant's rights and/or obligations under this Lease shall expressly assume in writing performance of such rights and/or obligations and deliver same to Landlord within ten (10) days after consummation of the assignment, transfer or sale.

19. **NOTICES.** All notices, requests, consents, demands, approvals or other communications required or permitted under this Lease shall be in writing, addressed to the person identified below, and delivered either by: (a) hand delivery, (b) overnight courier by a nationally recognized courier, with all fees prepaid; Registered or Certified Mail, return receipt requested and postage prepaid; or delivered by email with "FORMAL NOTICE UNDER GROUND LEASE" in the subject line:

If to Landlord:

Town of Lake Park
Attention: Town Manager
535 Park Avenue
Lake Park, Florida 33403

With a copy to:

Town of Lake Park
Attention: Town Attorney
535 Park Avenue
Lake Park, Florida 33403

If to Tenant:

FD P3 LP MARINA, LLC,
c/o Forest Development P3 LPM, LLC
Attn: Peter Baytarian
11231 US Highway 1, Suite 354
North Palm Beach, Florida 33408
info@forestdevelopment.com

And to:

Saul Ewing LLP
Attn: Anthony Kang
701 Brickell Avenue, 17th Floor
Miami, Florida 33131
Anthony.kang@saul.com

With a copy to:

Zabik & Associates, Inc.
Attn: Larry Zabik
11398 Okeechobee Blvd, Suite 2
Royal Palm Beach, Florida 33411
lzabik@zabikandassociates.com

Any and all tax notices and information shall also be sent to: Tenant

Each such notice shall be deemed delivered: (i) if delivered by hand, the date the receipt is signed; (ii) if sent by overnight courier, on the courier's confirmation of delivery date, or (iii) if sent by Registered or Certified Mail, upon receipt as indicated by the date on the signed return receipt.

Landlord and Tenant agree that any and all notices given by either party shall be provided simultaneously to any assignee of Tenant or any lender to Tenant when such assignee or lender has been previously identified in writing to the parties along with the appropriate address for such notices. Either Party may, at any time, change its address for the above purposes by sending a notice to the other party stating the change and setting forth the new address.

20. MISCELLANEOUS.

(a) Captions. Captions or headings of sections are for convenience only and shall not be considered in construing the meaning of the contents of such section.

(b) Partial Invalidity. If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

(c) Prevailing Party. Should Landlord or Tenant institute any legal proceedings against the other for breach of any provisions herein contained, each party in such action shall be responsible for its own conduct costs and litigation expenses including reasonable attorneys' fees through all levels of appeal.

(d) No Prior Agreements / No Third-Party Beneficiaries. This Lease supersedes and cancels all prior negotiations between the parties, and all other negotiations and understandings are merged into this Lease. This Lease, together with the terms and conditions of the Comprehensive Agreement applicable to the Public Marina Component, constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof. The parties acknowledge that there are no other promises, agreements, conditions, undertakings, warranties, or representations, oral or written, express or implied, between and among them, except as set forth, referenced, or incorporated herein or in the Comprehensive Agreement (to the extent incorporated herein). Furthermore, this Lease is intended solely for the benefit of the parties hereto expressly noted herein and whose signatures appear hereon and their respective permitted successors and assigns, as applicable. No third party shall have any rights or interest herein and there are no and shall be no third-party beneficiaries hereto.

(e) Amendments and Modifications/No Oral Modifications. All amendments or modifications to this Lease must be in writing signed by the Parties. No purported amendments or modifications to this Lease which are oral shall be effective, binding or enforceable.

(f) Interpretation and Gender. The singular shall include the plural, and the masculine, feminine or neuter shall include either of the others as appropriate in context.

(g) Successors and Assigns. All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors and assigns of the said parties; they shall all be bound jointly and severally by the terms, covenants and agreements herein.

(h) No Waiver. The failure to enforce any particular provision of this Lease on any particular occasion shall not be deemed a waiver by either party of any of its rights hereunder, nor shall it be deemed to be a waiver of subsequent or continuing breaches of that provision.

(i) Estoppel Certificates. Landlord and Tenant agrees, from time to time as may be requested by each other, to execute, acknowledge and deliver within thirty (30) days after being requested to do so an estoppel letter certifying the following to such party as it reasonably may designate, including any Leasehold Mortgagee: (a) that (i) this Lease is in full force and effect and has not been amended, modified or superseded; (ii) Landlord and Tenant are not in default under this Lease; (iii) Tenant has no defense, offset or counterclaim under this Lease or otherwise against Landlord with respect to this Lease or the Premises; (b) the date to which Lease Payments have been paid; and (c) such other information as the requesting party may reasonably request.

(j) Calculation of Time Periods. In the computation of any time periods hereunder shall exclude Saturdays, Sundays, and state or national legal holidays, and any time period provided for herein which shall end on Saturday, Sunday, or a legal holiday shall extend to 6:00 p.m. eastern time of the next business day.

(k) Florida Law and Venue. This Lease and all of its provisions shall be construed in accordance with the laws of the State of Florida. In the case of any legal proceedings, venue shall be Palm Beach County.

(l) Severability. In the event any provision of this Lease is prohibited, unenforceable or invalid under the laws of any jurisdiction, including those of the State of Florida, such prohibition, or unenforceable or invalid provision shall not in any fashion affect the enforceability or validity of the remaining provisions hereof.

(m) Construction. This Lease shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that all parties have contributed substantially and materially to the preparation of this Lease.

(n) No Cross Default. The Comprehensive Agreement contemplates that the "Project" (as defined in the Comprehensive Agreement) will be comprised of the "Hotel Component," the "Boat Storage Component," the "Public Marina Component" and the "Marina Restaurant Component" (collectively the "Components" and individually a "Component"). The Developer has created a separate entity to be the tenant under this Lease and separate entities to be

the tenants under separate ground leases with Landlord with respect to the Boat Storage Component (the “**Boat Storage Lease**”), the Hotel Component (“**Hotel Lease**”), and the Marina Restaurant Component (the “**Restaurant Lease**”). The Boat Storage Lease, the Hotel Lease and the Restaurant Lease are collectively referred to herein as the “**Other Leases**” and individually as an “**Other Lease**”). .

Landlord and Tenant hereby agree that the rights and obligation under the Comprehensive Agreement shall be bifurcated so that (i) any rights and obligations with respect to the Public Marina Component under the Comprehensive Agreement shall only benefit and be required to be performed by the Tenant under this Lease, any obligation under this Lease shall only apply to the Public Marina Component under the Comprehensive Agreement, and any breach of the obligations under this Lease or the rights and obligations under the Comprehensive Agreement with respect to the Public Marina Component shall not affect or constitute a default under the Other Leases; (ii) any rights and obligations with respect to any Component (other than the Public Marina Component) under the Comprehensive Agreement shall only benefit and be required to be performed by the tenant under the applicable Other Lease, any obligation under the applicable Other Lease shall only apply to the applicable Component of such Other Lease under the Comprehensive Agreement, and any breach of the obligations under such Other Lease or the rights and obligations under the Comprehensive Agreement with respect to the Component applicable to such Other Lease shall not affect or constitute a default under this Lease; and (iii) to the extent of any inconsistency between the terms of this Lease and the terms of the Comprehensive Agreement, the terms of this Lease shall prevail and control.

(o) Landlord Approval. Landlord shall act on requests from Tenant for any consent or approval hereunder in a commercially reasonable manner and shall use commercially reasonable efforts to respond to any such request within twenty (20) days following Landlord’s receipt thereof (unless another time period for such response is expressly provided for herein). Landlord’s response may consist of an approval or disapproval of the request, or a conditional approval thereof subject to specified conditions, or a request for further data or information, or any combination thereof. If Landlord does not approve, reject or request additional information regarding any request hereunder within twenty (20) days following Landlord’s receipt thereof (or another time period expressly provided for herein with respect thereto), Tenant may provide to Landlord a second written request, which shall include a legend, printed in capital letters and boldface type, to the following effect: “**THIS COMMUNICATION REQUIRES IMMEDIATE RESPONSE. FAILURE TO RESPOND WITHIN TEN (10) DAYS FROM THE RECEIPT OF THIS COMMUNICATION SHALL CONSTITUTE A DEEMED APPROVAL BY LANDLORD OF THE ACTION REQUESTED BY TENANT.**” Landlord shall be deemed to have approved or consented to such action if Landlord fails to object to or request additional information with respect thereto within ten (10) days of such second request.

Wherever in this Lease the approval or consent of Landlord is required, it is understood and agreed that, unless specifically stated to the contrary, such approval or consent shall be granted or withheld in the reasonable discretion of Landlord or of the Town Manager) of Landlord (the “**Town Manager**”) (as applicable), within a reasonable time, and shall not be unreasonably withheld, conditioned or delayed. Except a may be otherwise specifically provided herein, the following actions under this Lease shall be taken or not taken by the Town Manager in the discretion of the Town Manager acting reasonably:

- (i) The exercise of Landlord's rights of entry and inspection;
- (ii) The exercise of Landlord's right or obligation to execute a joinder in (a) applications for land development approvals or other governmental approvals (including permits) which are necessary for Tenant to obtain from governmental authorities, and where such applications require evidence of the consent of the property owner, and (b) any easement, declaration, amendment or creation of an agreement affecting title to the Premises and any other document as may be requested by Tenant in connection with the development and/or operation of the Premises;
- (iii) The exercise of Landlord's right to receive and approve or not approve and specify the basis for such disapproval the form of certificates of insurance, policies, limits, and coverages of insurance, bonds, and Environmental Assessments;
- (iv) The execution of estoppel statements (or any modifications of the terms thereof) to be given by Landlord under this Lease;
- (v) The approval, if required, of any assignment or sublease; and
- (vi) Other provisions of this Lease where the act, approval or consent of the Landlord is expressly authorized or required, except any amendment to this Lease shall require the written consent of the Town Commission of the Landlord.

(p) Further Assurances. Each Party will promptly cooperate each with the other and will execute and deliver any and all written further assurances and/or documents that are reasonably necessary, convenient, or desirable to evidence, complete or perfect (or any combination thereof) the transactions contemplated by this Lease and/or the Comprehensive Agreement, so long as no further assurance or document to be executed operates to impose any new or additional obligation or liability upon any Party. Each Party will so perform all other acts that are reasonably necessary, convenient, or desirable for any such purpose, so long as no new or additional obligations or liabilities are incurred as a result thereof.

Additionally, Landlord further agrees that it will execute such documents and perform such acts as Tenant may reasonably require in connection with the development and/or operation of the Premises, including, but not limited to: (i) submitting applications and working with Tenant to cause the release, removal and/or modification of the Deed Restrictions and Reverter clause (as defined in the Comprehensive Agreement) so that the development and operation of the Premises as permitted by this Lease will not violate nor trigger any violation or Reverter of the Deed Restrictions and/or Reverter clauses; and (ii) executing such easements, submerged land leases, documents affecting title to the Premises, applications for governmental approvals, modifications and/or termination of existing easements and/or restrictions affecting the Premises, creation of declarations affecting the Premises and such other documents and acts as reasonably requested by Tenant in connection with its development and/or operation of the Premises, provided that such cooperation shall be subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed.

(q) Grant Funding. Landlord and Tenant agree to comply with their respective obligations under the Comprehensive Agreement relating to the Public Marina Component. The

Town of Lake Park may, as Landlord, qualify for grants and other public funds that if received can be used by Tenant for capital infrastructure and other improvements to the Premises. Therefore, Landlord and Tenant agree that Tenant may, at Tenant's sole cost and expense, apply for such local, State and Federal funding, and that to the extent required, Landlord will cooperate with Tenant to execute applications or will otherwise assist tenant in applying and, upon Landlord receiving such funds, will make such funds available to Tenant to be used by Tenant in making such improvements.

21. DELAYS. In any case where either party hereto is required to do any act, such party shall be excused from the performance thereof for the duration of delays caused or resulting from Acts of God, war, civil commotion, fire or other casualty, labor difficulties, general shortages of labor, materials or equipment, government regulations, moratorium, other causes beyond such party's reasonable control or circumstances or events characterized at law as "force majeure", whether the time for such performance shall be designated by a fixed date, a fixed period of time, or a "reasonable" period of time. In addition, should any lawsuit, legal proceeding, investigation or other legal matter be filed or commenced against Landlord, Tenant, or any other party related to this Lease, which materially affects this Lease, all time periods contained in this Lease shall be delayed until such legal matter is resolved in its entirety, including any and all appellate proceedings or the like. Notwithstanding anything to the contrary set forth in this Section 21 or elsewhere in this Lease, no event of force majeure (or any event deemed to be beyond the control of Tenant) shall be construed to apply to any of Landlord's or Tenant's monetary obligations hereunder or to permit or allow either Landlord or Tenant to delay or defer any such obligation.

22. ENVIRONMENTAL MATTERS.

(a) For purposes hereof, the following terms shall have the following meanings:

(i) **"Environmental Laws"** shall mean all Federal, state and local laws, statutes, ordinances, codes, rules, regulations and other requirements respecting the environment, including but not limited to those respecting: (A) the generation, use, handling, processing, storage, treatment, transportation, or disposal of any solid or hazardous wastes, or any hazardous or toxic substances or materials; (B) pollution or contamination of land, improvements, air (including indoor air), or water (including groundwater); (C) emissions, spills, releases, or discharges of any substance onto or into the land, improvements, air (including indoor air), or water (including groundwater), or any sewer or septic system; (D) protection of wetlands; (E) aboveground or underground storage tanks; (F) air quality (including indoor air quality) or water quality (including groundwater quality); and (G) protection of endangered species. Without limiting the generality of the foregoing, the term "Environmental Laws" includes the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C., Sec. 9601, et seq.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C., Sec. 6901, et seq., and the Toxic Substance Control Act of 1976, as amended, 15 U.S.C., Sec. 2601, et seq.

(ii) **"Environmental Violation"** shall mean (A) any direct or indirect discharge, disposal, spillage, emission, escape, pumping, pouring, injection, leaching, release, seepage, filtration or transporting of any Hazardous Substance at, upon, under, onto or within the

Premises, or from the Premises to the environment, in violation of any Environmental Law or in excess of any reportable quantity established under any Environmental Law or which could result in any liability to any Governmental Authority or any other person for the costs of any removal or remedial action or natural resources damage or for bodily injury or property damage, (B) any deposit, storage, dumping, placement or use of any Hazardous Substance at, upon, under or within the Premises or which extends to any adjoining property in violation of any Environmental Law or in excess of any reportable quantity established under any Environmental Law or which could result in any liability to any Governmental Authority or any other person for the costs of any removal or remedial action or natural resources damage or for bodily injury or property damage, (C) the abandonment or discarding of any barrels, containers or other receptacles containing any Hazardous Substances in violation of any Environmental Laws, or (D) any violation of or noncompliance with any Environmental Law.

(iii) **“Governmental Authority”** shall mean any federal, state, county or municipal government, or political subdivision thereof, any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality, special service district or public body, or any court or administrative tribunal.

(iv) **“Hazardous Substances”** shall mean any substance, material or waste defined as a pollutant or contaminant, or as a hazardous, toxic or dangerous substance, material or waste, under any Environmental Law, including, without limitation, petroleum, petroleum products, PCBs and asbestos.

(b) Tenant shall not use, or permit its agents, employees, contractors, subtenants, licensees or invitees to use the Premises for the purpose of treating, producing, handling, transferring, processing, transporting, disposing, using or storing a Hazardous Substance in violation of any Environmental Law. Tenant shall, at Tenant’s own expense, comply with all Environmental Laws as the same affect the Premises or the operations and activities of Tenant, its agents, employees, contractors, subtenants, licensees or invitees (collectively, **“Tenant Parties”**) on or about the Premises.

(c) In the event Tenant becomes aware of any Environmental Violation or any suspected Environmental Violation at the Premises, Tenant shall promptly (a) notify Landlord of such Environmental Violation or suspected Environmental Violation, and (b) deliver to Landlord any notice filed by or received by Tenant with or from any Governmental Authority relating thereto immediately upon filing or receipt thereof.

(d) In the event that, in the reasonable opinion of Landlord, there is a basis to believe that an Environmental Violation exists, Landlord shall have the right to have its environmental consultants (**“Site Reviewers”**) visit the Premises and perform environmental site investigations and assessments (**“Site Assessments”**) on the Premises for the purpose of determining whether there exists on the Premises any Environmental Violation or any condition which is likely to result in any Environmental Violation. Such Site Assessments may include both above and below the ground testing for Environmental Violations and such other tests as may be necessary, in the opinion of the Site Reviewers, to conduct the Site Assessments. The Site Reviewers shall use their good faith diligent efforts to minimize any interference with the

operations of Tenant and other occupants of the Premises. Tenant shall supply to the Site Reviewers such historical and operational information regarding the Premises as may be reasonably requested by the Site Reviewers to facilitate the Site Assessments and shall make available for meetings with the Site Reviewers appropriate personnel having knowledge of such matters.

(e) In the event that there exists any Environmental Violation caused by any Tenant Party, Tenant shall, at its own cost and expense:

(i) promptly and diligently take any and all actions necessary to return the Premises to a condition which is in compliance with Environmental Laws, and which will not impede or limit further development of the Premises;

(ii) provide Landlord, within ten (10) days after Landlord's request therefor, adequate financial assurances that Tenant will effect remediation in accordance with applicable Environmental Laws. Such financial assurances shall be a bond or letter of credit in form and substance reasonably satisfactory to Landlord and in an amount equal to Landlord's reasonable estimate of the anticipated cost of such remedial action;

(iii) without limiting the generality of Section 22(e)(i), make all submissions and provide all information required by Environmental Laws. Tenant shall comply with all requests of the United States Environmental Protection Agency, the Florida Department of Environmental Protection and any other Governmental Authority having jurisdiction over the Premises, including any request that a cleanup plan be prepared and that a cleanup be undertaken with respect to the Premises. In such event, Tenant shall, at Tenant's own expense, prepare and submit appropriate documents, and carry out the approved plans, or take such other action as may be appropriate to eliminate any environmental harm or threat to public health or welfare and to eliminate any potential liability of Landlord or Tenant. Any submissions made by Tenant pursuant to this Section and any action taken by Tenant pursuant to such submissions shall be subject to the prior review and approval of Landlord, which approval shall not be unreasonably withheld.

(f) Tenant shall indemnify, defend and save Landlord harmless from all claims, actions, suits, proceedings, losses, damages, liabilities, fines and expenses (including without limitation fees of attorneys, investigators and experts) arising or alleged to arise from or in connection with (a) any Environmental Violations, and (b) Tenant's failure to provide all information, make all submissions and take all actions with respect to the Premises required by any Governmental Authority in connection with any Environmental Violations.

22. RADON. Section 404.056 (6), Fla. Stat., requires the inclusion of the following "Notification on Real Estate Documents" at the time of, or prior to, contract for sale and purchase of any building or execution of a rental agreement for any building: "Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department."

23. SURRENDER. Upon the expiration or any earlier termination of the Term:

(a) Tenant shall surrender the Premises to Landlord, in good order, condition and repair, reasonable wear and tear, Casualty and Taking excepted;

(b) all right, title and interest of Tenant in and to the Premises shall automatically cease and terminate; and

(c) Tenant shall deliver the following to Landlord, to the extent in the possession or control of Tenant: (a) executed counterparts of any subleases, occupancy, license and concession agreements; (b) executed counterparts of any service and maintenance contracts then affecting the Premises; (c) true and complete maintenance records for the Premises; (d) any original licenses and permits then pertaining to the Premises, including, without limitation, the then existing certificate of occupancy for the Premises; and (e) any warranties and guaranties then in effect which Tenant has received in connection with any work or services performed or equipment installed in the Premises, together with a duly executed assignment thereof to Landlord. Nothing herein contained shall be or be deemed to be a consent by Landlord to any sublease, occupancy, license, concession agreement, service or maintenance contract for a term to expire later than the Expiration Date.

Notwithstanding the foregoing to the contrary, Landlord shall have the right to elect upon the expiration or any earlier termination of the Term, by written notice to Tenant no later than six (6) months prior to the date of such expiration or earlier termination, to require Tenant to raze the Improvements, and clear, grade and seed the former location thereof and put the Premises in good, safe, lawful, clean and orderly condition, in which event Tenant, at its sole cost and expense, shall do so at its sole cost and expense within one hundred and eighty (180) days of such expiration or termination.

24. RIGHT OF FIRST REFUSAL. From and after the date hereof and during the Term, Landlord shall not sell, transfer or otherwise dispose of or convey all or part of Landlord's fee interest in the Premises to any third party until and unless Landlord shall have obtained a bona fide offer therefor (the "**Landlord's Offer**"), delivered written notice thereof to Tenant, which notice shall contain a true and accurate copy of Landlord's Offer, and offered to sell, transfer or otherwise dispose of such fee interest to Tenant at the same price and, except as hereafter provided, upon the same terms and conditions as contained in Landlord's Offer, and Tenant has not elected to exercise its right of first refusal in accordance herewith.

If Tenant shall either deliver written notice of rejection of Landlord's Offer to Landlord or fail to deliver written notice of acceptance of Landlord's Offer within thirty (30) days after the date of receipt of Landlord's notice, Landlord's fee interest in the Premises may, during the one hundred eighty (180) days thereafter, be sold, transferred or otherwise disposed of to the original offeror at the same price and upon the same terms and conditions as contained in Landlord's Offer.

In the event Tenant rejects Landlord's Offer or fails to accept Landlord's Offer in accordance herewith, this Lease and all of its terms and conditions (including this right of first

refusal) shall nevertheless remain in full force and effect and Landlord and any purchaser or purchasers of the Premises shall be bound thereby.

Failure of Tenant to exercise its right of first refusal on one or more occasions shall not affect Tenant's right to exercise it on any subsequent occasion. Any sale or transfer of the Premises, or any part thereof, other than in strict compliance with the terms of this Section shall be null and void and of no effect as to Tenant, and Tenant shall be entitled to purchase the Premises from the purchaser upon the same terms and conditions and at the same price specified in Landlord's Offer, provided Tenant notifies Landlord of its election thirty (30) days after receipt of notice that complies with the requirements hereof. The making of Lease Payments to such purchaser or otherwise treating such purchaser as Landlord shall not be deemed to be a waiver of Tenant's right of first refusal or any other right or privilege of Tenant and shall not create an estoppel with respect thereto.

Any sale or transfer of Landlord's interest in the Premises, or any part thereof shall be expressly made subject to all of the terms, covenants and conditions of this Lease. In the event Landlord's Offer provides for the sale and purchase of Landlord's interest in the Premises and other property, Tenant shall only be required to purchase all the Premises in the event it desires to exercise its right of first refusal hereunder.

In the event Tenant exercises its right of first refusal then, notwithstanding the terms of Landlord's Offer (i) Landlord shall convey title to the Premises by warranty deed approved by Tenant and the title company; (ii) title to the Premises shall be free and clear of any liens and encumbrances except the lien for current taxes which are not delinquent at the time of closing and such other exceptions to title as may have been created by Tenant during the Term or as existed on the date hereof and/or were approved by Tenant thereafter; and (iii) title to the Premises shall otherwise comply with the terms of this Lease as they pertain to condition of title. Upon such election by Tenant, Landlord and Tenant agree to act in good faith to consummate a purchase agreement for the Premises incorporating the express terms of Landlord's Offer and other customary terms and provisions for similar transactions of similar property located in the same geographic area as the Premises.

25. **NO BROKER.** Landlord and Tenant represent and warrant to each other that no broker or finder was involved in arranging or bringing about this transaction and that there are no claims or rights for commissions, finders' fees or other compensation (collectively, "**compensation**") by any person or entity. If any broker or finder asserts a claim for compensation based upon any actual or alleged contact, dealings or communication with Landlord or Tenant, then the party through whom such broker or finder makes its claim shall indemnify and hold the other party (the "**Indemnified Party**") harmless from and against any and all claims, damages, judgments, suits, liabilities, losses, costs and expenses (including without limitation, reasonable attorneys' fees and court costs) suffered or incurred by or brought against the Indemnified Party in connection with such claim for compensation..

26. **MEMORANDUM OF LEASE.** Immediately following the execution of this Lease, the parties shall execute and record a Memorandum of Lease in the public records in the form attached hereto as **Exhibit E.**

27. WAIVER OF TRIAL BY JURY. THE PARTIES HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE OR THE RELATIONSHIP OF THE PARTIES CREATED HEREBY. THE PARTIES FURTHER HEREBY WAIVE THE RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN WAIVED. THE FOREGOING WAIVERS ARE IRREVOCABLE AND MUTUALLY, KNOWINGLY, WILLINGLY, INTENTIONALLY AND VOLUNTARILY MADE AFTER EACH PARTY HAS HAD THE BENEFIT OF OR OPPORTUNITY TO GAIN LEGAL ADVICE AND COUNSEL. EACH PARTY REPRESENTS, WARRANTS AND AFFIRMS TO THE OTHER THAT NO PARTY HAS IN ANY WAY AGREED, REPRESENTED OR OTHERWISE SUGGESTED OR IMPLIED THAT IT WILL NOT FULLY ENFORCE THE FOREGOING WAIVERS IN ALL INSTANCES.

[The Balance of the Page Intentionally Left Blank – Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be duly executed by their duly authorized officer where applicable and sealed as of the date first above written.

TENANT:

FD P3 LP MARINA, LLC,
a Florida limited liability company

By: _____

Name: _____
Title: _____

PETER SATARIAN
MANAGING PARTNER

Date: _____

5/17/24

LANDLORD:

TOWN OF LAKE PARK, FLORIDA

Attest;

_____,
a Florida municipal corporation

By: _____

Mayor

By: _____

Deputy

Town Clerk

Date: _____

5-15-24

Approved as to form and legal sufficiency

By: _____

Town Attorney

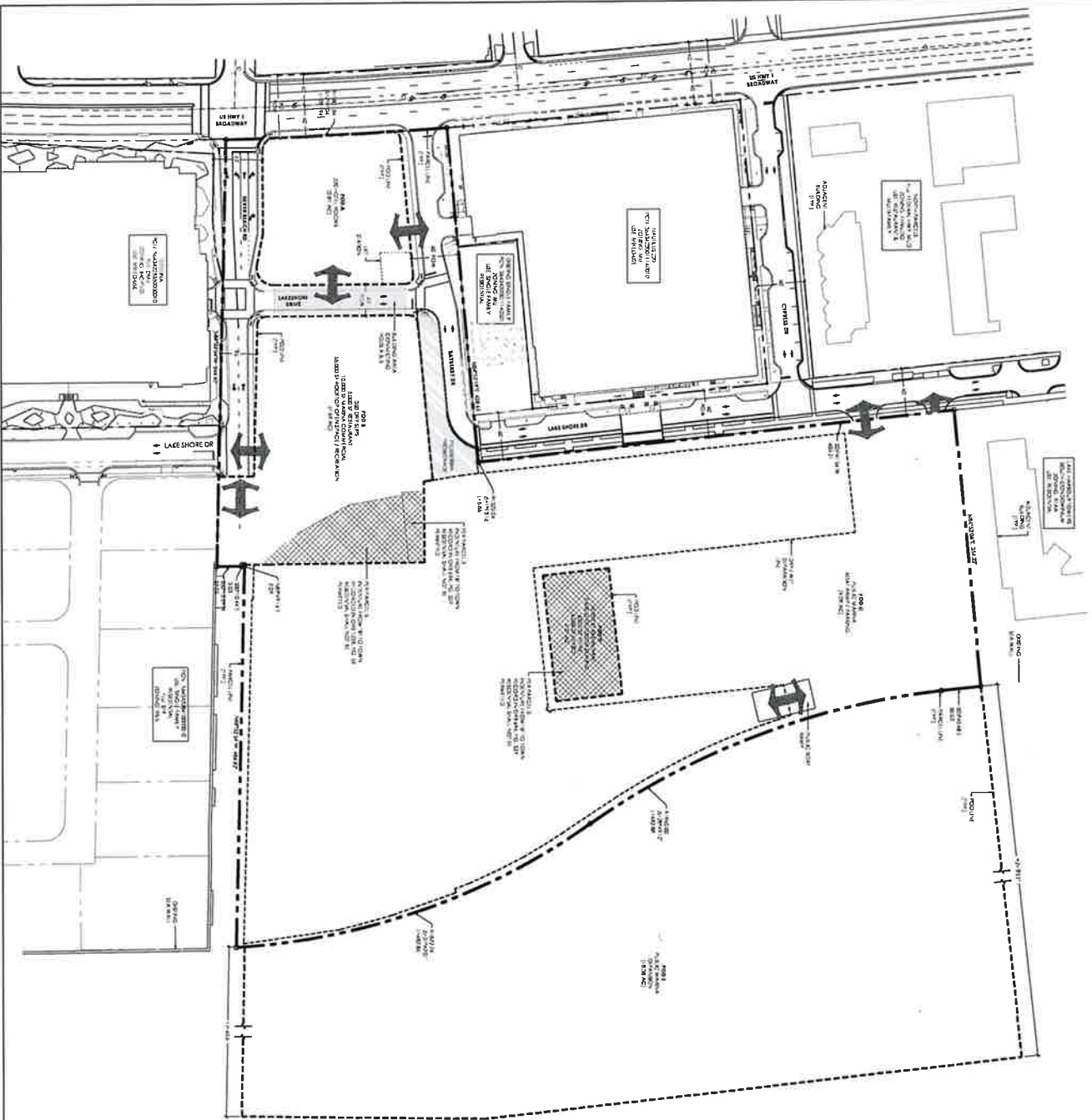


Exhibit A

Site Plan

42007160.6
51739098.4

Exhibit A – Site Plan



LOCATION MAP

SITE DATA			
PROJECT NAME	LAKE PARK HARBOR MARINA PUD	PROJECT NUMBER	10000000000000000000
CLIENT	LAKE PARK HARBOR MARINA PUD	DATE	10/10/2023
DESIGNER	INSITE PLANNING + LANDSCAPE ARCHITECTURE	PROJECT LOCATION	LAKE PARK HARBOR MARINA PUD, LAKE PARK, FLORIDA
PROJECT TYPE	PLANNED DEVELOPMENT REGULATIONS (PDR)	PROJECT STATUS	PRELIMINARY DESIGN
PROJECT AREA	100,000 S.F.	PROJECT SCALE	1" = 100' (HORIZONTAL), 1" = 20' (VERTICAL)
PROJECT USE	LAKE PARK HARBOR MARINA PUD	PROJECT OWNER	LAKE PARK HARBOR MARINA PUD
PROJECT DATE	10/10/2023	PROJECT REVISION	1.0
LAND USE ALLOCATION			
LAND USE	LAND USE	ACREAGE	PERCENT
1	PUBLIC MARINA COMMERCIAL / BOAT STORAGE / RESTAURANT / CATERING / RETAIL / OFFICE	1.00	1.00%
2	PUBLIC MARINA	9.00	9.00%
3	RESTAURANT / RETAIL / OFFICE	0.21	0.21%
4	PUBLIC MARINA DEVELOPMENT	18.38	18.38%
POD A PLANNED DEVELOPMENT REGULATIONS (PDR)			
POD A	STREETS	STREETS	STREETS
1	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
2	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
3	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
4	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
5	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
POD B PLANNED DEVELOPMENT REGULATIONS (PDR)			
POD B	STREETS	STREETS	STREETS
1	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
2	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
3	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
4	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
5	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
POD C PLANNED DEVELOPMENT REGULATIONS (PDR)			
POD C	STREETS	STREETS	STREETS
1	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
2	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
3	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
4	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
5	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
POD D PLANNED DEVELOPMENT REGULATIONS (PDR)			
POD D	STREETS	STREETS	STREETS
1	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
2	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
3	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
4	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
5	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
POD E PLANNED DEVELOPMENT REGULATIONS (PDR)			
POD E	STREETS	STREETS	STREETS
1	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
2	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
3	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
4	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
5	LAKE SHORE DR	LAKE SHORE DR	LAKE SHORE DR
DEVELOPMENT TEAM			
DESIGNER	INSITE PLANNING + LANDSCAPE ARCHITECTURE	DATE	10/10/2023
CLIENT	LAKE PARK HARBOR MARINA PUD	PROJECT NUMBER	10000000000000000000
PROJECT TYPE	PLANNED DEVELOPMENT REGULATIONS (PDR)	PROJECT LOCATION	LAKE PARK HARBOR MARINA PUD, LAKE PARK, FLORIDA
PROJECT AREA	100,000 S.F.	PROJECT SCALE	1" = 100' (HORIZONTAL), 1" = 20' (VERTICAL)
PROJECT USE	LAKE PARK HARBOR MARINA PUD	PROJECT OWNER	LAKE PARK HARBOR MARINA PUD
PROJECT DATE	10/10/2023	PROJECT REVISION	1.0

LAKE PARK HARBOR MARINA PUD

Lake Park, Florida

Exhibit B

Legal Description of the Premises

DESCRIPTION:

A PORTION OF THE UNNAMED TRACT LYING EAST OF LAKE SHORE DRIVE, ALL AS SHOWN ON KELSEY CITY (NOW KNOWN AS THE TOWN OF LAKE PARK), ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, PAGES 15 AND 23 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, TOGETHER WITH A PORTION OF THE WATERS OF LAKE WORTH, ALL LYING IN SECTION 21, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 31, BLOCK 114, OF SAID PLAT; THENCE ALONG THE EASTERLY PROLONGATION OF THE NORTH LINE OF SAID LOT 31, BLOCK 114, N84°52'19"E, A DISTANCE OF 60.00 FEET TO A POINT OF INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF SAID LAKE SHORE DRIVE AND TO A POINT HEREINAFTER KNOWN AS REFERENCE POINT "A", SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE ALONG SAID EAST RIGHT-OF-WAY LINE, THE FOLLOWING TWO (2) COURSES AND DISTANCES: SAID POINT BEING ON THE ARC OF A NON-TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S85°31'22"W, A RADIAL DISTANCE OF 322.04 FEET; THENCE NORTHERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 01°13'16", A DISTANCE OF 6.86 FEET TO A POINT OF TANGENCY; THENCE N05°41'54"W, A DISTANCE OF 603.21 FEET TO A POINT OF INTERSECTION WITH THE EASTERLY PROLONGATION OF THE NORTH LINE OF LOT 17, BLOCK 115, AS SHOWN ON SAID KELSEY CITY; THENCE ALONG SAID PROLONGATED LINE, N84°52'06"E, A DISTANCE OF 354.22 FEET TO A POINT OF INTERSECTION WITH THE BULKHEAD LINE AS SHOWN ON THE PLAT OF BULKHEAD LINE WEST SIDE OF LAKE WORTH AS RECORDED IN PLAT BOOK PAGE 27, PAGE 1 OF SAID PUBLIC RECORDS; THENCE ALONG SAID BULKHEAD LINE, THE FOLLOWING THREE (3) COURSES AND DISTANCES: THENCE S05°45'48"E, A DISTANCE OF 50.02 FEET TO A POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 960.00 FEET AND A CENTRAL ANGLE OF 28°49'12"; THENCE SOUTHERLY ALONG THE ARC, A DISTANCE OF 482.88 FEET TO A POINT OF REVERSE CURVATURE TO THE RIGHT, HAVING A RADIUS OF 872.74 FEET AND A CENTRAL ANGLE OF 31°42'01"; THENCE SOUTHERLY ALONG THE ARC, A DISTANCE OF 482.86 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF A 35.00 FOOT WIDE PERPETUAL EASEMENT, AS RECORDED IN OFFICIAL RECORDS BOOK 1154, PAGE 30 OF SAID PUBLIC RECORDS; THENCE ALONG SAID NORTH LINE, N88°32'54"W, A DISTANCE OF 486.82 FEET; THENCE N00°10'44"W, A DISTANCE OF 30.73 FEET; THENCE N00°13'26"W, A DISTANCE OF 199.05 FEET; THENCE S89°49'20"W, A DISTANCE OF 103.22 FEET; THENCE N09°04'07"W, A DISTANCE OF 11.14 FEET; THENCE S84°52'19"W, A DISTANCE OF 16.80 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF THE LANDS DESCRIBED IN TRUSTEES OF THE INTERNAL IMPROVEMENT FUND DEED, AS RECORDED IN OFFICIAL RECORDS BOOK 688, PAGE 507 OF SAID PUBLIC RECORDS; THENCE ALONG SAID WEST LINE, N05°41'54"W, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THEREFROM:

COMMENCING #1 AT THE AFORESAID REFERENCE POINT "A"; SAID POINT BEING ON THE ARC OF A NON-TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S85°31'22"W, A RADIAL DISTANCE OF 322.04 FEET; THENCE NORTHERLY ALONG THE ARC AND ALONG SAID EAST RIGHT-OF-WAY LINE OF LAKE SHORE DRIVE, THROUGH A CENTRAL ANGLE OF 01°13'16", A DISTANCE OF 6.86 FEET TO A POINT OF TANGENCY; THENCE N05°41'54"W, A DISTANCE OF 59.66 FEET; THENCE N84°18'06"E, A DISTANCE OF 152.83 FEET TO THE POINT OF BEGINNING #1; THENCE N05°45'59"W, A DISTANCE OF 85.01 FEET; THENCE N84°16'22"E, A DISTANCE OF 161.14 FEET; THENCE S05°41'01"E, A DISTANCE OF 84.99 FEET; THENCE S84°16'06"W, A DISTANCE OF 161.02 FEET TO THE POINT OF BEGINNING #1.

TOTAL CONTAINING 395,657 SQUARE FEET OR 9.0830 ACRES, MORE OR LESS.

CERTIFICATE:

I HEREBY CERTIFY THAT THE ATTACHED SKETCH AND DESCRIPTION OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION ON FEBRUARY 28, 2024. I FURTHER CERTIFY THAT THIS SKETCH AND DESCRIPTION MEETS THE STANDARDS OF PRACTICE SET FORTH IN RULE 5J-17, FLORIDA ADMINISTRATIVE CODE, ADOPTED BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS PURSUANT TO FLORIDA STATUTES CHAPTER 472.027.

THIS IS NOT A SURVEY

SHEET 1 Of 9



CAULFIELD & WHEELER, INC.

CIVIL ENGINEERING
LANDSCAPE ARCHITECTURE - SURVEYING
7900 GLADES ROAD - SUITE 100
BOCA RATON, FLORIDA 33434
PHONE (561)-392-1991 / FAX (561)-750-1452

DAVID E. ROHAL
PROFESSIONAL LAND
SURVEYOR NO. 4315
STATE OF FLORIDA
LB 3591

DATE	2-28-2024
DRAWN BY	SAS
F.B./ PG.	N/A
SCALE	NONE
JOB NO.	10089- POD C

POD C
LAKE PARK MARINA DEVELOPMENT
SKETCH AND DESCRIPTION

SURVEYOR'S NOTES:

1. SURVEY MAPS OR THE COPIES THEREOF ARE NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND ORIGINAL SEAL, OR THE AUTHENTICATED ELECTRONIC SIGNATURE AND SEAL, OF A FLORIDA LICENSED PROFESSIONAL LAND SURVEYOR AND MAPPER.
2. ADDITIONS OR DELETIONS TO SURVEY MAPS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
3. LANDS SHOWN HEREON WERE NOT ABSTRACTED, BY THE SURVEYOR, FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD. THERE MAY BE EASEMENTS AND OTHER INSTRUMENTS OF RECORD NOT SHOWN ON THIS SKETCH.
4. BEARINGS SHOWN HEREON ARE RELATIVE TO A GRID BEARING OF S88°32'54"E, ALONG SOUTH LINE OF SECTION 21, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, RELATIVE TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, TRANSVERSE MERCATOR PROJECTION, NORTH AMERICAN DATUM OF 1983, (90 ADJUSTMENT).
5. THE LAND DESCRIPTION SHOWN HEREON WAS PREPARED BY THE SURVEYOR.
6. DATA SHOWN HEREON WAS COMPILED FROM THE INSTRUMENTS OF RECORD RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND DOES NOT CONSTITUTE A FIELD SURVEY AS SUCH.
7. INSTRUMENTS OF RECORD SHOWN HEREON ARE RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, UNLESS OTHERWISE SHOWN.

LEGEND/ABBREVIATIONS:

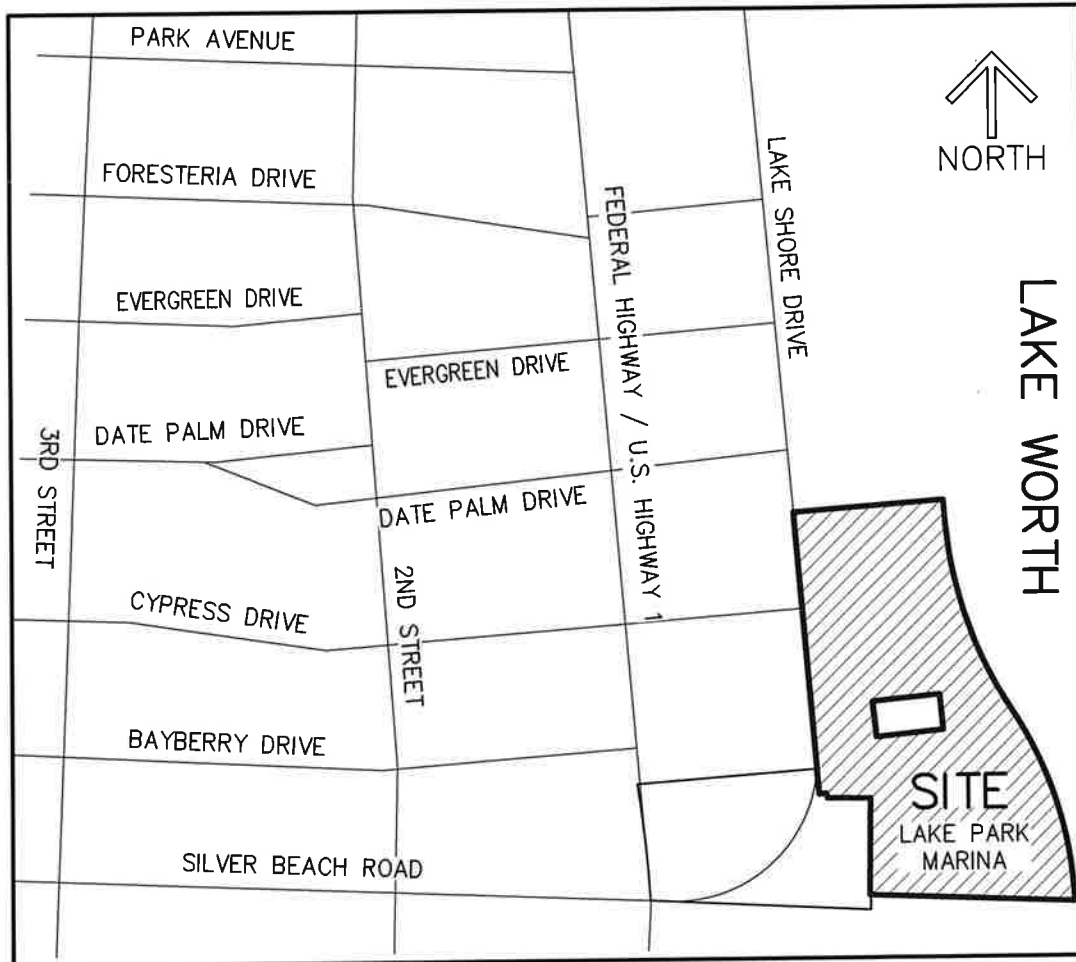
- 21-42-43 - SECTION 21, TOWNSHIP 42 SOUTH, RANGE 43 EAST
 FDOT - FLORIDA DEPARTMENT OF TRANSPORTATION
 P.O.B. - POINT OF BEGINNING
 CL - CENTERLINE
 O.R.B. - OFFICIAL RECORDS BOOK
 P.B. - PLAT BOOK
 P.O.C. - POINT OF COMMENCEMENT
 R/W - RIGHT-OF-WAY
 PG(S). - PAGE(S)
 TIIF - TRUSTEES OF THE INTERNAL IMPROVEMENT FUND
 LB - LICENSED BUSINESS
 PBC - PALM BEACH COUNTY
 SUA - SEACOAST UTILITY AUTHORITY

THIS IS NOT A SURVEY**SHEET 2 of 9****CAULFIELD & WHEELER, INC.**

CIVIL ENGINEERING
 LANDSCAPE ARCHITECTURE - SURVEYING
 7900 GLADES ROAD - SUITE 100
 BOCA RATON, FLORIDA 33434
 PHONE (561)-392-1991 / FAX (561)-750-1452

POD C
LAKE PARK MARINA DEVELOPMENT
SKETCH AND DESCRIPTION

DATE	2-28-2024
DRAWN BY	SAS
F.B./ PG.	N/A
SCALE	NONE
JOB NO.	10089- POD C



LOCATION MAP
(NOT TO SCALE)

THIS IS NOT A SURVEY

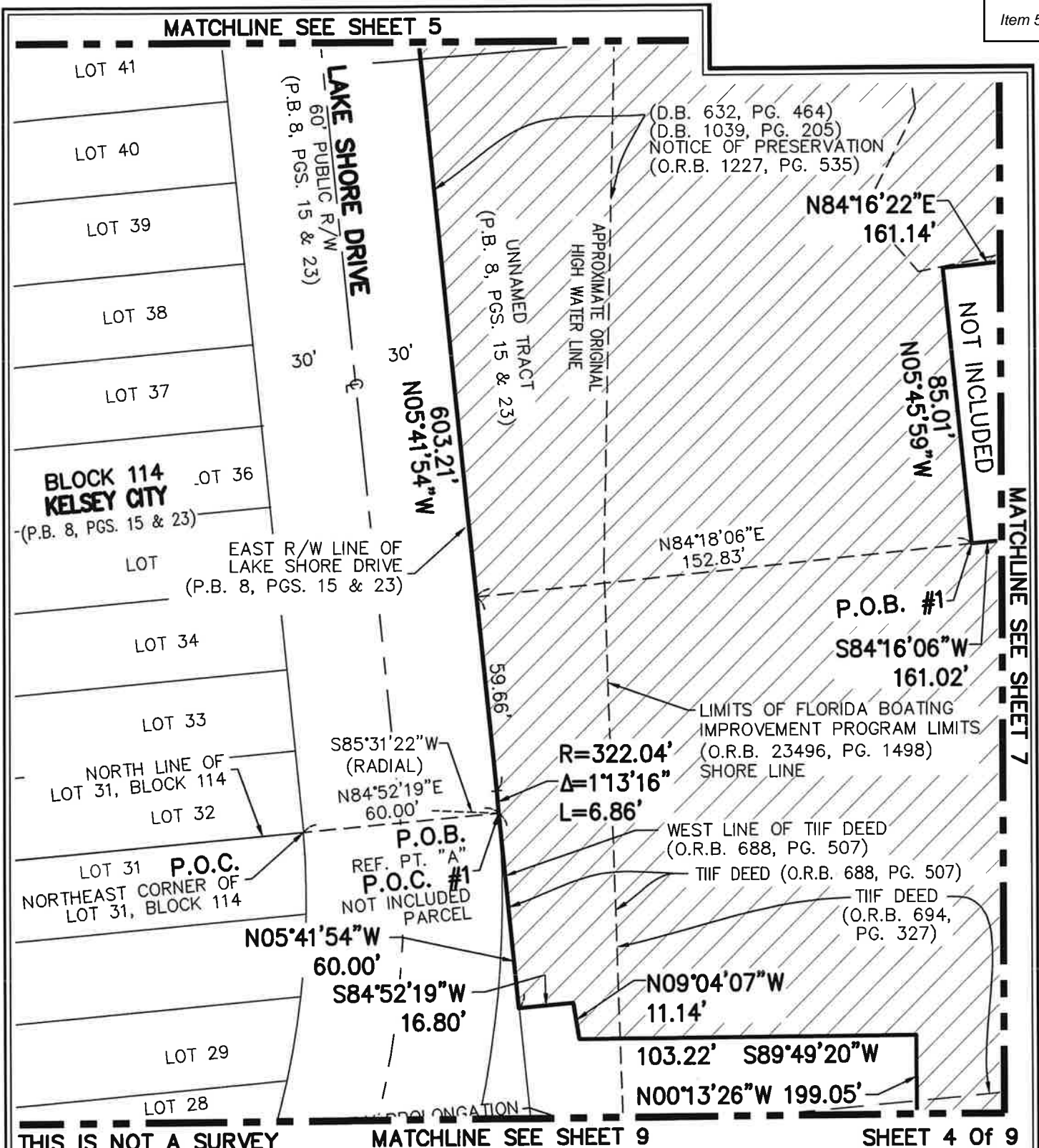
SHEET 3 Of 9



CAULFIELD & WHEELER, INC.
CIVIL ENGINEERING
LANDSCAPE ARCHITECTURE - SURVEYING
7900 GLADES ROAD - SUITE 100
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F.B./ PG.	N/A
SCALE	NONE
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SHEET 4 Of 9

CAULFIELD & WHEELER, INC.
CIVIL ENGINEERING
LANDSCAPE ARCHITECTURE - SURVEYING
7900 GLADES ROAD - SUITE 100
BOCA RATON, FLORIDA 33434
PHONE (561)-392-1991 / FAX (561)-750-1452

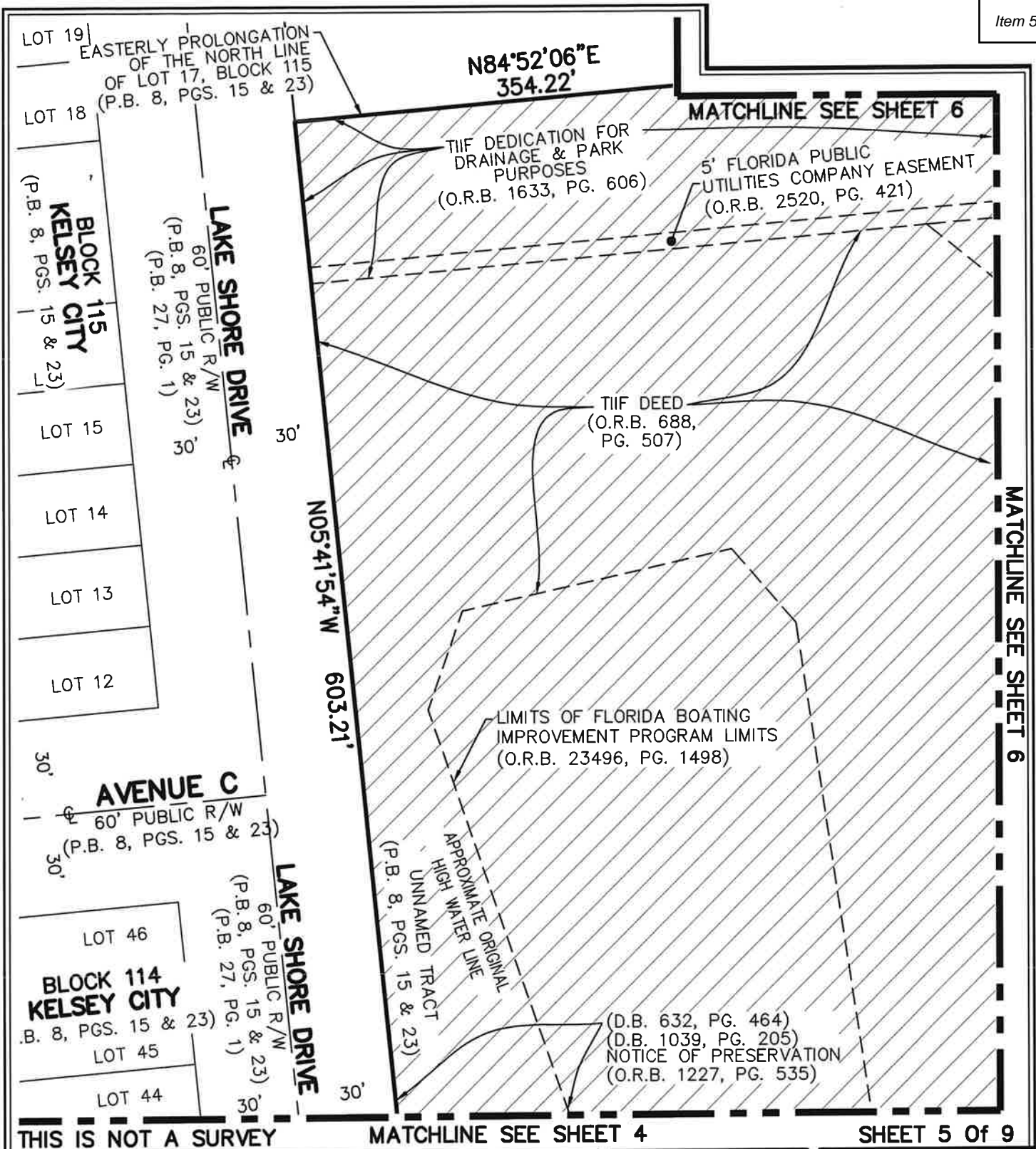
NORTH

0 20' 40'

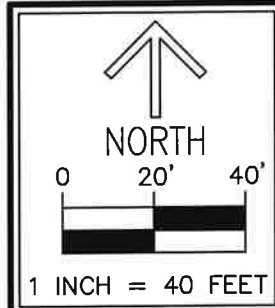
1 INCH = 40 FEET

DATE	2-28-2024
DRAWN BY	SAS
F.B./ PG.	N/A
SCALE	1"=40'
JOB NO.	10089- POD C

POD C
LAKE PARK MARINA DEVELOPMENT
SKETCH AND DESCRIPTION

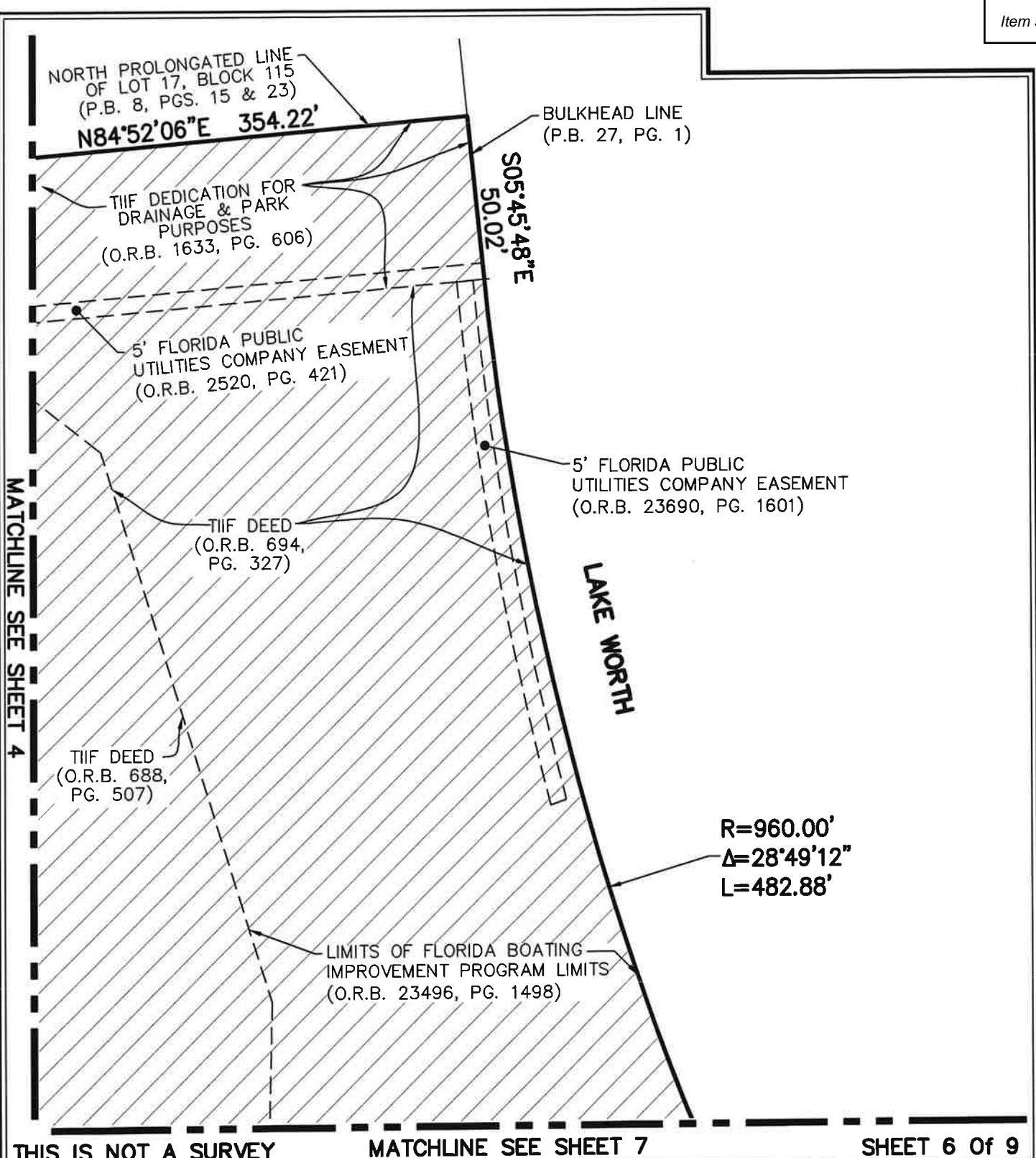


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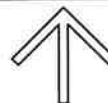
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DRAWN BY	SAS
F.B./ PG.	N/A
SCALE	1"=40'
JOB NO.	10089- POD C

POD C
LAKE PARK MARINA DEVELOPMENT
SKETCH AND DESCRIPTION

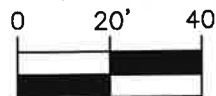


CAULFIELD & WHEELER, INC.

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PHONE (561)-392-1991 / FAX (561)-750-1452



NORTH



1 INCH = 40 FEET

DATE 2-28-2024

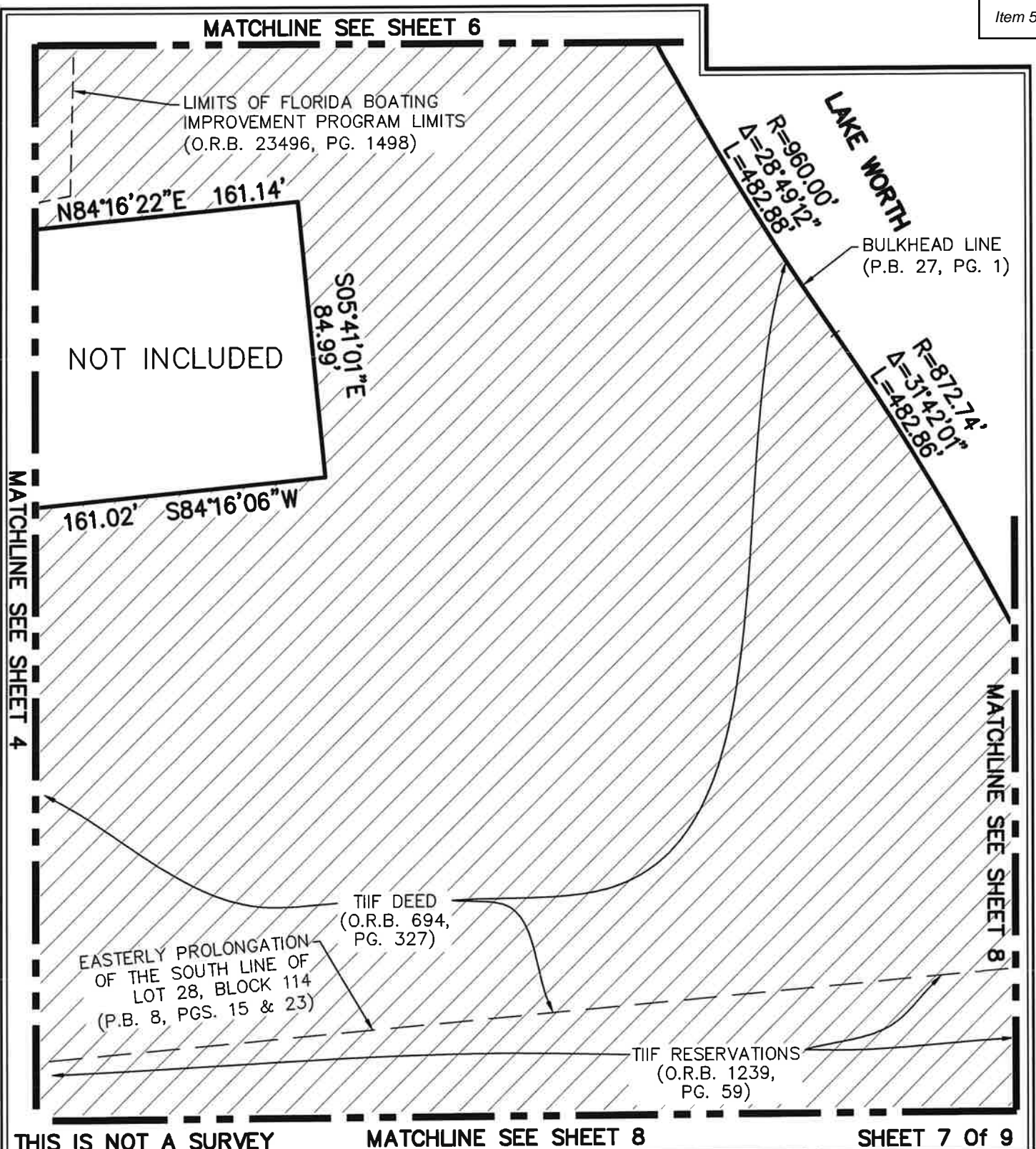
DRAWN BY SAS

F.B./ PG. N/A

SCALE 1"=40'

JOB NO. 10089-POD C

POD C
LAKE PARK MARINA DEVELOPMENT
SKETCH AND DESCRIPTION



THIS IS NOT A SURVEY

MATCHLINE SEE SHEET 8

SHEET 7 Of 9



CAULFIELD & WHEELER, INC.

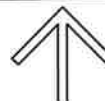
CIVIL ENGINEERING

LANDSCAPE ARCHITECTURE - SURVEYING

7900 GLADES ROAD - SUITE 100

BOCA RATON, FLORIDA 33434

PHONE (561)-392-1991 / FAX (561)-750-1452



NORTH



1 INCH = 40 FEET

DATE 2-28-2024

DRAWN BY SAS

F.B./ PG. N/A

SCALE 1"=40'

JOB NO. 10089- POD C

POD C
LAKE PARK MARINA DEVELOPMENT
SKETCH AND DESCRIPTION

MATCHLINE SEE SHEET 7

MATCHLINE SEE SHEET 7

BULKHEAD LINE
(P.B. 27, PG. 1)

LAKE WORTH

TIIF RESERVATIONS
(O.R.B. 1239,
PG. 59)
 $R=872.74'$
 $\Delta=31^{\circ}42'01''$
 $L=482.86'$
LIMITS OF FLORIDA BOATING
IMPROVEMENT PROGRAM LIMITS
(O.R.B. 23496, PG. 1498)

NORTH LINE

N88°32'54"W 486.82'

WATERWAY

35' PERPETUAL EASEMENT
(O.R.B. 1154, PG. 30)TOWN OF LAKE PARK
CITY OF RIVIERA BEACH

S88°32'54"E

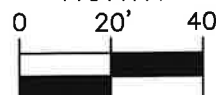
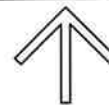
REPLAT OF LOTS 48 TO 54, INCLUSIVE
RIVIERA SHORES
 (P.B. 28, PG. 70)

THIS IS NOT A SURVEY

SHEET 8 Of 9



CAULFIELD & WHEELER, INC.

 CIVIL ENGINEERING
 LANDSCAPE ARCHITECTURE - SURVEYING
 7900 GLADES ROAD - SUITE 100
 BOCA RATON, FLORIDA 33434
 PHONE (561)-392-1991 / FAX (561)-750-1452


1 INCH = 40 FEET

DATE 2-28-2024

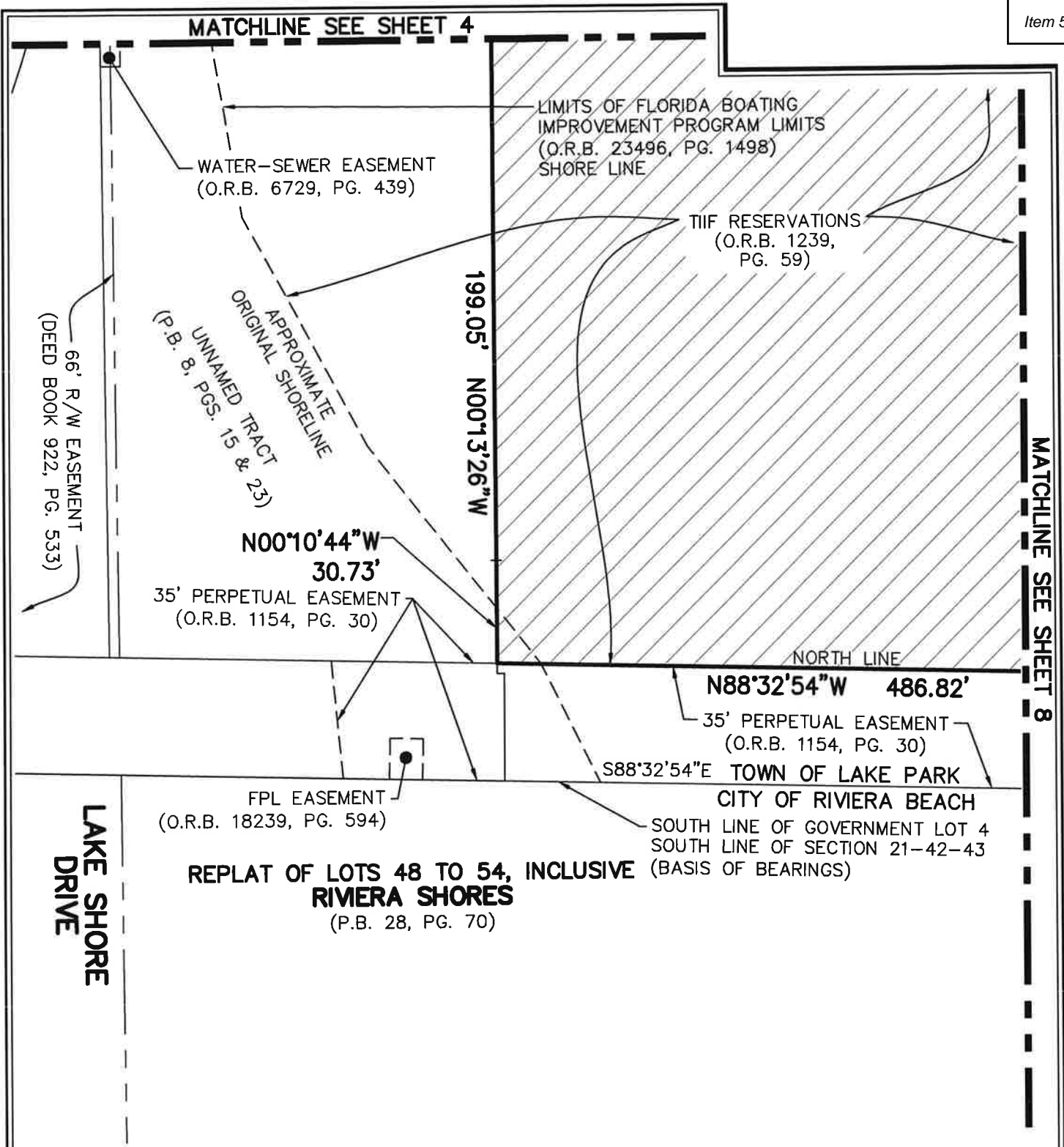
DRAWN BY SAS

F.B./ PG. N/A

SCALE 1"=40'

JOB NO. 10089- POD C

POD C
 LAKE PARK MARINA DEVELOPMENT
 SKETCH AND DESCRIPTION



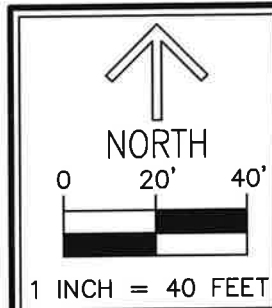
THIS IS NOT A SURVEY

SHEET 9 Of 9



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POD C
LAKE PARK MARINA DEVELOPMENT
SKETCH AND DESCRIPTION



DATE	2-28-2024
DRAWN BY	SAS
F.B./ PG.	N/A
SCALE	1"=40'
JOB NO.	10089- POD C

Exhibit C
Lease Payments

Period	Lease Payment
Calendar Year 2024	\$0
Calendar Year 2025	\$75,000.00
Calendar Year 2026	\$75,000.00
Calendar Year 2027	\$75,000.00
Calendar Year 2028	\$75,000.00
Calendar Year 2029	\$75,000.00
Calendar Year 2030	\$75,000.00
Calendar Year 2031	\$75,000.00
Calendar Year 2032	\$75,000.00
Calendar Year 2033	\$75,000.00
Calendar Year 2034	\$75,000.00

Lease Payments shall be made on or before May 1 of each calendar year from 2025 to 2034

No Lease Payments shall be due or payable commencing with calendar year 2035

Exhibit D

Permitted Title Exceptions

1. Right of way easement for the construction and maintenance of telephone and electric light lines, water and sewer systems and other public utilities expressly reserved upon, over, and under the rear five (5) feet of all lots shown on the Plat of Kelsey City (a/k/a Lake Park), according to the Plat thereof recorded in Plat Book 8, Pages 15 through 18, 23, 27 and 34 through 37, Public Records of Palm Beach County, Florida (All)
2. Right of Reverter contained in fee determinable conveyance Deed recorded in Deed Book 632, Page 464 as affected by Deed recorded in Deed Book 1039, Page 205 (Page 212), and by Official Records Book 1227, Page 535 Public Records of Palm Beach County, Florida (Parcel 6)
3. Right of Reverter contained in Right of Way Deed recorded in Deed Book 922, Page 533, Public Records of Palm Beach County, Florida. (Parcel 5)
4. Automatic phosphate, metals, minerals and petroleum reservations pursuant to Fla. Stat. 270.11(1) due to lack of express waiver in Deed by Trustees of the Internal Improvement Fund of Florida recorded in Official Records Book 688, Page 507, Public Records of Palm Beach County, Florida (Parcel 6)
5. Right of Reverter and oil, gas and mineral reservations contained in Official Records Book 694, Page 327, Public Records of Palm Beach County, Florida (Parcel 6)
6. Terms and conditions of Dedication by the Trustees of the Internal Improvement Fund of Florida recorded in Official Records Book 1633, Page 606, Public Records of Palm Beach County, Florida (Parcel 6)
7. Easement Grant recorded in Official Records Book 1154, Page 30, of the Public Records of Palm Beach County, Florida. (Parcel 6)
8. Right of Reverter and oil, gas and mineral reservations contained in Deed by the Trustees of the Internal Improvement Fund of Florida recorded in Official Records Book 1239, Page 59, Public Records of Palm Beach County, Florida (Parcel 5)
9. Terms and conditions of Dedication by the Trustees of the Internal Improvement Fund of Florida recorded in Official Records Book 1633, Page 606, Public Records of Palm Beach County, Florida. (Parcel 6)
10. Easement reserved in Quit Claim Deed recorded in Official Records Book 1668, Page 877, of the Public Records of Palm Beach County, Florida. (Lot 20)
11. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 6729, Page 439, of the Public Records of Palm Beach County, Florida. (Parcel 5)
12. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 7203, Page 1509, of the Public Records of Palm Beach County, Florida. (Lot 24)
13. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 7209,

42007160.6

Exhibit D – Permitted Title Exceptions

51739098.4

Page 1673, of the Public Records of Palm Beach County, Florida. (West portion - Lots 16-24)

14. Sovereignty Submerged Lands Easement recorded in Official Records Book 11909, Page 636, as affected by Sovereignty Submerged Lands Easement Modification to Increase Square Footage recorded in Official Records Book 23335, Page 614, of the Public Records of Palm Beach County, Florida. (Parcels 6)
15. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 15608, Page 281, of the Public Records of Palm Beach County, Florida. (Lots 25)
16. Easement in favor of Florida Power & Light Company recorded in Official Records Book 18239, Page 594, of the Public Records of Palm Beach County, Florida. (Parcel 5)
17. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 18788, Page 1303, of the Public Records of Palm Beach County, Florida. (Lots 27-30)
18. Terms and conditions of Palm Beach County Florida Boating Improvement Program Notice of Limitation of Use recorded in Official Records Book 23496, Page 1498, of the Public Records of Palm Beach County, Florida. (Parcels 5-6)
19. Easement granted to Florida Public Utilities Company recorded in Official Records Book 23690, Page 1601, of the Public Records of Palm Beach County, Florida. (Parcel 6)
20. Terms and conditions of the unrecorded Lease between Town of Lake Park and T-Mobile South LLC evidenced by Memorandum of Lease recorded in Official Records Book 27270, Page 1224, of the Public Records of Palm Beach County, Florida. (Marina Parcels)
21. Terms and conditions of the unrecorded Lease between Town of Lake Park and T-Mobile South LLC evidenced by Memorandum of Lease recorded in Official Records Book 27388, Page 1280, of the Public Records of Palm Beach County, Florida. (Lot 25)
22. Temporary Easement granted to Florida Power and Light Company recorded in Official Records Book 33982, Page 1490, of the Public Records of Palm Beach County, Florida. (Parcels 1-4)
23. Rights of the United States Government to that part of the Land, if any, being artificially filled in land in what was formerly navigable waters arising by reason of the United States Government control over navigable waters in the interest of navigation and commerce.
24. The right, title or interest, if any, of the public to use as a public beach or recreation area any part of the Land lying between the water abutting the Land and the most inland of any of the following: (a) the natural line of vegetation; (b) the most extreme high water mark; (c) the bulkhead line, or (d) any other line which has been or which hereafter may be legally established as relating to such public use.

Exhibit E

Form of Memorandum of Lease

This instrument was prepared by:

Saul Ewing LLP
 Attention: Anthony Kang
 701 Brickell Avenue, FL 17
 Miami, Florida 33131

MEMORANDUM OF GROUND LEASE

THIS MEMORANDUM OF GROUND LEASE ("Memorandum") is made as of the ____ day of _____, 2024, by and between TOWN OF LAKE PARK, FLORIDA, a Florida municipal corporation, having an address of _____ ("Landlord"), and _____, a Florida limited liability company, having an address of _____ ("Tenant").

WITNESSETH:

1. That by Ground Lease of even date hereof (the "Lease"), Landlord has demised and leased to Tenant and Tenant has rented from Landlord that certain real property located in Palm Beach County, Florida, as more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Premises"), and the rights, easements and privileges granted to Tenant in the Lease.

2. The term of the Lease shall commence on _____, ____ (the "Commencement Date") and shall expire at 12:00 Midnight on the ninety-ninth (99th) anniversary of the Commencement Date, unless sooner terminated as set forth in the Lease.

3. Pursuant to Florida Statutes Section 713.10 (2023), notice is hereby given that the Lease includes the following provision:

Tenant acknowledges and agrees that the interest of the Landlord in the Premises shall not be subject to liens for improvements made by the Tenant. Tenant shall not at any time permit any mechanics', laborers' or materialmen's liens to stand against the Premises for any labor or material furnished to Tenant or claimed to have been furnished to Tenant or Tenant's agents, contractors or subtenants, in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction or sufferance of Tenant.

4. For all other terms and provisions of the Lease, reference is hereby made to the Lease itself, and all persons are hereby placed on notice of the existence of the Lease and of its terms and provisions. The Lease and exhibits thereto are hereby incorporated by reference in this Memorandum. In the event of any conflict between the provisions of this Memorandum and the Lease, the provisions of the Lease shall govern, control and prevail.

5. Upon the expiration or earlier termination of the Lease for any reason whatsoever, Landlord shall be entitled to unilaterally execute and record a termination of this Memorandum which shall terminate and release this Memorandum. Tenant acknowledges and agrees that Tenant shall not be required to join in or execute such termination and that such termination, as executed only by Landlord, shall be effective to terminate this Memorandum without the joinder or execution by Tenant.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, Landlord and Tenant have caused this Memorandum of Lease to be duly executed and sealed as of the date first above written.

TOWN OF LAKE PARK, FLORIDA

_____,
a Florida municipal corporation

Attest;

By: _____
Mayor

By: _____
Town Clerk

Date: _____

Approved as to form and legal sufficiency

By: _____
Town Attorney

STATE OF FLORIDA)
)SS:
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this ____ day of _____, 2024, by _____ as Mayor of the Town of Lake Park, Florida, a Florida municipal corporation, on behalf of the Town. He/She is personally known to me or has produced _____ as identification.

Print Name:

Notary Public
My Commission Expires:

[SIGNATURES CONTINUE ON NEXT PAGE]

Witnesses:

TENANT:

_____ By: _____
 Print Name: _____ Print Name: _____
 Title: _____

 Print Name: _____

STATE OF _____)
)SS:
 COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this ____ day of _____, 2024, by _____ as a/the _____ of _____, LLC, a _____ limited liability company, on behalf of said entity. He/She is personally known to me or has produced _____ as identification.

 Print Name: _____
 Notary Public
 My Commission Expires:

EXHIBIT "A"

LEGAL DESCRIPTION

[SEE ATTACHED]

Exhibit F**Form of Non-Disturbance and Attornment Agreement**

Return to: (enclose self-addressed stamped envelope)

Name: _____

Address: _____

_____This Instrument Prepared by:

SPACE ABOVE THIS LINE FOR PROCESSING DATA

**NON-DISTURBANCE AGREEMENT BY FEE MORTGAGEE
AS TO A LEASEHOLD MORTGAGE(S)**

THIS NON-DISTURBANCE AGREEMENT (this "**Agreement**") by and between Town of Lake Park, Florida ("**Lessor**" or "**Town**"), having an address at _____, having an address at _____ ("**Tenant**"), _____, having an address at _____ ("**Lender**"), and _____, having an address at _____ ("**Fee Mortgagee**").

WITNESSETH:

WHEREAS, Tenant is the lessee under that certain Ground Lease with the Lessor dated _____, as may be amended from time to time (the "**Lease**") with respect to the "**Premises**" demised under the Lease; and

WHEREAS, Fee Mortgagee has extended a loan to the Town (as may be amended, modified, substituted, or replaced), referred to herein as the "**Fee Loan**." The Fee Loan is secured by, among other things, a mortgage which encumbers the Town's interest in the Lease and the Premises, as same may be amended from time to time, together with an assignment of leases (collectively, the "**Fee Mortgage**"); and

Exhibit F – Non-Disturbance Agreement

Page 1

WHEREAS, pursuant to the terms of the Lease, Tenant has obtained and may in the future obtain certain loans (“**Loan(s)**”) from lender(s) selected by Tenant (each, together with each lender(s)’ respective successors and assigns, a “**Lender**”), which Loan(s) are and shall be secured by a leasehold mortgage(s) encumbering Tenant’s rights in and to the Lease and the Premises (“**Leasehold Mortgage**”). Notwithstanding anything herein to the contrary, any lender(s) selected by Tenant shall not become a “**Lender**” under this Agreement until such time as such lender has provided a Lender Notice, as provided in Section 5 of this Agreement.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties intending to be legally bound, hereby agree as follows:

1. The recitations heretofore set forth are true and correct and are incorporated herein by this reference.

2. Fee Mortgagee, Town, Tenant and Lender (after the “**Lender Notice**,” as hereinafter defined, is provided for such Lender and after such Lender agrees to be bound by this Agreement) are individually a “**Party**” and collectively “**Parties**.”

3. If and as applicable, Tenant expressly acknowledges that Town has executed and delivered to Fee Mortgagee an Assignment of Leases and Rents (the “**Assignment of Leases**”), which assigns the Lease and the rent and all other sums due thereunder to Fee Mortgagee as security for the Fee Loan. For the avoidance of doubt, Fee Mortgagee expressly acknowledges and agrees that no property of any kind owned by Tenant (including, without limitation, any improvements, fixtures, personal property or other property owned by Tenant) are collateral for the Fee Loan and that Fee Mortgagee has no security interest in or pledge of any of Tenant’s property or any of its rights in the Lease (or derived therefrom other than any residual rights that the Town has to such assets commencing upon the expiration or earlier termination of the Lease or New Lease, as applicable). Tenant acknowledges that the interest of the Town under the Lease has been assigned to Fee Mortgagee solely as security for the purposes specified in said assignments, and Fee Mortgagee shall have no duty, liability or obligation whatsoever under the Lease or any extension or renewal thereof, either by virtue of said assignments or by any subsequent receipt or collection of rents thereunder, except (i) as provided herein, or (ii) upon Fee Mortgagee exercising control over the Town’s interest in the Lease. Tenant further agrees that only upon receipt of a written notice from Fee Mortgagee of an event of default by the Town under the Fee Loan, Tenant will thereafter, if requested by Fee Mortgagee (and after Tenant notifies the Town of the request received from Fee Mortgagee), pay rent to Fee Mortgagee in accordance with the terms of the Lease. Town shall have no claim against Tenant for any amounts paid to Fee Mortgagee pursuant to any such notice. Fee Mortgagee hereby agrees that it will only send such a notice if in its good faith judgment an event of default has occurred and has not been cured. To the extent Fee Mortgagee previously sent a notice to Tenant of such event of a default requesting payment of rent be paid to Fee Mortgagee, then at such time as such event of default has been cured and the cure accepted by Fee Mortgagee, Fee Mortgagee shall notify the Tenant in writing to again pay Sublessor such rents. Notwithstanding the foregoing provisions or any other provision herein to the contrary, Tenant shall be under no obligation to pay any rent or perform any other obligation set forth in the Lease to Fee Mortgagee unless and until Tenant receives written notice

Exhibit F – Non-Disturbance Agreement

Page 2

from Fee Mortgagee that the Town is in default under the Fee Loan and Fee Mortgagee is entitled to the rent under the Lease.

4. Tenant shall have the right to mortgage, assign, pledge and hypothecate its interest in the Lease to any Lender as security for Loan(s). In connection with any financing obtained by Tenant (regardless of whether structured as mortgage financing, mezzanine financing or another type of financing), Fee Mortgagee shall execute such documents Lender may reasonably request in order to facilitate such financing ("**Future Non-Disturbance Agreement**"). For the avoidance of doubt, Fee Mortgagee's and the Town's agreement to provide the Non-Disturbance Agreement contemplated in the Lease as referenced herein shall only be for the benefit of first lien lenders with respect to Tenant's interests in the Lease or first lien lenders with respect to the ownership interests in Tenant and to the extent that there are any other subordinate sub-leasehold mortgages and/or subordinate liens given by Tenant as for any interest in Tenant, Fee Mortgagee and the Town shall have no obligation to provide the future Non-Disturbance Agreement to such parties.

5. Within a reasonable time after Tenant obtains a loan from Lender, Tenant shall notify the Town and Fee Mortgagee in writing ("**Lender Notice**") of the following, to wit: (i) the name and address and other contact information of the Lender, and (ii) confirming to the Town and Fee Mortgagee that Tenant has executed and delivered to Lender the Leasehold Mortgage, if applicable, or security interest in the ownership interests in Tenant given to Lender, if applicable. Further, notwithstanding anything to the contrary contained herein, upon delivery of the Lender Notice, Lender shall be deemed to be bound by this Agreement, whereupon Lender shall be deemed to be a "Leasehold Mortgagee" and entitled to all of the protections afforded a "Leasehold Mortgagee" thereunder, as provided in this Agreement. The delivery of Lender's Notice shall be deemed to be an agreement by such Lender of the obligations of Lender set forth herein.

6. Tenant and any Lender (to the extent it has provided a Lender Notice) shall provide Fee Mortgagee, in the manner provided for herein for giving of notices, a copy of each notice of default given to the Town in connection with the Lease, and Fee Mortgagee shall have the right, but not the obligation, to remedy or cause to be remedied any default of the Town under the Lease, so long as such remedy is completed within any notice or grace period provided under the Lease and prior to Tenant electing to terminate the Lease due to any non-monetary default. In connection with any non-monetary defaults, the Tenant hereby agrees that, provided Fee Mortgagee has commenced to cure such non-monetary default and is proceeding with commercially reasonable diligence to complete such cure, Fee Mortgagee shall have an additional period of time as may be reasonable to enable Fee Mortgagee to remedy, or cause to be remedied, any such non-monetary default in addition to the period given to the Town for remedying, or causing to be remedied, such non-monetary default, and Tenant shall accept performance by Fee Mortgagee as performance by the Town.

7. To the extent Fee Mortgagee or any other party (each a "**New Lessor**") shall acquire the interest of the Town under the Lease, the following shall be binding upon New Lessor:

(i) So long as Tenant recognizes the New Lessor and Tenant is not in default under the Lease (beyond any period given to Tenant by the terms of the Lease to cure such default) and is paying rent to the New Lessor under the Lease, New Lessor shall not, whether in the exercise of any of its rights under the Lease or otherwise, disturb Tenant's possession of the

Premises or deprive Tenant of any right or privilege granted to or inuring to the benefit of Tenant under the Lease; nor shall Tenant be named as a party in any foreclosure proceeding except to the extent required by law.

(ii) New Lessor shall recognize and keep the Lease as a direct sublease between Tenant and New Lessor, without the necessity of executing a new lease. In such event, New Lessor shall succeed to the interest of the Town under the Lease, the Tenant shall attorn (subject to the terms of this Agreement) to the New Lessor, in each case to be effective and self-operative without the execution of any further instruments.

(iii) Notwithstanding the foregoing, upon the request of either New Lessor and/or Tenant, the other Party shall promptly execute and deliver a commercially reasonable instrument in recordable form (an "**Attornment and Recognition Agreement**") that (i) as to the Lease, evidences the foregoing attornment by Tenant to New Lessor, and (ii) evidences the recognition of the Lease as a direct Lease between New Lessor and Tenant.

(iv) At the option of the New Lessor (which may be exercised at any time after an Attornment and Recognition Agreement is executed by New Lessor and Tenant), the New Lessor may enter into a new lease with the Tenant for the Premises (a "**New Lease**"). The New Lease shall contain the exact same terms and conditions contained in the Lease, whereupon the New Lease shall replace the Lease and be deemed a replacement Lease between Tenant and the New Lessor, and a new Non-Disturbance Agreement (similar in form to this Agreement as to such New Lease) shall be executed by New Lessor and Tenant.

(v) After New Lessor, or its successors and assigns, shall succeed to the interest of the Town under the Lease (or enter into a New Lease), New Lessor and Tenant, or their respective successors and assigns, shall be bound to each other under all of the terms, covenants and conditions of each of the Lease or New Lease, if applicable, and Tenant and New Lessor shall, from and after such succession by New Lessor to the interest of the Town under each of the Lease (or the entry of New Lease, if applicable) shall each have the same remedies against each other, or their respective successors and assigns, for the breach of any agreement or covenant or duty contained in each of the Lease or New Lease, if applicable, might have had against the other under the Lease as if such parties had been the original lessor or lessee (as applicable) under the Lease, provided, however, notwithstanding anything in the Lease (or New Lease, if applicable) or in this Agreement to the contrary, New Lessor, its successors and assigns, shall not be:

a. bound by any rent, additional rent or other amounts which Tenant might have paid for more than the current month except the most recent payment of rent paid by Tenant as required under the Lease, or to the extent such money was actually received by New Lessor; or

b. accountable for any money deposited with Lessor for any matter, including, capital improvement reserves, except to the extent such money was actually received by New Lessor; or

c. liable for any indemnities of the Town under the Lease for any period prior to New Lessor becoming the lessor under the Lease or New Lease; or

Exhibit F – Non-Disturbance Agreement

Page 4

d. liable for any act or omission of the Town (or its members, officers, managers, employees, contractors, or agents) that occurred prior to such party becoming the New Lessor (and additionally, Tenant agrees that any such act or omission is not a defense or excuse to Tenant's continued performance under the Lease); provided, however, that except as otherwise expressly provided in this Agreement, New Lessor shall only be obligated for all obligations of the sublessor under the Lease to be performed from and after the date the New Lessor succeeded to the interest of the Town under the Lease; or

e. liable for the Town's breach of any agreement or covenant or duty contained in the Lease which occurred prior to the date the New Lessor succeeded to the interest of the Town (and additionally, Tenant agrees that no such breach is a defense or excuse to its continued performance under the Lease); provided, however, that except as otherwise expressly provided in this Agreement, New Lessor shall only be obligated for all obligations of the sublessor under the Lease to be performed from and after the date the New Lessor succeeded to the interest of the Town under the Lease.

Except as provided in this Agreement, Lessor and Tenant shall have their respective rights or remedies available to it under the Lease (or comparable provisions in the New Lease).

(vi) New Lessor shall, in the manner provided for herein for giving of notices, provide promptly to the Lender (to the extent it has provided a Lender Notice) a copy of each notice of default given by New Lessor to the Tenant in connection with the Lease or New Lease, if applicable.

(vii) Lender shall have the right, but not an obligation, to remedy or cause to be remedied any default of Tenant so long as such remedy is completed within any notice or grace period provided under the Lease or New Lease, if applicable, to Tenant as extended if Lender is diligently pursuing the completion of a non-monetary default of Tenant, as such extension is permitted under the Lease or New Lease, if applicable, and New Lessor shall accept performance by the Lender as performance by the Tenant under the Lease or New Lease, if applicable. Provided Lender satisfies the requirements of this Paragraph 7, any defaults by Tenant of any covenants and agreements which are not within the reasonable power of Lender or any nominee to perform shall not be enforced by New Lessor against Lender (but may be enforced against the Tenant), provided the same shall not be deemed to be a waiver of such obligations from and after the date Lender or its nominee acquires Tenant's interest in the Lease or New Lease, if applicable, or the interest in the Tenant, as applicable.

(viii) In case of a default by the Tenant under the Lease or New Lease, if applicable, beyond any applicable notice and cure period, other than a default in the payment of money and under such circumstances New Lessor having the right to terminate after all cure periods, if any, have expired, the New Lessor shall take no action to effect a termination of the Lease or New Lease, if applicable, by service of a notice or otherwise, without first giving Lender (to the extent it has provided a Lender Notice) a commercially reasonable time within which to either:

a. obtain possession of the Premises and the Tenant's improvements located thereon ("**Improvements**") (including possession by a receiver) and to cure such default in case of a default which is within the power of the Lender to cure, it being understood that the payment of money is within the Lender's power to cure, when such Lender has obtained possession of the Premises and the Improvements; or

b. initiate and complete foreclosure proceedings or otherwise acquire Tenant's leasehold interest under the Lease (or New Lease, as applicable), provided the New Lessor may seek to intervene and Lender consents to such intervention in said foreclosure proceedings and obtain an order authorizing the Lender to commence to cure such default as described by New Lessor and, if such order is obtained, Lender shall have a reasonable time thereafter to proceed diligently to cure such non-monetary defaults within its control to cure and to cure all monetary defaults and the New Lessor will not need to wait until the foreclosure proceedings are concluded. Upon issuance of such orders in the judicial proceedings and if Lender fails to diligently proceed to cure such default, New Lessor has the right to enter the Premises and cure such default, the cost and expenses of which shall be added to the Lease or New Lease, if applicable, as additional rent. Lender shall diligently proceed with the appointment of a receiver to operate and maintain the Premises under the Lease or New Lease, if applicable.

The provisions of Paragraph 7(viii) above are conditioned on the following: Lender, within the forty-five (45) days of receipt of a notice of default under the Lease or New Lease, if applicable, shall (i) notify New Lessor of its election to proceed with due diligence to promptly acquire possession of the Premises and any Improvements or to foreclose its Leasehold Mortgage or otherwise to extinguish Tenant's interest in the Lease or New Lease, if applicable; and (ii) deliver to New Lessor an instrument in writing duly executed and acknowledged, whereby the Lender agrees that (x) during the period Lender is enforcing its remedies and/or during the pendency of any foreclosure or other proceeding and until the interest of Tenant in the Lease or New Lease, if applicable, shall terminate, as the case may be, it will pay or cause to be paid to New Lessor (on behalf of Tenant) all monetary obligations of Tenant including rent (based on gross revenue Lender is able to collect), payment of taxes and insurance then due and from time to time becoming due under the Lease or New Lease, if applicable, which is to be remitted to New Lessor giving credit, however, for any net income actually collected by New Lessor (as applicable) in connection with the Premises, and (y) if delivery of possession of the Premises and the Improvements shall be made to Lender or its nominee, whether voluntarily or pursuant to any foreclosure or other proceedings or otherwise, such holder shall, promptly following such delivery of possession, perform or cause such nominee to perform, as the case may be, all covenants and agreements contained in the Lease or New Lease, if applicable, on Tenant's part to be performed to the extent that Tenant shall have failed to perform the same to the date of delivery of possession, as aforesaid except such covenants and agreements which are not within the reasonable power of the Lender or such nominee to perform but the payment of rent (based on gross revenue Lender is able to collect), taxes and insurance shall be deemed activity within the power of the Lender or its nominee to perform. Upon such extinguishment of Tenant's interest in the Lease or New Lease, if applicable, and such performance by such holder or such nominee, or by any purchaser of the Tenant's interest in the Lease pursuant to any foreclosure proceedings, New Lessor's rights to serve notice of election to end the Term of the Lease or New Lease, if applicable, based on any non-monetary default which is not within the

Exhibit F – Non-Disturbance Agreement

power of such holder or nominee or such purchaser to perform, shall be deemed to be and shall be waived. If prior to any sale pursuant to any proceedings brought in foreclosure of the Loan(s), or if, prior to the date on which Tenant's interest in the Lease or New Lease, if applicable, shall otherwise be extinguished, the default in respect of which New Lessor shall have given notice shall have been remedied and possession of the Premises and the Improvements restored to Tenant, the obligations of the Lender pursuant to the instrument referred to in clause (x) of this paragraph shall be null and void (subject to a new right to cure for other defaults) and of no further force and effect. Nothing herein contained shall affect the right of New Lessor, upon the subsequent occurrence of any default by Tenant, to exercise any right or remedy reserved in the Lease or New Lease, if applicable, to New Lessor, subject to the rights of the Lender pursuant to this Agreement with respect to such default. Notwithstanding anything contained in this Agreement to the contrary, New Lessor shall not be required to waive monetary defaults such as payment of rent, taxes, insurance and other financial obligations under the Lease or New Lease, if applicable,, giving credit, however, for any net income actually collected by New Lessor in connection with the Premises. Further, both parties agree payment of rent (based on gross rent Lender is able to collect), and payment of taxes, insurance and other monetary obligations shall never be deemed "not within the reasonable power of the Lender or such nominee to perform" or a default not susceptible of being cured and upon Lender or its designee becoming the Tenant, such party shall perform the deferred maintenance and other obligations within its reasonable control to the extent such matters could not be cured previously.

(ix) Upon (a) a foreclosure or deed in lieu of foreclosure, whereby the Tenant's interest in the Lease or New Lease, if applicable, is transferred to the Lender or foreclosure of ownership interests in Tenant or a transfer in lieu of foreclosure of ownership interests in Tenant, or its first assignee or (b) if such Lender is unable (despite commercially reasonable efforts to do so) to perform the cure within its cure period as provided in Section 7 (xi) and the Lease or New Lease, if applicable, is terminated or (c) if New Lessor shall give notice thereof to the Lender and in either of such cases, upon written request by the Lender given to New Lessor within thirty (30) days after such foreclosure (as provided in Section 7(xii)(a)) or the notice from New Lessor to the Lender of the termination of the Lease or New Lease, if applicable (as provided in Section 7(xii)(b)) to enter a "New Lease" (as hereinafter defined), New Lessor shall enter into and deliver a new lease ("**New Lease**") of the Premises with the Lender or its designee for the remainder of the term of the Lease or New Lease, if applicable, upon the exact same terms and conditions as contained in the Lease or New Lease, if applicable, including all right to the extensions thereof and dated as of the date of termination of the Lease or New Lease, if applicable, and convey to the Lender (or its designee) by quit claim bill of sale, a term of years in and to the Improvements, reserving to New Lessor the reversion of title to the Improvements upon the termination of the New Lease. The estate of the Lender (or its designee) as lessee under the New Lease shall have priority equal to the estate of the Tenant under the Lease or New Lease, if applicable (that is, there shall be no charge, lien or burden upon the Premises prior to or superior to the estate granted by such New Lease which was not prior to or superior to the estate of the Tenant under the Lease or New Lease, if applicable, as of the date immediately preceding the date the Lease or New Lease, if applicable, went in default. The quit claim bill of sale to the Improvements shall recite that the grantee holds title to the Improvements only so long as the New Lease shall continue in full force and effect, that upon termination of the New Lease, title to the Improvements shall revert to New Lessor automatically without payment. Nothing herein contained shall be deemed to impose any

obligation upon New Lessor or to cause the delivery of physical possession of the Premises and the Improvements to the Lender or its designee or to disavow any recognition of the Lease or New Lease, if applicable, or the rights of the Tenant pursuant to the terms of the Lease or New Lease, if applicable. The Lender or its designee shall pay all reasonable expenses, including reasonable attorneys' fees, incident to the execution and delivery of such New Lease and quit claim bill of sale to the extent requested by the Lender. If there be more than one (1) Leasehold Mortgage, the right to request and obtain a New Lease shall be limited solely to the Lender having the highest priority lien. New Lessor reserves the right to require a written legal opinion, at Lender's expense, as to whether or not such Leasehold Mortgage is a first lien on the Tenant's rights under the Lease or New Lease, if applicable.

However, if the Leasehold Mortgage is foreclosed, the purchaser who shall have acquired the Tenant's leasehold estate at the foreclosure sale shall execute and deliver such evidence of acquiring such leasehold estate to New Lessor. If Lender is the purchaser, it may assign its interest in the Lease or New Lease, if applicable, to any person, firm, corporation or entity designated by it who satisfies the minimum standard as expressly specified in the Lease or New Lease, if applicable, and such assignee shall execute and deliver such assignment to New Lessor in form reasonably acceptable to New Lessor, whereupon the Lender shall have no liability or obligation thereunder.

8. (a) Without the prior written consent of Fee Mortgagee (while its lien encumbers the Town's interest in the Lease or New Lease, if applicable) the Town and Tenant, shall not consent to or accept any voluntary cancellation, termination or surrender of the Lease (other than to enforce a default thereunder not cured within the applicable cure period). Without the prior written consent of Fee Mortgagee (while its lien encumbers the Town's interest in the Lease or New Lease, if applicable), which consent shall not be unreasonably withheld, conditioned or delayed, the Town and Tenant shall not, in any material respect, modify or amend the Lease or New Lease, if applicable, which materially changes the term, the rent, or otherwise materially increases the obligations of the Town or material decreases the obligations of Tenant under the Lease or New Lease, if applicable (a "**Lease Modification**"). In the event the Town sends its request for approval of a Lease Modification to Fee Mortgagee as a "Time Sensitive Request of Lender", then the Lender shall be deemed to have approved such request if the Fee Mortgagee does not disapprove same and specify the basis for such disapproval within twenty (20) days of request.

(b) Without the prior written consent of Lender (to the extent it has provided a Lender Notice and while its lien encumbers any Tenant interest in the Lease or New Lease, if applicable), the Town and Tenant shall not (i) consent to or accept any violation, cancellation, termination or surrender of the Lease or New Lease, if applicable (other than to enforce a default thereunder not cured within the applicable cure period (but subject to the terms hereof)), or (ii) modify or amend the Lease or New Lease, if applicable, in any material manner which changes the term, the rent, or otherwise materially increases the obligations of Tenant or material decreases the obligations of the Town or the rights of Tenant under the Lease or New Lease, if applicable (in each case, a "**Material Lease Modification**"). In the event the Town or Tenant sends a request to Lender for approval of a Material Lease Modification, any such consent of Lender shall not be

unreasonably withheld and shall be subject to the terms and provisions attached hereto as Exhibit A.

9. The Town and New Lessor agree that the restrictions on "Assignment" (as defined in the Lease or New Lease, if applicable) do not apply to either (a) an assignment of the Leasehold interest of Tenant as it relates to Lender (to the extent it has provided a Lender Notice) pursuant to the Leasehold Mortgage or the foreclosure of the Leasehold Mortgage or assignment in lieu of the foreclosure of the Leasehold Mortgage or (b) a pledge of ownership interests in the Tenant as it relates to Lender by its owner or the foreclosure on the ownership interests of Tenant or the assignment in lieu of the foreclosure of ownership interests in the Tenant, provided however, any subsequent assignment by Lender to a third party shall be subject to compliance with the minimum standards relating to an assignee as specified in the Lease or New Lease, if applicable.

10. The parties acknowledge that any Loan(s) obtained by Tenant are leasehold security interests on the Tenant's interest in the Premises and do not encumber or subordinate the fee simple title of the Town, the leasehold interest of Lessor, or any lien and/or leasehold interest held by Fee Mortgagee.

11. Any notice required or permitted to be given by the terms of this Agreement or under any applicable law by either party shall be in writing and shall be either hand delivered or sent by certified mail, postage prepaid, return receipt requested. Such written notice shall be addressed as follows:

As to Fee Mortgagee:

With a copy to:

As to Town:

With a copy to:

As to Lender:

The name and address of the Lender and its
representatives as set forth in the Lender Notice

As to Tenant:

unless the address is changed by the party by like notice given to the other parties. Notice shall be in writing, mailed certified mail, return receipt requested, postage prepaid and shall be deemed delivered three (3) business days after being properly mailed or upon hand delivery to the address indicated. Notwithstanding the foregoing, notices, requests or demands or other communications referred to in this Agreement may be sent by email (except that requests for Material Lease Modification approvals whereby the provisions of Exhibit A would be applicable must always be sent by certified mail return receipt requested or a nationally recognized delivery service such as Federal Express in addition to email) or by nationally recognized delivery service such as Federal Express, but shall only be deemed to have been given when received

12. This Agreement shall not be changed, modified or amended except by an instrument in writing and executed by all Parties to this Agreement.

13. This Agreement may be executed in any number of counterparts, each of which, when executed, shall be deemed an original and all of which shall be deemed one and the same instrument. Facsimile transmission signatures of this Agreement shall be deemed to be original signatures.

14. This Agreement is governed by Florida law and Palm Beach County, Florida is the agreed upon venue.

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

[Signature Pages to Follow]

LESSOR:

Town of Lake Park Florida

Print Name: _____

Name: _____

Title: _____

Print Name: _____

Date: _____

STATE OF _____)
) SS:
COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2024.

Notary Public

Typed, printed or stamped name of Notary Public

My Commission Expires:

WITNESSES:

TENANT:

Print Name: _____

By: _____

Name: _____

Title: _____

Print Name: _____

Date: _____

STATE OF _____)
) SS:
 COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2024.

 Notary Public

 Typed, printed or stamped name of Notary Public

My Commission Expires:

WITNESSES:

LENDER:

Print Name: _____

By: _____

Name: _____

Title: _____

Print Name: _____

Date: _____

STATE OF _____)
) SS:
 COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said bank. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2024.

Notary Public_____
Typed, print d or stamped name of Notary Public

My Commission Expires:

WITNESSES:

FEE MORTGAGEE:

Print Name: _____

By: _____

Name: _____

Title: _____

Print Name: _____

Date: _____

STATE OF _____)
) SS:
 COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2024

 Notary Public

 Typed, print d or stamped name of Notary Public

My Commission Expires:

Exhibit A

If Tenant makes a written request of Lender in accordance with the terms of this Agreement to make a material modification or amendment to the Lease, accompanied by all such background information and explanations as may be reasonably necessary for Lender to determine whether to consent to or approve the request, and does not receive a consent, approval or rejection from Lender within five (5) business days after Lender's receipt of such request, then Tenant may provide Lender with a second written notice of any such request, with a copy of such first request, and if such second written notice includes, printed in capital letters of boldface type and at least 12 point font, a legend substantially to the following effect:

“THIS COMMUNICATION REQUIRES IMMEDIATE RESPONSE. FAILURE TO RESPOND WITHIN TEN (10) CALENDAR DAYS (OR LONGER PERIOD AS PROVIDED IN THAT CERTAIN NON-DISTURBANCE AGREEMENT DATED AS OF _____) FROM THE RECEIPT OF THIS COMMUNICATION SHALL CONSTITUTE A DEEMED CONSENT OR APPROVAL BY THE ADDRESSEE OF THE ACTION REQUESTED BY THE ADDRESSOR.”

and if the foregoing legend is included by the Tenant in the second written request to Lender, such request shall be deemed to have approved or consented to the item for which Tenant sought Lender's consent or approval for all purposes hereunder unless Lender denies the such request within ten (10) calendar days of Lender's receipt of such second written request; provided, however, that if Lender in writing notifies Tenant (including the basis for the need for additional time) within such ten (10) calendar day period that the nature of the request is such that more than ten (10) calendar days are required in order for the Lender to properly assess the request and respond to Tenant (including without limitation, as a result of loan approval authority for the requested change being a prerequisite to Lender's and/or any Loan participant's response to the request), then such period shall be extended for up to an additional twenty (20) calendar days (i.e. a total of thirty (30) calendar days after Lender's receipt of the second written request) for Lender and/or any Loan participant to properly assess the request and respond to Tenant so long as Lender and/or such Loan participant(s) have commenced their assessment within such ten (10) calendar days period and thereafter diligently conducts their review and determination of whether or not to approve or consent to such request.

GROUND LEASE FOR THE BOAT STORAGE COMPONENT

GROUND LEASE
(Boat Storage Component)

THIS GROUND LEASE (this “**Lease**”), dated as of May 17, 2024 (the “**Effective Date**”), is entered into by and between the **TOWN OF LAKE PARK, FLORIDA**, a Florida municipal corporation (“**Landlord**”), and **FD P3 LP BOAT STORAGE, LLC**, a Florida limited liability company (“**Tenant**”) (collectively, the “**Parties**” and individually, a “**Party**”).

WHEREAS, in accordance with Florida Statutes §255.065, Forest Development P3 LPM, LLC, a Florida limited liability company (the “**Developer**”), an affiliate of Tenant, submitted to Landlord an unsolicited proposal for a Qualifying Project (the “**Proposal for Redevelopment**”) involving the redevelopment of six (6) parcels of land owned by Landlord (the “**Land**”), comprising approximately +/-12.01 acres generally located on the intracoastal waterway east of Federal Highway and north of Silver Beach Road in the Town of Lake Park, Florida, and commonly known as Lake Park Harbor Marina (the “**Marina**”); and

WHEREAS, the Town Commission selected the Developer’s Proposal for Redevelopment; and

WHEREAS, in accordance with said §255.065, Landlord and Developer entered into that certain Comprehensive Agreement dated as of August 2, 2023 (as the same may be amended or supplemented, collectively, the “**Comprehensive Agreement**”), memorializing their respective rights and obligations with respect to the redevelopment of the Marina; and

WHEREAS, all capitalized terms used but not otherwise defined in this Lease shall have the respective meanings ascribed to them in the Comprehensive Agreement; and

WHEREAS, pursuant to the Comprehensive Agreement, Landlord and Developer have agreed that Landlord and four (4) special purpose entities formed by Developer shall enter into four (4) separate ground leases for portions of the Marina, on which will be developed the “Hotel Component,” the “Boat Storage Component,” the “Public Marina Component” and the “Marina Restaurant Component” (as defined in the Comprehensive Agreement); and

WHEREAS, in accordance with the Comprehensive Agreement, Landlord and Tenant desire to enter into this Lease to document Tenant’s lease from Landlord of a portion of the Marina hereinafter described on which will be developed the Boat Storage Component, all in accordance with the terms and conditions hereinafter set out.

NOW, THEREFORE, for and in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **DEMISE**. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, all of the area shown on the plan attached hereto as **Exhibit A** and made a part hereof (the “**Site Plan**”), and more particularly described on **Exhibit B**, attached hereto and made a part

hereof, together with all appurtenant easements and rights thereto (collectively, the “**Premises**”). Landlord and Tenant hereby acknowledge and agree that this Lease shall be subject to the terms, conditions and provisions of the Comprehensive Agreement only to the extent the same pertain to the Boat Storage Component and that only a default under the terms of the Comprehensive Agreement that pertain to the Boat Storage Component shall constitute a default under this Lease.

2. **TERM.** The term of this Lease (the “**Term**”) shall be ninety-nine (99) years, commencing on the later of (i) the Effective Date; (ii) the earlier of (A) the date of the modification or termination of the Deed Restrictions and Reverter Clauses to Landlord’s and Developer’s reasonable satisfaction, and (B) the date that Developer notifies Landlord in writing that it intends to proceed with the Project even if the Deed Restrictions and Reverter Clauses are not fully terminated; (iii) August 2, 2025 (the “**Commencement Date**”). Notwithstanding the foregoing, in the event that the Deed Restrictions and Reverter Clauses have not been terminated or modified to the Developer’s reasonable satisfaction and the Developer has not notified Landlord in writing that it intends to proceed with the Project despite the fact that the Deed Restrictions and Reverter Clauses have not been fully terminated, Tenant shall have the right to terminate this Lease by written notice to Landlord on or before August 2, 2025.

3. **LEASE PAYMENTS.** As consideration for Landlord’s execution of this Lease with Tenant, Tenant shall make payments to Landlord in accordance with the schedule attached hereto as **Exhibit C** (the “**Lease Payments**”). During the Term, Tenant shall also be responsible for all real estate taxes (including ad valorem taxes and non-ad valorem assessments) assessed with respect to the Premises and for all expenses incurred in connection with the ownership, operation, maintenance, repair, occupancy or use of the Premises. In addition, Tenant shall pay or cause the Developer to pay the portion of the P3 Assessment Fee in the total amount of Three Hundred Thousand and 00/100 Dollars (\$300,000.00) and the Building Permit Fee (as such terms are defined in the Comprehensive Agreement) applicable to the Boat Storage Component, which payments shall be made on or before August 2, 2024 in accordance with the Comprehensive Agreement. Except as otherwise expressly set forth in this Lease, Landlord shall not be responsible for any costs, expenses, or charges of any kind or nature respecting the Premises and Landlord shall not be required to render any services of any kind to Tenant or to the Premises. Landlord shall receive the Lease Payments free and clear of any and all impositions, taxes, liens, charges, deductions or expenses of any nature whatsoever in connection with the ownership, operation, maintenance, repair, occupancy or use of the Premises.

4. **IMPROVEMENTS.** Tenant hereby agrees to develop the Boat Storage Component on the Premises in accordance with the terms and conditions of the Comprehensive Agreement, to the extent such terms and conditions apply to the Boat Storage Component. Tenant covenants that the construction of all improvements at the Premises (the “**Improvements**”) shall be at Tenant’s sole cost and expense and in accordance with all applicable legal requirements. Tenant acknowledges and agrees that the interest of the Landlord in the Premises shall not be subject to liens for improvements made by the Tenant. Tenant shall not at any time permit any mechanics’, laborers’ or materialmen’s liens to stand against the Premises for any labor or material furnished to Tenant or claimed to have been furnished to Tenant or Tenant’s agents, contractors or subtenants, in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction or sufferance of Tenant. Tenant shall notify any contractor engaged in the construction of the Improvements of the foregoing, and the knowing or willful

failure of the Tenant to provide such notice to the contractor(s) shall render the contract between the Tenant and the contractor voidable at the option of the contractor. In the event any such lien is filed against the fee simple interest in the Premises as a result of any construction thereon by Tenant or on Tenant's behalf, then and in that event, Tenant shall cause said lien to be discharged or bonded over within thirty (30) days of Tenant's actual knowledge of same. The failure to do so shall, at the option of Landlord, constitute a breach of this Lease. If Tenant fails to have such lien or claim for lien so released or to deliver such bond to Landlord, Landlord, without investigating the validity of such lien, shall have the right to pay or discharge the same, and Tenant shall reimburse Landlord upon demand for the amount so paid by Landlord, including Landlord's reasonable expenses and attorneys' fees.

Subject to the terms and conditions of this Lease, until the expiration or earlier termination of this Lease, (a) all Improvements shall be and remain the property of Tenant, and (b) Tenant shall have the rights and benefits of ownership of the Improvements, including, without limitation the right to claim depreciation of the Improvements for tax purposes.

5. USE OF PREMISES. It is expressly agreed that the Premises may be used during the Term only for any purposes permitted pursuant to the Comprehensive Agreement or as may permitted by the applicable governmental authority and may not use the Premises for any purpose in violation of the Deed Restrictions and Reverter Clauses to the extent the same have not been amended or terminated of record. It is the obligation of the Developer to work out alternative locations that would provide for seamless operation of current users in that location during construction. Tenant, its agents, employees, customers, and invitees shall have free and unobstructed right to use the Premises for such purposes. Tenant shall comply with and abide by all federal, state, county, municipal, and other governmental statutes, ordinances, laws, and regulations affecting the Premises, the Improvements, or any activity or condition on or at the Premises. Tenant shall have access to the Premises twenty-four (24) hours per day, 365 days per year. Tenant shall have the right to place signs at the Premises provided such signs comply with the local ordinances and regulations. Upon the expiration of the Term, upon Landlord's request, Tenant shall remove all signage and shall restore and repair any damage caused by the installation or removal of such signs.

6. MAINTENANCE AND REPAIR. Throughout the Term, Tenant, at its sole cost and expense, shall (a) keep and maintain the Premises including all Improvements of every kind thereon and appurtenances thereto, in good order and condition, and (b) make such repairs, replacements and renewals (collectively, "**Repairs**") to the Premises as may be necessary or appropriate to keep and maintain the Premises in good order and condition, whether such Repairs are ordinary or extraordinary, foreseen or unforeseen. Without limiting the generality of the foregoing, Tenant shall keep and maintain all portions of the Premises and all driveways, sidewalks, parking areas, curbs and access ways adjoining the Premises in a clean and orderly condition, and shall keep and maintain all open areas of the Premises in a neat and orderly condition and perform all necessary landscaping work. All Repairs shall be promptly made with materials and equipment, which are at least equal in quality to those in place. Landlord shall not be obligated to make any repairs or replacements of any kind, nature, or description, whatsoever, to the Premises or the Improvements thereon.

7. INDEMNIFICATION.

(a) Subject to the subrogation provisions of this Lease, Tenant agrees to indemnify and hold Landlord and its former and current elected and appointed officials, agents, consultants and employees (collectively, "**Landlord Parties**") harmless, to the fullest extent permitted by law, from all liabilities, losses, interest, damages, costs and/or expenses (including, without limitation, reasonable attorneys' fees, whether suit is instituted or not, and if instituted, whether incurred at any trial, appellate or post judgment level), threatened or assessed against, levied upon, or collected from, any Landlord Party arising out of, from, or in any way connected with or arising from the negligence, recklessness, or intentional wrongful misconduct of Tenant in the performance of its obligations under this Lease. Notwithstanding the foregoing, Tenant shall not be required to indemnify any Landlord Party with respect to any liability, loss, damages, costs or expenses suffered as a result of the negligence and/or willful misconduct of such Landlord Party. To the extent this indemnification clause or any other indemnification clause in this Lease is subject to the provisions of Chapter 725, Florida Statutes, and such does not comply with Chapter 725, Florida Statutes, as such may be amended, such provision shall hereby be interpreted as the parties' intention for the indemnification clauses and to comply with Chapter 725, Florida Statutes, as such may be amended.

(b) Tenant shall not have any obligation to indemnify or defend the Landlord Parties against any claims brought against any Landlord Party by any third party challenging: (i) Landlord's legal authority to lease all or any portion of the Premises; (ii) the Town Commission's judgment in leasing all or any portion of the Premises; or (iii) Landlord's decision to enter into this Lease or the terms and provisions of this Lease, regardless of whether such claim seeks monetary damages or injunctive, declaratory or other relief. Provided however, that if any third party brings any claims against Landlord and Tenant, Tenant shall have the responsibility to defend the allegations against it. The provisions of this Section shall survive the expiration or earlier termination of this Lease. Any tort liability to which Landlord is exposed under this Lease shall be limited to the extent permitted by applicable law and subject to the provisions and monetary limitations of Section § 768.28, Florida Statutes, as it may be amended. Landlord expressly does not waive any of its rights and immunities under § 768.25.

8. TAXES. During the Term, Tenant shall assume full responsibility for and shall pay all taxes and assessments that accrue to the Premises or to the Improvements thereon, including sales and property taxes (including ad valorem taxes and non-ad valorem assessments). Tenant shall obtain, if available, a separate tax billing or assessment for the Premises, and Tenant shall pay the ad valorem real property taxes attributable to the Premises only. If a separate billing or assessment for the Premises is not available, Tenant shall pay its pro rata share of the cost incurred by Landlord for real property taxes upon the Project. Tenant agrees to reimburse Landlord within thirty (30) days after receipt of an itemized statement showing the pro rata amount due by Tenant.

In no event shall Tenant be obligated to pay any of Landlord's administrative fees relating to taxes nor shall Tenant be obligated to pay any interest or penalties imposed for late payment or otherwise unless caused by Tenant. Any real property taxes shall be apportioned so that Tenant shall pay only that portion of real property taxes or installments thereof as fall within the Term. Tenant shall not be obligated to pay any income tax, excise tax or other similar tax or charge, or

inheritance, franchise, capital levy transfer, estate, succession or other similar tax or charge that may be payable by or chargeable to Landlord under any present or future law of the United States or the state in which the Premises are located or imposed by any political or taxing subdivision thereof. Tenant shall have the right, by appropriate proceedings, to protest or contest any assessment or reassessment for real property taxes, or any special assessment, or the validity of either, or of any change in assessments or the tax rate and Landlord agrees to reasonably cooperate with Tenant in any such protest or contest. If Landlord is unwilling to pursue such protest or contest, then Tenant may do so in Landlord's name at Tenant's expense. Landlord agrees not to initiate or endorse any action or application which would increase Tenant's monetary obligations under this Section.

9. INSURANCE; WAIVER OF SUBROGATION. During the Term, Tenant shall comply with all of the insurance requirements imposed upon the Developer pursuant to the Comprehensive Agreement only to the extent the same are applicable to the Boat Storage Component.

Landlord and Tenant, for themselves and their respective insurers, hereby release each other of and from any and all claims, demands, actions and causes of action, (including, without limitation, subrogation claims), for loss or damage to their respective property located within or upon, or constituting a part of the Premises, even if the loss or damage shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible, which loss or damage is covered by valid and collectible insurance policies, to the extent that such loss or damage is recoverable under such policies or, in the case of Landlord, if Landlord elects to self-insure. Landlord and Tenant shall each cause each insurance policy obtained by it to provide that each insurance company waives all rights of recovery by way of subrogation against the other party in connection with any damage covered by any such policy. The foregoing waiver of subrogation shall also apply in the event that Landlord elects to self-insure.

10. UTILITIES. During the Term, Tenant, at its sole cost and expense, shall take such action as may be necessary to procure the utility services required for Tenant's operation of the Premises, including, without limitation, making arrangements to extend and connect utility lines to and within the Premises. Tenant shall pay all charges for utility services used on the Premises during the Term. At Landlord's request from time to time (but no more frequently than twice in any calendar year), Tenant shall deliver to Landlord receipts or other evidence satisfactory to Landlord indicating the timely payment of utility expenses.

Landlord makes no representation or warranty with respect to the availability or sufficiency of any utility service to the Premises. Landlord is not required to furnish any utility services to Tenant and shall not be liable for the failure of any utility services or for the untenability of the Premises or other damage or loss resulting from the unavailability, interruption, inadequacy or termination of, any utility services.

11. DEFAULT. The following conditions shall be considered a "Default" by Tenant hereunder:

(a) Tenant's failure to pay any monetary sum as provided in this Lease which continues for thirty (30) days following Tenant's receipt of notice from Landlord to that effect (a "**Monetary Default**"); and

(b) Tenant's failure to observe or perform any of the covenants, conditions or provisions of this Lease that Tenant must observe or perform, other than a Monetary Default, where the failure continues for a period of ninety (90) days after Tenant's receipt of written notice from Landlord; provided, however, that if the nature of the obligation that Tenant has failed to perform is such that more than ninety (90) are reasonably required for its cure, a Default will not occur so long as Tenant commences the cure within such ninety (90)-day period and continuously prosecutes the cure to completion (a "**Non-Monetary Default**")

If a Monetary Default occurs hereunder, then in addition to any other lawful or equitable right or remedy which Landlord may have, including any rights or remedies available to Landlord under the Comprehensive Agreement (to the extent applicable to the Boat Storage Component), Landlord may, subject to any and all cure and notice provisions contained in this Lease, do the following: (i) commence a proceeding to terminate this Lease, or (ii) repossess the Premises, with or without terminating this Lease.

If a Non-Monetary Default occurs and is continuing, then in addition to any other lawful or equitable right or remedy which Landlord may have, including any rights or remedies available to Landlord under the Comprehensive Agreement (to the extent applicable to the Boat Storage Component), Landlord shall have the right, in its sole election, then, or at any time thereafter while such Default shall continue to (i) remedy the same and charge Tenant for the reasonable costs thereof (including reasonable interest thereon), (ii) sue for specific performance of Tenant's obligations under this Lease; or (iii) commence a proceeding to terminate this Lease.

In the event of the occurrence of any Landlord's default as is detailed in this Lease which is not cured within sixty (60) days of Tenant's notice to Landlord, or such longer period of time as may be necessary to cure defaults which are not subject to being cured within such sixty (60) day period, Tenant shall have the right, in its sole election, then, or at any time thereafter while such Landlord's default shall continue to (i) remedy the same and charge Landlord for the costs thereof (including reasonable interest thereon), or (ii) sue for specific performance of Landlord's obligations under this Lease; or (iii) such other remedy as may be available at law or in equity.

Subject to the terms of this Section, all rights and remedies of Landlord and Tenant are cumulative, and the exercise of any one shall not be an election excluding Landlord or Tenant at any other time from exercising a different or inconsistent remedy. No waiver by Landlord or Tenant of any covenant or condition shall be deemed to imply or constitute a further waiver of the same at a later time.

12. CASUALTY.

(a) General. If at any time during the Term, any Improvements are damaged or destroyed by fire or other casualty (a "**Casualty**"), Tenant shall promptly give written notice thereof to Landlord. Tenant's obligations under this Lease shall not be affected by any Casualty except as provided in this Section. Lease Payments shall not abate during the period when the

Premises are not usable by Tenant due to damage or destruction, provided, however, Tenant shall receive a credit against the Lease Payments for the relevant period in an amount equal to any insurance proceeds actually received by Landlord with respect to such period.

(b) Restoration.

(i) Upon the occurrence of a Casualty, unless this Lease is terminated pursuant to Section 12(c), Tenant shall proceed, at its sole cost and expense and with commercially reasonable diligence, to carry out or cause to be carried out any necessary demolition and debris removal and to repair, restore, replace or rebuild the Improvements as nearly as reasonably practical to their condition, quality and character immediately prior to such damage or destruction, with such changes or alterations as may be approved by Landlord or as may be required by Governmental Authority (the “**Restoration**”).

(ii) All insurance proceeds shall be applied first to reimburse Tenant for the necessary and proper expenses paid or incurred by Tenant in the adjustment and collection of the insurance proceeds (including, without limitation reasonable attorneys’ fees and disbursements) (the “**Net Insurance Proceeds**”). The balance remaining shall be paid and applied in accordance with the provisions of this Section 12(b). In the event of a Casualty resulting in damage to the Improvements of less than \$2,000,000.00, the Net Insurance Proceeds shall be paid directly to Tenant and used by Tenant to pay the costs of the Restoration of the Improvements, subject to and in accordance with the provisions of this Section 12(b) and any Leasehold Mortgage. In the event of a Casualty resulting in damage to the Improvements of \$2,000,000.00 or more, the Net Insurance Proceeds shall be paid to the Insurance Depository (as hereinafter defined) and shall be held, invested and disbursed, subject to and in accordance with the provisions of this Section 12(b) and any leasehold mortgage. The “**Insurance Depository**” shall mean an institutional lender jointly selected by Landlord and Tenant (or if the provisions of any leasehold mortgage so provide, as selected by the holder of any Leasehold Mortgage (and may be the Leasehold Mortgagee)) to perform the functions described herein.

(iii) Subject to the terms of any Leasehold Mortgage, the Insurance Depository shall invest and reinvest the Net Insurance Proceeds in United States government securities backed by the full faith and credit of the United States government. The income from the investment of the Net Insurance Proceeds shall be part of the Net Insurance Proceeds and shall be held, invested, and disbursed in the same manner as the balance of the Net Insurance Proceeds. All reasonable costs, fees, expenses and charges of the Insurance Depository in connection with the collection, investment, administration and disbursement of the Net Insurance Proceeds shall be paid by Tenant upon demand by the Insurance Depository. In the event that Tenant shall fail to pay such costs, fees, expenses and charges upon demand, the Insurance Depository may deduct the amount thereof from the Net Insurance Proceeds.

(iv) The Insurance Depository shall disburse the Net Insurance Proceeds from time to time in accordance with requests for disbursement (each, a “**Disbursement Request**”) made by Tenant and approved by the then Leasehold Mortgagee, or, if there is no Leasehold Mortgagee, Landlord. No disbursement of Net Insurance Proceeds shall be made without the prior written approval of the then Leasehold Mortgagee, or, if there is no Leasehold

Mortgagee, Landlord. Landlord shall be obligated to approve a Disbursement Request provided that Tenant has complied with the requirements of this Section.

(v) Subject to the other requirements of this Lease, Net Insurance Proceeds shall be disbursed periodically by the Insurance Depository as the Restoration progresses in amounts not exceeding 90% of the value of labor and materials incorporated into the work. The remaining 10% will be disbursed upon final completion of the Restoration.

(vi) If at any time during the course of the Restoration the then Leasehold Mortgagee, or, if there is no Leasehold Mortgagee, Landlord, reasonably determines that the undisbursed portion of the Net Insurance Proceeds will not be sufficient to complete the Restoration, Tenant shall deposit the difference, as reasonably determined by Leasehold Mortgagee or Landlord, as applicable, with the Insurance Depository, and such amount shall be held, invested and disbursed in the same manner as the balance of the Net Insurance Proceeds.

(vii) All Restoration work shall be performed by Tenant in accordance with the provisions of Section 4.

(viii) Except as otherwise provided in any Leasehold Mortgage or any related loan documents, in the event that (a) Tenant shall fail to commence or complete the Restoration as required by this Section or otherwise defaults in the performance of its obligations under this Section, or (b) a default beyond any applicable notice and cure periods shall occur before or during the course of the Restoration, the Net Insurance Proceeds shall be paid to and retained by Landlord.

(ix) Upon final completion of the Restoration and compliance with the requirements for the final disbursement, any excess Net Insurance Proceeds shall be paid to Tenant.

(c) Termination by Tenant.

(i) Subject to the terms of any Leasehold Mortgage or any related loan documents, upon the occurrence of Casualty during the last thirty (30) years of the Term or if at any time during the Term the Improvements are substantially destroyed and estimated cost of the Restoration would exceed one hundred ten percent (110%) of the Maximum Required Restoration Cost (as hereinafter defined), then, instead of carrying out the resulting Restoration, Tenant, at its option, may elect to terminate this Lease by written notice to Landlord given within thirty (30) days after the Casualty or the estimated cost of such Restoration shall have been determined, whichever last occurs. After making such election, Tenant shall proceed with reasonable diligence to

- (A) demolish the damaged portion of the Improvements to street grade;
- (B) remove all debris from the Premises;

(C) put the Premises in good, safe, lawful, clean and orderly condition (collectively, the “**Demolition**”). The Demolition shall be carried out at Tenant’s sole cost and expense. Upon completion of the Demolition, as certified by the architect handling the Demolition and upon payment of all Lease Payments payable under this Lease through the date of such completion, this Lease shall expire and terminate with the same force and effect as though the date of such completion were the Termination Date; and

(D) provide evidence reasonably satisfactory to Landlord that all subleases have been terminated.

The term “**substantially destroyed**” shall mean and refer to that condition where the use and occupancy of substantially all the Improvements have been materially adversely affected and the estimated cost of the resulting Restoration would exceed \$2,000,000.00. The term “**Maximum Required Restoration Cost**” shall mean and refer to the total of (i) the insurance proceeds payable in respect of any loss which is the subject of the Restoration for which such determination is to be made (excluding the proceeds of any business interruption or rent loss insurance) plus the deductible amount under any applicable insurance policy or, in the case of any taking which is the subject of such Restoration, the portion of any Award (as hereinafter defined) payable in respect thereof which is available for such Restoration, *plus* (ii) any additional insurance proceeds that would have been payable in respect of any such loss if Tenant had complied with all relevant obligations of Tenant under this Lease and all relevant obligations of Tenant under all insurance policies (excluding the proceeds of any business interruption or rent loss insurance), *less* (iii) necessary and proper expenses paid or incurred by Tenant in the adjustment and collection of the insurance proceeds (including, without limitation reasonable attorneys’ fees and disbursements).

(d) Tenant’s Obligations Not Affected. Tenant shall be obligated to carry out, or cause to be carried out, the Restoration pursuant to Section 12(b) or the Demolition pursuant to Section 12(c), as the case may be, regardless (except for Landlord’s negligence or willful misconduct) of the cause of the loss which is the subject of such Restoration or Demolition, whether or not insurance shall have been in effect with respect to such loss, whether or not any proceeds from any such insurance shall be paid by the insurer, and whether or not any such insurance proceeds shall be sufficient to cover the cost of such Restoration or Demolition. Anything herein to the contrary notwithstanding, unless caused by Landlord’s negligence or willful misconduct, Landlord shall not be obligated to carry out any Restoration or Demolition. Landlord shall not be liable for any inconvenience, loss of business or annoyance arising from any damage or destruction of or to the Improvements or from any Restoration or Demolition, whether carried out by Landlord or Tenant.

(e) Survival. The provisions of this Section 12 shall survive the expiration or earlier termination of this Lease.

13. CONDEMNATION.

(a) Notice. Landlord and Tenant each agree to give the other written notice of any taking by exercise of the power of condemnation or eminent domain, whether by legal

proceedings or otherwise (“**Taking**”) of all or any portion of the Premises promptly after receiving notice thereof. Landlord agrees not to initiate or endorse any Taking which would materially interfere with Tenant’s ability to use the Premises for the use(s) permitted under this Lease.

(b) **Total Taking.** In the event of a Taking (other than for temporary use) of the entire Premises or such a substantial part of the Premises that the remaining portion of the Premises, after Reconstruction, would be unsuitable for the continued use and occupancy for the uses permitted hereunder (a “**Total Taking**”):

(i) this Lease shall terminate as of the date that possession is delivered to the condemning authority;

(ii) Lease Payments shall be apportioned as of the date the Lease terminates; and

(iii) any condemnation award or payment shall be applied first to reimburse Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award (including, without limitation reasonable attorneys’ fees and disbursements). The amount of any condemnation award or payment remaining after first reimbursing Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award or payment (including, without limitation reasonable attorneys’ fees and disbursements) (the “**Net Condemnation Proceeds**”) shall be apportioned between Landlord and Tenant in the manner set forth in this Section.

(c) **Partial Taking.** In the event of any Taking (other than for temporary use) which is not a Total Taking:

(i) this Lease shall remain in full force and effect as to the portion of the Premises remaining immediately after such Partial Taking;

(ii) there shall be an equitable abatement of the Lease Payments payable under this Lease based on the portion of the Premises taken;

(iii) any condemnation award or payment shall be allocated first to the Leasehold Mortgagee, to the extent required by the Leasehold Mortgage or any related loan documents, and then to reimburse Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award (including, without limitation reasonable attorneys’ fees and disbursements);

(iv) Tenant shall proceed with due diligence to repair, restore and replace the Premises as nearly as possible to its condition and character immediately prior to such Partial Taking (the “**Reconstruction**”), except for any reduction in area caused thereby. The work performed under this Section shall be performed in accordance with the provisions of Section 4;

(v) the Net Condemnation Proceeds and any sums deposited by Tenant pursuant to Section 13(c)(vi) (collectively, the “**Reconstruction Funds**”) shall be held, invested and disbursed by the Insurance Depository to pay the costs of Reconstruction, subject to substantially the same terms and conditions as are applicable to the Net Insurance Proceeds under Section 12;

(vi) Tenant shall be solely responsible for any costs of Reconstruction which are in excess of the Net Condemnation Proceeds. If, at any time, Landlord reasonably determines that the Net Condemnation Proceeds will be insufficient to pay the remaining costs of Reconstruction, Tenant shall deposit the difference with the Insurance Depository, and such amount shall be held, invested and disbursed in the same manner as the Net Condemnation Proceeds;

(vii) any balance of the Reconstruction Funds remaining after completion of the Reconstruction shall be apportioned between Landlord and Tenant in accordance with the provisions of this Section 13.

(d) Net Condemnation Proceeds/Reconstruction Funds.

(i) In the event of a Total Taking, the Net Condemnation Proceeds shall be allocated first to the Leasehold Mortgagee, to the extent required by the Leasehold Mortgage or any related loan documents, and then apportioned between Landlord and Tenant in proportion to the fair market value of their respective interests in the Premises immediately prior to the Taking, as if such Taking had not occurred.

(ii) In the event of a Partial Taking, any Reconstruction Funds remaining after completion of the Reconstruction shall be applied first to reimburse Tenant for any sums deposited by Tenant pursuant to Section 13(c)(iv). The balance, if any, shall be apportioned between Landlord and Tenant in proportion to the fair market value of their respective interests in the Premises immediately prior to the Taking, as if such Taking had not occurred.

(iii) In determining the fair market value of Landlord’s interest in the Premises, due consideration shall be given to the fair market value of the Premises, as encumbered by the Lease, taking into account the remaining useful life of the Improvements at the expiration of the Term, as if such Taking had not occurred.

(e) Procedure for Apportioning Funds.

(i) Landlord and Tenant shall attempt, in good faith, to agree upon the apportionment of the Net Condemnation Proceeds or remaining Reconstruction Funds between Landlord and Tenant.

(ii) In the event that Landlord and Tenant are unable to agree upon the apportionment, either party shall have the right to submit such dispute (an “**Apportionment Dispute**”) to arbitration in accordance with the provisions of this Section and the arbitration rules of the American Arbitration Association then in existence.

(iii) During the first ten (10) days after either party notifies the other of its desire to submit the Apportionment Dispute to arbitration, Landlord and Tenant shall attempt to agree upon a single person (the “**Expert**”) who (a) shall be MAI certified, (b) shall have a minimum of ten (10) years’ experience in appraisal of real estate in the State in which the Premises are located, and (c) has not conducted within the previous three (3) years, does not presently conduct, and does not anticipate conducting a material amount of business with either Landlord or Tenant or their Affiliates, or otherwise have a financial interest in either Landlord or Tenant or their Affiliates and who is otherwise independent (the “**Expert Qualifications**”). If the parties agree upon a single Expert, each of them shall be responsible for one-half of the costs of the Expert so appointed. If Landlord and Tenant are unable to agree upon a single Expert, then within ten (10) days after the expiration of the period for agreeing upon a single Expert, each party, by giving notice to the other, shall appoint an Expert who meets the Expert Qualifications. Such notice shall be accompanied by a statement of all business conducted by the party making the appointment, and its Affiliates, with the Expert so appointed. If a party does not appoint an Expert within ten (10) days after the other party has given notice of the name of its Expert, the single Expert selected shall then be responsible for deciding the Apportionment Dispute.

(iv) If the two Experts are appointed by the parties as provided in this Section, they shall meet promptly and attempt to decide the Apportionment Dispute in accordance with the provisions of this Section. If they are unable to agree upon a resolution of the Apportionment Dispute within twenty (20) days after the second Expert has been appointed, the two Experts shall attempt to select a third Expert meeting the Expert Qualifications, within ten (10) days after the expiration of the period for the two Experts to render a decision. If the two Experts are unable to agree upon a third Expert within such period, either of the parties to this Lease may apply to the American Arbitration Association for the appointment of a third Expert who meets the Expert Qualifications. The third Expert, whether selected by the two Experts or by the American Arbitration Association, shall then be responsible for deciding the Apportionment Dispute. Each of the parties shall be responsible for the costs of its own Expert and one-half of the costs of the third Expert.

(v) In rendering a decision, the Expert(s) shall be entitled to solicit and receive both oral and written evidence, to conduct hearings and meetings and to consider any and all evidence which he deems necessary or appropriate to render his decision; provided, however, that in no event shall the Expert(s) conduct any *ex parte* hearings or otherwise receive oral evidence or testimony from any party outside the presence of the other party or, in the case of written evidence, unless a copy of such evidence is simultaneously delivered to the other party. The Expert(s) shall have no power to change the provisions of this Lease in any respect, and the jurisdiction of the Expert(s) is expressly limited accordingly.

(vi) The Expert(s) shall render a decision as soon as possible. Such decision shall be binding, final and conclusive on the parties (except in the case of manifest error), and judgment thereon may be entered in a court of competent jurisdiction.

(f) Taking For Temporary Use. In the event of a Taking of all or any portion of the Premises for temporary use or occupancy (a “**Temporary Taking**”):

(i) this Lease shall not terminate, there shall be no reduction in the Lease Payments payable under this Lease, and Tenant shall continue to perform and observe all of its obligations under this Lease as though such Taking had not occurred except only to the extent that it may be prevented from so doing;

(ii) any condemnation award or payment shall be applied first to reimburse Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award (including, without limitation reasonable attorneys' fees and disbursements);

(iii) the Net Condemnation Proceeds shall be held by the Insurance Depository and applied to the payment of Lease Payments coming due under this Lease. If the Temporary Taking extends beyond the expiration of the Term, Landlord shall be entitled to the portion of the Net Condemnation Proceeds allocable to the period after the expiration date;

(iv) at the termination of the Temporary Taking (whether prior or subsequent to the expiration date), Tenant shall proceed with due diligence to repair, restore and replace the Premises as nearly as possible to its condition prior to such Temporary Taking. The portion of the Net Condemnation Proceeds allocable to such Reconstruction shall be held, invested and disbursed by the Insurance Depository to pay the costs of Reconstruction upon substantially the same terms and conditions as are applicable to the Restoration Funds under Section 12. Tenant shall be responsible for any costs in excess of the amount of the award;

(v) any balance remaining after application of the condemnation award pursuant to Section 13(f)(ii), 13(f)(iii) and 13(f)(iv) shall be paid to Tenant.

(g) Survival. The provisions of this Article shall survive the expiration or earlier termination of this Lease.

14. LANDLORD ENCUMBRANCES. It is expressly understood and agreed that Landlord's fee interest in the Land is not subordinate to any Leasehold Mortgage (as hereinafter defined). Tenant has no right to, and shall not, place or create any mortgage or other lien or encumbrance purporting to encumber Landlord's fee interest in the Land. In the event Landlord elects to encumber the Land or any portion thereof with a fee mortgage, such fee mortgage shall be subordinate to Tenant's rights under this Lease and upon Tenant's request, Landlord shall execute and cause such fee mortgagee to enter into a recognition, non-disturbance and attornment agreement with Tenant, substantially in the form attached hereto as Exhibit F or such other form as Landlord, Tenant, such fee mortgagee and any Leasehold Mortgagee may mutually agree to.

15. LEASEHOLD MORTGAGE.

(a) Tenant may from time to time, and without the consent of Landlord, secure financing (which may include, without limitation, mortgage loans, general credit lines, bond financing, including Community Development District bond financing, and CPACE financing) from banks, insurance companies, other financial institutions or other lenders (each one, a

“Leasehold Mortgage”), granting to such Leasehold Mortgagee as security for such financing or general credit lines a mortgage encumbering Tenant’s leasehold interest in the Premises (which may include a collateral assignment of Tenant’s leasehold interest in the Premises with rights of reassignment, hereinafter a **“Leasehold Mortgage”**) and/or a security interest in any furnishings, fixtures, equipment and personalty purchased by or belonging to Tenant, or leased from third parties by Tenant and installed on the Premises by Tenant. To the extent any provision in this Section conflict or are inconsistent with any other provision of this Lease, the provisions of this Section shall control.

Tenant may also, with Landlord’s prior written consent, which shall not be unreasonably withheld, conditioned or delayed, apply for any county, state and federal grants that may be available to Landlord (including, without limitation, those available from the Florida Navigational District) for the financial benefit the Marina (collectively, the **“Grants”**) on behalf of Landlord. Landlord agrees to reasonably cooperate with Tenant in connection with Tenant’s application for any such Grants, provided that Landlord shall not be required to incur any cost or liability in connection therewith and Tenant shall be solely responsible for any costs incurred in connection therewith, including without limitation any contribution requirements.

(b) If Tenant shall enter into any such Leasehold Mortgage, the Tenant or Leasehold Mortgagee shall forward to Landlord a copy of such Leasehold Mortgage together with a written notice setting forth the name of the Leasehold Mortgagee and its notice information (address for certified mail and electronic mail (e-mail)).

(c) When giving notice to Tenant with respect to any default under the provisions of this Lease, Landlord shall also serve a copy of such notice upon the Leasehold Mortgagee, in accordance with such Leasehold Mortgagee’s preferred form of notice as previously established pursuant to clause (b) above. No such notice to Tenant shall be deemed to have been given unless a copy of such notice has been mailed to such Leasehold Mortgagee, which notice must specify the nature of each such default.

(d) The Leasehold Mortgagee, upon mailing by Landlord of the notice referred to in subparagraph (c) of this Section, shall have, in addition to any period of grace extended to Tenant under the terms and conditions of this Lease, a period of ninety (90) days within which to cure the default or cause the same to be cured or to commence to cure such default with diligence and continuity; provided, however, that as to any default of Tenant for failure to make Lease Payments or to pay taxes, insurance or other monetary obligations of Tenant hereunder, the Leasehold Mortgagee shall be given written notice of such default by certified mail by Landlord, and the Leasehold Mortgagee shall have thirty (30) additional days from the date the notice of default was mailed within which to cure such default. The Leasehold Mortgagee’s decision to cure, or cause to be cured, any default under the Lease shall be at the Leasehold Mortgagee’s sole discretion and election and Leasehold Mortgagee shall not be required to cure any non-monetary default not within such Leasehold Mortgagee’s control such as an act of bankruptcy.

(e) Each Leasehold Mortgagee shall have the right, but not the obligation, to perform any covenant or agreement under this Lease to be performed by Tenant, and Landlord shall accept such performance by any Leasehold Mortgagee as if performed by Tenant. In case Tenant shall default under any of the provisions of this Lease, the Leasehold Mortgagee shall have

the right (but not the obligation) to cure such default whether the same consists of the failure to make Lease Payments or to pay taxes, insurance, or other monetary obligation or the failure to perform any other matter or thing which Tenant is required to do or perform, and Landlord shall accept such performance on the part of the Leasehold Mortgagee as though the same had been done or performed by Tenant.

(f) In the case of any default by Tenant, other than in the payment of Lease Payments under this Lease, Landlord, so long as no monetary default beyond any applicable notice and cure periods shall exist, will take no action to effect a termination of the Term of this Lease without first giving to the Leasehold Mortgagee a reasonable time within which either (i) to obtain possession of the Premises (including possession by a receiver) and cure such default in the case of a default which is susceptible of being cured when the leasehold mortgagee has obtained possession; or (ii) to institute foreclosure proceedings and complete such foreclosure or otherwise acquire Tenant's interest under this Lease with diligence and continuity and thereafter to commence and diligently proceed to cure such default; provided, however, that the leasehold mortgagee shall not be required to continue such possession or continue such foreclosure proceedings if the default which would have been the reason for serving such a notice shall be cured, and provided further, that nothing in this Section shall preclude Landlord from exercising any rights or remedies under this Lease with respect to any other default by Tenant during any period of such forbearance.

(g) In the event of the termination of this Lease or of any succeeding lease made pursuant to the provisions of this Section prior to its stated expiration date, Landlord will quit claim to Leasehold Mortgagee any interest in the Improvements and, at the same time, enter into a new lease of the Premises upon the same terms and conditions as this Lease for the remainder of the Term with the Leasehold Mortgagee or, at the request of such Leasehold Mortgagee, to a corporation or other entity approved to conduct business in the State of Florida, formed by or on behalf of such Leasehold Mortgagee or by or on behalf of the holder of the note secured by the Leasehold Mortgage held by such Leasehold Mortgagee, for the remainder of the Term, effective on the date of such termination, upon the covenants, agreements, terms, provisions and limitations contained in this Lease (including, without limitation, the Lease Payments), provided that such Leasehold Mortgagee makes written request and executes, acknowledges and delivers to Landlord such new lease within thirty (30) days from the date of such termination and such written request and such new lease is accompanied by payment to Landlord of all amounts then due to Landlord, including reasonable attorneys' fees, court costs and disbursements incurred by Landlord in connection with any such default and termination as well as in connection with the execution and delivery of such new lease, less the net income collected by Landlord subsequent to the date of termination of this Lease and prior to the execution and delivery of the new lease, any excess of such net income over the aforesaid sums and expenses to be applied in payment of the Lease Payments thereafter becoming due under such new lease. In no event, however, shall such mortgagee or its nominee or designee be required to cure a default under this Lease which is not subject to being cured by such mortgagee or its nominee or designee in order to obtain a new lease. Any new lease referred to in this Section shall not require any execution, acknowledgment or delivery by Landlord in order to become effective as against Landlord and Landlord shall be deemed to have executed, acknowledged and delivered any such new lease immediately upon receipt by Landlord of such new lease accompanied by (i) payment to Landlord of all amounts then due to Landlord of which the Leasehold Mortgagee shall theretofore have received written

notice; and (ii) an agreement by the Leasehold Mortgagee to pay all other amounts then due to Landlord of which the Leasehold Mortgagee shall not theretofore have received written notice. In addition, immediately upon receipt by Landlord of such new lease, as provided in this subparagraph, Landlord shall be deemed to have executed, acknowledged and delivered to the Leasehold Mortgagee an assignment of all subleases covering the Premises which theretofore may have been assigned and transferred to Landlord and all subleases under which subtenants shall be required to attorn to Landlord pursuant to the terms and conditions of such subleases or this Lease. Such assignment by Landlord shall be deemed to be without recourse as against Landlord. Within ten (10) days after a written request therefore by the Leasehold Mortgagee, such assignment or assignments shall be reduced to writing in recordable form and executed, acknowledged and delivered by Landlord to the Leasehold Mortgagee.

(h) The Leasehold Mortgagee may become the legal owner and holder of this Lease by foreclosure of its mortgage or as a result of the assignment or quitclaim conveyance of this Lease and the Improvements in lieu of foreclosure, whereupon such Leasehold Mortgagee shall immediately become and remain liable under this Lease as provided in subparagraph (j) below, except that such Leasehold Mortgagee may assign this Lease without Landlord's consent to any assignee at any time, provided that prior notice is given to Landlord in accordance with this Lease.

(i) In the event that a Leasehold Mortgagee shall become the owner or holder of Tenant's interest by foreclosure of its mortgage or by assignment of this Lease in lieu of foreclosure or otherwise, the term "Tenant," as used in this Lease, means only the owner or holder of Tenant's interest for the time being so that, in the event of a sale, assignment or other disposition of Tenant's interest in this Lease by the Leasehold Mortgagee, the Leasehold Mortgagee shall be entirely freed and relieved of all covenants and obligations of Tenant under this Lease and it shall be deemed and construed, without further agreement between Landlord and the Leasehold Mortgagee or between Landlord, the Leasehold Mortgagee and the Leasehold Mortgagee's purchaser or assignee at any such sale or upon assignment of Tenant's interest, that the purchaser or assignee of Tenant's interest has assumed and agreed to carry out any and all covenants and obligations of Tenant. The Leasehold Mortgagee's purchaser or assignee shall sign an Assignment and Assumption Agreement of this Lease.

(j) Within ten (10) days after written request by Tenant or by Tenant's Leasehold Mortgagee, or in the event that upon any sale, assignment or mortgaging of Tenant's interest in this Lease by Tenant or Tenant's Leasehold Mortgagee, an offset statement shall be required from Landlord, Landlord agrees to deliver in recordable form a certificate to any proposed Leasehold Mortgagee, purchaser, assignee or to Tenant, certifying (if such be the case) (i) the amount of the Lease Payments due under the Lease, if any, and the date to which Lease Payments have been made; (ii) whether this Lease is in full force and effect; (iii) whether Landlord has any knowledge of any default under this Lease, or if any default exists, specifying the nature of the default; and (iv) whether there are no defenses or offsets which may be asserted by Landlord against Tenant in respect of obligations pursuant to this Lease as of the date of the estoppel. The estoppel letter shall be certified to Landlord and the Leasehold Mortgagee and none other.

(k) Reference in this Lease to acquisition of Tenant's interests in this Lease by the Leasehold Mortgagee shall be deemed to refer, where circumstances require, to acquisition of

Tenant's interest in this Lease by any purchaser at a sale on foreclosure of the Leasehold Mortgage and provisions applicable to the Leasehold Mortgagee in such instance or instances shall also be applicable to any such purchaser.

(l) So long as Tenant's interest in this Lease shall be mortgaged to a Leasehold Mortgagee, the parties agree for the benefit of such Leasehold Mortgagee that Landlord shall not sell, grant or convey to Tenant all or any portion of Landlord's fee simple title to the Premises without the prior written consent of such Leasehold Mortgagee. In the event of any such sale, grant or conveyance by Landlord to Tenant, Landlord and Tenant agree that no such sale, grant or conveyance shall create a merger of this Lease into a fee simple title to the Premises. This subparagraph (l) shall not be construed to prevent a sale, grant or conveyance of Landlord's fee simple title by Landlord to any person, firm or corporation other than Tenant, its successors, legal representatives and assigns.

(m) Reference in this Lease to a Leasehold Mortgagee shall be deemed to refer where circumstances require, to any assignee (subject to the provisions of subparagraph (i), above) of a Leasehold Mortgagee; provided that such assignee shall forward to Landlord a copy of such assignment of Leasehold Mortgage, together with a written notice setting forth the name and address of the assignee and its notice information (address for certified mail and electronic mail (e-mail)).

(n) Any Leasehold Mortgage shall be specifically subject and subordinate to Landlord's rights under this Lease. The sentence immediately preceding shall not be deemed or construed (by implication or otherwise) to impose or establish upon Tenant's interest in this Lease or upon the lien of any Leasehold Mortgage the superiority of any lien or encumbrance, including, without limitation, the lien of any fee mortgage, judgment or tax created directly or indirectly by, through or against Landlord or Landlord's interest in this Lease. Despite any provision which is or may appear to be to the contrary in this Lease, under no circumstances whatsoever shall the fee simple title interest of Landlord in the Premises, or any portion of them, be encumbered or subordinated, except for a mortgage on Tenant's leasehold interest.

(o) No Leasehold Mortgagee or other person succeeding to the interest of Tenant in this Lease through or subsequent to an enforcement proceeding shall be liable under this Lease, unless and until such time as it becomes the tenant of the leasehold estate, and then only for such obligations of Tenant which accrue during the period while it remains the tenant of the leasehold estate.

(p) Notwithstanding any provision in this Lease to the contrary, in the event of any Casualty or Taking of the Premises or any portion thereof and if allowed by law or its agreements with Tenant, the most senior Leasehold Mortgagee (or such other Leasehold Mortgagee, in order of lien priority, if the Leasehold Mortgagee having the most senior lien shall not request or shall not be permitted by law or its agreements with Tenant to do so) shall be permitted to receive insurance proceeds and/or condemnation awards otherwise payable to Tenant and shall be permitted (but shall not be obligated except as required by law or its agreements with Tenant or as provided in the next sentence) to restore the Premises. In addition, if such Leasehold Mortgagee (by reason of its acquiring Tenant's leasehold estate) shall be obligated under this Lease

to repair or restore the Premises, such obligation shall be limited to the amount of such proceeds or awards actually received by such Leasehold Mortgagee.

(q) Upon Tenant's request, and at no material cost to Landlord, Landlord shall execute such documents or instruments confirming Tenant's right and authority to enter into a Leasehold Mortgage and/or granting a security interest in this Lease and confirming that Landlord will give such Leasehold Mortgagee notice and the right to cure any Default of Tenant as provided herein. In addition, Landlord, upon the request of Tenant or any Leasehold Mortgagee, shall execute such reasonable modifications or amendments of this Lease as shall be required by such Leasehold Mortgagee or by any person to which Tenant has made application for a Leasehold Mortgage provided such modifications or amendments do not, taken as a whole, materially affect Tenant's obligations or materially affect Landlord's rights under this Lease. Landlord shall not unreasonably refuse any such request for such modification or amendment. Further, Landlord agrees to enter into a triparty agreement with Tenant and its lender, upon terms and conditions acceptable to such lender and to Landlord, to set forth the rights of Tenant's lender substantially as provided in this Section. In no case shall Landlord be required to guarantee any loan, provide any financing, or mortgage any of its property.

(r) Landlord and Tenant agree that they will make good faith efforts to assist one another so that Tenant can obtain a commercially reasonable loan to finance the construction of the Boat Storage Component.

16. LANDLORD NON-DISTURBANCE AND RECOGNITION AGREEMENT.

Tenant may enter into one or more subleases for the Premises with subtenants. Provided that Tenant obtain the prior written consent of the subject sublease(s) from Landlord, and Landlord agrees that such consent shall not be unreasonably withheld, conditioned, or delayed, then:

(a) Upon any termination of this Lease, provided the applicable subtenant of the Premises (or any portion thereof) is not in default under its sublease beyond any applicable notice and cure periods, (i) Landlord shall not disturb such subtenant's possession of its subleased premises, nor shall any of such subtenant's rights under its sublease be affected in any way by reason of any default under this Lease by Tenant, provided such subtenant shall attorn and recognize Landlord, as the subtenant's sublandlord under its sublease and (ii) Landlord shall recognize such subtenant's rights under its sublease, as such subtenant's sublandlord under its sublease, and accept such subtenant's attornment.

(b) Upon any such attornment and recognition, the applicable sublease shall continue in full force and effect as, or as if it were, a direct lease between Landlord and the subtenant upon all of the then executory terms, conditions and covenants as are set forth in the sublease prior to the date of attornment, and shall be applicable after such attornment and recognition provided, however, at no time shall Landlord be (i) liable for any prior default by Tenant, as sublandlord under the sublease; (ii) responsible for any monies owing by Tenant, as sublandlord under the sublease; (iii) required to account for any security deposit, other than any security deposit actually delivered to Landlord or for any rent that the subtenant might have paid for more than the current month to Tenant; nor (v) liable for the breach of any representation or warranty (of any nature whatsoever) made by Tenant or to any other party for matters arising prior to the date of attornment.

(c) Upon the request of a subtenant of the Premises (or any portion thereof), Landlord shall enter into a commercially reasonable non-disturbance, attornment and recognition agreement with the subtenant setting forth the terms and conditions of this Section 16 and such other terms as mutually may be agreed upon by Landlord and the subtenant.

17. COVENANT OF QUIET ENJOYMENT. Landlord covenants and warrants that, provided Tenant is not in breach of any material term of this Lease beyond any applicable notice and cure period, Tenant shall peacefully have and enjoy the sole possession of the Premises during the Term free from the adverse claims of any persons, firms or corporations claiming by, through or under Landlord. Landlord agrees to execute any and all easements or rights of way on, over or under the Premises or any part thereof at Tenant's request which are or may be needed or required by Tenant in conjunction with Tenant's use and enjoyment of the Premises; and Landlord agrees to execute any other public utility or governmental body related documents or agreements in the form customarily provided by such public utility or governmental body, which is necessary to fulfill the intent and purposes of this Lease, including, without limitation, the facilitation of, a successful prosecution of all Improvements and construction, signage rights, parking, access, drainage, utilities, communications, lighting, governmental services, the operations by Tenant under this Lease, and all other matters and things contemplated or impliedly necessary under this Lease for its full effectuation, performance or realization. Landlord agrees not to file or cause any zoning change to be made that would affect the Premises without the prior written approval of Tenant. Landlord warrants and represents that there are no mortgages or deeds of trust applicable to the Premises as of the Effective Date.

Landlord represents and warrants that the Premises are owned in fee simple by Landlord; that it is seized of the Premises in fee, subject only to the exceptions set forth on Exhibit D hereto, and that it has entered into this Lease with proper authority. If, at any time during the Term, any indebtedness, lien, assessment, claim, or other matter whatsoever shall arise or shall be asserted which in any way interferes or threatens to interfere with Tenant's use of the Premises as herein provided or referenced, and such indebtedness, lien, assessment, claim, or other matter arises due to Landlord's breach of this Lease or any act or omission of Landlord from and after the Effective Date, then Tenant shall have the right to expend such sums as are necessary to abate said threat or interference and deduct the same from consideration due Landlord until Tenant is reimbursed in full.

18. ASSIGNMENT AND SUBLETTING.

(a) Except as otherwise expressly provided herein, Tenant shall be permitted to sublease any portion of the Premises, in whole or in part, in any manner whatsoever, to subtenants (a "**Premises Tenant**") pursuant to a sublease in the ordinary course of its business (a "**Tenant Lease**") without the consent of Landlord, if the use specified in the Tenant Lease is permitted hereunder and by current and applicable zoning requirements. Tenant also may transfer, license, lease, sublease, and/or assign this Lease and its rights and interests hereunder, without the consent of Landlord, (i) at any time, to an Affiliate (as such term is defined in the Comprehensive Agreement), provided that Tenant or the Developer or a manager who is a knowledgeable manager reasonably approved by Landlord is the manager of such Affiliate; and (ii) from and after the issuance of a certificate of occupancy with respect to the Boat Storage Component, to any third party. Tenant shall also be permitted to transfer, convey or pledge its interest in this Lease to a

Leasehold Mortgagee without the consent of Landlord. Any such sublease, transfer, conveyance or pledge by the Tenant shall be subject to all of the terms and provisions of this Lease. Except as otherwise expressly permitted hereunder, if Tenant seeks to assign, transfer or sell its leasehold interest in this Lease, the express prior written consent of Landlord shall be required, which consent shall not be unreasonably withheld, conditioned or delayed. Any such consent to an assignment shall be subject to all of the terms and provisions of this Lease and, provided that the assignee agrees in writing to assume all of the Tenant's rights and obligations under this Lease, shall release Tenant from its obligations under this Lease. Landlord's consent shall not be required for Premises Tenant's certificates of occupancy, building permits, tenant allowances or buildout terms and procedures except as may otherwise be required by Landlord by virtue of Landlord being the Governmental Authority overseeing these items in its regulatory capacity. Within sixty (60) days of executing a Tenant Lease with a Premises Tenant, Lessee shall notify Lessor the Tenant Lease has been executed and the identity of the Premises Tenant.

(b) Should Tenant take any action to assign this Lease without the prior written consent of Landlord as provided in Section 18(a), then any such assignment shall be null and void and of no force and effect.

(c) Any successor or assignee of Tenant's rights and/or obligations under this Lease shall expressly assume in writing performance of such rights and/or obligations and deliver same to Landlord within ten (10) days after consummation of the assignment, transfer or sale.

19. NOTICES. All notices, requests, consents, demands, approvals or other communications required or permitted under this Lease shall be in writing, addressed to the person identified below, and delivered either by: (a) hand delivery, (b) overnight courier by a nationally recognized courier, with all fees prepaid; Registered or Certified Mail, return receipt requested and postage prepaid; or delivered by email with "FORMAL NOTICE UNDER GROUND LEASE" in the subject line:

If to Landlord: Town of Lake Park
 Attention: Town Manager
 535 Park Avenue
 Lake Park, Florida 33403

With a copy to:

Town of Lake Park
 Attention: Town Attorney
 535 Park Avenue
 Lake Park, Florida 33403

If to Tenant: FD P3 LP BOAT STORAGE, LLC,
 c/o Forest Development P3 LPM, LLC
 Attn: Peter Baytarian
 11231 US Highway 1, Suite 354

North Palm Beach, Florida 33408
info@forestdevelopment.com

And to:

Saul Ewing LLP
Attn: Anthony Kang
701 Brickell Avenue, 17th Floor
Miami, Florida 33131
Anthony.kang@saul.com

With a copy to:

Zabik & Associates, Inc.
Attn: Larry Zabik
11398 Okeechobee Blvd, Suite 2
Royal Palm Beach, Florida 33411
lzabik@zabikandassociates.com

Any and all tax notices and information shall also be sent to: Tenant

Each such notice shall be deemed delivered: (i) if delivered by hand, the date the receipt is signed; (ii) if sent by overnight courier, on the courier's confirmation of delivery date, or (iii) if sent by Registered or Certified Mail, upon receipt as indicated by the date on the signed return receipt.

Landlord and Tenant agree that any and all notices given by either party shall be provided simultaneously to any assignee of Tenant or any lender to Tenant when such assignee or lender has been previously identified in writing to the parties along with the appropriate address for such notices. Either Party may, at any time, change its address for the above purposes by sending a notice to the other party stating the change and setting forth the new address.

20. MISCELLANEOUS.

(a) Captions. Captions or headings of sections are for convenience only and shall not be considered in construing the meaning of the contents of such section.

(b) Partial Invalidity. If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

(c) Prevailing Party. Should Landlord or Tenant institute any legal proceedings against the other for breach of any provisions herein contained, each party in such action shall be

responsible for its own conduct costs and litigation expenses including reasonable attorneys' fees through all levels of appeal.

(d) No Prior Agreements / No Third-Party Beneficiaries. This Lease supersedes and cancels all prior negotiations between the parties, and all other negotiations and understandings are merged into this Lease. This Lease, together with the terms and conditions of the Comprehensive Agreement applicable to the Boat Storage Component, constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof. The parties acknowledge that there are no other promises, agreements, conditions, undertakings, warranties, or representations, oral or written, express or implied, between and among them, except as set forth, referenced, or incorporated herein or in the Comprehensive Agreement (to the extent incorporated herein). Furthermore, this Lease is intended solely for the benefit of the parties hereto expressly noted herein and whose signatures appear hereon and their respective permitted successors and assigns, as applicable. No third party shall have any rights or interest herein and there are no and shall be no third-party beneficiaries hereto.

(e) Amendments and Modifications/No Oral Modifications. All amendments or modifications to this Lease must be in writing signed by the Parties. No purported amendments or modifications to this Lease which are oral shall be effective, binding or enforceable.

(f) Interpretation and Gender. The singular shall include the plural, and the masculine, feminine or neuter shall include either of the others as appropriate in context.

(g) Successors and Assigns. All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors and assigns of the said parties; they shall all be bound jointly and severally by the terms, covenants and agreements herein.

(h) No Waiver. The failure to enforce any particular provision of this Lease on any particular occasion shall not be deemed a waiver by either party of any of its rights hereunder, nor shall it be deemed to be a waiver of subsequent or continuing breaches of that provision.

(i) Estoppel Certificates. Landlord and Tenant agrees, from time to time as may be requested by each other, to execute, acknowledge and deliver within thirty (30) days after being requested to do so an estoppel letter certifying the following to such party as it reasonably may designate, including any Leasehold Mortgagee: (a) that (i) this Lease is in full force and effect and has not been amended, modified or superseded; (ii) Landlord and Tenant are not in default under this Lease; (iii) Tenant has no defense, offset or counterclaim under this Lease or otherwise against Landlord with respect to this Lease or the Premises; (b) the date to which Lease Payments have been paid; and (c) such other information as the requesting party may reasonably request.

(j) Calculation of Time Periods. In the computation of any time periods hereunder shall exclude Saturdays, Sundays, and state or national legal holidays, and any time period provided for herein which shall end on Saturday, Sunday, or a legal holiday shall extend to 6:00 p.m. eastern time of the next business day.

(k) Florida Law and Venue. This Lease and all of its provisions shall be construed in accordance with the laws of the State of Florida. In the case of any legal proceedings, venue shall be Palm Beach County.

(l) Severability. In the event any provision of this Lease is prohibited, unenforceable or invalid under the laws of any jurisdiction, including those of the State of Florida, such prohibition, or unenforceable or invalid provision shall not in any fashion affect the enforceability or validity of the remaining provisions hereof.

(m) Construction. This Lease shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that all parties have contributed substantially and materially to the preparation of this Lease.

(n) No Cross Default. The Comprehensive Agreement contemplates that the "Project" (as defined in the Comprehensive Agreement) will be comprised of the "Hotel Component," the "Boat Storage Component," the "Public Marina Component" and the "Marina Restaurant Component" (collectively the "**Components**" and individually a "**Component**"). The Developer has created a separate entity to be the tenant under this Lease and separate entities to be the tenants under separate ground leases with Landlord with respect to the Hotel Component (the "**Hotel Lease**"), the Public Marina Component ("**Marina Lease**"), and the Marina Restaurant Component (the "**Restaurant Lease**"). The Hotel Lease, the Marina Lease and the Restaurant Lease are collectively referred to herein as the "**Other Leases**" and individually as an "**Other Lease**").

Landlord and Tenant hereby agree that the rights and obligation under the Comprehensive Agreement shall be bifurcated so that (i) any rights and obligations with respect to the Boat Storage Component under the Comprehensive Agreement shall only benefit and be required to be performed by the Tenant under this Lease, any obligation under this Lease shall only apply to the Boat Storage Component under the Comprehensive Agreement, and any breach of the obligations under this Lease or the rights and obligations under the Comprehensive Agreement with respect to the Boat Storage Component shall not affect or constitute a default under the Other Leases; (ii) any rights and obligations with respect to any Component (other than the Boat Storage Component) under the Comprehensive Agreement shall only benefit and be required to be performed by the tenant under the applicable Other Lease, any obligation under the applicable Other Lease shall only apply to the applicable Component of such Other Lease under the Comprehensive Agreement, and any breach of the obligations under such Other Lease or the rights and obligations under the Comprehensive Agreement with respect to the Component applicable to such Other Lease shall not affect or constitute a default under this Lease; and (iii) to the extent of any inconsistency between the terms of this Lease and the terms of the Comprehensive Agreement, the terms of this Lease shall prevail and control.

(o) Landlord Approval. Landlord shall act on requests from Tenant for any consent or approval hereunder in a commercially reasonable manner and shall use commercially reasonable efforts to respond to any such request within twenty (20) days following Landlord's receipt thereof (unless another time period for such response is expressly provided for herein). Landlord's response may consist of an approval or disapproval of the request, or a conditional

approval thereof subject to specified conditions, or a request for further data or information, or any combination thereof. If Landlord does not approve, reject or request additional information regarding any request hereunder within twenty (20) days following Landlord's receipt thereof (or another time period expressly provided for herein with respect thereto), Tenant may provide to Landlord a second written request, which shall include a legend, printed in capital letters and boldface type, to the following effect: **"THIS COMMUNICATION REQUIRES IMMEDIATE RESPONSE. FAILURE TO RESPOND WITHIN TEN (10) DAYS FROM THE RECEIPT OF THIS COMMUNICATION SHALL CONSTITUTE A DEEMED APPROVAL BY LANDLORD OF THE ACTION REQUESTED BY TENANT."** Landlord shall be deemed to have approved or consented to such action if Landlord fails to object to or request additional information with respect thereto within ten (10) days of such second request.

Wherever in this Lease the approval or consent of Landlord is required, it is understood and agreed that, unless specifically stated to the contrary, such approval or consent shall be granted or withheld in the reasonable discretion of Landlord or of the Town Manager) of Landlord (the **"Town Manager"**) (as applicable), within a reasonable time, and shall not be unreasonably withheld, conditioned or delayed. Except as may be otherwise specifically provided herein, the following actions under this Lease shall be taken or not taken by the Town Manager in the discretion of the Town Manager acting reasonably:

- (i) The exercise of Landlord's rights of entry and inspection;
- (ii) The exercise of Landlord's right or obligation to execute a joinder in (a) applications for land development approvals or other governmental approvals (including permits) which are necessary for Tenant to obtain from governmental authorities, and where such applications require evidence of the consent of the property owner, and (b) any easement, declaration, amendment or creation of an agreement affecting title to the Premises and any other document as may be requested by Tenant in connection with the development and/or operation of the Premises;
- (iii) The exercise of Landlord's right to receive and approve or not approve and specify the basis for such disapproval the form of certificates of insurance, policies, limits, and coverages of insurance, bonds, and Environmental Assessments;
- (iv) The execution of estoppel statements (or any modifications of the terms thereof) to be given by Landlord under this Lease;
- (v) The approval, if required, of any assignment or sublease; and
- (vi) Other provisions of this Lease where the act, approval or consent of the Landlord is expressly authorized or required, except any amendment to this Lease shall require the written consent of the Town Commission of the Landlord.

(p) Further Assurances. Each Party will promptly cooperate each with the other and will execute and deliver any and all written further assurances and/or documents that are reasonably necessary, convenient, or desirable to evidence, complete or perfect (or any combination thereof) the transactions contemplated by this Lease, so long as no further assurance or document to be executed operates to impose any new or additional obligation or liability upon

any Party. Each Party will so perform all other acts that are reasonably necessary, convenient, or desirable for any such purpose, so long as no new or additional obligations or liabilities are incurred as a result thereof.

Additionally, Landlord further agrees that it will execute such documents and perform such acts as Tenant may reasonably require in connection with the development and/or operation of the Premises, including, but not limited to, executing such easements, documents affecting title to the Premises, applications for governmental approvals, modifications and/or termination of existing easements and/or restrictions affecting the Premises, creation of declarations affecting the Premises and such other documents and acts as reasonably requested by Tenant in connection with its development and/or operation of the Premises, provided that such cooperation shall be subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed.

21. DELAYS. In any case where either party hereto is required to do any act, such party shall be excused from the performance thereof for the duration of delays caused or resulting from Acts of God, war, civil commotion, fire or other casualty, labor difficulties, general shortages of labor, materials or equipment, government regulations, moratorium, other causes beyond such party's reasonable control or circumstances or events characterized at law as "force majeure", whether the time for such performance shall be designated by a fixed date, a fixed period of time, or a "reasonable" period of time. In addition, should any lawsuit, legal proceeding, investigation or other legal matter be filed or commenced against Landlord, Tenant, or any other party related to this Lease, which materially affects this Lease, all time periods contained in this Lease shall be delayed until such legal matter is resolved in its entirety, including any and all appellate proceedings or the like. Notwithstanding anything to the contrary set forth in this Section 21 or elsewhere in this Lease, no event of force majeure (or any event deemed to be beyond the control of Tenant) shall be construed to apply to any of Landlord's or Tenant's monetary obligations hereunder or to permit or allow either Landlord or Tenant to delay or defer any such obligation.

22. ENVIRONMENTAL MATTERS.

(a) For purposes hereof, the following terms shall have the following meanings:

(i) **"Environmental Laws"** shall mean all Federal, state and local laws, statutes, ordinances, codes, rules, regulations and other requirements respecting the environment, including but not limited to those respecting: (A) the generation, use, handling, processing, storage, treatment, transportation, or disposal of any solid or hazardous wastes, or any hazardous or toxic substances or materials; (B) pollution or contamination of land, improvements, air (including indoor air), or water (including groundwater); (C) emissions, spills, releases, or discharges of any substance onto or into the land, improvements, air (including indoor air), or water (including groundwater), or any sewer or septic system; (D) protection of wetlands; (E) aboveground or underground storage tanks; (F) air quality (including indoor air quality) or water quality (including groundwater quality); and (G) protection of endangered species. Without limiting the generality of the foregoing, the term "Environmental Laws" includes the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C., Sec. 9601, et seq.; the Resource Conservation and Recovery Act, as amended, 42

U.S.C., Sec. 6901, et seq., and the Toxic Substance Control Act of 1976, as amended, 15 U.S.C., Sec. 2601, et seq.

(ii) **“Environmental Violation”** shall mean (A) any direct or indirect discharge, disposal, spillage, emission, escape, pumping, pouring, injection, leaching, release, seepage, filtration or transporting of any Hazardous Substance at, upon, under, onto or within the Premises, or from the Premises to the environment, in violation of any Environmental Law or in excess of any reportable quantity established under any Environmental Law or which could result in any liability to any Governmental Authority or any other person for the costs of any removal or remedial action or natural resources damage or for bodily injury or property damage, (B) any deposit, storage, dumping, placement or use of any Hazardous Substance at, upon, under or within the Premises or which extends to any adjoining property in violation of any Environmental Law or in excess of any reportable quantity established under any Environmental Law or which could result in any liability to any Governmental Authority or any other person for the costs of any removal or remedial action or natural resources damage or for bodily injury or property damage, (C) the abandonment or discarding of any barrels, containers or other receptacles containing any Hazardous Substances in violation of any Environmental Laws, or (D) any violation of or noncompliance with any Environmental Law.

(iii) **“Governmental Authority”** shall mean any federal, state, county or municipal government, or political subdivision thereof, any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality, special service district or public body, or any court or administrative tribunal.

(iv) **“Hazardous Substances”** shall mean any substance, material or waste defined as a pollutant or contaminant, or as a hazardous, toxic or dangerous substance, material or waste, under any Environmental Law, including, without limitation, petroleum, petroleum products, PCBs and asbestos.

(b) Tenant shall not use, or permit its agents, employees, contractors, subtenants, licensees or invitees to use the Premises for the purpose of treating, producing, handling, transferring, processing, transporting, disposing, using or storing a Hazardous Substance in violation of any Environmental Law. Tenant shall, at Tenant’s own expense, comply with all Environmental Laws as the same affect the Premises or the operations and activities of Tenant, its agents, employees, contractors, subtenants, licensees or invitees (collectively, **“Tenant Parties”**) on or about the Premises.

(c) In the event Tenant becomes aware of any Environmental Violation or any suspected Environmental Violation at the Premises, Tenant shall promptly (a) notify Landlord of such Environmental Violation or suspected Environmental Violation, and (b) deliver to Landlord any notice filed by or received by Tenant with or from any Governmental Authority relating thereto immediately upon filing or receipt thereof.

(d) In the event that, in the reasonable opinion of Landlord, there is a basis to believe that an Environmental Violation exists, Landlord shall have the right to have its environmental consultants (**“Site Reviewers”**) visit the Premises and perform environmental site

investigations and assessments (“**Site Assessments**”) on the Premises for the purpose of determining whether there exists on the Premises any Environmental Violation or any condition which is likely to result in any Environmental Violation. Such Site Assessments may include both above and below the ground testing for Environmental Violations and such other tests as may be necessary, in the opinion of the Site Reviewers, to conduct the Site Assessments. The Site Reviewers shall use their good faith diligent efforts to minimize any interference with the operations of Tenant and other occupants of the Premises. Tenant shall supply to the Site Reviewers such historical and operational information regarding the Premises as may be reasonably requested by the Site Reviewers to facilitate the Site Assessments and shall make available for meetings with the Site Reviewers appropriate personnel having knowledge of such matters.

(e) In the event that there exists any Environmental Violation caused by any Tenant Party, Tenant shall, at its own cost and expense:

(i) promptly and diligently take any and all actions necessary to return the Premises to a condition which is in compliance with Environmental Laws, and which will not impede or limit further development of the Premises;

(ii) provide Landlord, within ten (10) days after Landlord’s request therefor, adequate financial assurances that Tenant will effect remediation in accordance with applicable Environmental Laws. Such financial assurances shall be a bond or letter of credit in form and substance reasonably satisfactory to Landlord and in an amount equal to Landlord’s reasonable estimate of the anticipated cost of such remedial action;

(iii) without limiting the generality of Section 22(e)(i), make all submissions and provide all information required by Environmental Laws. Tenant shall comply with all requests of the United States Environmental Protection Agency, the Florida Department of Environmental Protection and any other Governmental Authority having jurisdiction over the Premises, including any request that a cleanup plan be prepared and that a cleanup be undertaken with respect to the Premises. In such event, Tenant shall, at Tenant’s own expense, prepare and submit appropriate documents, and carry out the approved plans, or take such other action as may be appropriate to eliminate any environmental harm or threat to public health or welfare and to eliminate any potential liability of Landlord or Tenant. Any submissions made by Tenant pursuant to this Section and any action taken by Tenant pursuant to such submissions shall be subject to the prior review and approval of Landlord, which approval shall not be unreasonably withheld.

(f) Tenant shall indemnify, defend and save Landlord harmless from all claims, actions, suits, proceedings, losses, damages, liabilities, fines and expenses (including without limitation fees of attorneys, investigators and experts) arising or alleged to arise from or in connection with (a) any Environmental Violations, and (b) Tenant’s failure to provide all information, make all submissions and take all actions with respect to the Premises required by any Governmental Authority in connection with any Environmental Violations.

22. RADON. Section 404.056 (6), Fla. Stat., requires the inclusion of the following “Notification on Real Estate Documents” at the time of, or prior to, contract for sale and purchase

of any building or execution of a rental agreement for any building: "Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department."

23. SURRENDER. Upon the expiration or any earlier termination of the Term:

(a) Tenant shall surrender the Premises to Landlord, in good order, condition and repair, reasonable wear and tear, Casualty and Taking excepted;

(b) all right, title and interest of Tenant in and to the Premises shall automatically cease and terminate; and

(c) Tenant shall deliver the following to Landlord, to the extent in the possession or control of Tenant: (a) executed counterparts of any subleases, occupancy, license and concession agreements; (b) executed counterparts of any service and maintenance contracts then affecting the Premises; (c) true and complete maintenance records for the Premises; (d) any original licenses and permits then pertaining to the Premises, including, without limitation, the then existing certificate of occupancy for the Premises; and (e) any warranties and guaranties then in effect which Tenant has received in connection with any work or services performed or equipment installed in the Premises, together with a duly executed assignment thereof to Landlord. Nothing herein contained shall be or be deemed to be a consent by Landlord to any sublease, occupancy, license, concession agreement, service or maintenance contract for a term to expire later than the Expiration Date.

Notwithstanding the foregoing to the contrary, Landlord shall have the right to elect upon the expiration or any earlier termination of the Term, by written notice to Tenant no later than six (6) months prior to the date of such expiration or earlier termination, to require Tenant to raze the Improvements, and clear, grade and seed the former location thereof and put the Premises in good, safe, lawful, clean and orderly condition, in which event Tenant, at its sole cost and expense, shall do so at its sole cost and expense within one hundred and eighty (180) days of such expiration or termination.

24. RIGHT OF FIRST REFUSAL. From and after the date hereof and during the Term, Landlord shall not sell, transfer or otherwise dispose of or convey all or part of Landlord's fee interest in the Premises to any third party until and unless Landlord shall have obtained a bona fide offer therefor (the "**Landlord's Offer**"), delivered written notice thereof to Tenant, which notice shall contain a true and accurate copy of Landlord's Offer, and offered to sell, transfer or otherwise dispose of such fee interest to Tenant at the same price and, except as hereafter provided, upon the same terms and conditions as contained in Landlord's Offer, and Tenant has not elected to exercise its right of first refusal in accordance herewith.

If Tenant shall either deliver written notice of rejection of Landlord's Offer to Landlord or fail to deliver written notice of acceptance of Landlord's Offer within thirty (30) days after the date of receipt of Landlord's notice, Landlord's fee interest in the Premises may, during the one

hundred eighty (180) days thereafter, be sold, transferred or otherwise disposed of to the original offeror at the same price and upon the same terms and conditions as contained in Landlord's Offer.

In the event Tenant rejects Landlord's Offer or fails to accept Landlord's Offer in accordance herewith, this Lease and all of its terms and conditions (including this right of first refusal) shall nevertheless remain in full force and effect and Landlord and any purchaser or purchasers of the Premises shall be bound thereby.

Failure of Tenant to exercise its right of first refusal on one or more occasions shall not affect Tenant's right to exercise it on any subsequent occasion. Any sale or transfer of the Premises, or any part thereof, other than in strict compliance with the terms of this Section shall be null and void and of no effect as to Tenant, and Tenant shall be entitled to purchase the Premises from the purchaser upon the same terms and conditions and at the same price specified in Landlord's Offer, provided Tenant notifies Landlord of its election thirty (30) days after receipt of notice that complies with the requirements hereof. The making of Lease Payments to such purchaser or otherwise treating such purchaser as Landlord shall not be deemed to be a waiver of Tenant's right of first refusal or any other right or privilege of Tenant and shall not create an estoppel with respect thereto.

Any sale or transfer of Landlord's interest in the Premises, or any part thereof shall be expressly made subject to all of the terms, covenants and conditions of this Lease. In the event Landlord's Offer provides for the sale and purchase of Landlord's interest in the Premises and other property, Tenant shall only be required to purchase all the Premises in the event it desires to exercise its right of first refusal hereunder.

In the event Tenant exercises its right of first refusal then, notwithstanding the terms of Landlord's Offer (i) Landlord shall convey title to the Premises by warranty deed approved by Tenant and the title company; (ii) title to the Premises shall be free and clear of any liens and encumbrances except the lien for current taxes which are not delinquent at the time of closing and such other exceptions to title as may have been created by Tenant during the Term or as existed on the date hereof and/or were approved by Tenant thereafter; and (iii) title to the Premises shall otherwise comply with the terms of this Lease as they pertain to condition of title. Upon such election by Tenant, Landlord and Tenant agree to act in good faith to consummate a purchase agreement for the Premises incorporating the express terms of Landlord's Offer and other customary terms and provisions for similar transactions of similar property located in the same geographic area as the Premises.

25. **NO BROKER.** Landlord and Tenant represent and warrant to each other that no broker or finder was involved in arranging or bringing about this transaction and that there are no claims or rights for commissions, finders' fees or other compensation (collectively, "**compensation**") by any person or entity. If any broker or finder asserts a claim for compensation based upon any actual or alleged contact, dealings or communication with Landlord or Tenant, then the party through whom such broker or finder makes its claim shall indemnify and hold the other party (the "**Indemnified Party**") harmless from and against any and all claims, damages, judgments, suits, liabilities, losses, costs and expenses (including without limitation, reasonable

attorneys' fees and court costs) suffered or incurred by or brought against the Indemnified Party in connection with such claim for compensation..

26. MEMORANDUM OF LEASE. Immediately following the execution of this Lease, the parties shall execute and record a Memorandum of Lease in the public records in the form attached hereto as Exhibit E.

27. WAIVER OF TRIAL BY JURY. THE PARTIES HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE OR THE RELATIONSHIP OF THE PARTIES CREATED HEREBY. THE PARTIES FURTHER HEREBY WAIVE THE RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN WAIVED. THE FOREGOING WAIVERS ARE IRREVOCABLE AND MUTUALLY, KNOWINGLY, WILLINGLY, INTENTIONALLY AND VOLUNTARILY MADE AFTER EACH PARTY HAS HAD THE BENEFIT OF OR OPPORTUNITY TO GAIN LEGAL ADVICE AND COUNSEL. EACH PARTY REPRESENTS, WARRANTS AND AFFIRMS TO THE OTHER THAT NO PARTY HAS IN ANY WAY AGREED, REPRESENTED OR OTHERWISE SUGGESTED OR IMPLIED THAT IT WILL NOT FULLY ENFORCE THE FOREGOING WAIVERS IN ALL INSTANCES.

[The Balance of the Page Intentionally Left Blank – Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be duly executed by their duly authorized officer where applicable and sealed as of the date first above written.

TENANT:

FD P3 LP BOAT STORAGE, LLC,
a Florida limited liability company

By: _____

Name: _____

Title: _____

PETER SATTARIAN
MANAGING PARTNER

Date: _____

5/17/24

LANDLORD:

TOWN OF LAKE PARK, FLORIDA

_____,
a Florida municipal corporation

Attest;

By: _____

Mayor

[Signature]

By: _____

Town Clerk

[Signature]

Date: _____

5/17/2024

Approved as to form and legal sufficiency

By: _____

Town Attorney

[Signature]
Thomas J. Baird



Exhibit A

Site Plan

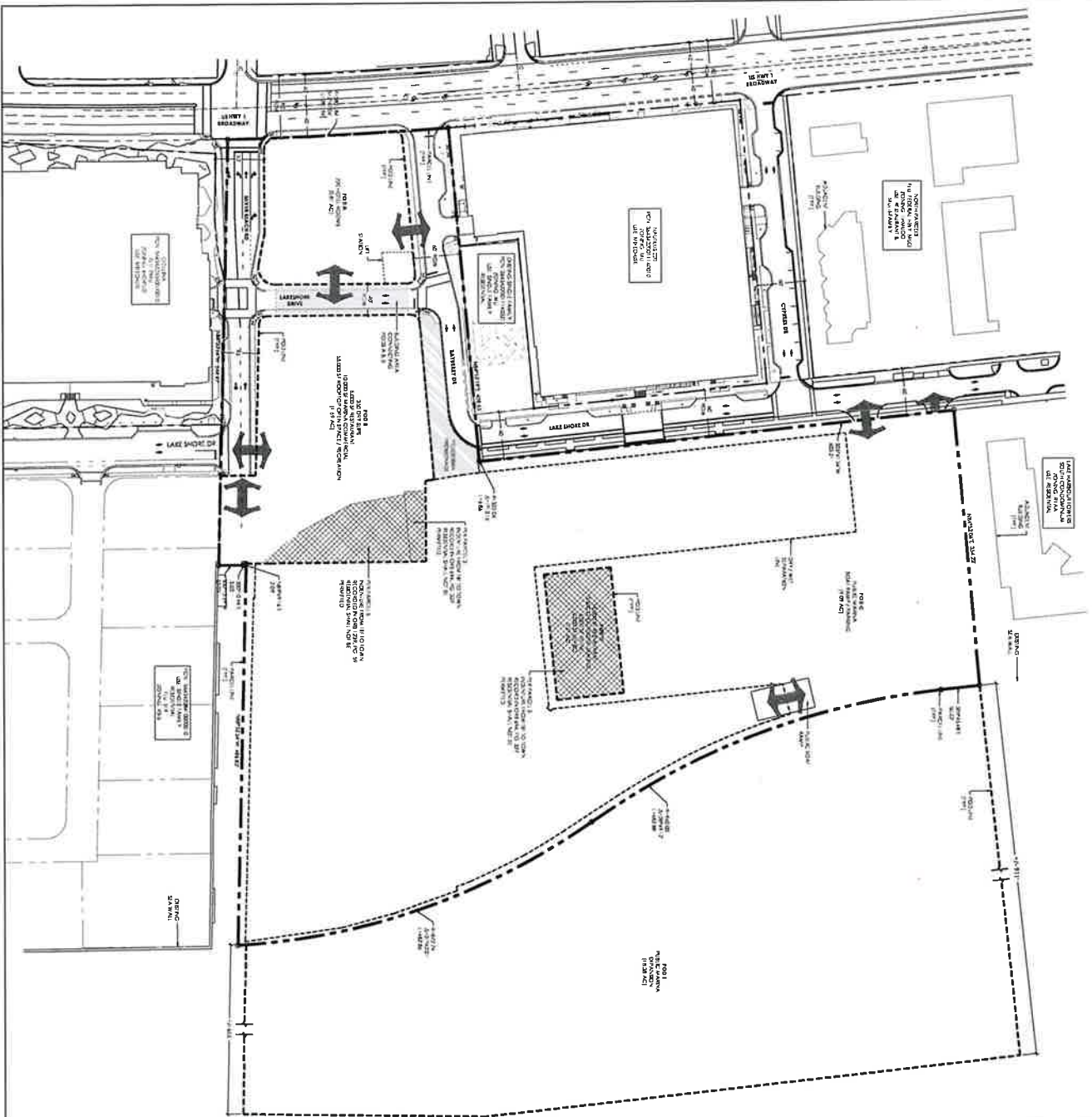
[illegible]

Exhibit B

Legal Description of the Premises

Exhibit B – Legal Description

42007160.6
51599473.2

DESCRIPTION:

PORTIONS OF LOTS 26, 27, 28 AND 29, BLOCK 114, AND A PORTION OF SILVER BEACH ROAD/LAKE SHORE DRIVE, A 60-FOOT RIGHT-OF-WAY, AND A PORTION OF AN UNNAMED TRACT LYING EAST OF SAID RIGHT-OF-WAY, ALL AS SHOWN ON KELSEY CITY (NOW KNOWN AS THE TOWN OF LAKE PARK), ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, PAGES 15 AND 23 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, TOGETHER WITH A PORTION OF FILLED-IN LANDS OF LAKE WORTH, ALL LYING IN SECTION 21, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 31, BLOCK 114, AS SHOWN ON SAID PLAT; THENCE ALONG THE NORTH LINE OF SAID LOT 31, BLOCK 114, S84°52'19"W, A DISTANCE OF 124.79 FEET; THENCE S05°07'41"E, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING; THENCE N84°52'19"E, A DISTANCE OF 202.19 FEET; THENCE S09°04'07"E, A DISTANCE OF 11.14 FEET; THENCE N89°49'20"E, A DISTANCE OF 103.22 FEET; THENCE S00°13'26"E, A DISTANCE OF 199.05 FEET; THENCE S00°10'44"E, A DISTANCE OF 33.77 FEET; THENCE N89°49'16"E, A DISTANCE OF 2.09 FEET; THENCE S00°13'59"W, A DISTANCE OF 32.03 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID SECTION 21; THENCE ALONG SAID SOUTH LINE, N88°32'54"W, A DISTANCE OF 114.46 FEET; THENCE N00°36'27"W, A DISTANCE OF 45.03 FEET; THENCE N88°32'54"W, A DISTANCE OF 193.67 FEET TO A POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 10.00 FEET AND A CENTRAL ANGLE OF 88°32'54"; THENCE NORTHWESTERLY ALONG THE ARC A DISTANCE OF 15.45 FEET; THENCE N00°00'52"W, A DISTANCE OF 184.65 FEET TO A POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 10.00 FEET AND A CENTRAL ANGLE OF 84°53'10"; THENCE NORTHEASTERLY ALONG THE ARC, A DISTANCE OF 14.82 FEET TO THE POINT OF BEGINNING.

CONTAINING 73,505 SQUARE FEET OR 1.6874 ACRES, MORE OR LESS.

SURVEYOR'S NOTES:

1. SURVEY MAPS OR THE COPIES THEREOF ARE NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND ORIGINAL SEAL, OR THE AUTHENTICATED ELECTRONIC SIGNATURE AND SEAL, OF A FLORIDA LICENSED PROFESSIONAL LAND SURVEYOR AND MAPPER.
2. ADDITIONS OR DELETIONS TO SURVEY MAPS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
3. LANDS SHOWN HEREON WERE NOT ABSTRACTED, BY THE SURVEYOR, FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD. THERE MAY BE EASEMENTS AND OTHER INSTRUMENTS OF RECORD NOT SHOWN ON THIS SKETCH.
4. BEARINGS SHOWN HEREON ARE RELATIVE TO A GRID BEARING OF S88°32'54"E, ALONG SOUTH LINE OF SECTION 21, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, RELATIVE TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, TRANSVERSE MERCATOR PROJECTION, NORTH AMERICAN DATUM OF 1983, (90 ADJUSTMENT).
5. THE LAND DESCRIPTION SHOWN HEREON WAS PREPARED BY THE SURVEYOR.
6. DATA SHOWN HEREON WAS COMPILED FROM THE INSTRUMENTS OF RECORD RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND DOES NOT CONSTITUTE A FIELD SURVEY AS SUCH.
7. INSTRUMENTS OF RECORD SHOWN HEREON ARE RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, UNLESS OTHERWISE SHOWN.

CERTIFICATE:

I HEREBY CERTIFY THAT THE ATTACHED SKETCH AND DESCRIPTION OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION ON APRIL 17, 2024. I FURTHER CERTIFY THAT THIS SKETCH AND DESCRIPTION MEETS THE STANDARDS OF PRACTICE SET FORTH IN RULE 5J-17, FLORIDA ADMINISTRATIVE CODE, ADOPTED BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS PURSUANT TO FLORIDA STATUTES CHAPTER 472.027.

THIS IS NOT A SURVEY**SHEET 1 OF 4**

CAULFIELD & WHEELER, INC.

CIVIL ENGINEERING

LANDSCAPE ARCHITECTURE - SURVEYING

7900 GLADES ROAD - SUITE 100

BOCA RATON, FLORIDA 33434

PHONE (561)-392-1991 / FAX (561)-750-1452

POD B
LAKE PARK MARINA
SKETCH AND DESCRIPTION

DAVID E. ROHAL
 PROFESSIONAL LAND
 SURVEYOR NO. 4315
 STATE OF FLORIDA
 LB 3591

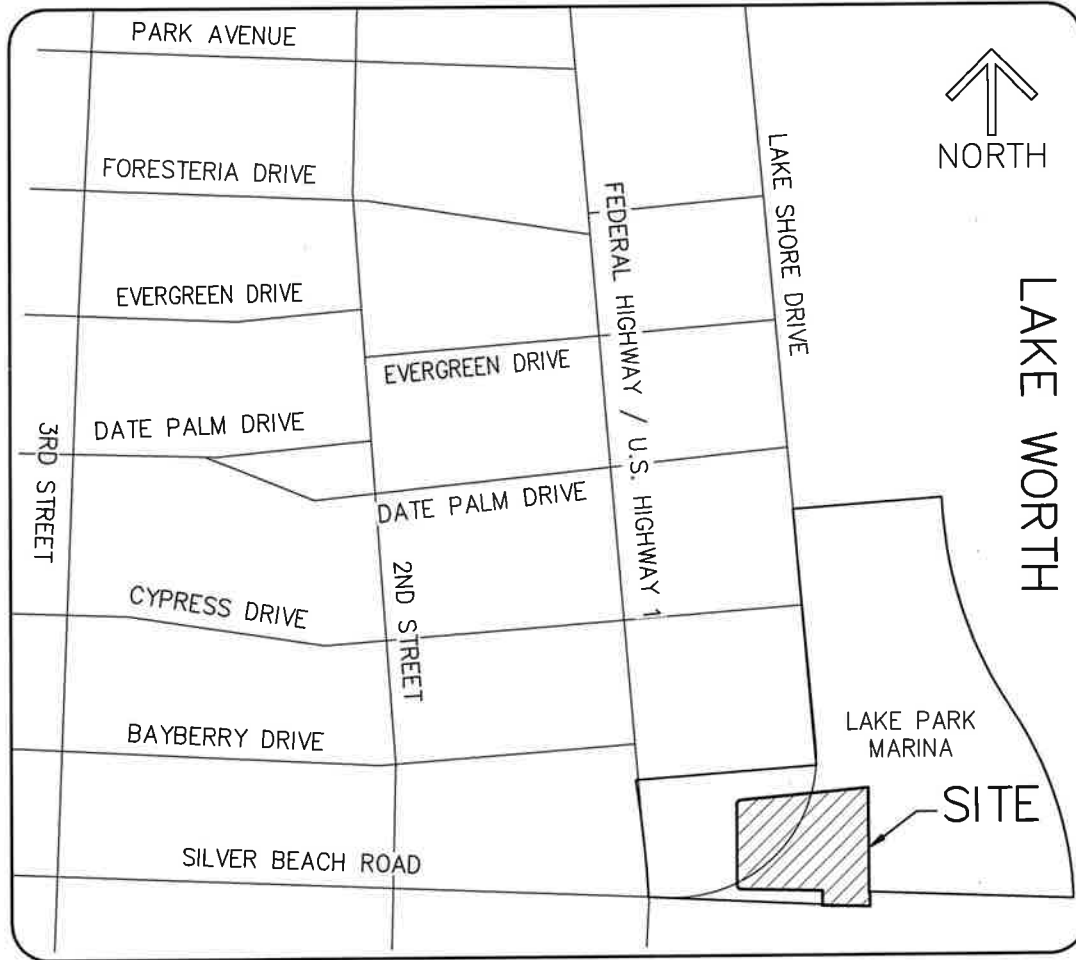
DATE 4-17-2024

DRAWN BY SAS

F.B./ PG. N/A

SCALE NONE

JOB NO. 10089- POD B



LOCATION MAP
(NOT TO SCALE)

LEGEND/ABBREVIATIONS:

21-42-43 - SECTION 21, TOWNSHIP 42 SOUTH, RANGE 43 EAST
 FDOT - FLORIDA DEPARTMENT OF TRANSPORTATION
 P.O.B. - POINT OF BEGINNING
 CL - CENTERLINE
 O.R.B. - OFFICIAL RECORDS BOOK
 P.B. - PLAT BOOK
 P.O.C. - POINT OF COMMENCEMENT
 R/W - RIGHT-OF-WAY
 PG(S). - PAGE(S)
 TIIF - TRUSTEES OF THE INTERNAL IMPROVEMENT FUND

LB - LICENSED BUSINESS
 PBC - PALM BEACH COUNTY
 R - RADIUS
 L - ARC LENGTH
 Δ - DELTA (CENTRAL ANGLE)
 SUA - SEACOAST UTILITY AUTHORITY

THIS IS NOT A SURVEY

SHEET 2 OF 4

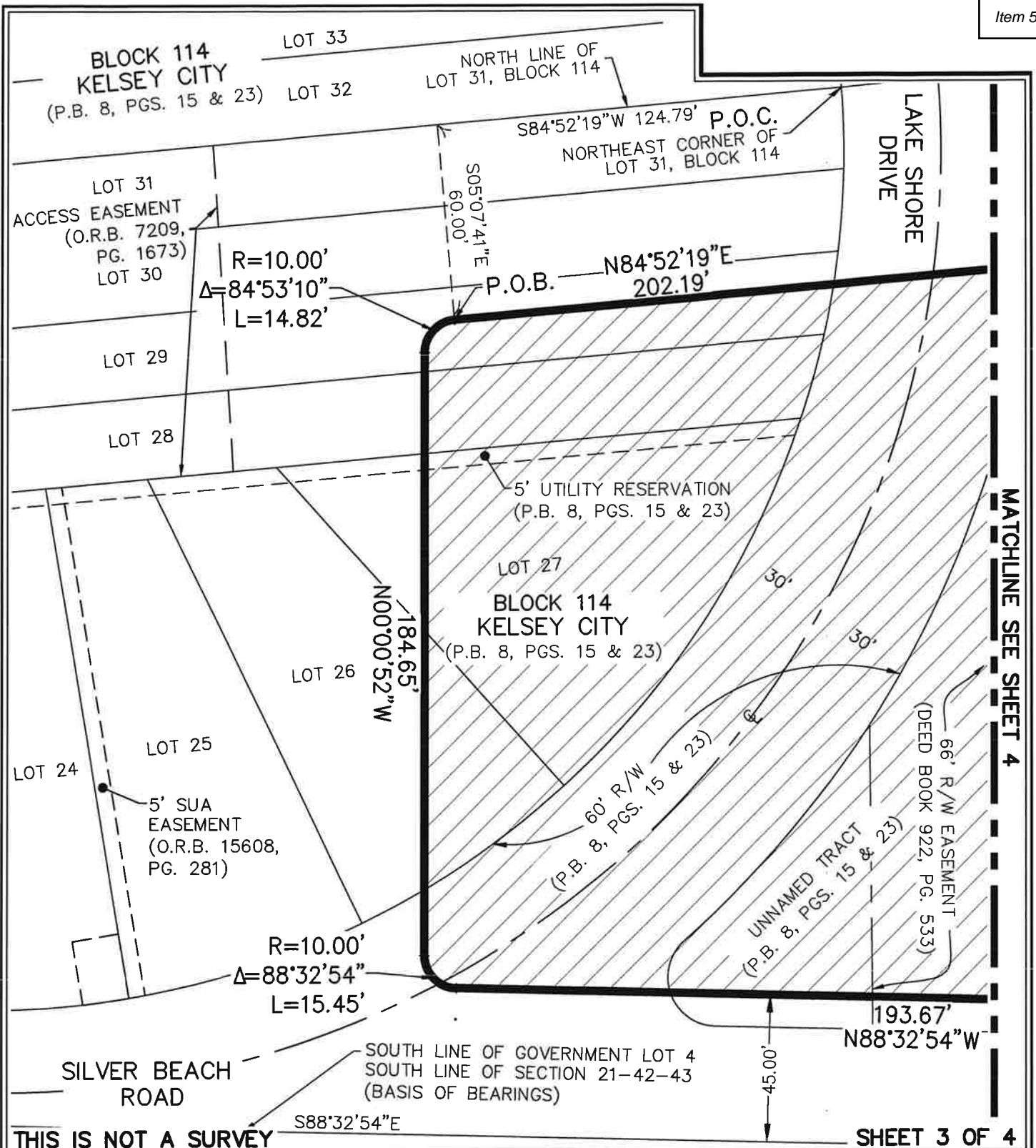


CAULFIELD & WHEELER, INC.

CIVIL ENGINEERING
 LANDSCAPE ARCHITECTURE - SURVEYING
 7900 GLADES ROAD - SUITE 100
 BOCA RATON, FLORIDA 33434
 PHONE (561)-392-1991 / FAX (561)-750-1452

POD B
 LAKE PARK MARINA
 SKETCH AND DESCRIPTION

DATE	4-17-2024
DRAWN BY	SAS
F.B./ PG.	N/A
SCALE	NONE
JOB NO.	10089- POD B

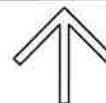


SHEET 3 OF 4

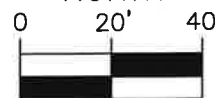


CAULFIELD & WHEELER, INC.

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7900 GLADES ROAD - SUITE 100
BOCA RATON, FLORIDA 33434
PHONE (561)-392-1991 / FAX (561)-750-1452



NORTH



1 INCH = 40 FEET

DATE 4-17-2024

DRAWN BY SAS

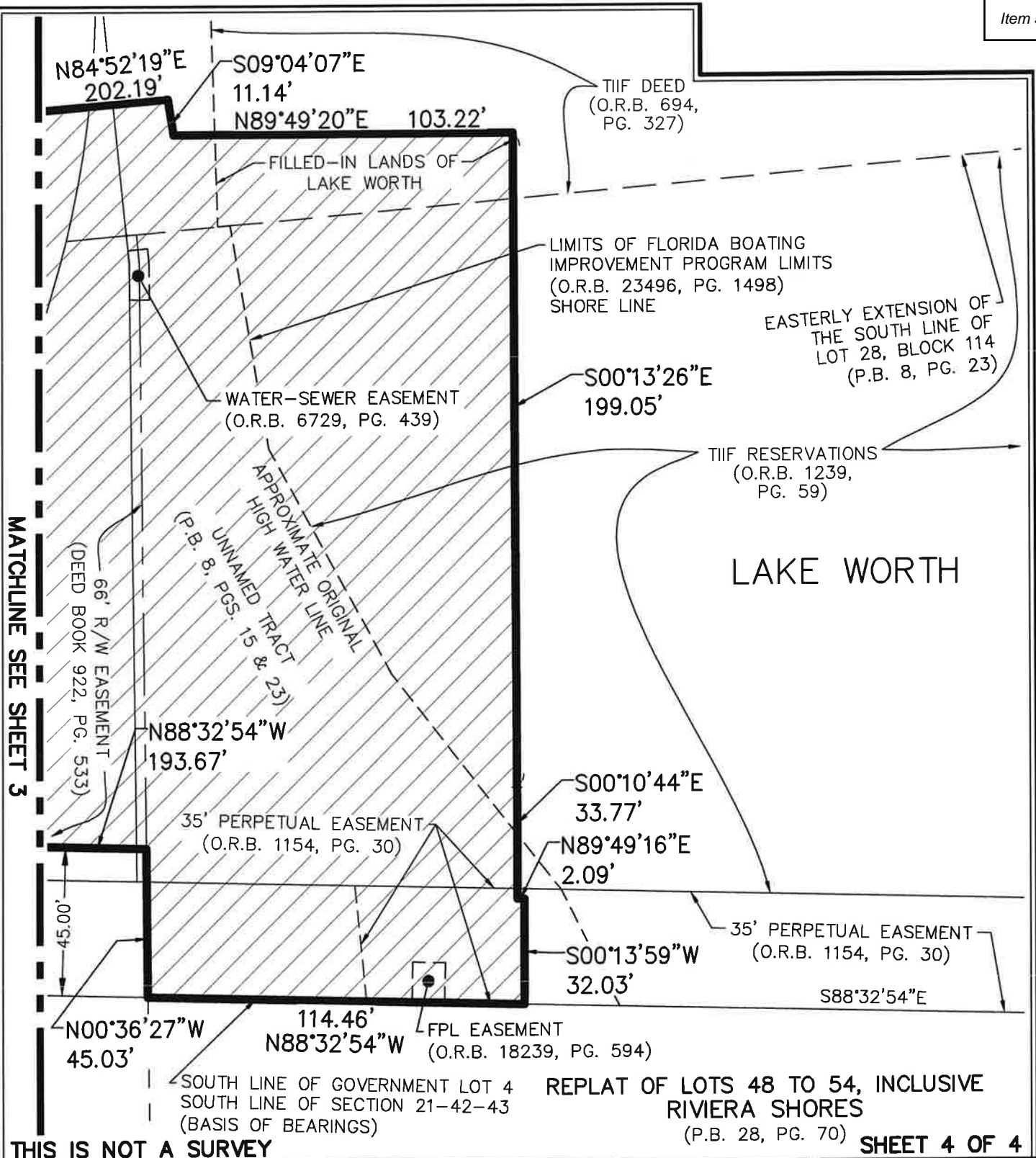
F.B./ PG. N/A

SCALE 1"=40'

JOB NO. 10089- POD B

POD B
LAKE PARK MARINA
SKETCH AND DESCRIPTION

MATCHLINE SEE SHEET 3



THIS IS NOT A SURVEY

SHEET 4 OF 4



CAULFIELD & WHEELER, INC.

CIVIL ENGINEERING

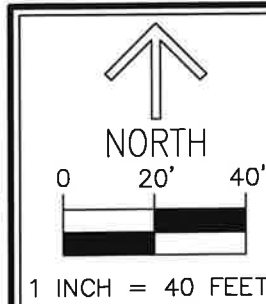
LANDSCAPE ARCHITECTURE - SURVEYING

7900 GLADES ROAD - SUITE 100

BOCA RATON, FLORIDA 33434

PHONE (561)-392-1991 / FAX (561)-750-1452

POD B
 LAKE PARK MARINA
 SKETCH AND DESCRIPTION



DATE 4-17-2024

DRAWN BY SAS

F.B./ PG. N/A

SCALE 1"=40'

JOB NO. 10089- POD B

Exhibit C**Lease Payments**

Period	Lease Payment
Calendar Year 2024	\$0
Calendar Year 2025	\$75,000.00
Calendar Year 2026	\$75,000.00
Calendar Year 2027	\$75,000.00
Calendar Year 2028	\$75,000.00
Calendar Year 2029	\$75,000.00
Calendar Year 2030	\$75,000.00
Calendar Year 2031	\$75,000.00
Calendar Year 2032	\$75,000.00
Calendar Year 2033	\$75,000.00
Calendar Year 2034	\$75,000.00

Lease Payments shall be made on or before May 1 of each calendar year from 2025 to 2034

No Lease Payments shall be due or payable commencing with calendar year 2035

Exhibit D

Permitted Title Exceptions

1. Right of way easement for the construction and maintenance of telephone and electric light lines, water and sewer systems and other public utilities expressly reserved upon, over, and under the rear five (5) feet of all lots shown on the Plat of Kelsey City (a/k/a Lake Park), according to the Plat thereof recorded in Plat Book 8, Pages 15 through 18, 23, 27 and 34 through 37, Public Records of Palm Beach County, Florida (All)
2. Right of Reverter contained in fee determinable conveyance Deed recorded in Deed Book 632, Page 464 as affected by Deed recorded in Deed Book 1039, Page 205 (Page 212), and by Official Records Book 1227, Page 535 Public Records of Palm Beach County, Florida (Parcel 6)
3. Right of Reverter contained in Right of Way Deed recorded in Deed Book 922, Page 533, Public Records of Palm Beach County, Florida. (Parcel 5)
4. Automatic phosphate, metals, minerals and petroleum reservations pursuant to Fla. Stat. 270.11(1) due to lack of express waiver in Deed by Trustees of the Internal Improvement Fund of Florida recorded in Official Records Book 688, Page 507, Public Records of Palm Beach County, Florida (Parcel 6)
5. Right of Reverter and oil, gas and mineral reservations contained in Official Records Book 694, Page 327, Public Records of Palm Beach County, Florida (Parcel 6)
6. Terms and conditions of Dedication by the Trustees of the Internal Improvement Fund of Florida recorded in Official Records Book 1633, Page 606, Public Records of Palm Beach County, Florida (Parcel 6)
7. Easement Grant recorded in Official Records Book 1154, Page 30, of the Public Records of Palm Beach County, Florida. (Parcel 6)
8. Right of Reverter and oil, gas and mineral reservations contained in Deed by the Trustees of the Internal Improvement Fund of Florida recorded in Official Records Book 1239, Page 59, Public Records of Palm Beach County, Florida (Parcel 5)
9. Terms and conditions of Dedication by the Trustees of the Internal Improvement Fund of Florida recorded in Official Records Book 1633, Page 606, Public Records of Palm Beach County, Florida. (Parcel 6)
10. Easement reserved in Quit Claim Deed recorded in Official Records Book 1668, Page 877, of the Public Records of Palm Beach County, Florida. (Lot 20)
11. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 6729, Page 439, of the Public Records of Palm Beach County, Florida. (Parcel 5)
12. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 7203, Page 1509, of the Public Records of Palm Beach County, Florida. (Lot 24)
13. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 7209,

42007160.6

Exhibit D – Permitted Title Exceptions

51599473.2

Page 1673, of the Public Records of Palm Beach County, Florida. (West portion - Lots 16-24)

14. Sovereignty Submerged Lands Easement recorded in Official Records Book 11909, Page 636, as affected by Sovereignty Submerged Lands Easement Modification to Increase Square Footage recorded in Official Records Book 23335, Page 614, of the Public Records of Palm Beach County, Florida. (Parcels 6)
15. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 15608, Page 281, of the Public Records of Palm Beach County, Florida. (Lots 25)
16. Easement in favor of Florida Power & Light Company recorded in Official Records Book 18239, Page 594, of the Public Records of Palm Beach County, Florida. (Parcel 5)
17. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 18788, Page 1303, of the Public Records of Palm Beach County, Florida. (Lots 27-30)
18. Terms and conditions of Palm Beach County Florida Boating Improvement Program Notice of Limitation of Use recorded in Official Records Book 23496, Page 1498, of the Public Records of Palm Beach County, Florida. (Parcels 5-6)
19. Easement granted to Florida Public Utilities Company recorded in Official Records Book 23690, Page 1601, of the Public Records of Palm Beach County, Florida. (Parcel 6)
20. Terms and conditions of the unrecorded Lease between Town of Lake Park and T-Mobile South LLC evidenced by Memorandum of Lease recorded in Official Records Book 27270, Page 1224, of the Public Records of Palm Beach County, Florida. (Marina Parcels)
21. Terms and conditions of the unrecorded Lease between Town of Lake Park and T-Mobile South LLC evidenced by Memorandum of Lease recorded in Official Records Book 27388, Page 1280, of the Public Records of Palm Beach County, Florida. (Lot 25)
22. Temporary Easement granted to Florida Power and Light Company recorded in Official Records Book 33982, Page 1490, of the Public Records of Palm Beach County, Florida. (Parcels 1-4)
23. Rights of the United States Government to that part of the Land, if any, being artificially filled in land in what was formerly navigable waters arising by reason of the United States Government control over navigable waters in the interest of navigation and commerce.
24. The right, title or interest, if any, of the public to use as a public beach or recreation area any part of the Land lying between the water abutting the Land and the most inland of any of the following: (a) the natural line of vegetation; (b) the most extreme high water mark; (c) the bulkhead line, or (d) any other line which has been or which hereafter may be legally established as relating to such public use.

Exhibit E**Form of Memorandum of Lease**

This instrument was prepared by:

Saul Ewing LLP
 Attention: Anthony Kang
 701 Brickell Avenue, FL 17
 Miami, Florida 33131

MEMORANDUM OF GROUND LEASE

THIS MEMORANDUM OF GROUND LEASE ("Memorandum") is made as of the ____ day of _____, 2023, by and between TOWN OF LAKE PARK, FLORIDA, a Florida municipal corporation, having an address of _____ ("Landlord"), and _____, a Florida limited liability company, having an address of _____ ("Tenant").

WITNESSETH:

1. That by Ground Lease of even date hereof (the "Lease"), Landlord has demised and leased to Tenant and Tenant has rented from Landlord that certain real property located in Palm Beach County, Florida, as more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Premises"), and the rights, easements and privileges granted to Tenant in the Lease.

2. The term of the Lease shall commence on _____, ____ (the "Commencement Date") and shall expire at 12:00 Midnight on the ninety-ninth (99th) anniversary of the Commencement Date, unless sooner terminated as set forth in the Lease.

3. Pursuant to Florida Statutes Section 713.10 (2023), notice is hereby given that the Lease includes the following provision:

Tenant acknowledges and agrees that the interest of the Landlord in the Premises shall not be subject to liens for improvements made by the Tenant. Tenant shall not at any time permit any mechanics', laborers' or materialmen's liens to stand against the Premises for any labor or material furnished to Tenant or claimed to have been furnished to Tenant or Tenant's agents, contractors or subtenants, in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction or sufferance of Tenant.

Exhibit E – Memorandum of Lease

Page 1

4. For all other terms and provisions of the Lease, reference is hereby made to the Lease itself, and all persons are hereby placed on notice of the existence of the Lease and of its terms and provisions. The Lease and exhibits thereto are hereby incorporated by reference in this Memorandum. In the event of any conflict between the provisions of this Memorandum and the Lease, the provisions of the Lease shall govern, control and prevail.

5. Upon the expiration or earlier termination of the Lease for any reason whatsoever, Landlord shall be entitled to unilaterally execute and record a termination of this Memorandum which shall terminate and release this Memorandum. Tenant acknowledges and agrees that Tenant shall not be required to join in or execute such termination and that such termination, as executed only by Landlord, shall be effective to terminate this Memorandum without the joinder or execution by Tenant.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, Landlord and Tenant have caused this Memorandum of Lease to be duly executed and sealed as of the date first above written.

TOWN OF LAKE PARK, FLORIDA

_____,
a Florida municipal corporation

Attest;

By: _____
Mayor

By: _____
Town Clerk

Date: _____

Approved as to form and legal sufficiency

By: _____
Town Attorney

STATE OF FLORIDA)
)SS:
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this ____ day of _____, 2023, by _____ as Mayor of the Town of Lake Park, Florida, a Florida municipal corporation, on behalf of the Town. He/She is personally known to me or has produced _____ as identification.

Print Name: _____
Notary Public
My Commission Expires: _____

[SIGNATURES CONTINUE ON NEXT PAGE]

Witnesses:

TENANT:

By: _____

Print Name: _____ Print Name: _____

Title: _____

Print Name: _____

STATE OF _____)

_____)SS:

COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this ____ day of _____, 2023, by _____ as a/the _____ of _____, LLC, a _____ limited liability company, on behalf of said entity. He/She is personally known to me or has produced _____ as identification.

Print Name: _____

Notary Public

My Commission Expires:

EXHIBIT "A"
LEGAL DESCRIPTION

[SEE ATTACHED]

Exhibit F**Form of Non-Disturbance and Attornment Agreement**

Return to: (enclose self-addressed stamped envelope)

Name: _____

Address: _____

This Instrument Prepared by:

SPACE ABOVE THIS LINE FOR PROCESSING DATA

**NON-DISTURBANCE AGREEMENT BY FEE MORTGAGEE
AS TO A LEASEHOLD MORTGAGE(S)**

THIS NON-DISTURBANCE AGREEMENT (this "**Agreement**") by and between Town of Lake Park, Florida ("**Lessor**" or "**Town**"), having an address at _____, having an address at _____ ("**Tenant**"), _____, having an address at _____ ("**Lender**"), and _____, having an address at _____ ("**Fee Mortgagee**").

WITNESSETH:

WHEREAS, Tenant is the lessee under that certain Ground Lease with the Lessor dated _____, as may be amended from time to time (the "**Lease**") with respect to the "Premises" demised under the Lease; and

WHEREAS, Fee Mortgagee has extended a loan to the Town (as may be amended, modified, substituted, or replaced), referred to herein as the "**Fee Loan**." The Fee Loan is secured by, among other things, a mortgage which encumbers the Town's interest in the Lease and the Premises, as same may be amended from time to time, together with an assignment of leases (collectively, the "**Fee Mortgage**"); and

Exhibit F – Non-Disturbance Agreement

Page 1

WHEREAS, pursuant to the terms of the Lease, Tenant has obtained and may in the future obtain certain loans ("**Loan(s)**") from lender(s) selected by Tenant (each, together with each lender(s)' respective successors and assigns, a "**Lender**"), which Loan(s) are and shall be secured by a leasehold mortgage(s) encumbering Tenant's rights in and to the Lease and the Premises ("**Leasehold Mortgage**"). Notwithstanding anything herein to the contrary, any lender(s) selected by Tenant shall not become a "Lender" under this Agreement until such time as such lender has provided a Lender Notice, as provided in Section 5 of this Agreement.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties intending to be legally bound, hereby agree as follows:

1. The recitations heretofore set forth are true and correct and are incorporated herein by this reference.

2. Fee Mortgagee, Town, Tenant and Lender (after the "**Lender Notice**," as hereinafter defined, is provided for such Lender and after such Lender agrees to be bound by this Agreement) are individually a "**Party**" and collectively "**Parties**."

3. If and as applicable, Tenant expressly acknowledges that Town has executed and delivered to Fee Mortgagee an Assignment of Leases and Rents (the "**Assignment of Leases**"), which assigns the Lease and the rent and all other sums due thereunder to Fee Mortgagee as security for the Fee Loan. For the avoidance of doubt, Fee Mortgagee expressly acknowledges and agrees that no property of any kind owned by Tenant (including, without limitation, any improvements, fixtures, personal property or other property owned by Tenant) are collateral for the Fee Loan and that Fee Mortgagee has no security interest in or pledge of any of Tenant's property or any of its rights in the Lease (or derived therefrom other than any residual rights that the Town has to such assets commencing upon the expiration or earlier termination of the Lease or New Lease, as applicable). Tenant acknowledges that the interest of the Town under the Lease has been assigned to Fee Mortgagee solely as security for the purposes specified in said assignments, and Fee Mortgagee shall have no duty, liability or obligation whatsoever under the Lease or any extension or renewal thereof, either by virtue of said assignments or by any subsequent receipt or collection of rents thereunder, except (i) as provided herein, or (ii) upon Fee Mortgagee exercising control over the Town's interest in the Lease. Tenant further agrees that only upon receipt of a written notice from Fee Mortgagee of an event of default by the Town under the Fee Loan, Tenant will thereafter, if requested by Fee Mortgagee (and after Tenant notifies the Town of the request received from Fee Mortgagee), pay rent to Fee Mortgagee in accordance with the terms of the Lease. Town shall have no claim against Tenant for any amounts paid to Fee Mortgagee pursuant to any such notice. Fee Mortgagee hereby agrees that it will only send such a notice if in its good faith judgment an event of default has occurred and has not been cured. To the extent Fee Mortgagee previously sent a notice to Tenant of such event of a default requesting payment of rent be paid to Fee Mortgagee, then at such time as such event of default has been cured and the cure accepted by Fee Mortgagee, Fee Mortgagee shall notify the Tenant in writing to again pay Sublessor such rents. Notwithstanding the foregoing provisions or any other provision herein to the contrary, Tenant shall be under no obligation to pay any rent or perform any other obligation set forth in the Lease to Fee Mortgagee unless and until Tenant receives written notice

Exhibit F – Non-Disturbance Agreement

Page 2

from Fee Mortgagee that the Town is in default under the Fee Loan and Fee Mortgagee is entitled to the rent under the Lease.

4. Tenant shall have the right to mortgage, assign, pledge and hypothecate its interest in the Lease to any Lender as security for Loan(s). In connection with any financing obtained by Tenant (regardless of whether structured as mortgage financing, mezzanine financing or another type of financing), Fee Mortgagee shall execute such documents Lender may reasonably request in order to facilitate such financing ("**Future Non-Disturbance Agreement**"). For the avoidance of doubt, Fee Mortgagee's and the Town's agreement to provide the Non-Disturbance Agreement contemplated in the Lease as referenced herein shall only be for the benefit of first lien lenders with respect to Tenant's interests in the Lease or first lien lenders with respect to the ownership interests in Tenant and to the extent that there are any other subordinate sub-leasehold mortgages and/or subordinate liens given by Tenant as for any interest in Tenant, Fee Mortgagee and the Town shall have no obligation to provide the future Non-Disturbance Agreement to such parties.

5. Within a reasonable time after Tenant obtains a loan from Lender, Tenant shall notify the Town and Fee Mortgagee in writing ("**Lender Notice**") of the following, to wit: (i) the name and address and other contact information of the Lender, and (ii) confirming to the Town and Fee Mortgagee that Tenant has executed and delivered to Lender the Leasehold Mortgage, if applicable, or security interest in the ownership interests in Tenant given to Lender, if applicable. Further, notwithstanding anything to the contrary contained herein, upon delivery of the Lender Notice, Lender shall be deemed to be bound by this Agreement, whereupon Lender shall be deemed to be a "Leasehold Mortgagee" and entitled to all of the protections afforded a "Leasehold Mortgagee" thereunder, as provided in this Agreement. The delivery of Lender's Notice shall be deemed to be an agreement by such Lender of the obligations of Lender set forth herein.

6. Tenant and any Lender (to the extent it has provided a Lender Notice) shall provide Fee Mortgagee, in the manner provided for herein for giving of notices, a copy of each notice of default given to the Town in connection with the Lease, and Fee Mortgagee shall have the right, but not the obligation, to remedy or cause to be remedied any default of the Town under the Lease, so long as such remedy is completed within any notice or grace period provided under the Lease and prior to Tenant electing to terminate the Lease due to any non-monetary default. In connection with any non-monetary defaults, the Tenant hereby agrees that, provided Fee Mortgagee has commenced to cure such non-monetary default and is proceeding with commercially reasonable diligence to complete such cure, Fee Mortgagee shall have an additional period of time as may be reasonable to enable Fee Mortgagee to remedy, or cause to be remedied, any such non-monetary default in addition to the period given to the Town for remedying, or causing to be remedied, such non-monetary default, and Tenant shall accept performance by Fee Mortgagee as performance by the Town.

7. To the extent Fee Mortgagee or any other party (each a "**New Lessor**") shall acquire the interest of the Town under the Lease, the following shall be binding upon New Lessor:

(i) So long as Tenant recognizes the New Lessor and Tenant is not in default under the Lease (beyond any period given to Tenant by the terms of the Lease to cure such default) and is paying rent to the New Lessor under the Lease, New Lessor shall not, whether in the exercise of any of its rights under the Lease or otherwise, disturb Tenant's possession of the

Premises or deprive Tenant of any right or privilege granted to or inuring to the benefit of Tenant under the Lease; nor shall Tenant be named as a party in any foreclosure proceeding except to the extent required by law.

(ii) New Lessor shall recognize and keep the Lease as a direct sublease between Tenant and New Lessor, without the necessity of executing a new lease. In such event, New Lessor shall succeed to the interest of the Town under the Lease, the Tenant shall attorn (subject to the terms of this Agreement) to the New Lessor, in each case to be effective and self-operative without the execution of any further instruments.

(iii) Notwithstanding the foregoing, upon the request of either New Lessor and/or Tenant, the other Party shall promptly execute and deliver a commercially reasonable instrument in recordable form (an "**Attornment and Recognition Agreement**") that (i) as to the Lease, evidences the foregoing attornment by Tenant to New Lessor, and (ii) evidences the recognition of the Lease as a direct Lease between New Lessor and Tenant.

(iv) At the option of the New Lessor (which may be exercised at any time after an Attornment and Recognition Agreement is executed by New Lessor and Tenant), the New Lessor may enter into a new lease with the Tenant for the Premises (a "**New Lease**"). The New Lease shall contain the exact same terms and conditions contained in the Lease, whereupon the New Lease shall replace the Lease and be deemed a replacement Lease between Tenant and the New Lessor, and a new Non-Disturbance Agreement (similar in form to this Agreement as to such New Lease) shall be executed by New Lessor and Tenant.

(v) After New Lessor, or its successors and assigns, shall succeed to the interest of the Town under the Lease (or enter into a New Lease), New Lessor and Tenant, or their respective successors and assigns, shall be bound to each other under all of the terms, covenants and conditions of each of the Lease or New Lease, if applicable, and Tenant and New Lessor shall, from and after such succession by New Lessor to the interest of the Town under each of the Lease (or the entry of New Lease, if applicable) shall each have the same remedies against each other, or their respective successors and assigns, for the breach of any agreement or covenant or duty contained in each of the Lease or New Lease, if applicable, might have had against the other under the Lease as if such parties had been the original lessor or lessee (as applicable) under the Lease, provided, however, notwithstanding anything in the Lease (or New Lease, if applicable) or in this Agreement to the contrary, New Lessor, its successors and assigns, shall not be:

a. bound by any rent, additional rent or other amounts which Tenant might have paid for more than the current month except the most recent payment of rent paid by Tenant as required under the Lease, or to the extent such money was actually received by New Lessor; or

b. accountable for any money deposited with Lessor for any matter, including, capital improvement reserves, except to the extent such money was actually received by New Lessor; or

c. liable for any indemnities of the Town under the Lease for any period prior to New Lessor becoming the lessor under the Lease or New Lease; or

Exhibit F – Non-Disturbance Agreement

d. liable for any act or omission of the Town (or its members, officers, managers, employees, contractors, or agents) that occurred prior to such party becoming the New Lessor (and additionally, Tenant agrees that any such act or omission is not a defense or excuse to Tenant's continued performance under the Lease); provided, however, that except as otherwise expressly provided in this Agreement, New Lessor shall only be obligated for all obligations of the sublessor under the Lease to be performed from and after the date the New Lessor succeeded to the interest of the Town under the Lease; or

e. liable for the Town's breach of any agreement or covenant or duty contained in the Lease which occurred prior to the date the New Lessor succeeded to the interest of the Town (and additionally, Tenant agrees that no such breach is a defense or excuse to its continued performance under the Lease); provided, however, that except as otherwise expressly provided in this Agreement, New Lessor shall only be obligated for all obligations of the sublessor under the Lease to be performed from and after the date the New Lessor succeeded to the interest of the Town under the Lease.

Except as provided in this Agreement, Lessor and Tenant shall have their respective rights or remedies available to it under the Lease (or comparable provisions in the New Lease).

(vi) New Lessor shall, in the manner provided for herein for giving of notices, provide promptly to the Lender (to the extent it has provided a Lender Notice) a copy of each notice of default given by New Lessor to the Tenant in connection with the Lease or New Lease, if applicable.

(vii) Lender shall have the right, but not an obligation, to remedy or cause to be remedied any default of Tenant so long as such remedy is completed within any notice or grace period provided under the Lease or New Lease, if applicable, to Tenant as extended if Lender is diligently pursuing the completion of a non-monetary default of Tenant, as such extension is permitted under the Lease or New Lease, if applicable, and New Lessor shall accept performance by the Lender as performance by the Tenant under the Lease or New Lease, if applicable. Provided Lender satisfies the requirements of this Paragraph 7, any defaults by Tenant of any covenants and agreements which are not within the reasonable power of Lender or any nominee to perform shall not be enforced by New Lessor against Lender (but may be enforced against the Tenant), provided the same shall not be deemed to be a waiver of such obligations from and after the date Lender or its nominee acquires Tenant's interest in the Lease or New Lease, if applicable, or the interest in the Tenant, as applicable.

(viii) In case of a default by the Tenant under the Lease or New Lease, if applicable, beyond any applicable notice and cure period, other than a default in the payment of money and under such circumstances New Lessor having the right to terminate after all cure periods, if any, have expired, the New Lessor shall take no action to effect a termination of the Lease or New Lease, if applicable, by service of a notice or otherwise, without first giving Lender (to the extent it has provided a Lender Notice) a commercially reasonable time within which to either:

a. obtain possession of the Premises and the Tenant's improvements located thereon ("**Improvements**") (including possession by a receiver) and to cure such default in case of a default which is within the power of the Lender to cure, it being understood that the payment of money is within the Lender's power to cure, when such Lender has obtained possession of the Premises and the Improvements; or

b. initiate and complete foreclosure proceedings or otherwise acquire Tenant's leasehold interest under the Lease (or New Lease, as applicable), provided the New Lessor may seek to intervene and Lender consents to such intervention in said foreclosure proceedings and obtain an order authorizing the Lender to commence to cure such default as described by New Lessor and, if such order is obtained, Lender shall have a reasonable time thereafter to proceed diligently to cure such non-monetary defaults within its control to cure and to cure all monetary defaults and the New Lessor will not need to wait until the foreclosure proceedings are concluded. Upon issuance of such orders in the judicial proceedings and if Lender fails to diligently proceed to cure such default, New Lessor has the right to enter the Premises and cure such default, the cost and expenses of which shall be added to the Lease or New Lease, if applicable, as additional rent. Lender shall diligently proceed with the appointment of a receiver to operate and maintain the Premises under the Lease or New Lease, if applicable.

The provisions of Paragraph 7(viii) above are conditioned on the following: Lender, within the forty-five (45) days of receipt of a notice of default under the Lease or New Lease, if applicable, shall (i) notify New Lessor of its election to proceed with due diligence to promptly acquire possession of the Premises and any Improvements or to foreclose its Leasehold Mortgage or otherwise to extinguish Tenant's interest in the Lease or New Lease, if applicable; and (ii) deliver to New Lessor an instrument in writing duly executed and acknowledged, whereby the Lender agrees that (x) during the period Lender is enforcing its remedies and/or during the pendency of any foreclosure or other proceeding and until the interest of Tenant in the Lease or New Lease, if applicable, shall terminate, as the case may be, it will pay or cause to be paid to New Lessor (on behalf of Tenant) all monetary obligations of Tenant including rent (based on gross revenue Lender is able to collect), payment of taxes and insurance then due and from time to time becoming due under the Lease or New Lease, if applicable, which is to be remitted to New Lessor giving credit, however, for any net income actually collected by New Lessor (as applicable) in connection with the Premises, and (y) if delivery of possession of the Premises and the Improvements shall be made to Lender or its nominee, whether voluntarily or pursuant to any foreclosure or other proceedings or otherwise, such holder shall, promptly following such delivery of possession, perform or cause such nominee to perform, as the case may be, all covenants and agreements contained in the Lease or New Lease, if applicable, on Tenant's part to be performed to the extent that Tenant shall have failed to perform the same to the date of delivery of possession, as aforesaid except such covenants and agreements which are not within the reasonable power of the Lender or such nominee to perform but the payment of rent (based on gross revenue Lender is able to collect), taxes and insurance shall be deemed activity within the power of the Lender or its nominee to perform. Upon such extinguishment of Tenant's interest in the Lease or New Lease, if applicable, and such performance by such holder or such nominee, or by any purchaser of the Tenant's interest in the Lease pursuant to any foreclosure proceedings, New Lessor's rights to serve notice of election to end the term of the Lease or New Lease, if applicable, based on any non-monetary default which is not within the

power of such holder or nominee or such purchaser to perform, shall be deemed to be and shall be waived. If prior to any sale pursuant to any proceedings brought in foreclosure of the Loan(s), or if, prior to the date on which Tenant's interest in the Lease or New Lease, if applicable, shall otherwise be extinguished, the default in respect of which New Lessor shall have given notice shall have been remedied and possession of the Premises and the Improvements restored to Tenant, the obligations of the Lender pursuant to the instrument referred to in clause (x) of this paragraph shall be null and void (subject to a new right to cure for other defaults) and of no further force and effect. Nothing herein contained shall affect the right of New Lessor, upon the subsequent occurrence of any default by Tenant, to exercise any right or remedy reserved in the Lease or New Lease, if applicable, to New Lessor, subject to the rights of the Lender pursuant to this Agreement with respect to such default. Notwithstanding anything contained in this Agreement to the contrary, New Lessor shall not be required to waive monetary defaults such as payment of rent, taxes, insurance and other financial obligations under the Lease or New Lease, if applicable,, giving credit, however, for any net income actually collected by New Lessor in connection with the Premises. Further, both parties agree payment of rent (based on gross rent Lender is able to collect), and payment of taxes, insurance and other monetary obligations shall never be deemed "not within the reasonable power of the Lender or such nominee to perform" or a default not susceptible of being cured and upon Lender or its designee becoming the Tenant, such party shall perform the deferred maintenance and other obligations within its reasonable control to the extent such matters could not be cured previously.

(ix) Upon (a) a foreclosure or deed in lieu of foreclosure, whereby the Tenant's interest in the Lease or New Lease, if applicable, is transferred to the Lender or foreclosure of ownership interests in Tenant or a transfer in lieu of foreclosure of ownership interests in Tenant, or its first assignee or (b) if such Lender is unable (despite commercially reasonable efforts to do so) to perform the cure within its cure period as provided in Section 7 (xi) and the Lease or New Lease, if applicable, is terminated or (c) if New Lessor shall give notice thereof to the Lender and in either of such cases, upon written request by the Lender given to New Lessor within thirty (30) days after such foreclosure (as provided in Section 7(xii)(a)) or the notice from New Lessor to the Lender of the termination of the Lease or New Lease, if applicable (as provided in Section 7(xii)(b)) to enter a "New Lease" (as hereinafter defined), New Lessor shall enter into and deliver a new lease ("**New Lease**") of the Premises with the Lender or its designee for the remainder of the term of the Lease or New Lease, if applicable, upon the exact same terms and conditions as contained in the Lease or New Lease, if applicable, including all right to the extensions thereof and dated as of the date of termination of the Lease or New Lease, if applicable, and convey to the Lender (or its designee) by quit claim bill of sale, a term of years in and to the Improvements, reserving to New Lessor the reversion of title to the Improvements upon the termination of the New Lease. The estate of the Lender (or its designee) as lessee under the New Lease shall have priority equal to the estate of the Tenant under the Lease or New Lease, if applicable (that is, there shall be no charge, lien or burden upon the Premises prior to or superior to the estate granted by such New Lease which was not prior to or superior to the estate of the Tenant under the Lease or New Lease, if applicable, as of the date immediately preceding the date the Lease or New Lease, if applicable, went in default. The quit claim bill of sale to the Improvements shall recite that the grantee holds title to the Improvements only so long as the New Lease shall continue in full force and effect, that upon termination of the New Lease, title to the Improvements shall revert to New Lessor automatically without payment. Nothing herein contained shall be deemed to impose any

obligation upon New Lessor or to cause the delivery of physical possession of the Premises and the Improvements to the Lender or its designee or to disavow any recognition of the Lease or New Lease, if applicable, or the rights of the Tenant pursuant to the terms of the Lease or New Lease, if applicable. The Lender or its designee shall pay all reasonable expenses, including reasonable attorneys' fees, incident to the execution and delivery of such New Lease and quit claim bill of sale to the extent requested by the Lender. If there be more than one (1) Leasehold Mortgage, the right to request and obtain a New Lease shall be limited solely to the Lender having the highest priority lien. New Lessor reserves the right to require a written legal opinion, at Lender's expense, as to whether or not such Leasehold Mortgage is a first lien on the Tenant's rights under the Lease or New Lease, if applicable.

However, if the Leasehold Mortgage is foreclosed, the purchaser who shall have acquired the Tenant's leasehold estate at the foreclosure sale shall execute and deliver such evidence of acquiring such leasehold estate to New Lessor. If Lender is the purchaser, it may assign its interest in the Lease or New Lease, if applicable, to any person, firm, corporation or entity designated by it who satisfies the minimum standard as expressly specified in the Lease or New Lease, if applicable, and such assignee shall execute and deliver such assignment to New Lessor in form reasonably acceptable to New Lessor, whereupon the Lender shall have no liability or obligation thereunder.

8. (a) Without the prior written consent of Fee Mortgagee (while its lien encumbers the Town's interest in the Lease or New Lease, if applicable) the Town and Tenant, shall not consent to or accept any voluntary cancellation, termination or surrender of the Lease (other than to enforce a default thereunder not cured within the applicable cure period). Without the prior written consent of Fee Mortgagee (while its lien encumbers the Town's interest in the Lease or New Lease, if applicable), which consent shall not be unreasonably withheld, conditioned or delayed, the Town and Tenant shall not, in any material respect, modify or amend the Lease or New Lease, if applicable, which materially changes the term, the rent, or otherwise materially increases the obligations of the Town or material decreases the obligations of Tenant under the Lease or New Lease, if applicable (a "**Lease Modification**"). In the event the Town sends its request for approval of a Lease Modification to Fee Mortgagee as a "Time Sensitive Request of Lender", then the Lender shall be deemed to have approved such request if the Fee Mortgagee does not disapprove same and specify the basis for such disapproval within twenty (20) days of request.

(b) Without the prior written consent of Lender (to the extent it has provided a Lender Notice and while its lien encumbers any Tenant interest in the Lease or New Lease, if applicable), the Town and Tenant shall not (i) consent to or accept any violation, cancellation, termination or surrender of the Lease or New Lease, if applicable (other than to enforce a default thereunder not cured within the applicable cure period (but subject to the terms hereof)), or (ii) modify or amend the Lease or New Lease, if applicable, in any material manner which changes the term, the rent, or otherwise materially increases the obligations of Tenant or material decreases the obligations of the Town or the rights of Tenant under the Lease or New Lease, if applicable (in each case, a "**Material Lease Modification**"). In the event the Town or Tenant sends a request to Lender for approval of a Material Lease Modification, any such consent of Lender shall not be

unreasonably withheld and shall be subject to the terms and provisions attached hereto as Exhibit A.

9. The Town and New Lessor agree that the restrictions on "Assignment" (as defined in the Lease or New Lease, if applicable) do not apply to either (a) an assignment of the Leasehold interest of Tenant as it relates to Lender (to the extent it has provided a Lender Notice) pursuant to the Leasehold Mortgage or the foreclosure of the Leasehold Mortgage or assignment in lieu of the foreclosure of the Leasehold Mortgage or (b) a pledge of ownership interests in the Tenant as it relates to Lender by its owner or the foreclosure on the ownership interests of Tenant or the assignment in lieu of the foreclosure of ownership interests in the Tenant, provided however, any subsequent assignment by Lender to a third party shall be subject to compliance with the minimum standards relating to an assignee as specified in the Lease or New Lease, if applicable.

10. The parties acknowledge that any Loan(s) obtained by Tenant are leasehold security interests on the Tenant's interest in the Premises and do not encumber or subordinate the fee simple title of the Town, the leasehold interest of Lessor, or any lien and/or leasehold interest held by Fee Mortgagee.

11. Any notice required or permitted to be given by the terms of this Agreement or under any applicable law by either party shall be in writing and shall be either hand delivered or sent by certified mail, postage prepaid, return receipt requested. Such written notice shall be addressed as follows:

As to Fee Mortgagee:

With a copy to:

As to Town:

With a copy to:

As to Lender:

The name and address of the Lender and its
representatives as set forth in the Lender Notice

As to Tenant:

unless the address is changed by the party by like notice given to the other parties. Notice shall be in writing, mailed certified mail, return receipt requested, postage prepaid and shall be deemed delivered three (3) business days after being properly mailed or upon hand delivery to the address indicated. Notwithstanding the foregoing, notices, requests or demands or other communications referred to in this Agreement may be sent by email (except that requests for Material Lease Modification approvals whereby the provisions of Exhibit A would be applicable must always be sent by certified mail return receipt requested or a nationally recognized delivery service such as Federal Express in addition to email) or by nationally recognized delivery service such as Federal Express, but shall only be deemed to have been given when received

12. This Agreement shall not be changed, modified or amended except by an instrument in writing and executed by all Parties to this Agreement.

13. This Agreement may be executed in any number of counterparts, each of which, when executed, shall be deemed an original and all of which shall be deemed one and the same instrument. Facsimile transmission signatures of this Agreement shall be deemed to be original signatures.

14. This Agreement is governed by Florida law and Palm Beach County, Florida is the agreed upon venue.

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

[Signature Pages to Follow]

WITNESSES:

LESSOR:

Town of Lake Park Florida

 Print Name: _____

 Print Name: _____

By: _____
 Name: _____
 Title: _____

 Date: _____

STATE OF _____)
) SS:
 COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2023.

 Notary Public

 Typed, print d or stamped name of Notary Public

My Commission Expires:

WITNESSES:

TENANT:

 Print Name: _____

By: _____

Name: _____

Title: _____

 Print Name: _____

Date: _____

STATE OF _____)
) SS:
 COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2023.

 Notary Public

 Typed, print d or stamped name of Notary Public

My Commission Expires:

WITNESSES:

LENDER:

Print Name: _____

By: _____

Name: _____

Title: _____

Print Name: _____

Date: _____

STATE OF _____)
) SS:
 COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said bank. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2023.

Notary Public_____
Typed, print d or stamped name of Notary Public

My Commission Expires:

WITNESSES:

FEE MORTGAGEE:

Print Name: _____

By: _____

Name: _____

Title: _____

Print Name: _____

Date: _____

STATE OF _____)
) SS:
 COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2023.

 Notary Public

 Typed, print d or stamped name of Notary Public

My Commission Expires:

Exhibit A

If Tenant makes a written request of Lender in accordance with the terms of this Agreement to make a material modification or amendment to the Lease, accompanied by all such background information and explanations as may be reasonably necessary for Lender to determine whether to consent to or approve the request, and does not receive a consent, approval or rejection from Lender within five (5) business days after Lender's receipt of such request, then Tenant may provide Lender with a second written notice of any such request, with a copy of such first request, and if such second written notice includes, printed in capital letters of boldface type and at least 12 point font, a legend substantially to the following effect:

“THIS COMMUNICATION REQUIRES IMMEDIATE RESPONSE. FAILURE TO RESPOND WITHIN TEN (10) CALENDAR DAYS (OR LONGER PERIOD AS PROVIDED IN THAT CERTAIN NON-DISTURBANCE AGREEMENT DATED AS OF _____) FROM THE RECEIPT OF THIS COMMUNICATION SHALL CONSTITUTE A DEEMED CONSENT OR APPROVAL BY THE ADDRESSEE OF THE ACTION REQUESTED BY THE ADDRESSOR.”

and if the foregoing legend is included by the Tenant in the second written request to Lender, such request shall be deemed to have approved or consented to the item for which Tenant sought Lender's consent or approval for all purposes hereunder unless Lender denies the such request within ten (10) calendar days of Lender's receipt of such second written request; provided, however, that if Lender in writing notifies Tenant (including the basis for the need for additional time) within such ten (10) calendar day period that the nature of the request is such that more than ten (10) calendar days are required in order for the Lender to properly assess the request and respond to Tenant (including without limitation, as a result of loan approval authority for the requested change being a prerequisite to Lender's and/or any Loan participant's response to the request), then such period shall be extended for up to an additional twenty (20) calendar days (i.e. a total of thirty (30) calendar days after Lender's receipt of the second written request) for Lender and/or any Loan participant to properly assess the request and respond to Tenant so long as Lender and/or such Loan participant(s) have commenced their assessment within such ten (10) calendar days period and thereafter diligently conducts their review and determination of whether or not to approve or consent to such request.

GROUND LEASE FOR THE HOTEL COMPONENT

GROUND LEASE
(Hotel Component)

THIS GROUND LEASE (this “Lease”), dated as of JANUARY 3, 2024 (the “Effective Date”), is entered into by and between the **TOWN OF LAKE PARK, FLORIDA**, a Florida municipal corporation (“Landlord”), and **FD P3 LP HOTEL, LLC**, a Florida limited liability company (“Tenant”) (collectively, the “Parties” and individually, a “Party”).

WHEREAS, in accordance with Florida Statutes §255.065, Forest Development P3 LPM, LLC, a Florida limited liability company (the “Developer”), an affiliate of Tenant, submitted to Landlord an unsolicited proposal for a Qualifying Project (the “Proposal for Redevelopment”) involving the redevelopment of six (6) parcels of land owned by Landlord (the “Land”), comprising approximately +/-12.01 acres generally located on the intracoastal waterway east of Federal Highway and north of Silver Beach Road in the Town of Lake Park, Florida, and commonly known as Lake Park Harbor Marina (the “Marina”); and

WHEREAS, the Town Commission selected the Developer’s Proposal for Redevelopment; and

WHEREAS, in accordance with said §255.065, Landlord and Developer entered into that certain Comprehensive Agreement dated as of August 2, 2023 (as the same may be amended or supplemented, collectively, the “Comprehensive Agreement”), memorializing their respective rights and obligations with respect to the redevelopment of the Marina; and

WHEREAS, all capitalized terms used but not otherwise defined in this Lease shall have the respective meanings ascribed to them in the Comprehensive Agreement; and

WHEREAS, pursuant to the Comprehensive Agreement, Landlord and Developer have agreed that Landlord and four (4) special purpose entities formed by Developer shall enter into four (4) separate ground leases for portions of the Marina, on which will be developed the “Hotel Component,” the “Boat Storage Component,” the “Public Marina Component” and the “Marina Restaurant Component” (as defined in the Comprehensive Agreement); and

WHEREAS, in accordance with the Comprehensive Agreement, Landlord and Tenant desire to enter into this Lease to document Tenant’s lease from Landlord of a portion of the Marina hereinafter described on which will be developed the Hotel Component, all in accordance with the terms and conditions hereinafter set out.

NOW, THEREFORE, for and in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. DEMISE. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, all of the area shown on the plan attached hereto as Exhibit A and made a part hereof (the “Site Plan”), and more particularly described on Exhibit B, attached hereto and made a part

hereof, together with all appurtenant easements and rights thereto (collectively, the “**Premises**”). Landlord and Tenant hereby acknowledge and agree that this Lease shall be subject to the terms, conditions and provisions of the Comprehensive Agreement only to the extent the same pertain to the Hotel Component and that only a default under the terms of the Comprehensive Agreement that pertain to the Hotel Component shall constitute a default under this Lease.

2. **TERM.** The term of this Lease (the “**Term**”) shall be ninety-nine (99) years, commencing on the later of (i) the Effective Date; (ii) the earlier of (A) the date of the modification or termination of the Deed Restrictions and Reverter Clauses to Landlord’s and Developer’s reasonable satisfaction, and (B) the date that Developer notifies Landlord in writing that it intends to proceed with the Project even if the Deed Restrictions and Reverter Clauses are not fully terminated; (iii) August 2, 2025 (the “**Commencement Date**”). Notwithstanding the foregoing, in the event that the Deed Restrictions and Reverter Clauses have not been terminated or modified to the Developer’s reasonable satisfaction and the Developer has not notified Landlord in writing that it intends to proceed with the Project despite the fact that the Deed Restrictions and Reverter Clauses have not been fully terminated, Tenant shall have the right to terminate this Lease by written notice to Landlord on or before August 2, 2025.

3. **LEASE PAYMENTS.** As consideration for Landlord’s execution of this Lease with Tenant, Tenant shall make payments to Landlord in accordance with the schedule attached hereto as **Exhibit C** (the “**Lease Payments**”). During the Term, Tenant shall also be responsible for all real estate taxes (including ad valorem taxes and non-ad valorem assessments) assessed with respect to the Premises and for all expenses incurred in connection with the ownership, operation, maintenance, repair, occupancy or use of the Premises. In addition, Tenant shall pay or cause the Developer to pay the portion of the P3 Assessment Fee in the total amount of Three Hundred Thousand and 00/100 Dollars (\$300,000.00) and the Building Permit Fee (as such terms are defined in the Comprehensive Agreement) applicable to the Hotel Component, which payments shall be made on or before August 2, 2024 in accordance with the Comprehensive Agreement. Except as otherwise expressly set forth in this Lease, Landlord shall not be responsible for any costs, expenses, or charges of any kind or nature respecting the Premises and Landlord shall not be required to render any services of any kind to Tenant or to the Premises. Landlord shall receive the Lease Payments free and clear of any and all impositions, taxes, liens, charges, deductions or expenses of any nature whatsoever in connection with the ownership, operation, maintenance, repair, occupancy or use of the Premises.

4. **IMPROVEMENTS.** Tenant hereby agrees to develop the Hotel Component on the Premises in accordance with the terms and conditions of the Comprehensive Agreement, to the extent such terms and conditions apply to the Hotel Component. Tenant covenants that the construction of all improvements at the Premises (the “**Improvements**”) shall be at Tenant’s sole cost and expense and in accordance with all applicable legal requirements. Tenant acknowledges and agrees that the interest of the Landlord in the Premises shall not be subject to liens for improvements made by the Tenant. Tenant shall not at any time permit any mechanics’, laborers’ or materialmen’s liens to stand against the Premises for any labor or material furnished to Tenant or claimed to have been furnished to Tenant or Tenant’s agents, contractors or subtenants, in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction or sufferance of Tenant. Tenant shall notify any contractor engaged in the construction of the Improvements of the foregoing, and the knowing or willful failure of the

Tenant to provide such notice to the contractor(s) shall render the contract between the Tenant and the contractor voidable at the option of the contractor. In the event any such lien is filed against the fee simple interest in the Premises as a result of any construction thereon by Tenant or on Tenant's behalf, then and in that event, Tenant shall cause said lien to be discharged or bonded over within thirty (30) days of Tenant's actual knowledge of same. The failure to do so shall, at the option of Landlord, constitute a breach of this Lease. If Tenant fails to have such lien or claim for lien so released or to deliver such bond to Landlord, Landlord, without investigating the validity of such lien, shall have the right to pay or discharge the same, and Tenant shall reimburse Landlord upon demand for the amount so paid by Landlord, including Landlord's reasonable expenses and attorneys' fees.

Subject to the terms and conditions of this Lease, until the expiration or earlier termination of this Lease, (a) all Improvements shall be and remain the property of Tenant, and (b) Tenant shall have the rights and benefits of ownership of the Improvements, including, without limitation the right to claim depreciation of the Improvements for tax purposes.

5. USE OF PREMISES. It is expressly agreed that the Premises may be used during the Term only for any purposes permitted pursuant to the Comprehensive Agreement or as may permitted by the applicable governmental authority and may not use the Premises for any purpose in violation of the Deed Restrictions and Reverter Clauses to the extent the same have not been amended or terminated of record. ~~Notwithstanding the foregoing, Landlord and Tenant hereby agree that, prior to the commencement of the construction of the Improvements, Tenant shall have the right to use the Premises for the parking of vehicles.~~ The tenant agrees to provide an alternative location to park boat trailers and towing vehicles specifically for Marina users subject to Commission approval before the site can be used by the tenant for construction related vehicle use. Tenant, its agents, employees, customers, and invitees shall have free and unobstructed right to use the Premises for such purposes. Tenant shall comply with and abide by all federal, state, county, municipal, and other governmental statutes, ordinances, laws, and regulations affecting the Premises, the Improvements, or any activity or condition on or at the Premises. Tenant shall have access to the Premises twenty-four (24) hours per day, 365 days per year. Tenant shall have the right to place signs at the Premises provided such signs comply with the local ordinances and regulations. Upon the expiration of the Term, upon Landlord's request, Tenant shall remove all signage and shall restore and repair any damage caused by the installation or removal of such signs. RM
2/21/24

6. MAINTENANCE AND REPAIR. Throughout the Term, Tenant, at its sole cost and expense, shall (a) keep and maintain the Premises including all Improvements of every kind thereon and appurtenances thereto, in good order and condition, and (b) make such repairs, replacements and renewals (collectively, "Repairs") to the Premises as may be necessary or appropriate to keep and maintain the Premises in good order and condition, whether such Repairs are ordinary or extraordinary, foreseen or unforeseen. Without limiting the generality of the foregoing, Tenant shall keep and maintain all portions of the Premises and all driveways, sidewalks, parking areas, curbs and access ways adjoining the Premises in a clean and orderly condition, and shall keep and maintain all open areas of the Premises in a neat and orderly condition and perform all necessary landscaping work. All Repairs shall be promptly made with materials and equipment, which are at least equal in quality to those in place. Landlord shall not be obligated to make any repairs or replacements of any kind, nature, or description, whatsoever, to the Premises or the Improvements thereon. PB
2/21/24

7. INDEMNIFICATION.

(a) Subject to the subrogation provisions of this Lease, Tenant agrees to indemnify and hold Landlord and its former and current elected and appointed officials, agents, consultants and employees (collectively, "**Landlord Parties**") harmless, to the fullest extent permitted by law, from all liabilities, losses, interest, damages, costs and/or expenses (including, without limitation, reasonable attorneys' fees, whether suit is instituted or not, and if instituted, whether incurred at any trial, appellate or post judgment level), threatened or assessed against, levied upon, or collected from, any Landlord Party arising out of, from, or in any way connected with or arising from the negligence, recklessness, or intentional wrongful misconduct of Tenant in the performance of its obligations under this Lease. Notwithstanding the foregoing, Tenant shall not be required to indemnify any Landlord Party with respect to any liability, loss, damages, costs or expenses suffered as a result of the negligence and/or willful misconduct of such Landlord Party. To the extent this indemnification clause or any other indemnification clause in this Lease is subject to the provisions of Chapter 725, Florida Statutes, and such does not comply with Chapter 725, Florida Statutes, as such may be amended, such provision shall hereby be interpreted as the parties' intention for the indemnification clauses and to comply with Chapter 725, Florida Statutes, as such may be amended.

(b) Tenant shall not have any obligation to indemnify or defend the Landlord Parties against any claims brought against any Landlord Party by any third party challenging: (i) Landlord's legal authority to lease all or any portion of the Premises; (ii) the Town Commission's judgment in leasing all or any portion of the Premises; or (iii) Landlord's decision to enter into this Lease or the terms and provisions of this Lease, regardless of whether such claim seeks monetary damages or injunctive, declaratory or other relief. Provided however, that if any third party brings any claims against Landlord and Tenant, Tenant shall have the responsibility to defend the allegations against it. The provisions of this Section shall survive the expiration or earlier termination of this Lease. Any tort liability to which Landlord is exposed under this Lease shall be limited to the extent permitted by applicable law and subject to the provisions and monetary limitations of Section § 768.28, Florida Statutes, as it may be amended. Landlord expressly does not waive any of its rights and immunities under § 768.25.

8. TAXES. During the Term, Tenant shall assume full responsibility for and shall pay all taxes and assessments that accrue to the Premises or to the Improvements thereon, including sales and property taxes (including ad valorem taxes and non-ad valorem assessments). Tenant shall obtain, if available, a separate tax billing or assessment for the Premises, and Tenant shall pay the ad valorem real property taxes attributable to the Premises only. If a separate billing or assessment for the Premises is not available, Tenant shall pay its pro rata share of the cost incurred by Landlord for real property taxes upon the Project. Tenant agrees to reimburse Landlord within thirty (30) days after receipt of an itemized statement showing the pro rata amount due by Tenant.

In no event shall Tenant be obligated to pay any of Landlord's administrative fees relating to taxes nor shall Tenant be obligated to pay any interest or penalties imposed for late payment or otherwise unless caused by Tenant. Any real property taxes shall be apportioned so that Tenant shall pay only that portion of real property taxes or installments thereof as fall within the Term. Tenant shall not be obligated to pay any income tax, excise tax or other similar tax or charge, or

inheritance, franchise, capital levy transfer, estate, succession or other similar tax or charge that may be payable by or chargeable to Landlord under any present or future law of the United States or the state in which the Premises are located or imposed by any political or taxing subdivision thereof. Tenant shall have the right, by appropriate proceedings, to protest or contest any assessment or reassessment for real property taxes, or any special assessment, or the validity of either, or of any change in assessments or the tax rate and Landlord agrees to reasonably cooperate with Tenant in any such protest or contest. If Landlord is unwilling to pursue such protest or contest, then Tenant may do so in Landlord's name at Tenant's expense. Landlord agrees not to initiate or endorse any action or application which would increase Tenant's monetary obligations under this Section.

9. INSURANCE; WAIVER OF SUBROGATION. During the Term, Tenant shall comply with all of the insurance requirements imposed upon the Developer pursuant to the Comprehensive Agreement only to the extent the same are applicable to the Hotel Component.

Landlord and Tenant, for themselves and their respective insurers, hereby release each other of and from any and all claims, demands, actions and causes of action, (including, without limitation, subrogation claims), for loss or damage to their respective property located within or upon, or constituting a part of the Premises, even if the loss or damage shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible, which loss or damage is covered by valid and collectible insurance policies, to the extent that such loss or damage is recoverable under such policies or, in the case of Landlord, if Landlord elects to self-insure. Landlord and Tenant shall each cause each insurance policy obtained by it to provide that each insurance company waives all rights of recovery by way of subrogation against the other party in connection with any damage covered by any such policy. The foregoing waiver of subrogation shall also apply in the event that Landlord elects to self-insure.

10. UTILITIES. During the Term, Tenant, at its sole cost and expense, shall take such action as may be necessary to procure the utility services required for Tenant's operation of the Premises, including, without limitation, making arrangements to extend and connect utility lines to and within the Premises. Tenant shall pay all charges for utility services used on the Premises during the Term. At Landlord's request from time to time (but no more frequently than twice in any calendar year), Tenant shall deliver to Landlord receipts or other evidence satisfactory to Landlord indicating the timely payment of utility expenses.

Landlord makes no representation or warranty with respect to the availability or sufficiency of any utility service to the Premises. Landlord is not required to furnish any utility services to Tenant and shall not be liable for the failure of any utility services or for the untenability of the Premises or other damage or loss resulting from the unavailability, interruption, inadequacy or termination of, any utility services.

11. DEFAULT. The following conditions shall be considered a "Default" by Tenant hereunder:

(a) Tenant's failure to pay any monetary sum as provided in this Lease which continues for thirty (30) days following Tenant's receipt of notice from Landlord to that effect (a "**Monetary Default**"); and

(b) Tenant's failure to observe or perform any of the covenants, conditions or provisions of this Lease that Tenant must observe or perform, other than a Monetary Default, where the failure continues for a period of ninety (90) days after Tenant's receipt of written notice from Landlord; provided, however, that if the nature of the obligation that Tenant has failed to perform is such that more than ninety (90) are reasonably required for its cure, a Default will not occur so long as Tenant commences the cure within such ninety (90)-day period and continuously prosecutes the cure to completion (a "**Non-Monetary Default**")

If a Monetary Default occurs hereunder, then in addition to any other lawful or equitable right or remedy which Landlord may have, including any rights or remedies available to Landlord under the Comprehensive Agreement (to the extent applicable to the Hotel Component), Landlord may, subject to any and all cure and notice provisions contained in this Lease, do the following: (i) commence a proceeding to terminate this Lease, or (ii) repossess the Premises, with or without terminating this Lease.

If a Non-Monetary Default occurs and is continuing, then in addition to any other lawful or equitable right or remedy which Landlord may have, including any rights or remedies available to Landlord under the Comprehensive Agreement (to the extent applicable to the Hotel Component), Landlord shall have the right, in its sole election, then, or at any time thereafter while such Default shall continue to (i) remedy the same and charge Tenant for the reasonable costs thereof (including reasonable interest thereon), (ii) sue for specific performance of Tenant's obligations under this Lease; or (iii) commence a proceeding to terminate this Lease.

In the event of the occurrence of any Landlord's default as is detailed in this Lease which is not cured within sixty (60) days of Tenant's notice to Landlord, or such longer period of time as may be necessary to cure defaults which are not subject to being cured within such sixty (60) day period, Tenant shall have the right, in its sole election, then, or at any time thereafter while such Landlord's default shall continue to (i) remedy the same and charge Landlord for the costs thereof (including reasonable interest thereon), or (ii) sue for specific performance of Landlord's obligations under this Lease; or (iii) such other remedy as may be available at law or in equity.

Subject to the terms of this Section, all rights and remedies of Landlord and Tenant are cumulative, and the exercise of any one shall not be an election excluding Landlord or Tenant at any other time from exercising a different or inconsistent remedy. No waiver by Landlord or Tenant of any covenant or condition shall be deemed to imply or constitute a further waiver of the same at a later time.

12. CASUALTY.

(a) General. If at any time during the Term, any Improvements are damaged or destroyed by fire or other casualty (a "**Casualty**"), Tenant shall promptly give written notice thereof to Landlord. Tenant's obligations under this Lease shall not be affected by any Casualty except as provided in this Section. Lease Payments shall not abate during the period when the

Premises are not usable by Tenant due to damage or destruction, provided, however, Tenant shall receive a credit against the Lease Payments for the relevant period in an amount equal to any insurance proceeds actually received by Landlord with respect to such period.

(b) Restoration.

(i) Upon the occurrence of a Casualty, unless this Lease is terminated pursuant to Section 12(c), Tenant shall proceed, at its sole cost and expense and with commercially reasonable diligence, to carry out or cause to be carried out any necessary demolition and debris removal and to repair, restore, replace or rebuild the Improvements as nearly as reasonably practical to their condition, quality and character immediately prior to such damage or destruction, with such changes or alterations as may be approved by Landlord or as may be required by Governmental Authority (the “**Restoration**”).

(ii) All insurance proceeds shall be applied first to reimburse Tenant for the necessary and proper expenses paid or incurred by Tenant in the adjustment and collection of the insurance proceeds (including, without limitation reasonable attorneys’ fees and disbursements) (the “**Net Insurance Proceeds**”). The balance remaining shall be paid and applied in accordance with the provisions of this Section 12(b). In the event of a Casualty resulting in damage to the Improvements of less than \$2,000,000.00, the Net Insurance Proceeds shall be paid directly to Tenant and used by Tenant to pay the costs of the Restoration of the Improvements, subject to and in accordance with the provisions of this Section 12(b) and any Leasehold Mortgage. In the event of a Casualty resulting in damage to the Improvements of \$2,000,000.00 or more, the Net Insurance Proceeds shall be paid to the Insurance Depository (as hereinafter defined) and shall be held, invested and disbursed, subject to and in accordance with the provisions of this Section 12(b) and any leasehold mortgage. The “**Insurance Depository**” shall mean an institutional lender jointly selected by Landlord and Tenant (or if the provisions of any leasehold mortgage so provide, as selected by the holder of any Leasehold Mortgage (and may be the Leasehold Mortgage)) to perform the functions described herein.

(iii) Subject to the terms of any Leasehold Mortgage, the Insurance Depository shall invest and reinvest the Net Insurance Proceeds in United States government securities backed by the full faith and credit of the United States government. The income from the investment of the Net Insurance Proceeds shall be part of the Net Insurance Proceeds and shall be held, invested, and disbursed in the same manner as the balance of the Net Insurance Proceeds. All reasonable costs, fees, expenses and charges of the Insurance Depository in connection with the collection, investment, administration and disbursement of the Net Insurance Proceeds shall be paid by Tenant upon demand by the Insurance Depository. In the event that Tenant shall fail to pay such costs, fees, expenses and charges upon demand, the Insurance Depository may deduct the amount thereof from the Net Insurance Proceeds.

(iv) The Insurance Depository shall disburse the Net Insurance Proceeds from time to time in accordance with requests for disbursement (each, a “**Disbursement Request**”) made by Tenant and approved by the then Leasehold Mortgagee, or, if there is no Leasehold Mortgagee, Landlord. No disbursement of Net Insurance Proceeds shall be made without the prior written approval of the then Leasehold Mortgagee, or, if there is no Leasehold

Mortgagee, Landlord. Landlord shall be obligated to approve a Disbursement Request provided that Tenant has complied with the requirements of this Section.

(v) Subject to the other requirements of this Lease, Net Insurance Proceeds shall be disbursed periodically by the Insurance Depository as the Restoration progresses in amounts not exceeding 90% of the value of labor and materials incorporated into the work. The remaining 10% will be disbursed upon final completion of the Restoration.

(vi) If at any time during the course of the Restoration the then Leasehold Mortgagee, or, if there is no Leasehold Mortgagee, Landlord, reasonably determines that the undisbursed portion of the Net Insurance Proceeds will not be sufficient to complete the Restoration, Tenant shall deposit the difference, as reasonably determined by Leasehold Mortgagee or Landlord, as applicable, with the Insurance Depository, and such amount shall be held, invested and disbursed in the same manner as the balance of the Net Insurance Proceeds.

(vii) All Restoration work shall be performed by Tenant in accordance with the provisions of Section 4.

(viii) Except as otherwise provided in any Leasehold Mortgage or any related loan documents, in the event that (a) Tenant shall fail to commence or complete the Restoration as required by this Section or otherwise defaults in the performance of its obligations under this Section, or (b) a default beyond any applicable notice and cure periods shall occur before or during the course of the Restoration, the Net Insurance Proceeds shall be paid to and retained by Landlord.

(ix) Upon final completion of the Restoration and compliance with the requirements for the final disbursement, any excess Net Insurance Proceeds shall be paid to Tenant.

(c) Termination by Tenant.

(i) Subject to the terms of any Leasehold Mortgage or any related loan documents, upon the occurrence of Casualty during the last thirty (30) years of the Term or if at any time during the Term the Improvements are substantially destroyed and estimated cost of the Restoration would exceed one hundred ten percent (110%) of the Maximum Required Restoration Cost (as hereinafter defined), then, instead of carrying out the resulting Restoration, Tenant, at its option, may elect to terminate this Lease by written notice to Landlord given within thirty (30) days after the Casualty or the estimated cost of such Restoration shall have been determined, whichever last occurs. After making such election, Tenant shall proceed with reasonable diligence to

(A) demolish the damaged portion of the Improvements to street grade;

(B) remove all debris from the Premises;

(C) put the Premises in good, safe, lawful, clean and orderly condition (collectively, the “**Demolition**”). The Demolition shall be carried out at Tenant’s sole cost and expense. Upon completion of the Demolition, as certified by the architect handling the Demolition and upon payment of all Lease Payments payable under this Lease through the date of such completion, this Lease shall expire and terminate with the same force and effect as though the date of such completion were the Termination Date; and

(D) provide evidence reasonably satisfactory to Landlord that all subleases have been terminated.

The term “**substantially destroyed**” shall mean and refer to that condition where the use and occupancy of substantially all the Improvements have been materially adversely affected and the estimated cost of the resulting Restoration would exceed \$2,000,000.00. The term “**Maximum Required Restoration Cost**” shall mean and refer to the total of (i) the insurance proceeds payable in respect of any loss which is the subject of the Restoration for which such determination is to be made (excluding the proceeds of any business interruption or rent loss insurance) plus the deductible amount under any applicable insurance policy or, in the case of any taking which is the subject of such Restoration, the portion of any Award (as hereinafter defined) payable in respect thereof which is available for such Restoration, *plus* (ii) any additional insurance proceeds that would have been payable in respect of any such loss if Tenant had complied with all relevant obligations of Tenant under this Lease and all relevant obligations of Tenant under all insurance policies (excluding the proceeds of any business interruption or rent loss insurance), *less* (iii) necessary and proper expenses paid or incurred by Tenant in the adjustment and collection of the insurance proceeds (including, without limitation reasonable attorneys’ fees and disbursements).

(d) Tenant’s Obligations Not Affected. Tenant shall be obligated to carry out, or cause to be carried out, the Restoration pursuant to Section 12(b) or the Demolition pursuant to Section 12(c), as the case may be, regardless (except for Landlord’s negligence or willful misconduct) of the cause of the loss which is the subject of such Restoration or Demolition, whether or not insurance shall have been in effect with respect to such loss, whether or not any proceeds from any such insurance shall be paid by the insurer, and whether or not any such insurance proceeds shall be sufficient to cover the cost of such Restoration or Demolition. Anything herein to the contrary notwithstanding, unless caused by Landlord’s negligence or willful misconduct, Landlord shall not be obligated to carry out any Restoration or Demolition. Landlord shall not be liable for any inconvenience, loss of business or annoyance arising from any damage or destruction of or to the Improvements or from any Restoration or Demolition, whether carried out by Landlord or Tenant.

(e) Survival. The provisions of this Section 12 shall survive the expiration or earlier termination of this Lease.

13. CONDEMNATION.

(a) Notice. Landlord and Tenant each agree to give the other written notice of any taking by exercise of the power of condemnation or eminent domain, whether by legal

proceedings or otherwise (“**Taking**”) of all or any portion of the Premises promptly after receiving notice thereof. Landlord agrees not to initiate or endorse any Taking which would materially interfere with Tenant’s ability to use the Premises for the use(s) permitted under this Lease.

(b) Total Taking. In the event of a Taking (other than for temporary use) of the entire Premises or such a substantial part of the Premises that the remaining portion of the Premises, after Reconstruction, would be unsuitable for the continued use and occupancy for the uses permitted hereunder (a “**Total Taking**”):

(i) this Lease shall terminate as of the date that possession is delivered to the condemning authority;

(ii) Lease Payments shall be apportioned as of the date the Lease terminates; and

(iii) any condemnation award or payment shall be applied first to reimburse Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award (including, without limitation reasonable attorneys’ fees and disbursements). The amount of any condemnation award or payment remaining after first reimbursing Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award or payment (including, without limitation reasonable attorneys’ fees and disbursements) (the “**Net Condemnation Proceeds**”) shall be apportioned between Landlord and Tenant in the manner set forth in this Section.

(c) Partial Taking. In the event of any Taking (other than for temporary use) which is not a Total Taking:

(i) this Lease shall remain in full force and effect as to the portion of the Premises remaining immediately after such Partial Taking;

(ii) there shall be an equitable abatement of the Lease Payments payable under this Lease based on the portion of the Premises taken;

(iii) any condemnation award or payment shall be allocated first to the Leasehold Mortgagee, to the extent required by the Leasehold Mortgage or any related loan documents, and then to reimburse Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award (including, without limitation reasonable attorneys’ fees and disbursements);

(iv) Tenant shall proceed with due diligence to repair, restore and replace the Premises as nearly as possible to its condition and character immediately prior to such Partial Taking (the “**Reconstruction**”), except for any reduction in area caused thereby. The work performed under this Section shall be performed in accordance with the provisions of Section 4;

(v) the Net Condemnation Proceeds and any sums deposited by Tenant pursuant to Section 13(c)(vi) (collectively, the “**Reconstruction Funds**”) shall be held, invested and disbursed by the Insurance Depository to pay the costs of Reconstruction, subject to substantially the same terms and conditions as are applicable to the Net Insurance Proceeds under Section 12;

(vi) Tenant shall be solely responsible for any costs of Reconstruction which are in excess of the Net Condemnation Proceeds. If, at any time, Landlord reasonably determines that the Net Condemnation Proceeds will be insufficient to pay the remaining costs of Reconstruction, Tenant shall deposit the difference with the Insurance Depository, and such amount shall be held, invested and disbursed in the same manner as the Net Condemnation Proceeds;

(vii) any balance of the Reconstruction Funds remaining after completion of the Reconstruction shall be apportioned between Landlord and Tenant in accordance with the provisions of this Section 13.

(d) Net Condemnation Proceeds/Reconstruction Funds.

(i) In the event of a Total Taking, the Net Condemnation Proceeds shall be allocated first to the Leasehold Mortgagee, to the extent required by the Leasehold Mortgage or any related loan documents, and then apportioned between Landlord and Tenant in proportion to the fair market value of their respective interests in the Premises immediately prior to the Taking, as if such Taking had not occurred.

(ii) In the event of a Partial Taking, any Reconstruction Funds remaining after completion of the Reconstruction shall be applied first to reimburse Tenant for any sums deposited by Tenant pursuant to Section 13(c)(iv). The balance, if any, shall be apportioned between Landlord and Tenant in proportion to the fair market value of their respective interests in the Premises immediately prior to the Taking, as if such Taking had not occurred.

(iii) In determining the fair market value of Landlord’s interest in the Premises, due consideration shall be given to the fair market value of the Premises, as encumbered by the Lease, taking into account the remaining useful life of the Improvements at the expiration of the Term, as if such Taking had not occurred.

(e) Procedure for Apportioning Funds.

(i) Landlord and Tenant shall attempt, in good faith, to agree upon the apportionment of the Net Condemnation Proceeds or remaining Reconstruction Funds between Landlord and Tenant.

(ii) In the event that Landlord and Tenant are unable to agree upon the apportionment, either party shall have the right to submit such dispute (an “**Apportionment Dispute**”) to arbitration in accordance with the provisions of this Section and the arbitration rules of the American Arbitration Association then in existence.

(iii) During the first ten (10) days after either party notifies the other of its desire to submit the Apportionment Dispute to arbitration, Landlord and Tenant shall attempt to agree upon a single person (the “**Expert**”) who (a) shall be MAI certified, (b) shall have a minimum of ten (10) years’ experience in appraisal of real estate in the State in which the Premises are located, and (c) has not conducted within the previous three (3) years, does not presently conduct, and does not anticipate conducting a material amount of business with either Landlord or Tenant or their Affiliates, or otherwise have a financial interest in either Landlord or Tenant or their Affiliates and who is otherwise independent (the “**Expert Qualifications**”). If the parties agree upon a single Expert, each of them shall be responsible for one-half of the costs of the Expert so appointed. If Landlord and Tenant are unable to agree upon a single Expert, then within ten (10) days after the expiration of the period for agreeing upon a single Expert, each party, by giving notice to the other, shall appoint an Expert who meets the Expert Qualifications. Such notice shall be accompanied by a statement of all business conducted by the party making the appointment, and its Affiliates, with the Expert so appointed. If a party does not appoint an Expert within ten (10) days after the other party has given notice of the name of its Expert, the single Expert selected shall then be responsible for deciding the Apportionment Dispute.

(iv) If the two Experts are appointed by the parties as provided in this Section, they shall meet promptly and attempt to decide the Apportionment Dispute in accordance with the provisions of this Section. If they are unable to agree upon a resolution of the Apportionment Dispute within twenty (20) days after the second Expert has been appointed, the two Experts shall attempt to select a third Expert meeting the Expert Qualifications, within ten (10) days after the expiration of the period for the two Experts to render a decision. If the two Experts are unable to agree upon a third Expert within such period, either of the parties to this Lease may apply to the American Arbitration Association for the appointment of a third Expert who meets the Expert Qualifications. The third Expert, whether selected by the two Experts or by the American Arbitration Association, shall then be responsible for deciding the Apportionment Dispute. Each of the parties shall be responsible for the costs of its own Expert and one-half of the costs of the third Expert.

(v) In rendering a decision, the Expert(s) shall be entitled to solicit and receive both oral and written evidence, to conduct hearings and meetings and to consider any and all evidence which he deems necessary or appropriate to render his decision; provided, however, that in no event shall the Expert(s) conduct any *ex parte* hearings or otherwise receive oral evidence or testimony from any party outside the presence of the other party or, in the case of written evidence, unless a copy of such evidence is simultaneously delivered to the other party. The Expert(s) shall have no power to change the provisions of this Lease in any respect, and the jurisdiction of the Expert(s) is expressly limited accordingly.

(vi) The Expert(s) shall render a decision as soon as possible. Such decision shall be binding, final and conclusive on the parties (except in the case of manifest error), and judgment thereon may be entered in a court of competent jurisdiction.

(f) Taking For Temporary Use. In the event of a Taking of all or any portion of the Premises for temporary use or occupancy (a “**Temporary Taking**”):

(i) this Lease shall not terminate, there shall be no reduction in the Lease Payments payable under this Lease, and Tenant shall continue to perform and observe all of its obligations under this Lease as though such Taking had not occurred except only to the extent that it may be prevented from so doing;

(ii) any condemnation award or payment shall be applied first to reimburse Landlord and Tenant for the necessary and proper expenses paid or incurred by Landlord and Tenant in the collection of the condemnation award (including, without limitation reasonable attorneys' fees and disbursements);

(iii) the Net Condemnation Proceeds shall be held by the Insurance Depository and applied to the payment of Lease Payments coming due under this Lease. If the Temporary Taking extends beyond the expiration of the Term, Landlord shall be entitled to the portion of the Net Condemnation Proceeds allocable to the period after the expiration date;

(iv) at the termination of the Temporary Taking (whether prior or subsequent to the expiration date), Tenant shall proceed with due diligence to repair, restore and replace the Premises as nearly as possible to its condition prior to such Temporary Taking. The portion of the Net Condemnation Proceeds allocable to such Reconstruction shall be held, invested and disbursed by the Insurance Depository to pay the costs of Reconstruction upon substantially the same terms and conditions as are applicable to the Restoration Funds under Section 12. Tenant shall be responsible for any costs in excess of the amount of the award;

(v) any balance remaining after application of the condemnation award pursuant to Section 13(f)(ii), 13(f)(iii) and 13(f)(iv) shall be paid to Tenant.

(g) Survival. The provisions of this Article shall survive the expiration or earlier termination of this Lease.

14. LANDLORD ENCUMBRANCES. It is expressly understood and agreed that Landlord's fee interest in the Land is not subordinate to any Leasehold Mortgage (as hereinafter defined). Tenant has no right to, and shall not, place or create any mortgage or other lien or encumbrance purporting to encumber Landlord's fee interest in the Land. In the event Landlord elects to encumber the Land or any portion thereof with a fee mortgage, such fee mortgage shall be subordinate to Tenant's rights under this Lease and upon Tenant's request, Landlord shall execute and cause such fee mortgagee to enter into a recognition, non-disturbance and attornment agreement with Tenant, substantially in the form attached hereto as Exhibit F or such other form as Landlord, Tenant, such fee mortgagee and any Leasehold Mortgagee may mutually agree to.

15. LEASEHOLD MORTGAGE.

(a) Tenant may from time to time, and without the consent of Landlord, secure financing (which may include, without limitation, mortgage loans, general credit lines, bond financing, including Community Development District bond financing, and CPACE financing) from banks, insurance companies, other financial institutions or other lenders (each one, a

“**Leasehold Mortgage**”), granting to such Leasehold Mortgagee as security for such financing or general credit lines a mortgage encumbering Tenant’s leasehold interest in the Premises (which may include a collateral assignment of Tenant’s leasehold interest in the Premises with rights of reassignment, hereinafter a “**Leasehold Mortgage**”) and/or a security interest in any furnishings, fixtures, equipment and personalty purchased by or belonging to Tenant, or leased from third parties by Tenant and installed on the Premises by Tenant. To the extent any provision in this Section conflict or are inconsistent with any other provision of this Lease, the provisions of this Section shall control.

Tenant may also, with Landlord’s prior written consent, which shall not be unreasonably withheld, conditioned or delayed, apply for any county, state and federal grants that may be available to Landlord (including, without limitation, those available from the Florida Navigational District) for the financial benefit the Marina (collectively, the “**Grants**”) on behalf of Landlord. Landlord agrees to reasonably cooperate with Tenant in connection with Tenant’s application for any such Grants, provided that Landlord shall not be required to incur any cost or liability in connection therewith and Tenant shall be solely responsible for any costs incurred in connection therewith, including without limitation any contribution requirements.

(b) If Tenant shall enter into any such Leasehold Mortgage, the Tenant or Leasehold Mortgagee shall forward to Landlord a copy of such Leasehold Mortgage together with a written notice setting forth the name of the Leasehold Mortgagee and its notice information (address for certified mail and electronic mail (e-mail)).

(c) When giving notice to Tenant with respect to any default under the provisions of this Lease, Landlord shall also serve a copy of such notice upon the Leasehold Mortgagee, in accordance with such Leasehold Mortgagee’s preferred form of notice as previously established pursuant to clause (b) above. No such notice to Tenant shall be deemed to have been given unless a copy of such notice has been mailed to such Leasehold Mortgagee, which notice must specify the nature of each such default.

(d) The Leasehold Mortgagee, upon mailing by Landlord of the notice referred to in subparagraph (c) of this Section, shall have, in addition to any period of grace extended to Tenant under the terms and conditions of this Lease, a period of ninety (90) days within which to cure the default or cause the same to be cured or to commence to cure such default with diligence and continuity; provided, however, that as to any default of Tenant for failure to make Lease Payments or to pay taxes, insurance or other monetary obligations of Tenant hereunder, the Leasehold Mortgagee shall be given written notice of such default by certified mail by Landlord, and the Leasehold Mortgagee shall have thirty (30) additional days from the date the notice of default was mailed within which to cure such default. The Leasehold Mortgagee’s decision to cure, or cause to be cured, any default under the Lease shall be at the Leasehold Mortgagee’s sole discretion and election and Leasehold Mortgagee shall not be required to cure any non-monetary default not within such Leasehold Mortgagee’s control such as an act of bankruptcy.

(e) Each Leasehold Mortgagee shall have the right, but not the obligation, to perform any covenant or agreement under this Lease to be performed by Tenant, and Landlord shall accept such performance by any Leasehold Mortgagee as if performed by Tenant. In case Tenant shall default under any of the provisions of this Lease, the Leasehold Mortgagee shall have

the right (but not the obligation) to cure such default whether the same consists of the failure to make Lease Payments or to pay taxes, insurance, or other monetary obligation or the failure to perform any other matter or thing which Tenant is required to do or perform, and Landlord shall accept such performance on the part of the Leasehold Mortgagee as though the same had been done or performed by Tenant.

(f) In the case of any default by Tenant, other than in the payment of Lease Payments under this Lease, Landlord, so long as no monetary default beyond any applicable notice and cure periods shall exist, will take no action to effect a termination of the Term of this Lease without first giving to the Leasehold Mortgagee a reasonable time within which either (i) to obtain possession of the Premises (including possession by a receiver) and cure such default in the case of a default which is susceptible of being cured when the leasehold mortgagee has obtained possession; or (ii) to institute foreclosure proceedings and complete such foreclosure or otherwise acquire Tenant's interest under this Lease with diligence and continuity and thereafter to commence and diligently proceed to cure such default; provided, however, that the leasehold mortgagee shall not be required to continue such possession or continue such foreclosure proceedings if the default which would have been the reason for serving such a notice shall be cured, and provided further, that nothing in this Section shall preclude Landlord from exercising any rights or remedies under this Lease with respect to any other default by Tenant during any period of such forbearance.

(g) In the event of the termination of this Lease or of any succeeding lease made pursuant to the provisions of this Section prior to its stated expiration date, Landlord will quit claim to Leasehold Mortgagee any interest in the Improvements and, at the same time, enter into a new lease of the Premises upon the same terms and conditions as this Lease for the remainder of the Term with the Leasehold Mortgagee or, at the request of such Leasehold Mortgagee, to a corporation or other entity approved to conduct business in the State of Florida, formed by or on behalf of such Leasehold Mortgagee or by or on behalf of the holder of the note secured by the Leasehold Mortgage held by such Leasehold Mortgagee, for the remainder of the Term, effective on the date of such termination, upon the covenants, agreements, terms, provisions and limitations contained in this Lease (including, without limitation, the Lease Payments), provided that such Leasehold Mortgagee makes written request and executes, acknowledges and delivers to Landlord such new lease within thirty (30) days from the date of such termination and such written request and such new lease is accompanied by payment to Landlord of all amounts then due to Landlord, including reasonable attorneys' fees, court costs and disbursements incurred by Landlord in connection with any such default and termination as well as in connection with the execution and delivery of such new lease, less the net income collected by Landlord subsequent to the date of termination of this Lease and prior to the execution and delivery of the new lease, any excess of such net income over the aforesaid sums and expenses to be applied in payment of the Lease Payments thereafter becoming due under such new lease. In no event, however, shall such mortgagee or its nominee or designee be required to cure a default under this Lease which is not subject to being cured by such mortgagee or its nominee or designee in order to obtain a new lease. Any new lease referred to in this Section shall not require any execution, acknowledgment or delivery by Landlord in order to become effective as against Landlord and Landlord shall be deemed to have executed, acknowledged and delivered any such new lease immediately upon receipt by Landlord of such new lease accompanied by (i) payment to Landlord of all amounts then due to Landlord of which the Leasehold Mortgagee shall theretofore have received written

notice; and (ii) an agreement by the Leasehold Mortgagee to pay all other amounts then due to Landlord of which the Leasehold Mortgagee shall not theretofore have received written notice. In addition, immediately upon receipt by Landlord of such new lease, as provided in this subparagraph, Landlord shall be deemed to have executed, acknowledged and delivered to the Leasehold Mortgagee an assignment of all subleases covering the Premises which theretofore may have been assigned and transferred to Landlord and all subleases under which subtenants shall be required to attorn to Landlord pursuant to the terms and conditions of such subleases or this Lease. Such assignment by Landlord shall be deemed to be without recourse as against Landlord. Within ten (10) days after a written request therefore by the Leasehold Mortgagee, such assignment or assignments shall be reduced to writing in recordable form and executed, acknowledged and delivered by Landlord to the Leasehold Mortgagee.

(h) The Leasehold Mortgagee may become the legal owner and holder of this Lease by foreclosure of its mortgage or as a result of the assignment or quitclaim conveyance of this Lease and the Improvements in lieu of foreclosure, whereupon such Leasehold Mortgagee shall immediately become and remain liable under this Lease as provided in subparagraph (j) below, except that such Leasehold Mortgagee may assign this Lease without Landlord's consent to any assignee at any time, provided that prior notice is given to Landlord in accordance with this Lease.

(i) In the event that a Leasehold Mortgagee shall become the owner or holder of Tenant's interest by foreclosure of its mortgage or by assignment of this Lease in lieu of foreclosure or otherwise, the term "Tenant," as used in this Lease, means only the owner or holder of Tenant's interest for the time being so that, in the event of a sale, assignment or other disposition of Tenant's interest in this Lease by the Leasehold Mortgagee, the Leasehold Mortgagee shall be entirely freed and relieved of all covenants and obligations of Tenant under this Lease and it shall be deemed and construed, without further agreement between Landlord and the Leasehold Mortgagee or between Landlord, the Leasehold Mortgagee and the Leasehold Mortgagee's purchaser or assignee at any such sale or upon assignment of Tenant's interest, that the purchaser or assignee of Tenant's interest has assumed and agreed to carry out any and all covenants and obligations of Tenant. The Leasehold Mortgagee's purchaser or assignee shall sign an Assignment and Assumption Agreement of this Lease.

(j) Within ten (10) days after written request by Tenant or by Tenant's Leasehold Mortgagee, or in the event that upon any sale, assignment or mortgaging of Tenant's interest in this Lease by Tenant or Tenant's Leasehold Mortgagee, an offset statement shall be required from Landlord, Landlord agrees to deliver in recordable form a certificate to any proposed Leasehold Mortgagee, purchaser, assignee or to Tenant, certifying (if such be the case) (i) the amount of the Lease Payments due under the Lease, if any, and the date to which Lease Payments have been made; (ii) whether this Lease is in full force and effect; (iii) whether Landlord has any knowledge of any default under this Lease, or if any default exists, specifying the nature of the default; and (iv) whether there are no defenses or offsets which may be asserted by Landlord against Tenant in respect of obligations pursuant to this Lease as of the date of the estoppel. The estoppel letter shall be certified to Landlord and the Leasehold Mortgagee and none other.

(k) Reference in this Lease to acquisition of Tenant's interests in this Lease by the Leasehold Mortgagee shall be deemed to refer, where circumstances require, to acquisition of

Tenant's interest in this Lease by any purchaser at a sale on foreclosure of the Leasehold Mortgage and provisions applicable to the Leasehold Mortgagee in such instance or instances shall also be applicable to any such purchaser.

(l) So long as Tenant's interest in this Lease shall be mortgaged to a Leasehold Mortgagee, the parties agree for the benefit of such Leasehold Mortgagee that Landlord shall not sell, grant or convey to Tenant all or any portion of Landlord's fee simple title to the Premises without the prior written consent of such Leasehold Mortgagee. In the event of any such sale, grant or conveyance by Landlord to Tenant, Landlord and Tenant agree that no such sale, grant or conveyance shall create a merger of this Lease into a fee simple title to the Premises. This subparagraph (l) shall not be construed to prevent a sale, grant or conveyance of Landlord's fee simple title by Landlord to any person, firm or corporation other than Tenant, its successors, legal representatives and assigns.

(m) Reference in this Lease to a Leasehold Mortgagee shall be deemed to refer where circumstances require, to any assignee (subject to the provisions of subparagraph (i), above) of a Leasehold Mortgagee; provided that such assignee shall forward to Landlord a copy of such assignment of Leasehold Mortgage, together with a written notice setting forth the name and address of the assignee and its notice information (address for certified mail and electronic mail (e-mail)).

(n) Any Leasehold Mortgage shall be specifically subject and subordinate to Landlord's rights under this Lease. The sentence immediately preceding shall not be deemed or construed (by implication or otherwise) to impose or establish upon Tenant's interest in this Lease or upon the lien of any Leasehold Mortgage the superiority of any lien or encumbrance, including, without limitation, the lien of any fee mortgage, judgment or tax created directly or indirectly by, through or against Landlord or Landlord's interest in this Lease. Despite any provision which is or may appear to be to the contrary in this Lease, under no circumstances whatsoever shall the fee simple title interest of Landlord in the Premises, or any portion of them, be encumbered or subordinated, except for a mortgage on Tenant's leasehold interest.

(o) No Leasehold Mortgagee or other person succeeding to the interest of Tenant in this Lease through or subsequent to an enforcement proceeding shall be liable under this Lease, unless and until such time as it becomes the tenant of the leasehold estate, and then only for such obligations of Tenant which accrue during the period while it remains the tenant of the leasehold estate.

(p) Notwithstanding any provision in this Lease to the contrary, in the event of any Casualty or Taking of the Premises or any portion thereof and if allowed by law or its agreements with Tenant, the most senior Leasehold Mortgagee (or such other Leasehold Mortgagee, in order of lien priority, if the Leasehold Mortgagee having the most senior lien shall not request or shall not be permitted by law or its agreements with Tenant to do so) shall be permitted to receive insurance proceeds and/or condemnation awards otherwise payable to Tenant and shall be permitted (but shall not be obligated except as required by law or its agreements with Tenant or as provided in the next sentence) to restore the Premises. In addition, if such Leasehold Mortgagee (by reason of its acquiring Tenant's leasehold estate) shall be obligated under this Lease

to repair or restore the Premises, such obligation shall be limited to the amount of such proceeds or awards actually received by such Leasehold Mortgagee.

(q) Upon Tenant's request, and at no material cost to Landlord, Landlord shall execute such documents or instruments confirming Tenant's right and authority to enter into a Leasehold Mortgage and/or granting a security interest in this Lease and confirming that Landlord will give such Leasehold Mortgagee notice and the right to cure any Default of Tenant as provided herein. In addition, Landlord, upon the request of Tenant or any Leasehold Mortgagee, shall execute such reasonable modifications or amendments of this Lease as shall be required by such Leasehold Mortgagee or by any person to which Tenant has made application for a Leasehold Mortgage provided such modifications or amendments do not, taken as a whole, materially affect Tenant's obligations or materially affect Landlord's rights under this Lease. Landlord shall not unreasonably refuse any such request for such modification or amendment. Further, Landlord agrees to enter into a triparty agreement with Tenant and its lender, upon terms and conditions acceptable to such lender and to Landlord, to set forth the rights of Tenant's lender substantially as provided in this Section. In no case shall Landlord be required to guarantee any loan, provide any financing, or mortgage any of its property.

(r) Landlord and Tenant agree that they will make good faith efforts to assist one another so that Tenant can obtain a commercially reasonable loan to finance the construction of the Hotel Component.

16. LANDLORD NON-DISTURBANCE AND RECOGNITION AGREEMENT.

Tenant may enter into one or more subleases for the Premises with subtenants. Provided that Tenant obtain the prior written consent of the subject sublease(s) from Landlord, and Landlord agrees that such consent shall not be unreasonably withheld, conditioned, or delayed, then:

(a) Upon any termination of this Lease, provided the applicable subtenant of the Premises (or any portion thereof) is not in default under its sublease beyond any applicable notice and cure periods, (i) Landlord shall not disturb such subtenant's possession of its subleased premises, nor shall any of such subtenant's rights under its sublease be affected in any way by reason of any default under this Lease by Tenant, provided such subtenant shall attorn and recognize Landlord, as the subtenant's sublandlord under its sublease and (ii) Landlord shall recognize such subtenant's rights under its sublease, as such subtenant's sublandlord under its sublease, and accept such subtenant's attornment.

(b) Upon any such attornment and recognition, the applicable sublease shall continue in full force and effect as, or as if it were, a direct lease between Landlord and the subtenant upon all of the then executory terms, conditions and covenants as are set forth in the sublease prior to the date of attornment, and shall be applicable after such attornment and recognition provided, however, at no time shall Landlord be (i) liable for any prior default by Tenant, as sublandlord under the sublease; (ii) responsible for any monies owing by Tenant, as sublandlord under the sublease; (iii) required to account for any security deposit, other than any security deposit actually delivered to Landlord or for any rent that the subtenant might have paid for more than the current month to Tenant; nor (v) liable for the breach of any representation or warranty (of any nature whatsoever) made by Tenant or to any other party for matters arising prior to the date of attornment.

(c) Upon the request of a subtenant of the Premises (or any portion thereof), Landlord shall enter into a commercially reasonable non-disturbance, attornment and recognition agreement with the subtenant setting forth the terms and conditions of this Section 16 and such other terms as mutually may be agreed upon by Landlord and the subtenant.

17. COVENANT OF QUIET ENJOYMENT. Landlord covenants and warrants that, provided Tenant is not in breach of any material term of this Lease beyond any applicable notice and cure period, Tenant shall peacefully have and enjoy the sole possession of the Premises during the Term free from the adverse claims of any persons, firms or corporations claiming by, through or under Landlord. Landlord agrees to execute any and all easements or rights of way on, over or under the Premises or any part thereof at Tenant's request which are or may be needed or required by Tenant in conjunction with Tenant's use and enjoyment of the Premises; and Landlord agrees to execute any other public utility or governmental body related documents or agreements in the form customarily provided by such public utility or governmental body, which is necessary to fulfill the intent and purposes of this Lease, including, without limitation, the facilitation of, a successful prosecution of all Improvements and construction, signage rights, parking, access, drainage, utilities, communications, lighting, governmental services, the operations by Tenant under this Lease, and all other matters and things contemplated or impliedly necessary under this Lease for its full effectuation, performance or realization. Landlord agrees not to file or cause any zoning change to be made that would affect the Premises without the prior written approval of Tenant. Landlord warrants and represents that there are no mortgages or deeds of trust applicable to the Premises as of the Effective Date.

Landlord represents and warrants that the Premises are owned in fee simple by Landlord; that it is seized of the Premises in fee, subject only to the exceptions set forth on Exhibit D hereto, and that it has entered into this Lease with proper authority. If, at any time during the Term, any indebtedness, lien, assessment, claim, or other matter whatsoever shall arise or shall be asserted which in any way interferes or threatens to interfere with Tenant's use of the Premises as herein provided or referenced, and such indebtedness, lien, assessment, claim, or other matter arises due to Landlord's breach of this Lease or any act or omission of Landlord from and after the Effective Date, then Tenant shall have the right to expend such sums as are necessary to abate said threat or interference and deduct the same from consideration due Landlord until Tenant is reimbursed in full.

18. ASSIGNMENT AND SUBLETTING.

(a) Except as otherwise expressly provided herein, Tenant shall be permitted to sublease any portion of the Premises, in whole or in part, in any manner whatsoever, to subtenants (a "**Premises Tenant**") pursuant to a sublease in the ordinary course of its business (a "**Tenant Lease**") without the consent of Landlord, if the use specified in the Tenant Lease is permitted hereunder and by current and applicable zoning requirements. Tenant also may transfer, license, lease, sublease, and/or assign this Lease and its rights and interests hereunder, without the consent of Landlord, (i) at any time, to an Affiliate (as such term is defined in the Comprehensive Agreement), provided that Tenant or the Developer or a manager who is a knowledgeable manager reasonably approved by Landlord is the manager of such Affiliate; and (ii) from and after the issuance of a certificate of occupancy with respect to the Hotel Component, to any third party. Tenant shall also be permitted to transfer, convey or pledge its interest in this Lease to a Leasehold

Mortgagee without the consent of Landlord. Any such sublease, transfer, conveyance or pledge by the Tenant shall be subject to all of the terms and provisions of this Lease. Except as otherwise expressly permitted hereunder, if Tenant seeks to assign, transfer or sell its leasehold interest in this Lease, the express prior written consent of Landlord shall be required, which consent shall not be unreasonably withheld, conditioned or delayed. Any such consent to an assignment shall be subject to all of the terms and provisions of this Lease and, provided that the assignee agrees in writing to assume all of the Tenant's rights and obligations under this Lease, shall release Tenant from its obligations under this Lease. Landlord's consent shall not be required for Premises Tenant's certificates of occupancy, building permits, tenant allowances or buildout terms and procedures except as may otherwise be required by Landlord by virtue of Landlord being the Governmental Authority overseeing these items in its regulatory capacity. Within sixty (60) days of executing a Tenant Lease with a Premises Tenant, Lessee shall notify Lessor the Tenant Lease has been executed and the identity of the Premises Tenant.

(b) Should Tenant take any action to assign this Lease without the prior written consent of Landlord as provided in Section 18(a), then any such assignment shall be null and void and of no force and effect.

(c) Any successor or assignee of Tenant's rights and/or obligations under this Lease shall expressly assume in writing performance of such rights and/or obligations and deliver same to Landlord within ten (10) days after consummation of the assignment, transfer or sale.

19. NOTICES. All notices, requests, consents, demands, approvals or other communications required or permitted under this Lease shall be in writing, addressed to the person identified below, and delivered either by: (a) hand delivery, (b) overnight courier by a nationally recognized courier, with all fees prepaid; Registered or Certified Mail, return receipt requested and postage prepaid; or delivered by email with "FORMAL NOTICE UNDER GROUND LEASE" in the subject line:

If to Landlord: Town of Lake Park
 Attention: Town Manager
 535 Park Avenue
 Lake Park, Florida 33403

With a copy to:

Town of Lake Park
 Attention: Town Attorney
 535 Park Avenue
 Lake Park, Florida 33403

If to Tenant: FD P3 LP Hotel, LLC,
 c/o Forest Development P3 LPM, LLC
 Attn: Peter Baytarian
 11231 US Highway 1, Suite 354

North Palm Beach, Florida 33408
info@forestdevelopment.com

And to:

Saul Ewing LLP
Attn: Anthony Kang
701 Brickell Avenue, 17th Floor
Miami, Florida 33131
Anthony.kang@saul.com

With a copy to:

Zabik & Associates, Inc.
Attn: Larry Zabik
11398 Okeechobee Blvd, Suite 2
Royal Palm Beach, Florida 33411
lzabik@zabikandassociates.com

Any and all tax notices and information shall also be sent to: Tenant

Each such notice shall be deemed delivered: (i) if delivered by hand, the date the receipt is signed; (ii) if sent by overnight courier, on the courier's confirmation of delivery date, or (iii) if sent by Registered or Certified Mail, upon receipt as indicated by the date on the signed return receipt.

Landlord and Tenant agree that any and all notices given by either party shall be provided simultaneously to any assignee of Tenant or any lender to Tenant when such assignee or lender has been previously identified in writing to the parties along with the appropriate address for such notices. Either Party may, at any time, change its address for the above purposes by sending a notice to the other party stating the change and setting forth the new address.

20. MISCELLANEOUS.

(a) Captions. Captions or headings of sections are for convenience only and shall not be considered in construing the meaning of the contents of such section.

(b) Partial Invalidity. If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

(c) Prevailing Party. Should Landlord or Tenant institute any legal proceedings against the other for breach of any provisions herein contained, each party in such action shall be

responsible for its own conduct costs and litigation expenses including reasonable attorneys' fees through all levels of appeal.

(d) No Prior Agreements / No Third-Party Beneficiaries. This Lease supersedes and cancels all prior negotiations between the parties, and all other negotiations and understandings are merged into this Lease. This Lease, together with the terms and conditions of the Comprehensive Agreement applicable to the Hotel Component, constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof. The parties acknowledge that there are no other promises, agreements, conditions, undertakings, warranties, or representations, oral or written, express or implied, between and among them, except as set forth, referenced, or incorporated herein or in the Comprehensive Agreement (to the extent incorporated herein). Furthermore, this Lease is intended solely for the benefit of the parties hereto expressly noted herein and whose signatures appear hereon and their respective permitted successors and assigns, as applicable. No third party shall have any rights or interest herein and there are no and shall be no third-party beneficiaries hereto.

(e) Amendments and Modifications/No Oral Modifications. All amendments or modifications to this Lease must be in writing signed by the Parties. No purported amendments or modifications to this Lease which are oral shall be effective, binding or enforceable.

(f) Interpretation and Gender. The singular shall include the plural, and the masculine, feminine or neuter shall include either of the others as appropriate in context.

(g) Successors and Assigns. All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors and assigns of the said parties; they shall all be bound jointly and severally by the terms, covenants and agreements herein.

(h) No Waiver. The failure to enforce any particular provision of this Lease on any particular occasion shall not be deemed a waiver by either party of any of its rights hereunder, nor shall it be deemed to be a waiver of subsequent or continuing breaches of that provision.

(i) Estoppel Certificates. Landlord and Tenant agrees, from time to time as may be requested by each other, to execute, acknowledge and deliver within thirty (30) days after being requested to do so an estoppel letter certifying the following to such party as it reasonably may designate, including any Leasehold Mortgagee: (a) that (i) this Lease is in full force and effect and has not been amended, modified or superseded; (ii) Landlord and Tenant are not in default under this Lease; (iii) Tenant has no defense, offset or counterclaim under this Lease or otherwise against Landlord with respect to this Lease or the Premises; (b) the date to which Lease Payments have been paid; and (c) such other information as the requesting party may reasonably request.

(j) Calculation of Time Periods. In the computation of any time periods hereunder shall exclude Saturdays, Sundays, and state or national legal holidays, and any time period provided for herein which shall end on Saturday, Sunday, or a legal holiday shall extend to 6:00 p.m. eastern time of the next business day.

(k) Florida Law and Venue. This Lease and all of its provisions shall be construed in accordance with the laws of the State of Florida. In the case of any legal proceedings, venue shall be Palm Beach County.

(l) Severability. In the event any provision of this Lease is prohibited, unenforceable or invalid under the laws of any jurisdiction, including those of the State of Florida, such prohibition, or unenforceable or invalid provision shall not in any fashion affect the enforceability or validity of the remaining provisions hereof.

(m) Construction. This Lease shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that all parties have contributed substantially and materially to the preparation of this Lease.

(n) No Cross Default. The Comprehensive Agreement contemplates that the "Project" (as defined in the Comprehensive Agreement) will be comprised of the "Hotel Component," the "Boat Storage Component," the "Public Marina Component" and the "Marina Restaurant Component" (collectively the "**Components**" and individually a "**Component**"). The Developer has created a separate entity to be the tenant under this Lease and separate entities to be the tenants under separate ground leases with Landlord with respect to the Boat Storage Component (the "**Boat Storage Lease**"), the Public Marina Component ("**Marina Lease**"), and the Marina Restaurant Component (the "**Restaurant Lease**"). The Boat Storage Lease, the Marina Lease and the Restaurant Lease are collectively referred to herein as the "**Other Leases**" and individually as an "**Other Lease**").

Landlord and Tenant hereby agree that the rights and obligation under the Comprehensive Agreement shall be bifurcated so that (i) any rights and obligations with respect to the Hotel Component under the Comprehensive Agreement shall only benefit and be required to be performed by the Tenant under this Lease, any obligation under this Lease shall only apply to the Hotel Component under the Comprehensive Agreement, and any breach of the obligations under this Lease or the rights and obligations under the Comprehensive Agreement with respect to the Hotel Component shall not affect or constitute a default under the Other Leases; (ii) any rights and obligations with respect to any Component (other than the Hotel Component) under the Comprehensive Agreement shall only benefit and be required to be performed by the tenant under the applicable Other Lease, any obligation under the applicable Other Lease shall only apply to the applicable Component of such Other Lease under the Comprehensive Agreement, and any breach of the obligations under such Other Lease or the rights and obligations under the Comprehensive Agreement with respect to the Component applicable to such Other Lease shall not affect or constitute a default under this Lease; and (iii) to the extent of any inconsistency between the terms of this Lease and the terms of the Comprehensive Agreement, the terms of this Lease shall prevail and control.

(o) Landlord Approval. Landlord shall act on requests from Tenant for any consent or approval hereunder in a commercially reasonable manner and shall use commercially reasonable efforts to respond to any such request within twenty (20) days following Landlord's receipt thereof (unless another time period for such response is expressly provided for herein). Landlord's response may consist of an approval or disapproval of the request, or a conditional

approval thereof subject to specified conditions, or a request for further data or information, or any combination thereof. If Landlord does not approve, reject or request additional information regarding any request hereunder within twenty (20) days following Landlord's receipt thereof (or another time period expressly provided for herein with respect thereto), Tenant may provide to Landlord a second written request, which shall include a legend, printed in capital letters and boldface type, to the following effect: **"THIS COMMUNICATION REQUIRES IMMEDIATE RESPONSE. FAILURE TO RESPOND WITHIN TEN (10) DAYS FROM THE RECEIPT OF THIS COMMUNICATION SHALL CONSTITUTE A DEEMED APPROVAL BY LANDLORD OF THE ACTION REQUESTED BY TENANT."** Landlord shall be deemed to have approved or consented to such action if Landlord fails to object to or request additional information with respect thereto within ten (10) days of such second request.

Wherever in this Lease the approval or consent of Landlord is required, it is understood and agreed that, unless specifically stated to the contrary, such approval or consent shall be granted or withheld in the reasonable discretion of Landlord or of the Town Manager) of Landlord (the **"Town Manager"**) (as applicable), within a reasonable time, and shall not be unreasonably withheld, conditioned or delayed. Except as may be otherwise specifically provided herein, the following actions under this Lease shall be taken or not taken by the Town Manager in the discretion of the Town Manager acting reasonably:

- (i) The exercise of Landlord's rights of entry and inspection;
- (ii) The exercise of Landlord's right or obligation to execute a joinder in (a) applications for land development approvals or other governmental approvals (including permits) which are necessary for Tenant to obtain from governmental authorities, and where such applications require evidence of the consent of the property owner, and (b) any easement, declaration, amendment or creation of an agreement affecting title to the Premises and any other document as may be requested by Tenant in connection with the development and/or operation of the Premises;
- (iii) The exercise of Landlord's right to receive and approve or not approve and specify the basis for such disapproval the form of certificates of insurance, policies, limits, and coverages of insurance, bonds, and Environmental Assessments;
- (iv) The execution of estoppel statements (or any modifications of the terms thereof) to be given by Landlord under this Lease;
- (v) The approval, if required, of any assignment or sublease; and
- (vi) Other provisions of this Lease where the act, approval or consent of the Landlord is expressly authorized or required, except any amendment to this Lease shall require the written consent of the Town Commission of the Landlord.

(p) Further Assurances. Each Party will promptly cooperate each with the other and will execute and deliver any and all written further assurances and/or documents that are reasonably necessary, convenient, or desirable to evidence, complete or perfect (or any combination thereof) the transactions contemplated by this Lease, so long as no further assurance or document to be executed operates to impose any new or additional obligation or liability upon

any Party. Each Party will so perform all other acts that are reasonably necessary, convenient, or desirable for any such purpose, so long as no new or additional obligations or liabilities are incurred as a result thereof.

Additionally, Landlord further agrees that it will execute such documents and perform such acts as Tenant may reasonably require in connection with the development and/or operation of the Premises, including, but not limited to, executing such easements, documents affecting title to the Premises, applications for governmental approvals, modifications and/or termination of existing easements and/or restrictions affecting the Premises, creation of declarations affecting the Premises and such other documents and acts as reasonably requested by Tenant in connection with its development and/or operation of the Premises, provided that such cooperation shall be subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed.

21. DELAYS. In any case where either party hereto is required to do any act, such party shall be excused from the performance thereof for the duration of delays caused or resulting from Acts of God, war, civil commotion, fire or other casualty, labor difficulties, general shortages of labor, materials or equipment, government regulations, moratorium, other causes beyond such party's reasonable control or circumstances or events characterized at law as "force majeure", whether the time for such performance shall be designated by a fixed date, a fixed period of time, or a "reasonable" period of time. In addition, should any lawsuit, legal proceeding, investigation or other legal matter be filed or commenced against Landlord, Tenant, or any other party related to this Lease, which materially affects this Lease, all time periods contained in this Lease shall be delayed until such legal matter is resolved in its entirety, including any and all appellate proceedings or the like. Notwithstanding anything to the contrary set forth in this Section 21 or elsewhere in this Lease, no event of force majeure (or any event deemed to be beyond the control of Tenant) shall be construed to apply to any of Landlord's or Tenant's monetary obligations hereunder or to permit or allow either Landlord or Tenant to delay or defer any such obligation.

22. ENVIRONMENTAL MATTERS.

(a) For purposes hereof, the following terms shall have the following meanings:

(i) **"Environmental Laws"** shall mean all Federal, state and local laws, statutes, ordinances, codes, rules, regulations and other requirements respecting the environment, including but not limited to those respecting: (A) the generation, use, handling, processing, storage, treatment, transportation, or disposal of any solid or hazardous wastes, or any hazardous or toxic substances or materials; (B) pollution or contamination of land, improvements, air (including indoor air), or water (including groundwater); (C) emissions, spills, releases, or discharges of any substance onto or into the land, improvements, air (including indoor air), or water (including groundwater), or any sewer or septic system; (D) protection of wetlands; (E) aboveground or underground storage tanks; (F) air quality (including indoor air quality) or water quality (including groundwater quality); and (G) protection of endangered species. Without limiting the generality of the foregoing, the term "Environmental Laws" includes the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C., Sec. 9601, et seq.; the Resource Conservation and Recovery Act, as amended, 42

U.S.C., Sec. 6901, et seq., and the Toxic Substance Control Act of 1976, as amended, 15 U.S.C., Sec. 2601, et seq.

(ii) **“Environmental Violation”** shall mean (A) any direct or indirect discharge, disposal, spillage, emission, escape, pumping, pouring, injection, leaching, release, seepage, filtration or transporting of any Hazardous Substance at, upon, under, onto or within the Premises, or from the Premises to the environment, in violation of any Environmental Law or in excess of any reportable quantity established under any Environmental Law or which could result in any liability to any Governmental Authority or any other person for the costs of any removal or remedial action or natural resources damage or for bodily injury or property damage, (B) any deposit, storage, dumping, placement or use of any Hazardous Substance at, upon, under or within the Premises or which extends to any adjoining property in violation of any Environmental Law or in excess of any reportable quantity established under any Environmental Law or which could result in any liability to any Governmental Authority or any other person for the costs of any removal or remedial action or natural resources damage or for bodily injury or property damage, (C) the abandonment or discarding of any barrels, containers or other receptacles containing any Hazardous Substances in violation of any Environmental Laws, or (D) any violation of or noncompliance with any Environmental Law.

(iii) **“Governmental Authority”** shall mean any federal, state, county or municipal government, or political subdivision thereof, any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality, special service district or public body, or any court or administrative tribunal.

(iv) **“Hazardous Substances”** shall mean any substance, material or waste defined as a pollutant or contaminant, or as a hazardous, toxic or dangerous substance, material or waste, under any Environmental Law, including, without limitation, petroleum, petroleum products, PCBs and asbestos.

(b) Tenant shall not use, or permit its agents, employees, contractors, subtenants, licensees or invitees to use the Premises for the purpose of treating, producing, handling, transferring, processing, transporting, disposing, using or storing a Hazardous Substance in violation of any Environmental Law. Tenant shall, at Tenant’s own expense, comply with all Environmental Laws as the same affect the Premises or the operations and activities of Tenant, its agents, employees, contractors, subtenants, licensees or invitees (collectively, **“Tenant Parties”**) on or about the Premises.

(c) In the event Tenant becomes aware of any Environmental Violation or any suspected Environmental Violation at the Premises, Tenant shall promptly (a) notify Landlord of such Environmental Violation or suspected Environmental Violation, and (b) deliver to Landlord any notice filed by or received by Tenant with or from any Governmental Authority relating thereto immediately upon filing or receipt thereof.

(d) In the event that, in the reasonable opinion of Landlord, there is a basis to believe that an Environmental Violation exists, Landlord shall have the right to have its environmental consultants (**“Site Reviewers”**) visit the Premises and perform environmental site

investigations and assessments (“**Site Assessments**”) on the Premises for the purpose of determining whether there exists on the Premises any Environmental Violation or any condition which is likely to result in any Environmental Violation. Such Site Assessments may include both above and below the ground testing for Environmental Violations and such other tests as may be necessary, in the opinion of the Site Reviewers, to conduct the Site Assessments. The Site Reviewers shall use their good faith diligent efforts to minimize any interference with the operations of Tenant and other occupants of the Premises. Tenant shall supply to the Site Reviewers such historical and operational information regarding the Premises as may be reasonably requested by the Site Reviewers to facilitate the Site Assessments and shall make available for meetings with the Site Reviewers appropriate personnel having knowledge of such matters.

(e) In the event that there exists any Environmental Violation caused by any Tenant Party, Tenant shall, at its own cost and expense:

(i) promptly and diligently take any and all actions necessary to return the Premises to a condition which is in compliance with Environmental Laws, and which will not impede or limit further development of the Premises;

(ii) provide Landlord, within ten (10) days after Landlord’s request therefor, adequate financial assurances that Tenant will effect remediation in accordance with applicable Environmental Laws. Such financial assurances shall be a bond or letter of credit in form and substance reasonably satisfactory to Landlord and in an amount equal to Landlord’s reasonable estimate of the anticipated cost of such remedial action;

(iii) without limiting the generality of Section 22(e)(i), make all submissions and provide all information required by Environmental Laws. Tenant shall comply with all requests of the United States Environmental Protection Agency, the Florida Department of Environmental Protection and any other Governmental Authority having jurisdiction over the Premises, including any request that a cleanup plan be prepared and that a cleanup be undertaken with respect to the Premises. In such event, Tenant shall, at Tenant’s own expense, prepare and submit appropriate documents, and carry out the approved plans, or take such other action as may be appropriate to eliminate any environmental harm or threat to public health or welfare and to eliminate any potential liability of Landlord or Tenant. Any submissions made by Tenant pursuant to this Section and any action taken by Tenant pursuant to such submissions shall be subject to the prior review and approval of Landlord, which approval shall not be unreasonably withheld.

(f) Tenant shall indemnify, defend and save Landlord harmless from all claims, actions, suits, proceedings, losses, damages, liabilities, fines and expenses (including without limitation fees of attorneys, investigators and experts) arising or alleged to arise from or in connection with (a) any Environmental Violations, and (b) Tenant’s failure to provide all information, make all submissions and take all actions with respect to the Premises required by any Governmental Authority in connection with any Environmental Violations.

22. RADON. Section 404.056 (6), Fla. Stat., requires the inclusion of the following “Notification on Real Estate Documents” at the time of, or prior to, contract for sale and purchase

of any building or execution of a rental agreement for any building: "Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department."

23. SURRENDER. Upon the expiration or any earlier termination of the Term:

(a) Tenant shall surrender the Premises to Landlord, in good order, condition and repair, reasonable wear and tear, Casualty and Taking excepted;

(b) all right, title and interest of Tenant in and to the Premises shall automatically cease and terminate; and

(c) Tenant shall deliver the following to Landlord, to the extent in the possession or control of Tenant: (a) executed counterparts of any subleases, occupancy, license and concession agreements; (b) executed counterparts of any service and maintenance contracts then affecting the Premises; (c) true and complete maintenance records for the Premises; (d) any original licenses and permits then pertaining to the Premises, including, without limitation, the then existing certificate of occupancy for the Premises; and (e) any warranties and guaranties then in effect which Tenant has received in connection with any work or services performed or equipment installed in the Premises, together with a duly executed assignment thereof to Landlord. Nothing herein contained shall be or be deemed to be a consent by Landlord to any sublease, occupancy, license, concession agreement, service or maintenance contract for a term to expire later than the Expiration Date.

Notwithstanding the foregoing to the contrary, Landlord shall have the right to elect upon the expiration or any earlier termination of the Term, by written notice to Tenant no later than six (6) months prior to the date of such expiration or earlier termination, to require Tenant to raze the Improvements, and clear, grade and seed the former location thereof and put the Premises in good, safe, lawful, clean and orderly condition, in which event Tenant, at its sole cost and expense, shall do so at its sole cost and expense within one hundred and eighty (180) days of such expiration or termination.

24. RIGHT OF FIRST REFUSAL. From and after the date hereof and during the Term, Landlord shall not sell, transfer or otherwise dispose of or convey all or part of Landlord's fee interest in the Premises to any third party until and unless Landlord shall have obtained a bona fide offer therefor (the "**Landlord's Offer**"), delivered written notice thereof to Tenant, which notice shall contain a true and accurate copy of Landlord's Offer, and offered to sell, transfer or otherwise dispose of such fee interest to Tenant at the same price and, except as hereafter provided, upon the same terms and conditions as contained in Landlord's Offer, and Tenant has not elected to exercise its right of first refusal in accordance herewith.

If Tenant shall either deliver written notice of rejection of Landlord's Offer to Landlord or fail to deliver written notice of acceptance of Landlord's Offer within thirty (30) days after the date of receipt of Landlord's notice, Landlord's fee interest in the Premises may, during the one

hundred eighty (180) days thereafter, be sold, transferred or otherwise disposed of to the original offeror at the same price and upon the same terms and conditions as contained in Landlord's Offer.

In the event Tenant rejects Landlord's Offer or fails to accept Landlord's Offer in accordance herewith, this Lease and all of its terms and conditions (including this right of first refusal) shall nevertheless remain in full force and effect and Landlord and any purchaser or purchasers of the Premises shall be bound thereby.

Failure of Tenant to exercise its right of first refusal on one or more occasions shall not affect Tenant's right to exercise it on any subsequent occasion. Any sale or transfer of the Premises, or any part thereof, other than in strict compliance with the terms of this Section shall be null and void and of no effect as to Tenant, and Tenant shall be entitled to purchase the Premises from the purchaser upon the same terms and conditions and at the same price specified in Landlord's Offer, provided Tenant notifies Landlord of its election thirty (30) days after receipt of notice that complies with the requirements hereof. The making of Lease Payments to such purchaser or otherwise treating such purchaser as Landlord shall not be deemed to be a waiver of Tenant's right of first refusal or any other right or privilege of Tenant and shall not create an estoppel with respect thereto.

Any sale or transfer of Landlord's interest in the Premises, or any part thereof shall be expressly made subject to all of the terms, covenants and conditions of this Lease. In the event Landlord's Offer provides for the sale and purchase of Landlord's interest in the Premises and other property, Tenant shall only be required to purchase all the Premises in the event it desires to exercise its right of first refusal hereunder.

In the event Tenant exercises its right of first refusal then, notwithstanding the terms of Landlord's Offer (i) Landlord shall convey title to the Premises by warranty deed approved by Tenant and the title company; (ii) title to the Premises shall be free and clear of any liens and encumbrances except the lien for current taxes which are not delinquent at the time of closing and such other exceptions to title as may have been created by Tenant during the Term or as existed on the date hereof and/or were approved by Tenant thereafter; and (iii) title to the Premises shall otherwise comply with the terms of this Lease as they pertain to condition of title. Upon such election by Tenant, Landlord and Tenant agree to act in good faith to consummate a purchase agreement for the Premises incorporating the express terms of Landlord's Offer and other customary terms and provisions for similar transactions of similar property located in the same geographic area as the Premises.

25. NO BROKER. Landlord and Tenant represent and warrant to each other that no broker or finder was involved in arranging or bringing about this transaction and that there are no claims or rights for commissions, finders' fees or other compensation (collectively, "**compensation**") by any person or entity. If any broker or finder asserts a claim for compensation based upon any actual or alleged contact, dealings or communication with Landlord or Tenant, then the party through whom such broker or finder makes its claim shall indemnify and hold the other party (the "**Indemnified Party**") harmless from and against any and all claims, damages, judgments, suits, liabilities, losses, costs and expenses (including without limitation, reasonable

attorneys' fees and court costs) suffered or incurred by or brought against the Indemnified Party in connection with such claim for compensation..

26. MEMORANDUM OF LEASE. Immediately following the execution of this Lease, the parties shall execute and record a Memorandum of Lease in the public records in the form attached hereto as Exhibit E.

27. WAIVER OF TRIAL BY JURY. THE PARTIES HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE OR THE RELATIONSHIP OF THE PARTIES CREATED HEREBY. THE PARTIES FURTHER HEREBY WAIVE THE RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN WAIVED. THE FOREGOING WAIVERS ARE IRREVOCABLE AND MUTUALLY, KNOWINGLY, WILLINGLY, INTENTIONALLY AND VOLUNTARILY MADE AFTER EACH PARTY HAS HAD THE BENEFIT OF OR OPPORTUNITY TO GAIN LEGAL ADVICE AND COUNSEL. EACH PARTY REPRESENTS, WARRANTS AND AFFIRMS TO THE OTHER THAT NO PARTY HAS IN ANY WAY AGREED, REPRESENTED OR OTHERWISE SUGGESTED OR IMPLIED THAT IT WILL NOT FULLY ENFORCE THE FOREGOING WAIVERS IN ALL INSTANCES.

[The Balance of the Page Intentionally Left Blank – Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be duly executed by their duly authorized officer where applicable and sealed as of the date first above written.

TENANT:

FD P3 LP HOTEL, LLC,
a Florida limited liability company

By: _____

Name: PETER BAYTARIAN
Title: MANAGER

Date: 1/3/24

LANDLORD:

TOWN OF LAKE PARK, FLORIDA

_____, Attest;
a Florida municipal corporation

By: _____

Mayor

By: _____

Town Clerk

Date: 1-3-24

Approved as to form and legal sufficiency

By: _____

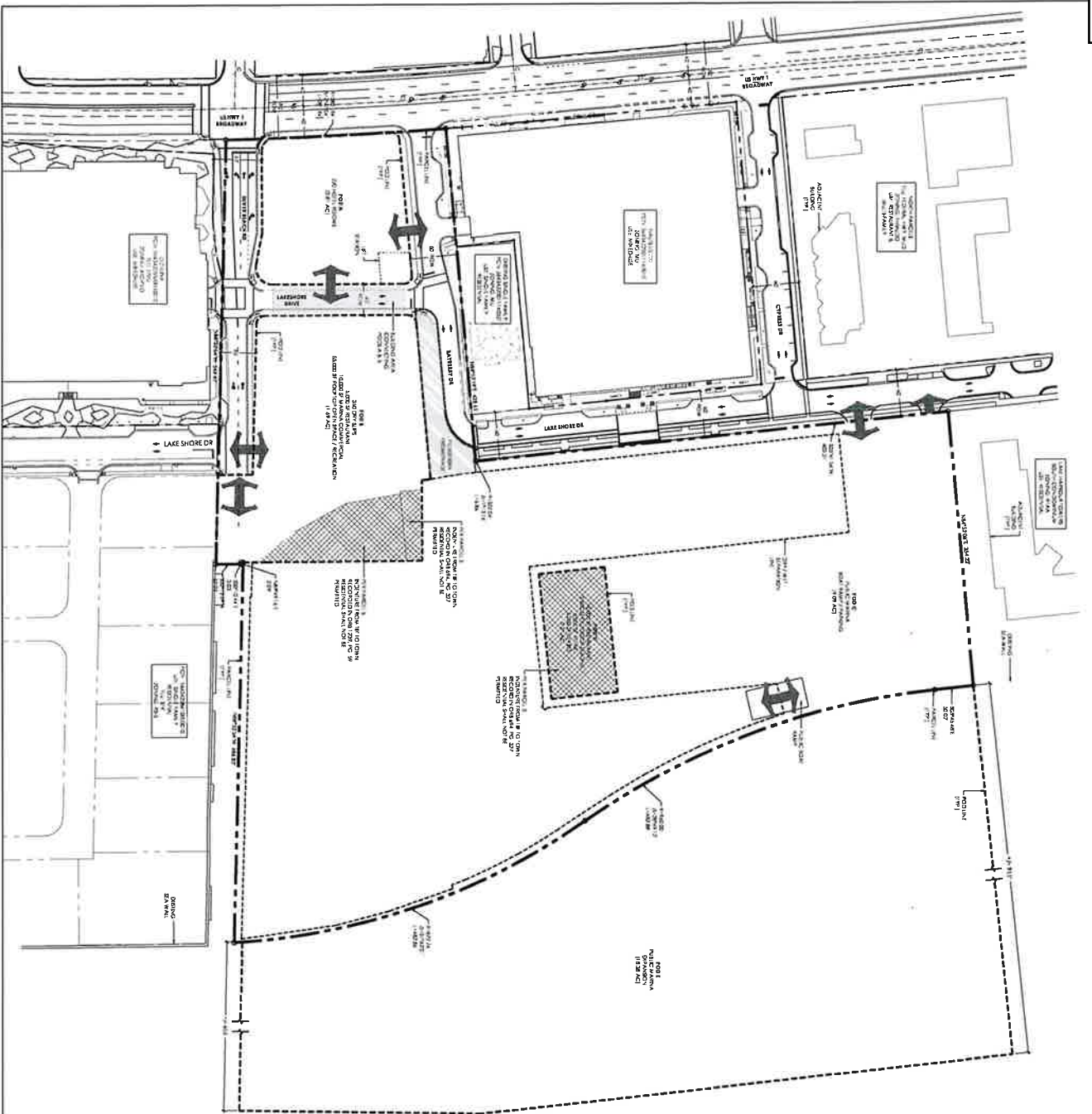
Town Attorney

Ground Lease Signature Page

42007160.6
42007160.9

Exhibit A

Site Plan

[illegible]

LAKE PARK HARBOR MARINA PUD
Lake Park, Florida



insite
studio
planning + landscape architecture

Exhibit B

Legal Description of the Premises

Exhibit B – Legal Description

42007160.6
42007160.10

DESCRIPTION:

PORTIONS OF LOTS 18 THRU 29, INCLUSIVE, BLOCK 114, AND A PORTION OF SILVER BEACH ROAD, A 60-FOOT RIGHT-OF-WAY, ALL AS SHOWN ON KELSEY CITY (NOW KNOWN AS THE TOWN OF LAKE PARK), ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, PAGES 15 AND 23 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN THE SECTION 21, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 31, BLOCK 114, AS SHOWN ON SAID PLAT; THENCE ALONG THE NORTH LINE OF SAID LOT 31, BLOCK 114, S84°52'19"W, A DISTANCE OF 185.03 FEET; THENCE S05°07'41"E, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING; THENCE S84°52'19"W, A DISTANCE OF 175.33 FEET TO A POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 10.00 FEET AND A CENTRAL ANGLE OF 88°14'50"; THENCE SOUTHWESTERLY ALONG THE ARC, A DISTANCE OF 15.40 FEET TO A POINT OF REVERSE CURVATURE TO THE RIGHT, HAVING A RADIUS OF 5,801.84 FEET AND A CENTRAL ANGLE OF 01°29'48"; THENCE SOUTHERLY ALONG THE ARC AND LONG THE EAST RIGHT-OF-WAY LINE OF U.S. HIGHWAY 1, AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP, SECTION 93020-2107, A DISTANCE OF 151.54 FEET TO A POINT OF REVERSE CURVATURE TO THE LEFT, HAVING A RADIUS OF 15.00 FEET AND A CENTRAL ANGLE OF 88°20'47"; THENCE SOUTHEASTERLY ALONG THE ARC, A DISTANCE OF 23.13 FEET TO A POINT OF TANGENCY; THENCE NORTH 89°46'29" EAST, A DISTANCE OF 105.81 FEET; THENCE SOUTH 78°54'56" EAST, A DISTANCE OF 41.39 FEET TO A POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 22.00 FEET AND A CENTRAL ANGLE OF 101°05'56"; THENCE EASTERLY AND NORTHERLY ALONG THE ARC, A DISTANCE OF 38.82 FEET TO A POINT OF TANGENCY; THENCE NORTH 00°00'52" WEST, A DISTANCE OF 168.10 FEET TO A POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 10.00 FEET AND A CENTRAL ANGLE OF 95°06'50"; THENCE NORTHWESTERLY ALONG THE ARC, A DISTANCE OF 16.60 FEET TO THE POINT OF BEGINNING.

CONTAINING 35,340 SQUARE FEET OR 0.8113 ACRE, MORE OR LESS.

SURVEYOR'S NOTES:

1. SURVEY MAPS OR THE COPIES THEREOF ARE NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND ORIGINAL SEAL, OR THE AUTHENTICATED ELECTRONIC SIGNATURE AND SEAL, OF A FLORIDA LICENSED PROFESSIONAL LAND SURVEYOR AND MAPPER.
2. ADDITIONS OR DELETIONS TO SURVEY MAPS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
3. LANDS SHOWN HEREON WERE NOT ABSTRACTED, BY THE SURVEYOR, FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD. THERE MAY BE EASEMENTS AND OTHER INSTRUMENTS OF RECORD NOT SHOWN ON THIS SKETCH.
4. BEARINGS SHOWN HEREON ARE RELATIVE TO A GRID BEARING OF S88°32'54"E, ALONG SOUTH LINE OF SECTION 21, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, RELATIVE TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, TRANSVERSE MERCATOR PROJECTION, NORTH AMERICAN DATUM OF 1983, (90 ADJUSTMENT).
5. THE LAND DESCRIPTION SHOWN HEREON WAS PREPARED BY THE SURVEYOR.
6. DATA SHOWN HEREON WAS COMPILED FROM THE INSTRUMENTS OF RECORD RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND DOES NOT CONSTITUTE A FIELD SURVEY AS SUCH.
7. INSTRUMENTS OF RECORD SHOWN HEREON ARE RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, UNLESS OTHERWISE SHOWN.

CERTIFICATE:

I HEREBY CERTIFY THAT THE ATTACHED SKETCH AND DESCRIPTION OF THE HEREON DESCRIBED PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION ON APRIL 12, 2024. I FURTHER CERTIFY THAT THIS SKETCH AND DESCRIPTION MEETS THE STANDARDS OF PRACTICE SET FORTH IN RULE 5J-17, FLORIDA ADMINISTRATIVE CODE, ADOPTED BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS PURSUANT TO FLORIDA STATUTES CHAPTER 472.027.

THIS IS NOT A SURVEY

SHEET 1 OF 4



CAULFIELD & WHEELER, INC.

CIVIL ENGINEERING

LANDSCAPE ARCHITECTURE - SURVEYING

7900 GLADES ROAD - SUITE 100

BOCA RATON, FLORIDA 33434

PHONE (561)-392-1991 / FAX (561)-750-1452

DAVID E. ROHAL
PROFESSIONAL LAND
SURVEYOR NO. 4315
STATE OF FLORIDA
LB 3591

DATE 4-12-2024

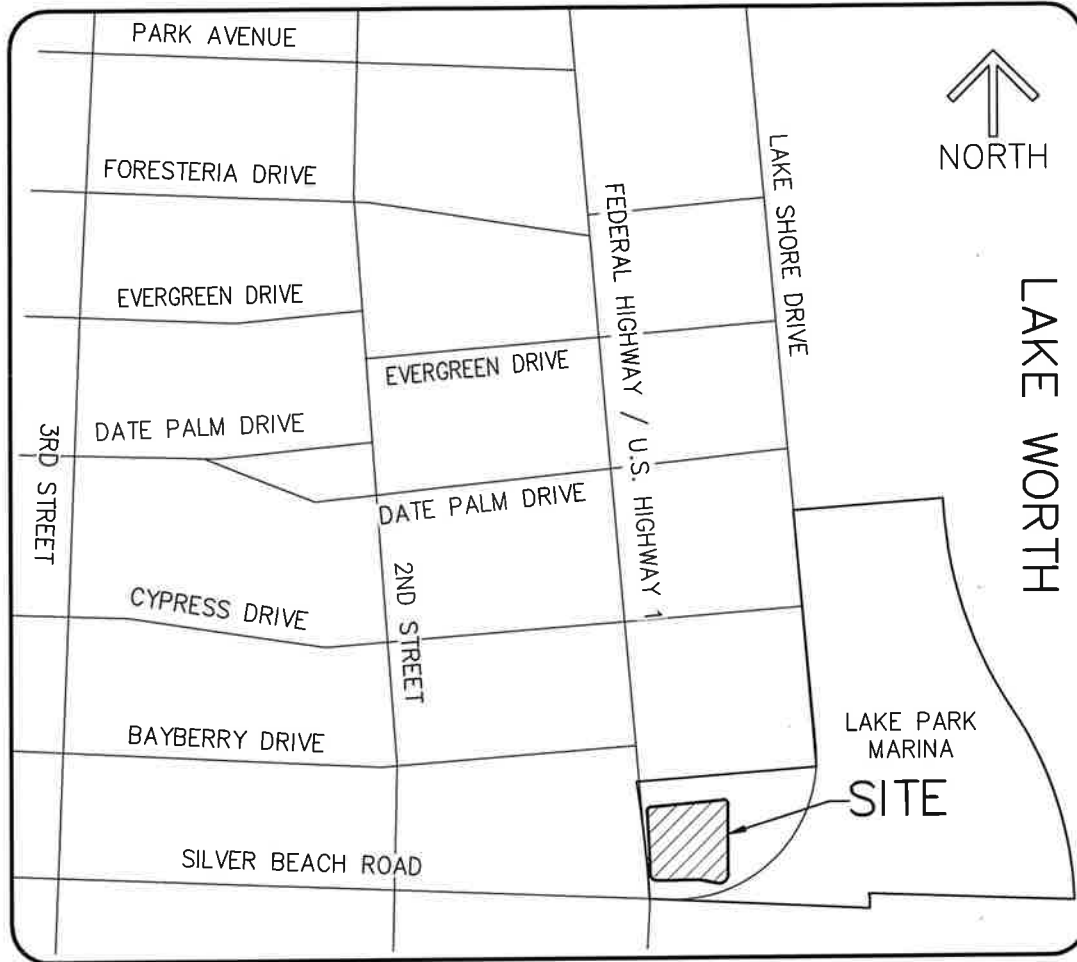
DRAWN BY SAS

F.B./ PG. N/A

SCALE NONE

JOB NO. 10089- POD A

POD A
LAKE PARK MARINA REDEVELOPMENT
SKETCH AND DESCRIPTION



LOCATION MAP
(NOT TO SCALE)

LEGEND/ABBREVIATIONS:

21-42-43 - SECTION 21, TOWNSHIP 42 SOUTH, RANGE 43 EAST
 FDOT - FLORIDA DEPARTMENT OF TRANSPORTATION
 P.O.B. - POINT OF BEGINNING
 CL - CENTERLINE
 O.R.B. - OFFICIAL RECORDS BOOK
 P.B. - PLAT BOOK
 P.O.C. - POINT OF COMMENCEMENT
 R/W - RIGHT-OF-WAY
 PG(S). - PAGE(S)

LB - LICENSED BUSINESS
 PBC - PALM BEACH COUNTY
 R - RADIUS
 L - ARC LENGTH
 Δ - DELTA (CENTRAL ANGLE)
 SUA - SEACOAST UTILITY AUTHORITY

THIS IS NOT A SURVEY

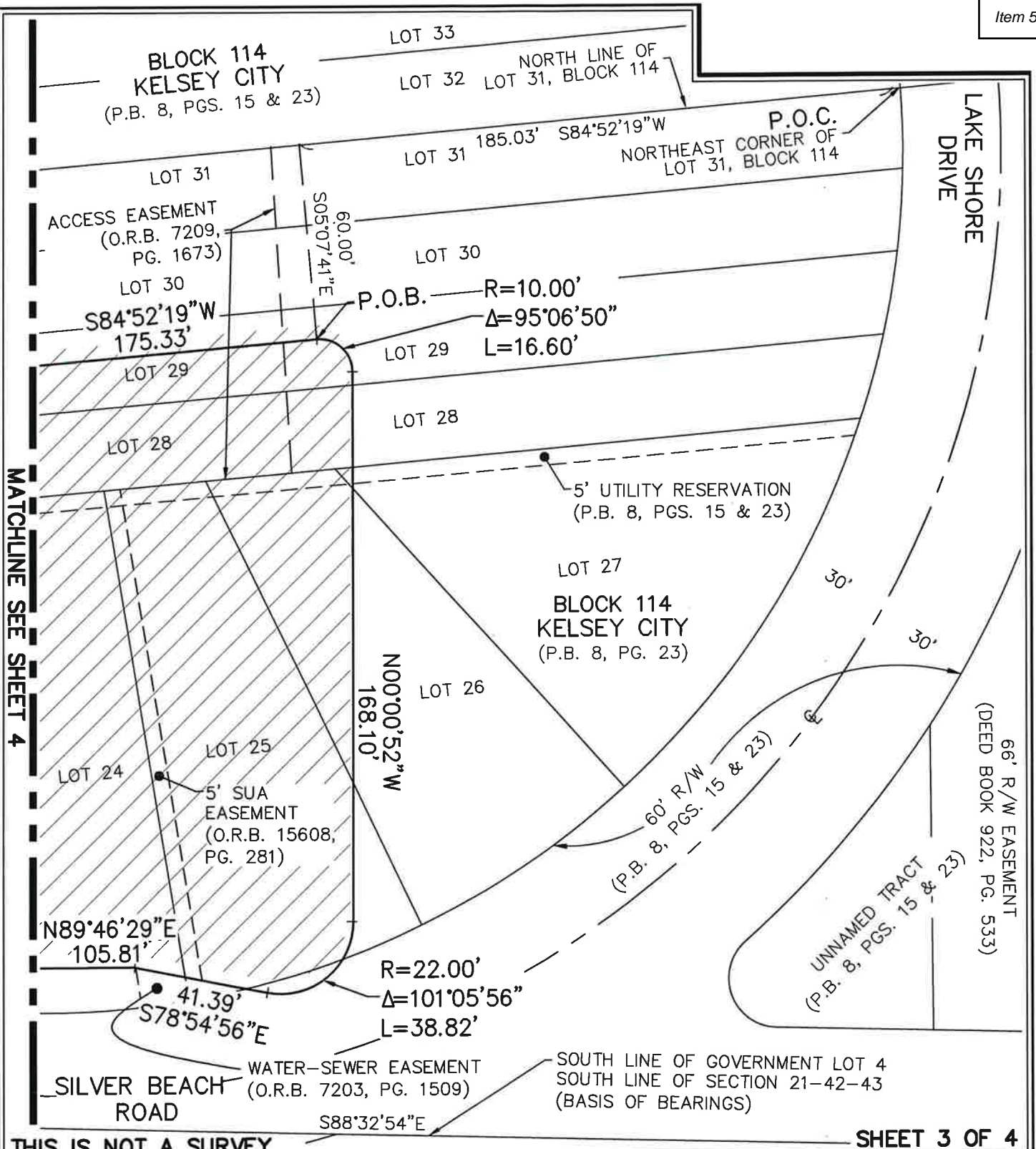
SHEET 2 OF 4



CAULFIELD & WHEELER, INC.
 CIVIL ENGINEERING
 LANDSCAPE ARCHITECTURE - SURVEYING
 7900 GLADES ROAD - SUITE 100
 BOCA RATON, FLORIDA 33434
 PHONE (561)-392-1991 / FAX (561)-750-1452

POD A
LAKE PARK MARINA REDEVELOPMENT
SKETCH AND DESCRIPTION

DATE	4-12-2024
DRAWN BY	SAS
F.B./ PG.	N/A
SCALE	NONE
JOB NO.	10089- POD A



CAULFIELD & WHEELER, INC.

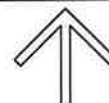
CIVIL ENGINEERING

LANDSCAPE ARCHITECTURE - SURVEYING

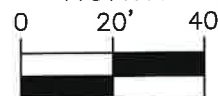
7900 GLADES ROAD - SUITE 100

BOCA RATON, FLORIDA 33434

PHONE (561)-392-1991 / FAX (561)-750-1452



NORTH



1 INCH = 40 FEET

DATE 4-12-2024

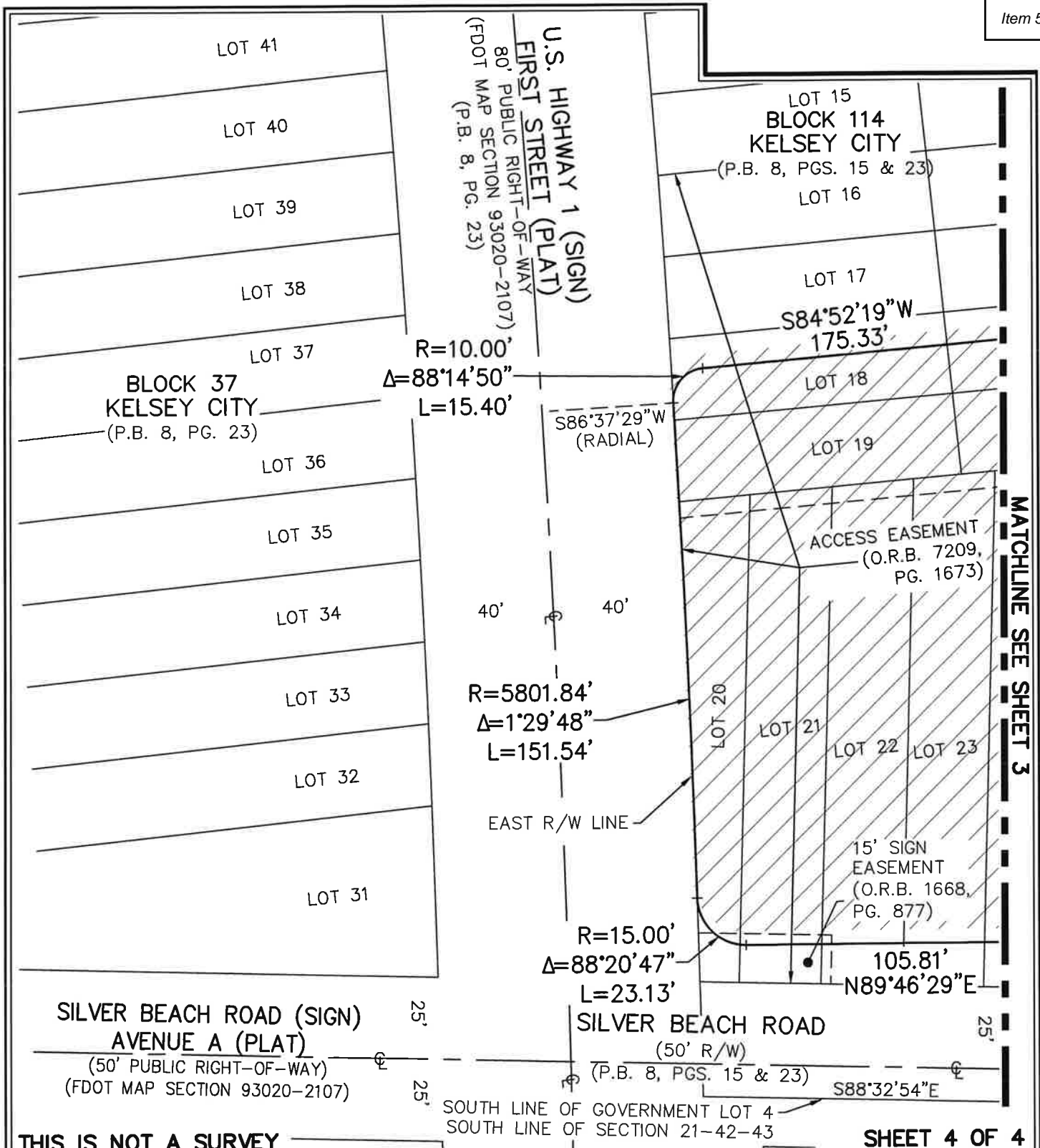
DRAWN BY SAS

F.B./ PG. N/A

SCALE 1"=40'

JOB NO. 10089- POD A

POD A
LAKE PARK MARINA REDEVELOPMENT
SKETCH AND DESCRIPTION



THIS IS NOT A SURVEY

SHEET 4 OF 4

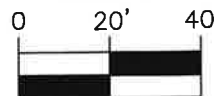


CAULFIELD & WHEELER, INC.

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 7900 GLADES ROAD - SUITE 100
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NORTH



1 INCH = 40 FEET

DATE 4-12-2024

DRAWN BY SAS

F.B./ PG. N/A

SCALE 1"=40'

JOB NO. 10089- POD A

POD A
 LAKE PARK MARINA REDEVELOPMENT
 SKETCH AND DESCRIPTION

Exhibit C**Lease Payments**

Period	Lease Payment
Calendar Year 2024	\$0
Calendar Year 2025	\$75,000.00
Calendar Year 2026	\$75,000.00
Calendar Year 2027	\$75,000.00
Calendar Year 2028	\$75,000.00
Calendar Year 2029	\$75,000.00
Calendar Year 2030	\$75,000.00
Calendar Year 2031	\$75,000.00
Calendar Year 2032	\$75,000.00
Calendar Year 2033	\$75,000.00
Calendar Year 2034	\$75,000.00

Lease Payments shall be made on or before May 1 of each calendar year from 2025 to 2034

No Lease Payments shall be due or payable commencing with calendar year 2035

Exhibit D

Permitted Title Exceptions

1. Right of way easement for the construction and maintenance of telephone and electric light lines, water and sewer systems and other public utilities expressly reserved upon, over, and under the rear five (5) feet of all lots shown on the Plat of Kelsey City (a/k/a Lake Park), according to the Plat thereof recorded in Plat Book 8, Pages 15 through 18, 23, 27 and 34 through 37, Public Records of Palm Beach County, Florida (All)
2. Right of Reverter contained in fee determinable conveyance Deed recorded in Deed Book 632, Page 464 as affected by Deed recorded in Deed Book 1039, Page 205 (Page 212), and by Official Records Book 1227, Page 535 Public Records of Palm Beach County, Florida (Parcel 6)
3. Right of Reverter contained in Right of Way Deed recorded in Deed Book 922, Page 533, Public Records of Palm Beach County, Florida. (Parcel 5)
4. Automatic phosphate, metals, minerals and petroleum reservations pursuant to Fla. Stat. 270.11(1) due to lack of express waiver in Deed by Trustees of the Internal Improvement Fund of Florida recorded in Official Records Book 688, Page 507, Public Records of Palm Beach County, Florida (Parcel 6)
5. Right of Reverter and oil, gas and mineral reservations contained in Official Records Book 694, Page 327, Public Records of Palm Beach County, Florida (Parcel 6)
6. Terms and conditions of Dedication by the Trustees of the Internal Improvement Fund of Florida recorded in Official Records Book 1633, Page 606, Public Records of Palm Beach County, Florida (Parcel 6)
7. Easement Grant recorded in Official Records Book 1154, Page 30, of the Public Records of Palm Beach County, Florida. (Parcel 6)
8. Right of Reverter and oil, gas and mineral reservations contained in Deed by the Trustees of the Internal Improvement Fund of Florida recorded in Official Records Book 1239, Page 59, Public Records of Palm Beach County, Florida (Parcel 5)
9. Terms and conditions of Dedication by the Trustees of the Internal Improvement Fund of Florida recorded in Official Records Book 1633, Page 606, Public Records of Palm Beach County, Florida. (Parcel 6)
10. Easement reserved in Quit Claim Deed recorded in Official Records Book 1668, Page 877, of the Public Records of Palm Beach County, Florida. (Lot 20)
11. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 6729, Page 439, of the Public Records of Palm Beach County, Florida. (Parcel 5)
12. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 7203, Page 1509, of the Public Records of Palm Beach County, Florida. (Lot 24)
13. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 7209,

Exhibit D – Permitted Title Exceptions

Page 1673, of the Public Records of Palm Beach County, Florida. (West portion - Lots 16-24)

14. Sovereignty Submerged Lands Easement recorded in Official Records Book 11909, Page 636, as affected by Sovereignty Submerged Lands Easement Modification to Increase Square Footage recorded in Official Records Book 23335, Page 614, of the Public Records of Palm Beach County, Florida. (Parcels 6)
15. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 15608, Page 281, of the Public Records of Palm Beach County, Florida. (Lots 25)
16. Easement in favor of Florida Power & Light Company recorded in Official Records Book 18239, Page 594, of the Public Records of Palm Beach County, Florida. (Parcel 5)
17. Easement Deed in favor of Seacoast Utility Authority recorded in Official Records Book 18788, Page 1303, of the Public Records of Palm Beach County, Florida. (Lots 27-30)
18. Terms and conditions of Palm Beach County Florida Boating Improvement Program Notice of Limitation of Use recorded in Official Records Book 23496, Page 1498, of the Public Records of Palm Beach County, Florida. (Parcels 5-6)
19. Easement granted to Florida Public Utilities Company recorded in Official Records Book 23690, Page 1601, of the Public Records of Palm Beach County, Florida. (Parcel 6)
20. Terms and conditions of the unrecorded Lease between Town of Lake Park and T-Mobile South LLC evidenced by Memorandum of Lease recorded in Official Records Book 27270, Page 1224, of the Public Records of Palm Beach County, Florida. (Marina Parcels)
21. Terms and conditions of the unrecorded Lease between Town of Lake Park and T-Mobile South LLC evidenced by Memorandum of Lease recorded in Official Records Book 27388, Page 1280, of the Public Records of Palm Beach County, Florida. (Lot 25)
22. Temporary Easement granted to Florida Power and Light Company recorded in Official Records Book 33982, Page 1490, of the Public Records of Palm Beach County, Florida. (Parcels 1-4)
23. Rights of the United States Government to that part of the Land, if any, being artificially filled in land in what was formerly navigable waters arising by reason of the United States Government control over navigable waters in the interest of navigation and commerce.
24. The right, title or interest, if any, of the public to use as a public beach or recreation area any part of the Land lying between the water abutting the Land and the most inland of any of the following: (a) the natural line of vegetation; (b) the most extreme high water mark; (c) the bulkhead line, or (d) any other line which has been or which hereafter may be legally established as relating to such public use.

Exhibit E**Form of Memorandum of Lease**

This instrument was prepared by:

Saul Ewing LLP
 Attention: Anthony Kang
 701 Brickell Avenue, FL 17
 Miami, Florida 33131

MEMORANDUM OF GROUND LEASE

THIS MEMORANDUM OF GROUND LEASE ("Memorandum") is made as of the ____ day of _____, 2023, by and between TOWN OF LAKE PARK, FLORIDA, a Florida municipal corporation, having an address of _____ ("Landlord"), and _____, a Florida limited liability company, having an address of _____ ("Tenant").

WITNESSETH:

1. That by Ground Lease of even date hereof (the "Lease"), Landlord has demised and leased to Tenant and Tenant has rented from Landlord that certain real property located in Palm Beach County, Florida, as more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Premises"), and the rights, easements and privileges granted to Tenant in the Lease.

2. The term of the Lease shall commence on _____, ____ (the "Commencement Date") and shall expire at 12:00 Midnight on the ninety-ninth (99th) anniversary of the Commencement Date, unless sooner terminated as set forth in the Lease.

3. Pursuant to Florida Statutes Section 713.10 (2023), notice is hereby given that the Lease includes the following provision:

Tenant acknowledges and agrees that the interest of the Landlord in the Premises shall not be subject to liens for improvements made by the Tenant. Tenant shall not at any time permit any mechanics', laborers' or materialmen's liens to stand against the Premises for any labor or material furnished to Tenant or claimed to have been furnished to Tenant or Tenant's agents, contractors or subtenants, in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction or sufferance of Tenant.

Exhibit E – Memorandum of Lease

Page 1

4. For all other terms and provisions of the Lease, reference is hereby made to the Lease itself, and all persons are hereby placed on notice of the existence of the Lease and of its terms and provisions. The Lease and exhibits thereto are hereby incorporated by reference in this Memorandum. In the event of any conflict between the provisions of this Memorandum and the Lease, the provisions of the Lease shall govern, control and prevail.

5. Upon the expiration or earlier termination of the Lease for any reason whatsoever, Landlord shall be entitled to unilaterally execute and record a termination of this Memorandum which shall terminate and release this Memorandum. Tenant acknowledges and agrees that Tenant shall not be required to join in or execute such termination and that such termination, as executed only by Landlord, shall be effective to terminate this Memorandum without the joinder or execution by Tenant.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, Landlord and Tenant have caused this Memorandum of Lease to be duly executed and sealed as of the date first above written.

TOWN OF LAKE PARK, FLORIDA

_____,
a Florida municipal corporation

Attest;

By: _____
Mayor

By: _____
Town Clerk

Date: _____

Approved as to form and legal sufficiency

By: _____
Town Attorney

STATE OF FLORIDA)
)SS:
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this ____ day of _____, 2023, by _____ as Mayor of the Town of Lake Park, Florida, a Florida municipal corporation, on behalf of the Town. He/She is personally known to me or has produced _____ as identification.

Print Name: _____
Notary Public
My Commission Expires:

[SIGNATURES CONTINUE ON NEXT PAGE]

Witnesses:

TENANT:

_____ By: _____
 Print Name: _____ Print Name: _____
 Title: _____

 Print Name: _____

STATE OF _____)
)SS:
 COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this ____ day of _____, 2023, by _____ as a/the _____ of _____, LLC, a _____ limited liability company, on behalf of said entity. He/She is personally known to me or has produced _____ as identification.

 Print Name: _____
 Notary Public
 My Commission Expires:

EXHIBIT "A"
LEGAL DESCRIPTION

[SEE ATTACHED]

Exhibit F**Form of Non-Disturbance and Attornment Agreement**

Return to: (enclose self-addressed stamped envelope)

Name: _____

Address: _____

_____This Instrument Prepared by:

SPACE ABOVE THIS LINE FOR PROCESSING DATA

**NON-DISTURBANCE AGREEMENT BY FEE MORTGAGEE
AS TO A LEASEHOLD MORTGAGE(S)**

THIS NON-DISTURBANCE AGREEMENT (this "**Agreement**") by and between Town of Lake Park, Florida ("**Lessor**" or "**Town**"), having an address at _____, _____, having an address at _____ ("**Tenant**"), _____, having an address at _____ ("**Lender**"), and _____, having an address at _____ ("**Fee Mortgagee**").

WITNESSETH:

WHEREAS, Tenant is the lessee under that certain Ground Lease with the Lessor dated _____, as may be amended from time to time (the "**Lease**") with respect to the "Premises" demised under the Lease; and

WHEREAS, Fee Mortgagee has extended a loan to the Town (as may be amended, modified, substituted, or replaced), referred to herein as the "**Fee Loan**." The Fee Loan is secured by, among other things, a mortgage which encumbers the Town's interest in the Lease and the Premises, as same may be amended from time to time, together with an assignment of leases (collectively, the "**Fee Mortgage**"); and

WHEREAS, pursuant to the terms of the Lease, Tenant has obtained and may in the future obtain certain loans ("**Loan(s)**") from lender(s) selected by Tenant (each, together with each lender(s)' respective successors and assigns, a "**Lender**"), which Loan(s) are and shall be secured by a leasehold mortgage(s) encumbering Tenant's rights in and to the Lease and the Premises ("**Leasehold Mortgage**"). Notwithstanding anything herein to the contrary, any lender(s) selected by Tenant shall not become a "Lender" under this Agreement until such time as such lender has provided a Lender Notice, as provided in Section 5 of this Agreement.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties intending to be legally bound, hereby agree as follows:

1. The recitations heretofore set forth are true and correct and are incorporated herein by this reference.

2. Fee Mortgagee, Town, Tenant and Lender (after the "**Lender Notice**," as hereinafter defined, is provided for such Lender and after such Lender agrees to be bound by this Agreement) are individually a "**Party**" and collectively "**Parties**."

3. If and as applicable, Tenant expressly acknowledges that Town has executed and delivered to Fee Mortgagee an Assignment of Leases and Rents (the "**Assignment of Leases**"), which assigns the Lease and the rent and all other sums due thereunder to Fee Mortgagee as security for the Fee Loan. For the avoidance of doubt, Fee Mortgagee expressly acknowledges and agrees that no property of any kind owned by Tenant (including, without limitation, any improvements, fixtures, personal property or other property owned by Tenant) are collateral for the Fee Loan and that Fee Mortgagee has no security interest in or pledge of any of Tenant's property or any of its rights in the Lease (or derived therefrom other than any residual rights that the Town has to such assets commencing upon the expiration or earlier termination of the Lease or New Lease, as applicable). Tenant acknowledges that the interest of the Town under the Lease has been assigned to Fee Mortgagee solely as security for the purposes specified in said assignments, and Fee Mortgagee shall have no duty, liability or obligation whatsoever under the Lease or any extension or renewal thereof, either by virtue of said assignments or by any subsequent receipt or collection of rents thereunder, except (i) as provided herein, or (ii) upon Fee Mortgagee exercising control over the Town's interest in the Lease. Tenant further agrees that only upon receipt of a written notice from Fee Mortgagee of an event of default by the Town under the Fee Loan, Tenant will thereafter, if requested by Fee Mortgagee (and after Tenant notifies the Town of the request received from Fee Mortgagee), pay rent to Fee Mortgagee in accordance with the terms of the Lease. Town shall have no claim against Tenant for any amounts paid to Fee Mortgagee pursuant to any such notice. Fee Mortgagee hereby agrees that it will only send such a notice if in its good faith judgment an event of default has occurred and has not been cured. To the extent Fee Mortgagee previously sent a notice to Tenant of such event of a default requesting payment of rent be paid to Fee Mortgagee, then at such time as such event of default has been cured and the cure accepted by Fee Mortgagee, Fee Mortgagee shall notify the Tenant in writing to again pay Sublessor such rents. Notwithstanding the foregoing provisions or any other provision herein to the contrary, Tenant shall be under no obligation to pay any rent or perform any other obligation set forth in the Lease to Fee Mortgagee unless and until Tenant receives written notice

Exhibit F – Non-Disturbance Agreement

Page 2

from Fee Mortgagee that the Town is in default under the Fee Loan and Fee Mortgagee is entitled to the rent under the Lease.

4. Tenant shall have the right to mortgage, assign, pledge and hypothecate its interest in the Lease to any Lender as security for Loan(s). In connection with any financing obtained by Tenant (regardless of whether structured as mortgage financing, mezzanine financing or another type of financing), Fee Mortgagee shall execute such documents Lender may reasonably request in order to facilitate such financing ("**Future Non-Disturbance Agreement**"). For the avoidance of doubt, Fee Mortgagee's and the Town's agreement to provide the Non-Disturbance Agreement contemplated in the Lease as referenced herein shall only be for the benefit of first lien lenders with respect to Tenant's interests in the Lease or first lien lenders with respect to the ownership interests in Tenant and to the extent that there are any other subordinate sub-leasehold mortgages and/or subordinate liens given by Tenant as for any interest in Tenant, Fee Mortgagee and the Town shall have no obligation to provide the future Non-Disturbance Agreement to such parties.

5. Within a reasonable time after Tenant obtains a loan from Lender, Tenant shall notify the Town and Fee Mortgagee in writing ("**Lender Notice**") of the following, to wit: (i) the name and address and other contact information of the Lender, and (ii) confirming to the Town and Fee Mortgagee that Tenant has executed and delivered to Lender the Leasehold Mortgage, if applicable, or security interest in the ownership interests in Tenant given to Lender, if applicable. Further, notwithstanding anything to the contrary contained herein, upon delivery of the Lender Notice, Lender shall be deemed to be bound by this Agreement, whereupon Lender shall be deemed to be a "Leasehold Mortgagee" and entitled to all of the protections afforded a "Leasehold Mortgagee" thereunder, as provided in this Agreement. The delivery of Lender's Notice shall be deemed to be an agreement by such Lender of the obligations of Lender set forth herein.

6. Tenant and any Lender (to the extent it has provided a Lender Notice) shall provide Fee Mortgagee, in the manner provided for herein for giving of notices, a copy of each notice of default given to the Town in connection with the Lease, and Fee Mortgagee shall have the right, but not the obligation, to remedy or cause to be remedied any default of the Town under the Lease, so long as such remedy is completed within any notice or grace period provided under the Lease and prior to Tenant electing to terminate the Lease due to any non-monetary default. In connection with any non-monetary defaults, the Tenant hereby agrees that, provided Fee Mortgagee has commenced to cure such non-monetary default and is proceeding with commercially reasonable diligence to complete such cure, Fee Mortgagee shall have an additional period of time as may be reasonable to enable Fee Mortgagee to remedy, or cause to be remedied, any such non-monetary default in addition to the period given to the Town for remedying, or causing to be remedied, such non-monetary default, and Tenant shall accept performance by Fee Mortgagee as performance by the Town.

7. To the extent Fee Mortgagee or any other party (each a "**New Lessor**") shall acquire the interest of the Town under the Lease, the following shall be binding upon New Lessor:

(i) So long as Tenant recognizes the New Lessor and Tenant is not in default under the Lease (beyond any period given to Tenant by the terms of the Lease to cure such default) and is paying rent to the New Lessor under the Lease, New Lessor shall not, whether in the exercise of any of its rights under the Lease or otherwise, disturb Tenant's possession of the

Premises or deprive Tenant of any right or privilege granted to or inuring to the benefit of Tenant under the Lease; nor shall Tenant be named as a party in any foreclosure proceeding except to the extent required by law.

(ii) New Lessor shall recognize and keep the Lease as a direct sublease between Tenant and New Lessor, without the necessity of executing a new lease. In such event, New Lessor shall succeed to the interest of the Town under the Lease, the Tenant shall attorn (subject to the terms of this Agreement) to the New Lessor, in each case to be effective and self-operative without the execution of any further instruments.

(iii) Notwithstanding the foregoing, upon the request of either New Lessor and/or Tenant, the other Party shall promptly execute and deliver a commercially reasonable instrument in recordable form (an "**Attornment and Recognition Agreement**") that (i) as to the Lease, evidences the foregoing attornment by Tenant to New Lessor, and (ii) evidences the recognition of the Lease as a direct Lease between New Lessor and Tenant.

(iv) At the option of the New Lessor (which may be exercised at any time after an Attornment and Recognition Agreement is executed by New Lessor and Tenant), the New Lessor may enter into a new lease with the Tenant for the Premises (a "**New Lease**"). The New Lease shall contain the exact same terms and conditions contained in the Lease, whereupon the New Lease shall replace the Lease and be deemed a replacement Lease between Tenant and the New Lessor, and a new Non-Disturbance Agreement (similar in form to this Agreement as to such New Lease) shall be executed by New Lessor and Tenant.

(v) After New Lessor, or its successors and assigns, shall succeed to the interest of the Town under the Lease (or enter into a New Lease), New Lessor and Tenant, or their respective successors and assigns, shall be bound to each other under all of the terms, covenants and conditions of each of the Lease or New Lease, if applicable, and Tenant and New Lessor shall, from and after such succession by New Lessor to the interest of the Town under each of the Lease (or the entry of New Lease, if applicable) shall each have the same remedies against each other, or their respective successors and assigns, for the breach of any agreement or covenant or duty contained in each of the Lease or New Lease, if applicable, might have had against the other under the Lease as if such parties had been the original lessor or lessee (as applicable) under the Lease, provided, however, notwithstanding anything in the Lease (or New Lease, if applicable) or in this Agreement to the contrary, New Lessor, its successors and assigns, shall not be:

a. bound by any rent, additional rent or other amounts which Tenant might have paid for more than the current month except the most recent payment of rent paid by Tenant as required under the Lease, or to the extent such money was actually received by New Lessor; or

b. accountable for any money deposited with Lessor for any matter, including, capital improvement reserves, except to the extent such money was actually received by New Lessor; or

c. liable for any indemnities of the Town under the Lease for any period prior to New Lessor becoming the lessor under the Lease or New Lease; or

Exhibit F – Non-Disturbance Agreement

d. liable for any act or omission of the Town (or its members, officers, managers, employees, contractors, or agents) that occurred prior to such party becoming the New Lessor (and additionally, Tenant agrees that any such act or omission is not a defense or excuse to Tenant's continued performance under the Lease); provided, however, that except as otherwise expressly provided in this Agreement, New Lessor shall only be obligated for all obligations of the sublessor under the Lease to be performed from and after the date the New Lessor succeeded to the interest of the Town under the Lease; or

e. liable for the Town's breach of any agreement or covenant or duty contained in the Lease which occurred prior to the date the New Lessor succeeded to the interest of the Town (and additionally, Tenant agrees that no such breach is a defense or excuse to its continued performance under the Lease); provided, however, that except as otherwise expressly provided in this Agreement, New Lessor shall only be obligated for all obligations of the sublessor under the Lease to be performed from and after the date the New Lessor succeeded to the interest of the Town under the Lease.

Except as provided in this Agreement, Lessor and Tenant shall have their respective rights or remedies available to it under the Lease (or comparable provisions in the New Lease).

(vi) New Lessor shall, in the manner provided for herein for giving of notices, provide promptly to the Lender (to the extent it has provided a Lender Notice) a copy of each notice of default given by New Lessor to the Tenant in connection with the Lease or New Lease, if applicable.

(vii) Lender shall have the right, but not an obligation, to remedy or cause to be remedied any default of Tenant so long as such remedy is completed within any notice or grace period provided under the Lease or New Lease, if applicable, to Tenant as extended if Lender is diligently pursuing the completion of a non-monetary default of Tenant, as such extension is permitted under the Lease or New Lease, if applicable, and New Lessor shall accept performance by the Lender as performance by the Tenant under the Lease or New Lease, if applicable. Provided Lender satisfies the requirements of this Paragraph 7, any defaults by Tenant of any covenants and agreements which are not within the reasonable power of Lender or any nominee to perform shall not be enforced by New Lessor against Lender (but may be enforced against the Tenant), provided the same shall not be deemed to be a waiver of such obligations from and after the date Lender or its nominee acquires Tenant's interest in the Lease or New Lease, if applicable, or the interest in the Tenant, as applicable.

(viii) In case of a default by the Tenant under the Lease or New Lease, if applicable, beyond any applicable notice and cure period, other than a default in the payment of money and under such circumstances New Lessor having the right to terminate after all cure periods, if any, have expired, the New Lessor shall take no action to effect a termination of the Lease or New Lease, if applicable, by service of a notice or otherwise, without first giving Lender (to the extent it has provided a Lender Notice) a commercially reasonable time within which to either:

a. obtain possession of the Premises and the Tenant's improvements located thereon ("**Improvements**") (including possession by a receiver) and to cure such default in case of a default which is within the power of the Lender to cure, it being understood that the payment of money is within the Lender's power to cure, when such Lender has obtained possession of the Premises and the Improvements; or

b. initiate and complete foreclosure proceedings or otherwise acquire Tenant's leasehold interest under the Lease (or New Lease, as applicable), provided the New Lessor may seek to intervene and Lender consents to such intervention in said foreclosure proceedings and obtain an order authorizing the Lender to commence to cure such default as described by New Lessor and, if such order is obtained, Lender shall have a reasonable time thereafter to proceed diligently to cure such non-monetary defaults within its control to cure and to cure all monetary defaults and the New Lessor will not need to wait until the foreclosure proceedings are concluded. Upon issuance of such orders in the judicial proceedings and if Lender fails to diligently proceed to cure such default, New Lessor has the right to enter the Premises and cure such default, the cost and expenses of which shall be added to the Lease or New Lease, if applicable, as additional rent. Lender shall diligently proceed with the appointment of a receiver to operate and maintain the Premises under the Lease or New Lease, if applicable.

The provisions of Paragraph 7(viii) above are conditioned on the following: Lender, within the forty-five (45) days of receipt of a notice of default under the Lease or New Lease, if applicable, shall (i) notify New Lessor of its election to proceed with due diligence to promptly acquire possession of the Premises and any Improvements or to foreclose its Leasehold Mortgage or otherwise to extinguish Tenant's interest in the Lease or New Lease, if applicable; and (ii) deliver to New Lessor an instrument in writing duly executed and acknowledged, whereby the Lender agrees that (x) during the period Lender is enforcing its remedies and/or during the pendency of any foreclosure or other proceeding and until the interest of Tenant in the Lease or New Lease, if applicable, shall terminate, as the case may be, it will pay or cause to be paid to New Lessor (on behalf of Tenant) all monetary obligations of Tenant including rent (based on gross revenue Lender is able to collect), payment of taxes and insurance then due and from time to time becoming due under the Lease or New Lease, if applicable, which is to be remitted to New Lessor giving credit, however, for any net income actually collected by New Lessor (as applicable) in connection with the Premises, and (y) if delivery of possession of the Premises and the Improvements shall be made to Lender or its nominee, whether voluntarily or pursuant to any foreclosure or other proceedings or otherwise, such holder shall, promptly following such delivery of possession, perform or cause such nominee to perform, as the case may be, all covenants and agreements contained in the Lease or New Lease, if applicable, on Tenant's part to be performed to the extent that Tenant shall have failed to perform the same to the date of delivery of possession, as aforesaid except such covenants and agreements which are not within the reasonable power of the Lender or such nominee to perform but the payment of rent (based on gross revenue Lender is able to collect), taxes and insurance shall be deemed activity within the power of the Lender or its nominee to perform. Upon such extinguishment of Tenant's interest in the Lease or New Lease, if applicable, and such performance by such holder or such nominee, or by any purchaser of the Tenant's interest in the Lease pursuant to any foreclosure proceedings, New Lessor's rights to serve notice of election to end the term of the Lease or New Lease, if applicable, based on any non-monetary default which is not within the

power of such holder or nominee or such purchaser to perform, shall be deemed to be and shall be waived. If prior to any sale pursuant to any proceedings brought in foreclosure of the Loan(s), or if, prior to the date on which Tenant's interest in the Lease or New Lease, if applicable, shall otherwise be extinguished, the default in respect of which New Lessor shall have given notice shall have been remedied and possession of the Premises and the Improvements restored to Tenant, the obligations of the Lender pursuant to the instrument referred to in clause (x) of this paragraph shall be null and void (subject to a new right to cure for other defaults) and of no further force and effect. Nothing herein contained shall affect the right of New Lessor, upon the subsequent occurrence of any default by Tenant, to exercise any right or remedy reserved in the Lease or New Lease, if applicable, to New Lessor, subject to the rights of the Lender pursuant to this Agreement with respect to such default. Notwithstanding anything contained in this Agreement to the contrary, New Lessor shall not be required to waive monetary defaults such as payment of rent, taxes, insurance and other financial obligations under the Lease or New Lease, if applicable, giving credit, however, for any net income actually collected by New Lessor in connection with the Premises. Further, both parties agree payment of rent (based on gross rent Lender is able to collect), and payment of taxes, insurance and other monetary obligations shall never be deemed "not within the reasonable power of the Lender or such nominee to perform" or a default not susceptible of being cured and upon Lender or its designee becoming the Tenant, such party shall perform the deferred maintenance and other obligations within its reasonable control to the extent such matters could not be cured previously.

(ix) Upon (a) a foreclosure or deed in lieu of foreclosure, whereby the Tenant's interest in the Lease or New Lease, if applicable, is transferred to the Lender or foreclosure of ownership interests in Tenant or a transfer in lieu of foreclosure of ownership interests in Tenant, or its first assignee or (b) if such Lender is unable (despite commercially reasonable efforts to do so) to perform the cure within its cure period as provided in Section 7 (xi) and the Lease or New Lease, if applicable, is terminated or (c) if New Lessor shall give notice thereof to the Lender and in either of such cases, upon written request by the Lender given to New Lessor within thirty (30) days after such foreclosure (as provided in Section 7(xii)(a)) or the notice from New Lessor to the Lender of the termination of the Lease or New Lease, if applicable (as provided in Section 7(xii)(b)) to enter a "New Lease" (as hereinafter defined), New Lessor shall enter into and deliver a new lease ("**New Lease**") of the Premises with the Lender or its designee for the remainder of the term of the Lease or New Lease, if applicable, upon the exact same terms and conditions as contained in the Lease or New Lease, if applicable, including all right to the extensions thereof and dated as of the date of termination of the Lease or New Lease, if applicable, and convey to the Lender (or its designee) by quit claim bill of sale, a term of years in and to the Improvements, reserving to New Lessor the reversion of title to the Improvements upon the termination of the New Lease. The estate of the Lender (or its designee) as lessee under the New Lease shall have priority equal to the estate of the Tenant under the Lease or New Lease, if applicable (that is, there shall be no charge, lien or burden upon the Premises prior to or superior to the estate granted by such New Lease which was not prior to or superior to the estate of the Tenant under the Lease or New Lease, if applicable, as of the date immediately preceding the date the Lease or New Lease, if applicable, went in default. The quit claim bill of sale to the Improvements shall recite that the grantee holds title to the Improvements only so long as the New Lease shall continue in full force and effect, that upon termination of the New Lease, title to the Improvements shall revert to New Lessor automatically without payment. Nothing herein contained shall be deemed to impose any

obligation upon New Lessor or to cause the delivery of physical possession of the Premises and the Improvements to the Lender or its designee or to disavow any recognition of the Lease or New Lease, if applicable, or the rights of the Tenant pursuant to the terms of the Lease or New Lease, if applicable. The Lender or its designee shall pay all reasonable expenses, including reasonable attorneys' fees, incident to the execution and delivery of such New Lease and quit claim bill of sale to the extent requested by the Lender. If there be more than one (1) Leasehold Mortgage, the right to request and obtain a New Lease shall be limited solely to the Lender having the highest priority lien. New Lessor reserves the right to require a written legal opinion, at Lender's expense, as to whether or not such Leasehold Mortgage is a first lien on the Tenant's rights under the Lease or New Lease, if applicable.

However, if the Leasehold Mortgage is foreclosed, the purchaser who shall have acquired the Tenant's leasehold estate at the foreclosure sale shall execute and deliver such evidence of acquiring such leasehold estate to New Lessor. If Lender is the purchaser, it may assign its interest in the Lease or New Lease, if applicable, to any person, firm, corporation or entity designated by it who satisfies the minimum standard as expressly specified in the Lease or New Lease, if applicable, and such assignee shall execute and deliver such assignment to New Lessor in form reasonably acceptable to New Lessor, whereupon the Lender shall have no liability or obligation thereunder.

8. (a) Without the prior written consent of Fee Mortgagee (while its lien encumbers the Town's interest in the Lease or New Lease, if applicable) the Town and Tenant, shall not consent to or accept any voluntary cancellation, termination or surrender of the Lease (other than to enforce a default thereunder not cured within the applicable cure period). Without the prior written consent of Fee Mortgagee (while its lien encumbers the Town's interest in the Lease or New Lease, if applicable), which consent shall not be unreasonably withheld, conditioned or delayed, the Town and Tenant shall not, in any material respect, modify or amend the Lease or New Lease, if applicable, which materially changes the term, the rent, or otherwise materially increases the obligations of the Town or material decreases the obligations of Tenant under the Lease or New Lease, if applicable (a "**Lease Modification**"). In the event the Town sends its request for approval of a Lease Modification to Fee Mortgagee as a "Time Sensitive Request of Lender", then the Lender shall be deemed to have approved such request if the Fee Mortgagee does not disapprove same and specify the basis for such disapproval within twenty (20) days of request.

(b) Without the prior written consent of Lender (to the extent it has provided a Lender Notice and while its lien encumbers any Tenant interest in the Lease or New Lease, if applicable), the Town and Tenant shall not (i) consent to or accept any violation, cancellation, termination or surrender of the Lease or New Lease, if applicable (other than to enforce a default thereunder not cured within the applicable cure period (but subject to the terms hereof)), or (ii) modify or amend the Lease or New Lease, if applicable, in any material manner which changes the term, the rent, or otherwise materially increases the obligations of Tenant or material decreases the obligations of the Town or the rights of Tenant under the Lease or New Lease, if applicable (in each case, a "**Material Lease Modification**"). In the event the Town or Tenant sends a request to Lender for approval of a Material Lease Modification, any such consent of Lender shall not be

unreasonably withheld and shall be subject to the terms and provisions attached hereto as Exhibit A.

9. The Town and New Lessor agree that the restrictions on "Assignment" (as defined in the Lease or New Lease, if applicable) do not apply to either (a) an assignment of the Leasehold interest of Tenant as it relates to Lender (to the extent it has provided a Lender Notice) pursuant to the Leasehold Mortgage or the foreclosure of the Leasehold Mortgage or assignment in lieu of the foreclosure of the Leasehold Mortgage or (b) a pledge of ownership interests in the Tenant as it relates to Lender by its owner or the foreclosure on the ownership interests of Tenant or the assignment in lieu of the foreclosure of ownership interests in the Tenant, provided however, any subsequent assignment by Lender to a third party shall be subject to compliance with the minimum standards relating to an assignee as specified in the Lease or New Lease, if applicable.

10. The parties acknowledge that any Loan(s) obtained by Tenant are leasehold security interests on the Tenant's interest in the Premises and do not encumber or subordinate the fee simple title of the Town, the leasehold interest of Lessor, or any lien and/or leasehold interest held by Fee Mortgagee.

11. Any notice required or permitted to be given by the terms of this Agreement or under any applicable law by either party shall be in writing and shall be either hand delivered or sent by certified mail, postage prepaid, return receipt requested. Such written notice shall be addressed as follows:

As to Fee Mortgagee:

With a copy to:

As to Town:

With a copy to:

As to Lender:

The name and address of the Lender and its
representatives as set forth in the Lender Notice

As to Tenant:

unless the address is changed by the party by like notice given to the other parties. Notice shall be in writing, mailed certified mail, return receipt requested, postage prepaid and shall be deemed delivered three (3) business days after being properly mailed or upon hand delivery to the address indicated. Notwithstanding the foregoing, notices, requests or demands or other communications referred to in this Agreement may be sent by email (except that requests for Material Lease Modification approvals whereby the provisions of Exhibit A would be applicable must always be sent by certified mail return receipt requested or a nationally recognized delivery service such as Federal Express in addition to email) or by nationally recognized delivery service such as Federal Express, but shall only be deemed to have been given when received

12. This Agreement shall not be changed, modified or amended except by an instrument in writing and executed by all Parties to this Agreement.

13. This Agreement may be executed in any number of counterparts, each of which, when executed, shall be deemed an original and all of which shall be deemed one and the same instrument. Facsimile transmission signatures of this Agreement shall be deemed to be original signatures.

14. This Agreement is governed by Florida law and Palm Beach County, Florida is the agreed upon venue.

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

[Signature Pages to Follow]

LESSOR:

Town of Lake Park Florida

Print Name: _____

Name: _____

Title: _____

Print Name: _____

Date: _____

STATE OF _____)
) SS:
COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2023.

Notary Public

Typed, print d or stamped name of Notary Public

My Commission Expires:

WITNESSES:

TENANT:

Print Name: _____

By: _____

Name: _____

Title: _____

Print Name: _____

Date: _____

STATE OF _____)
) SS:
 COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2023.

 Notary Public

 Typed, print d or stamped name of Notary Public

My Commission Expires:

WITNESSES:

LENDER:

Print Name: _____

By: _____

Name: _____

Title: _____

Print Name: _____

Date: _____

STATE OF _____)
) SS:
 COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said bank. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2023.

 Notary Public

 Typed, print d or stamped name of Notary Public

My Commission Expires:

WITNESSES:

FEE MORTGAGEE:

 Print Name: _____

 By: _____

 Name: _____

 Title: _____

 Print Name: _____

 Date: _____

STATE OF _____)
) SS:
 COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization by _____, the _____ of _____, a _____, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/she is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2023.

 Notary Public

 Typed, print d or stamped name of Notary Public

My Commission Expires:

Exhibit A

If Tenant makes a written request of Lender in accordance with the terms of this Agreement to make a material modification or amendment to the Lease, accompanied by all such background information and explanations as may be reasonably necessary for Lender to determine whether to consent to or approve the request, and does not receive a consent, approval or rejection from Lender within five (5) business days after Lender's receipt of such request, then Tenant may provide Lender with a second written notice of any such request, with a copy of such first request, and if such second written notice includes, printed in capital letters of boldface type and at least 12 point font, a legend substantially to the following effect:

“THIS COMMUNICATION REQUIRES IMMEDIATE RESPONSE. FAILURE TO RESPOND WITHIN TEN (10) CALENDAR DAYS (OR LONGER PERIOD AS PROVIDED IN THAT CERTAIN NON-DISTURBANCE AGREEMENT DATED AS OF _____) FROM THE RECEIPT OF THIS COMMUNICATION SHALL CONSTITUTE A DEEMED CONSENT OR APPROVAL BY THE ADDRESSEE OF THE ACTION REQUESTED BY THE ADDRESSOR.”

and if the foregoing legend is included by the Tenant in the second written request to Lender, such request shall be deemed to have approved or consented to the item for which Tenant sought Lender's consent or approval for all purposes hereunder unless Lender denies the such request within ten (10) calendar days of Lender's receipt of such second written request; provided, however, that if Lender in writing notifies Tenant (including the basis for the need for additional time) within such ten (10) calendar day period that the nature of the request is such that more than ten (10) calendar days are required in order for the Lender to properly assess the request and respond to Tenant (including without limitation, as a result of loan approval authority for the requested change being a prerequisite to Lender's and/or any Loan participant's response to the request), then such period shall be extended for up to an additional twenty (20) calendar days (i.e. a total of thirty (30) calendar days after Lender's receipt of the second written request) for Lender and/or any Loan participant to properly assess the request and respond to Tenant so long as Lender and/or such Loan participant(s) have commenced their assessment within such ten (10) calendar days period and thereafter diligently conducts their review and determination of whether or not to approve or consent to such request.



Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: June 12, 2024

Agenda Item No.

Agenda Title: Selecting a Workshop Date for the Resiliency Ordinance Discussion AND Zoning/Density Changes for the US-1 Corridor/Waterfront (Saturday, October 5, 12 or 19).

[] SPECIAL PRESENTATION/REPORTS [] CONSENT AGENDA
 [] BOARD APPOINTMENT [X] OLD BUSINESS
 [] ORDINANCE ON 1st READING
 [] NEW BUSINESS
 [] OTHER: _____

Approved by Town Manager John D'Agostino Date: _____
Digitally signed by John D'Agostino
 DN: cn=John D'Agostino, o=Town of Lake Park, ou=Town Manager, email=jdagostino@lakeparkflorida.gov, c=US
 Date: 2024.06.08 14:28:12 -04'00'

Nadia Di Tommaso / Community Development Director

Name/Title

Originating Department: Town Manager/Community Development	Costs: N/A Funding Source: [] Finance _____	Attachments: None
Advertised: Date: _____ Paper: _____ [X] Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ OR Not applicable in this case <i>ND</i> Please initial one.

Summary Explanation/Background:

In light of recent discussions and Commission direction pursuant to the resiliency ordinance and zoning/density changes for the US-1 corridor/Waterfront area (that still requires public discussion), this item serves to select a workshop date in October 2024. Some Saturday options are: October 5, 12, or 19 at 10am. Once a selection is made, notifications will be programmed and sent electronically so that stakeholders are aware of the selected date. Direct mail will also be sent two weeks in advance of the selected workshop date.

Recommended Motion: I move to select (date) for the workshop.



Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: June 12, 2024

Agenda Item No.

Agenda Title Petition Presented by Frank Katz to create a cul da sac on Lake Shore Drive.

- | | | | |
|-------------------------------------|---|--------------------------|----------------|
| <input type="checkbox"/> | SPECIAL /REPORTS | <input type="checkbox"/> | CONSENT AGENDA |
| <input type="checkbox"/> | BOARD APPOINTMENT | <input type="checkbox"/> | OLD BUSINESS |
| <input type="checkbox"/> | PUBLIC HEARING ORDINANCE ON 1 st READING | | |
| <input checked="" type="checkbox"/> | NEW BUSINESS | | |
| <input type="checkbox"/> | OTHER: WORKSHOP _____ | | |

Approved by Town Manager John D'Agostino

Digitally signed by John D'Agostino
DN: cn=John D'Agostino, o=Town of Lake
Park, ou=Town Manager,
email=jdagostino@lakeparkflorida.gov,
Date: 2024.05.14 17:05:28 -04'00'

Date: _____

Name/Title John O. D'Agostino. Town Manager

Originating Department: Town Manager	Costs:\$ 0 Funding Source: General Fund Acct. # <input type="checkbox"/> Finance _____	Attachments: <ul style="list-style-type: none"> Article 1 In General Section 72-4-8
Advertised: Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required JOD	All parties with interest in this agenda item are notified of the meeting date and time.	___Yes, I Notified everyone or ___Not applicable in this case Please initial one.

Summary Explanation/Background: Resident Frank Katz requested to be placed on the Town Commission Agenda to discuss closing a portion of Lake Shore Drive. Mr. Katz plans to present the Town Commission with a petition from residents to close a portion of Lake Shore Drive.

Mr. Katz plans to bring the petition to the meeting and present the same to the Commission. I have attached the ordinance governing the criteria for abandoning public rights-of-ways.

Recommended Motion: No motion is recommended at this time unless the Commission consents for the applicant to move forward with the abandonment process per the attached.

- (a) All applications for the abandonment of public rights-of-way shall be reviewed and acted upon by the town commission. The burden of proof shall be upon the applicant to show that the application is consistent with the town's comprehensive plan and all of the standards listed in this section.
- (b) The town commission may approve an abandonment application if the applicant demonstrates, by clear and convincing evidence, that a right-of-way is no longer required for a public use and convenience. Any proposed abandonment of a public right-of-way shall demonstrate that such action furthers the health, safety and welfare of the town's residents. In making this determination, the town commission shall consider whether:
 - (1) The abandonment deprives any business or individual of a reasonable means of ingress and egress to that business or individual's property;
 - (2) The abandonment adversely affects utility service efficiency, or precludes the future provision of public or private utility services;
 - (3) The abandonment reduces adjacent property values; and
 - (4) The abandonment eliminates the potential use of dedicated property for a public purpose, including, but not limited to, pedestrian or vehicular access, recreation, environmental preservation, or stormwater management.
- (c) Generally abandonments for an entire right-of-way should be considered, unless there are extenuating circumstances for considering the partial abandonment of a right-of-way.
- (d) Each abandonment application shall include written statements from all public utilities serving the town, including water, sewer, electric or cable television utilities, stating whether or not the proposed abandonment would adversely affect that utility.
- (e) Prior to the commission's consideration of the abandonment application the community development director shall obtain an appraisal from a Florida licensed real estate appraiser of the subject property and the applicant shall reimburse the town for the cost of same.
- (f) The abandonment of a public right-of-way shall not occur until the applicant has paid to the town the appraised value of the property to be abandoned, except as allowed by subsection (g) below. An abandonment approval shall be void if payment does not occur within 90 days from the date of approval by the town commission.
- (g) The town commission may abandon an unused alley, street, utility easement, located within a residential zoning district, without payment to the town, provided the abandonment is to the benefit of the town, and the right-of-way is currently not used, or is not contemplated for future use by the public entity, such as a water, sewer, electric or cable television utility.

Sec. 72-5. - Application for abandonment.

All requests for abandonment to the town shall be made in writing upon an application form giving the following information:

- (1) The name and address of the applicant.
- (2) A description of the real property if any owned by the applicant, which would be affected by the abandonment request.
- (3) The reason for the abandonment request.
- (4) A general description of the street, alley or easement, other non-fee interest of the Town in real estate, which is to be abandoned and its location. A legal description, and a plat, survey or engineering drawing of the area involved.
- (5) The names and addresses of the owners, businesses or occupants of real property bounding and abutting the street, alley, or easement sought to be abandoned, and the property owners located within 250 feet thereof.
- (6) Such other relevant information as may be required in order to fully present the full circumstances of the abandonment request.

(Ord. No. 16-2008, § 2, 10-1-2008; Ord. No. 06-2009, § 2, 4-1-2009)

Sec. 72-6. - Procedures for abandonment applications.

Applications for abandonment, together with the fee therefore, shall be made and presented to the director of the community development department, who shall proceed as follows:

- (1) The director shall review the application for compliance with the above requirements, returning incomplete or inaccurate applications to the applicant submitting same for correction or completion.
- (2) The director shall consult with the public works director, town engineer, town attorney, or other staff advisors to the town to review the relevant information concerning the abandonment requested.
- (3) The town shall require the applicant to notify all public utilities that may be affected by the abandonment requested, and obtain their response thereto.
- (4) The town shall require the applicant to notify the general public by posting signs and publishing notice upon the street or alley, or portion thereof affected, setting forth notice of the proposed abandonment, and of the date of the hearings to be held thereon by the town commission.

Sec. 72-7. - Commission hearing and report.

- (a) The town commission shall hold a public hearing regarding the application for abandonment.
- (b) The commission shall consider the public right and interest in the right-of-way, subject to the application for abandonment from the standpoint of the benefit of the community as a whole, and may make findings regarding any rearrangement of streets and rights-of-way, which are involved therein in order to secure a more regular and harmonious system for traffic circulation. The commission shall also determine valuation of any such street, alley, easement, or right-of-way to be abandoned, and the extent to which the public interest and general welfare of the community might be compensated by obtaining any alternate right-of-way, or any monetary contribution for additional right-of-way, or by any combination thereof, in exchange for the abandonment requested. The commission may recommend conditions as appropriate for the requested abandonment.

(Ord. No. 16-2008, § 2, 10-1-2008; Ord. No. 06-2009, § 2, 4-1-2009)



Town of Lake Park Town Commission

Item 8.

Agenda Request Form

Meeting Date: June 12, 2024

Agenda Item No.

Agenda Title: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, APPROVING A SITE PLAN FOR A SEVEN STORY, 279 UNIT APARTMENT COMPLEX TO BE KNOWN AS NORTHLAKE PROMENADE, GENERALLY LOCATED SOUTH OF NORTHLAKE BOULEVARD AND WEST OF FEDERAL HIGHWAY; PROVIDING FOR CONDITIONS OF APPROVAL ASSOCIATED WITH THE SITE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

[] SPECIAL PRESENTATION/REPORTS [] CONSENT AGENDA
[] BOARD APPOINTMENT [] OLD BUSINESS
[] ORDINANCE
[X] **NEW BUSINESS - (FOLLOW-UP MEETING) QUASI-JUDICIAL PUBLIC HEARING RESOLUTION**

Approved by Town Manager John D'Agostino Digitally signed by John D'Agostino
DN: cn=John D'Agostino, o=Town of Lake
Park, ou=Town Manager,
email=jd.agostino@lakeparkflorida.gov, c=US
Date: 2024.06.07 17:40:16 -0400 Date: _____

Anders Viane – Planner

Name/Title

Originating Department: Community Development	Costs: \$ No Additional Costs from those listed in original meeting date Funding Source: Acct. # [] Finance _____	Attachments: → Resolution 38-06-24
Advertised: Date: 4/18/24 Paper: Palm Beach Post [] Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone <i>AV</i> (<i>certified mail to everyone within 300 feet</i>) or Not applicable in this case Please initial one.

Summary Explanation/Background:

On June 5, 2024, the Town Commission conditionally approved Resolution 38-06-24 for the Northlake Promenade project. This approval was contingent on two conditions of approval coming back to the Commission on June 12. Enclosed is the updated Resolution with new condition #22 and revised condition #11. All of the additional documents presented at the June 5 meeting are available in the June 5 meeting packet.

Recommended Motion: I move to “APPROVE” Resolution 38-06-24.

RESOLUTION NO. 38-06-24

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, APPROVING A SITE PLAN AUTHORIZING THE DEVELOPMENT A SEVEN STORY, 279 UNIT APARTMENT COMPLEX TO BE KNOWN AS NORTHLAKE PROMENADE, GENERALLY LOCATED SOUTH OF NORTHLAKE BOULEVARD AND WEST OF FEDERAL HIGHWAY; PROVIDING FOR CONDITIONS OF APPROVAL ASSOCIATED WITH THE SITE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Northlake Promenade Shoppes LLC (“Owner”) owns the property having parcel control numbers 36-43-42-21-32-010-0000 and 36-43-42-21-32-009-0000, which is generally located south of Northlake Boulevard and west of Federal Highway, and is legally described in Exhibits “A” and “B” (the Site); and

WHEREAS, McKenna West of Cotleur and Hearing, acting as the Owner’s authorized agent (“Agent”), has submitted an application for a site plan proposing to develop a seven story, 279 unit apartment complex (the Application); and

WHEREAS, pursuant to the Town of Lake Park’s (Town) Future Land Use Map contained in its Comprehensive Plan, the Site has a future land use designation of “Twin Cities Mixed Use”; and

WHEREAS, the development of a residential multifamily use would be consistent with this future land use designation; and

WHEREAS, the zoning assigned to the Site is C-3 Twin Cities Mixed Use District; and

WHEREAS, a multifamily residential use is a permitted use within the C-3 Twin Cities Mixed Use District; and

WHEREAS, the Town’s Planning and Zoning Board conducted a quasi-judicial hearing to evaluate a variance request by the Owner, the approval of which was necessary to permit the Application to proceed as submitted; and

WHEREAS, the Town’s Planning and Zoning Board determined that the Applicant’s variance request meets the criteria in the Town Code, and the variance was approved; and

WHEREAS, the Town Commission has conducted a quasi-judicial hearing to consider the Application; and

WHEREAS, the Town Commission has considered the evidence presented by the Town’s Community Development Department (the Department), the Owner and Agent, and members of the public, and determined that with the variance and the adoption of the conditions imposed, the

development of the Site would be consistent with the Town's Comprehensive Plan and meet its Land Development Regulations.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK:

Section 1: The whereas clauses are incorporated herein as the findings of fact and conclusions of law of the Town Commission.

Section 2. The Town Commission hereby approves a Development Order for the Site subject to the following conditions:

1. The Applicant shall develop the Site consistent with the following Plans and the title sheet shall be updated to reflect the following list of plans and their sign and seal dates:

Name	Sheet	Revision Date	Received on
GENERAL			
Boundary Survey	1 of 2	02.05.2021	5.17.24
Boundary Survey	2 of 2	02.05.2021	5.17.24
Site Plan Set			
Cover Page	1 of 9	5.13.24	5.17.24
Site Plan	2 of 9	5.13.24	5.17.24
Site Plan	3 of 9	5.13.24	5.17.24
Site Plan	4 of 9	5.13.24	5.17.24
Site Details	5 of 9	5.13.24	5.17.24
Site Plan	6 of 9	5.14.24	5.17.24
Context Plan	7 of 9	1.10.24	5.17.24
Sidewalk Easement Exhibit	8 of 9	5.13.24	5.17.24
Park and Green Space Exhibit	9 of 9	5.13.24	5.17.24
Publix and Retail Building Elevations			
Building Elevations	A201	10.23.24	5.17.24
Building Elevations	A202	10.23.24	5.17.24
Building Elevations	A203	10.23.24	5.17.24
Renderings	A901	10.23.24	5.17.24

Renderings	A902	10.23.24	5.17.24
Renderings	A903	10.23.24	5.17.24
Architecture			
Architectural Site Plan	A0-01	2.2.24	5.17.24
Overall Floor Plan – Level 1	A1-01	2.2.24	5.17.24
Overall Floor Plan – Level 2	A1-02	2.2.24	5.17.24
Overall Floor Plan – Levels 3-4	A1-03	2.2.24	5.17.24
Overall Floor Plan – Levels 5-6	A1-05	2.2.24	5.17.24
Overall Floor Plan – Level 7	A1-07	2.2.24	5.17.24
Overall Roof Plan	A1-50	2.2.24	5.17.24
Building Elevations	A2-01	2.2.24	5.17.24
Building Elevations	A2-02	2.2.24	5.17.24
Retail Building Elevations	A201	10.23.23	5.17.24
Building Elevations	A202	10.23.23	5.17.24
Building Perspective – NE Entry	A2-04	2.2.24	5.17.24
Building Perspective – Main Entry	A2-05	2.2.24	5.17.24
Building Perspective – Retail Approach	A2-06	2.2.24	5.17.24
Building Perspective – Retail Tower Approach	A2-07	2.2.24	5.17.24
Building Perspective – Townhouse	A2-08	2.2.24	5.17.24
Building Perspective – Courtyard View	A2-09	2.2.24	5.17.24
Retail – Perspective View	A2-10	2.2.24	5.17.24
Retail – Perspective View	A2-11	2.2.24	5.17.24
Retail – Perspective View	A2-12	2.2.24	5.17.24
Perspective – Townhouse Street Approach	A2-13	2.2.24	5.17.24
Civil			
Cover Sheet	Cover Sheet	11.17.23	5.17.24
Conceptual Paving & Grading Plan	PD1	11.17.23	5.17.24
Conceptual Paving & Grading Plan	PD2	11.14.23	5.17.24
Conceptual Water & Sewer Plan	WS1	11.14.23	5.17.24
Conceptual Water & Sewer Plan	WS2	11.14.23	5.17.24
Fire Truck Route Plan	FT-1	11.14.23	5.17.24
Garbage Collection Truck Route Plan	REF-1	11.14.23	5.17.24

Landscape and Irrigation			
Cover Sheet	L-0.00	5.15.23	5.17.24
Overall Hardscape Site Plan / Key Plan	L-1.10	5.15.23	5.17.24
Enlarged Hardscape Plan	L-1.11	5.15.23	5.17.24
Enlarged Hardscape Plan	L-1.12	5.15.23	5.17.24
Enlarged Hardscape Plan	L-1.13	5.15.23	5.17.24
Enlarged Hardscape Plan	L-1.14	5.15.23	5.17.24
Enlarged Hardscape Plan	L-1.15	5.15.23	5.17.24
Enlarged Hardscape Plan	L-1.16	5.15.23	5.17.24
Enlarged Hardscape Plan	L-1.17	5.15.23	5.17.24
Enlarged Hardscape Plan	L-1.18	5.15.23	5.17.24
Enlarged Hardscape Plan	L-1.19	5.15.23	5.17.24
Enlarged Hardscape Plan	L-1.20	5.15.23	5.17.24
Enlarged Hardscape Plan	L-1.21	5.15.23	5.17.24
Enlarged Hardscape Plan	L-1.22	5.15.23	5.17.24
Enlarged Hardscape Plan	L-1.23	5.15.23	5.17.24
General Hardscape Details	L-2.50	5.15.23	5.17.24
Tree Mitigation Plan	L-3.00	5.15.23	5.17.24
Tree Mitigation Plan	L-3.01	5.15.23	5.17.24
Tree Mitigation Plan	L-3.02	5.15.23	5.17.24
Overall Planting Plan	L-3.10	5.15.23	5.17.24
Enlarged Planting Plan	L-3.11	5.15.23	5.17.24
Enlarged Planting Plan	L-3.12	5.15.23	5.17.24
Enlarged Planting Plan	L-3.13	5.15.23	5.17.24
Enlarged Planting Plan	L-3.14	5.15.23	5.17.24
Enlarged Planting Plan	L-3.15	5.15.23	5.17.24
Enlarged Planting Plan	L-3.16	5.15.23	5.17.24
Enlarged Planting Plan	L-3.17	5.15.23	5.17.24
Enlarged Planting Plan	L-3.18	5.15.23	5.17.24
Enlarged Planting Plan	L-3.19	5.15.23	5.17.24

2. Construction on the Site is permitted only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, except holidays, unless an exception is approved in writing by the Director of the Department of Community Development (the Director).
3. Any proposed disruption to neighboring street access, surrounding parking areas, or the normal flow of traffic within the Northlake Boulevard, Palmetto Drive, or other right-of-ways during the construction on the Site shall be subject to the review and approval of the Director and any of the agencies responsible for maintaining these roadways. Should there be any disruption to the normal flow of traffic on these streets during construction on the Site, construction shall cease until the Director has provided the Owner with a written notice to proceed.
4. All landscaping shown on the approved Site Plan and the Landscaping Plan shall be continuously maintained from the date of its installation and the issuance of the Certificate of Occupancy by the Town. The Owner shall replace any and all dead or dying landscaping materials so as to maintain the quantity and quality of the landscaping shown on the approved Site Plan and Landscaping Plan.
5. The Owner shall ensure that all contractors use best management practices to reduce airborne dust and particulates during the construction on the Site.
6. All onsite dumpsters shall be kept closed at all time and dumpster screening shall be maintained. All dumpsters shall be acquired from the approved franchise supplier for the Town.
7. Prior to issuance of the Certificate of Occupancy, the Agent shall provide certification from the Landscape Architect of record that the plant installations for the Site are in accordance with the approved Site Plan (and any minor modifications that are approved through permitting) and the Landscaping Plan or have been determined to be equivalent to those shown on the approved Site Plan by the Town's consulting landscape architect.
8. Prior to the issuance of any construction permits, the Agent shall submit copies of all permits that are required and have been obtained from any agencies having jurisdiction over the Site, including but not limited to the Palm Beach County Health Department, Palm Beach County Land Development Division, South Florida Water Management District and the State of Florida Department of Environmental Protection.
9. Any revisions to any approved plans associated with the development of the Site, shall be submitted to the Department, and shall be subject to its review and approval.
10. At the time of building permitting, signage permitting (window, wall, freestanding, or other) for the Project shall be submitted through the Town's permitting process with a

master sign plan that ensures signage consistency in design and color scheme of the signs to be located on the Site. A sign package illustrating all signs and their colors shall be submitted to the Department through the regular signage permitting process and shall be subject to its review and approval prior to the placement of any signs on the Site. Signage shall be subject to the Department's final review and approval.

11. Within 18 months of the effective date of this Resolution, the Owner shall initiate bona fide development and shall continue with the development of the Site until completed. Failure to initiate bona fide development or to complete the development of the site within the **36 months after bona fide development is initiated** shall render the Development Order null and void.
12. Prior to the issuance of a Certificate of Occupancy or Completion, the Owner shall install high-definition surveillance cameras, which capture clear facial features throughout the parking areas of the Site and along the exterior façades of the buildings on the Site. The location of the camera(s) shall be subject to the review and approval of the Department and the Palm Beach Sheriff's Office.
13. **Cost Recovery.** All professional consulting fees and costs, including legal fees incurred by the Town in reviewing the Application and in the preparation of this Resolution billed to the Owner shall be paid to the Town within 10 days of receipt of an invoice from the Town. The failure of the Owner to reimburse the Town within the 10 days from the Department's mailing of its invoice will result in the suspension of any further review of plans or building activities, and may result in the revocation of the approved Development Order. A Certificate of Occupancy will not be issued if invoices are outstanding.
14. Prior to the issuance of a building permit, the Owner shall submit a proposed sidewalk easement, which shall be subject to the review and approval of the Town Attorney. Upon the approval of the Town Attorney, the Owner shall either record the easement or incorporate the same into the plat, prior to receiving a certificate of occupancy.
15. Prior to the issuance of building permit, the Owner shall provide a surety or bond, based on a certified cost estimate, for 110 percent of the improvement value of the proposed Publix façade improvements, in a form acceptable to the Town Attorney guaranteeing the proposed improvements will be initiated and completed pursuant to the development order timeline.
16. If building permits are issued after February 24, 2028, the Owner shall obtain a new updated Palm Beach County traffic concurrency approval.
17. If, at any time the County Engineer determines that a traffic signal is warranted, the Owner shall provide the funds for the cost of the installation of a traffic signal on Northlake Boulevard at the Site's western main entrance, "the Northlake Entry Street." The funds provided shall be sufficient to cover the cost of design, the relocation of any utilities, acquisition of right-of-way, and the installation of a mast arm signalization structure. The

Owner shall provide acceptable surety in an amount determined to be sufficient by the Palm Beach County Traffic Division.

18. Prior to the issuance of a Certificate of Occupancy, the Owner shall complete the closing the easterly median opening on Northlake Boulevard and extend the eastbound dual left turn lanes at the U.S. Highway 1, in accordance with the approvals received from the County Engineer or Florida Department of Transportation..
19. Prior to the issuance of a certificate of occupancy, the Owner shall extend the existing eastbound “drop through lane/ right turn lane” on Northlake Boulevard at US-1, westerly to the east edge of the Project’s westernmost driveway connection.
20. The Owner shall comply with all SUA standards.
21. Prior to the issuance of a building permit, the Owner shall submit a copy of a Reciprocal Easement Agreement which has been entered into with Publix that provides for the joint use and access between Publix’s parcel and the Site, and which memorializes the identification of those parking spaces reserved for Publix and the Site. The Reciprocal Easement Agreement shall be subject to the review and approval of the Town Attorney.
22. The applicant’s design team shall work with Town staff and engineering to modify the westernmost driveway connection to Palmetto Drive to restrict vehicular movement to right in, left out only (no right out and no left in) via signage and roadway marking and/or curb channelization. Between 6 months and 1 year after 70% residential occupancy is achieved, Town law enforcement, staff, and engineering will report back to the Town Commission whether the driveway restrictions have been sufficient. The sufficiency shall be based on crash data and/or other observed safety or traffic operational issues. If the driveway is determined to be insufficient, the driveway will be required to be modified to improve traffic conditions.

Section 3: This resolution shall become effective upon execution.



Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: June 12, 2024

Agenda Item No.

Agenda Title: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AUTHORIZING THE CONSTRUCTION OF THE ACCESS MANAGEMENT PLAN FROM SILVER BEACH ROAD TO PALMETTO ROAD AS SHOWN IN EXHIBIT A.

☐ SPECIAL PRESENTATION/REPORTS ☐ CONSENT AGENDA
☐ BOARD APPOINTMENT ☐ OLD BUSINESS
☐ ORDINANCE
☒ **NEW BUSINESS**
☐ OTHER

John

Digitally signed by John D'Agostino
 DN: cn=John D'Agostino, o=Town of Lake
 Park, ou=Town Manager,
 email=jdagostino@lakeparkflorida.gov,
 c=US
 Date: 2024.06.07 11:55:41 -0400

Approved by Town Manager D'Agostino

Date: _____

Nadia Di Tommaso / Community Development Director

Name/Title

Originating Department: Town Manager/Public Works/Community Development	Costs: Not-to-exceed \$76,156 <i>(for the lighting and crosswalk components)</i> Funding Source: Discretionary Surtax Acct: # 301-63100 <input type="checkbox"/> Finance <u>Barbara A. Gould</u>	Attachments: → Resolution and Exhibit A → FDOT Presentation
Advertised: Date: Paper: <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone or Not applicable in this case <u> ND </u> Please initial one.

Summary Explanation/Background:

As the Town Commission may recall, streetscape plans for the US-1 corridor were adopted as part of the Land Development Regulations for the Federal Highway Mixed Use District Overlay (FHMUDO) back in 2017. In follow-up to that adoption, the Palm Beach County Transportation Planning Authority (TPA) and the Federal Department of Transportation (FDOT) were working on a Mobility Improvement Project named the "State Road (SR) 5/US-1 from 59th Street to State Road 850/Northlake Boulevard". This overall area includes the Town's portion of US-1 from Silver Beach Road to Palmetto Drive. Since this project's inception several years ago, the Town held a public workshop in August 2019 to initiate discussions with the Commission and the FHMUDO property owners (who were invited by direct mail) on the proposed roadway/median improvements. The Town Manager's Office, Community Development and Public Works, also held several follow-up

discussions with FDOT geared towards making sure FDOT was aware of all our pending redevelopment plans for the corridor; was aware of the Town's desire to incorporate landscape medians along the corridor; and was aware of the need to maximize traffic circulation at the southern and northern areas of the corridor, particularly around Bayberry/Cypress and Ilex in order to accommodate the traffic movements in those areas. The Town also worked closely with the Earl Stewart Toyota dealership in order to ensure the final design would allow for adequate circulation and access within their site, rather than having to rely on Lake Shore Drive which is prohibited.

FDOT also held a public workshop last year at Town Hall, for which they notified everyone per their public outreach requirements for this type of mobility project. In follow-up to the Staff and Commission discussions and public input received, FDOT finalized their plans.

The scope of work and proposed Improvements, along with the project schedule and costs are included in FDOT's enclosed presentation. Since the scope of work includes lighting as well, a Lighting Maintenance Memorandum Agreement is required. Since landscaping and crosswalks are also included, a Landscape(Crosswalks) Maintenance Memorandum Agreement is also required. Both the decorative lighting (one pole) and the stamped crosswalk improvements come at an added cost for which the Town Manager has agreed to contribute in order to ensure these improvements are made. The total cost for these improvements is a not-to-exceed amount of \$76,156.00. A separate Local Funding Agreement is required by FDOT for this amount. In addition, the Town expressed an interest in incorporating additional plantings in the median other than just sod, and FDOT acknowledged that these will also be programmed separately.

In summary, given that the final design is ready pursuant to the prior discussions and input received, FDOT is ready to move forward with construction and requires the following Resolutions from the Town in order to remain on schedule:

➔ **Resolution of Support for the Roadway Plans (THIS AGENDA ITEM)**

- ➔ Resolution approving the Maintenance Memorandum Agreement for the Lighting
- ➔ Resolution approving the Maintenance Memorandum Agreement for the Landscape (Crosswalks)
- ➔ Resolution approving the Local Funding Agreement for the not-to-exceed amount of \$76,156

All of the Resolutions and agreements have been reviewed and approved by town counsel.

*****THERE ARE FOUR SEPARATE AGENDA ITEMS (i.e. Resolutions) associated with this same project for Commission consideration*****

Recommended Motion: I move to APPROVE Resolution _-06-24.

RESOLUTION 40-06-24**A RESOLUTION OF THE TOWN COMMISSION
OF THE TOWN OF LAKE PARK, FLORIDA,
AUTHORIZING THE CONSTRUCTION OF THE
ACCESS MANAGEMENT PLAN FROM SILVER
BEACH ROAD TO PALMETTO ROAD AS SHOWN
IN EXHIBIT A.**

WHEREAS, the Florida Department of Transportation (FDOT) has identified the State Road (SR) 5 / US-1 Bike Lane project prioritized by the Palm Beach Transportation Planning Agency as Financial Management (FM) # 438386-2 in the FDOT Work Program; and,

WHEREAS, SR 5 project limits cover from 59th Street to SR-850 / Northlake Blvd and passes through the City of Riviera Beach, Town of Lake Park, and Village of North Palm Beach; and,

WHEREAS, SR 5 through the Town of Lake Park has 4 existing lanes undivided with a dual left turn 5th middle lane that differs from the Typical Sections present within the City of Riviera Beach and the Village of North Palm Beach that have 4 lanes divided roadway using medians; and,

WHEREAS, the safety and well-being of the residents and visitors of the Town of Lake Park are of paramount importance to the Town's leadership and citizens; and,

WHEREAS, SR 5 serves as a critical transportation artery within our community, connecting residents to key destinations and promoting economic vitality; and,

WHEREAS, this project, at the request of the Town of Lake Park, proposes medians through the limits of the Town of Lake Park that contributes to a safer condition of managing vehicle access by reducing vehicle conflict areas; and,

WHEREAS, the Town of Lake Park recognizes the potential benefits of the proposed median installation in terms of improved road safety, decreased accident rates, and a more efficient traffic pattern; and,

WHEREAS, the installation of medians has been shown to significantly reduce the occurrence of head-on collisions, prevent dangerous lane changes, and provide pedestrians with safer crossing opportunities; and,

WHEREAS, the median installation aligns with the Town's commitment to fostering a safe and secure environment for its residents, visitors, and businesses; and,

WHEREAS, the Town of Lake Park believes that collaborative efforts with state agencies such as the Florida Department of Transportation are essential in achieving the shared goal of enhancing transportation infrastructure; and,

WHEREAS, the Town of Lake Park participated in the development and the approval of the access management plan of the new medians; and,

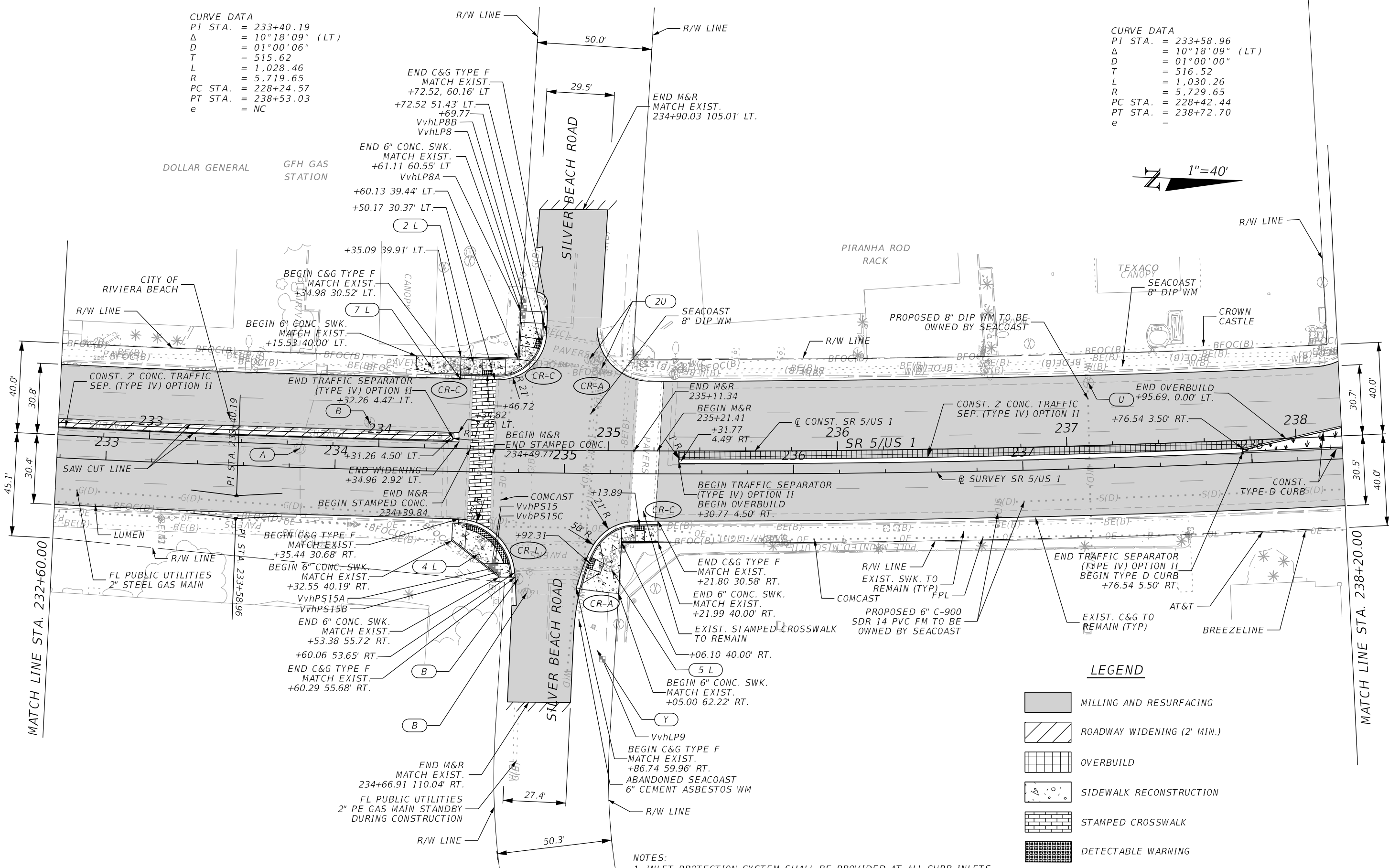
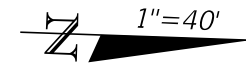
WHEREAS, the Town of Lake Park hosted the location of the FDOT Public Meeting held on June 29, 2023 at the Town of Lake Park, Historic Town Hall, Mirror Ballroom, 535 Park Avenue, Lake Park, FL 33403 to inform the public of the project and the proposed medians from Silver Beach Road to Palmetto Road; and,

NOW, THEREFORE, BE IT RESOLVED, THAT THE TOWN OF LAKE PARK HEREBY EXPRESSES ITS FULL SUPPORT FOR THE FLORIDA DEPARTMENT OF TRANSPORTATION'S PROPOSAL TO INSTALL MEDIANS ALONG SR 5 BETWEEN SILVER BEACH ROAD AND PALMETTO ROAD.

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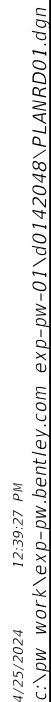
LEGEND

- MILLING AND RESURFACING
- ROADWAY WIDENING (2' MIN.)
- OVERBUILD
- SIDEWALK RECONSTRUCTION
- STAMPED CROSSWALK
- DETECTABLE WARNING

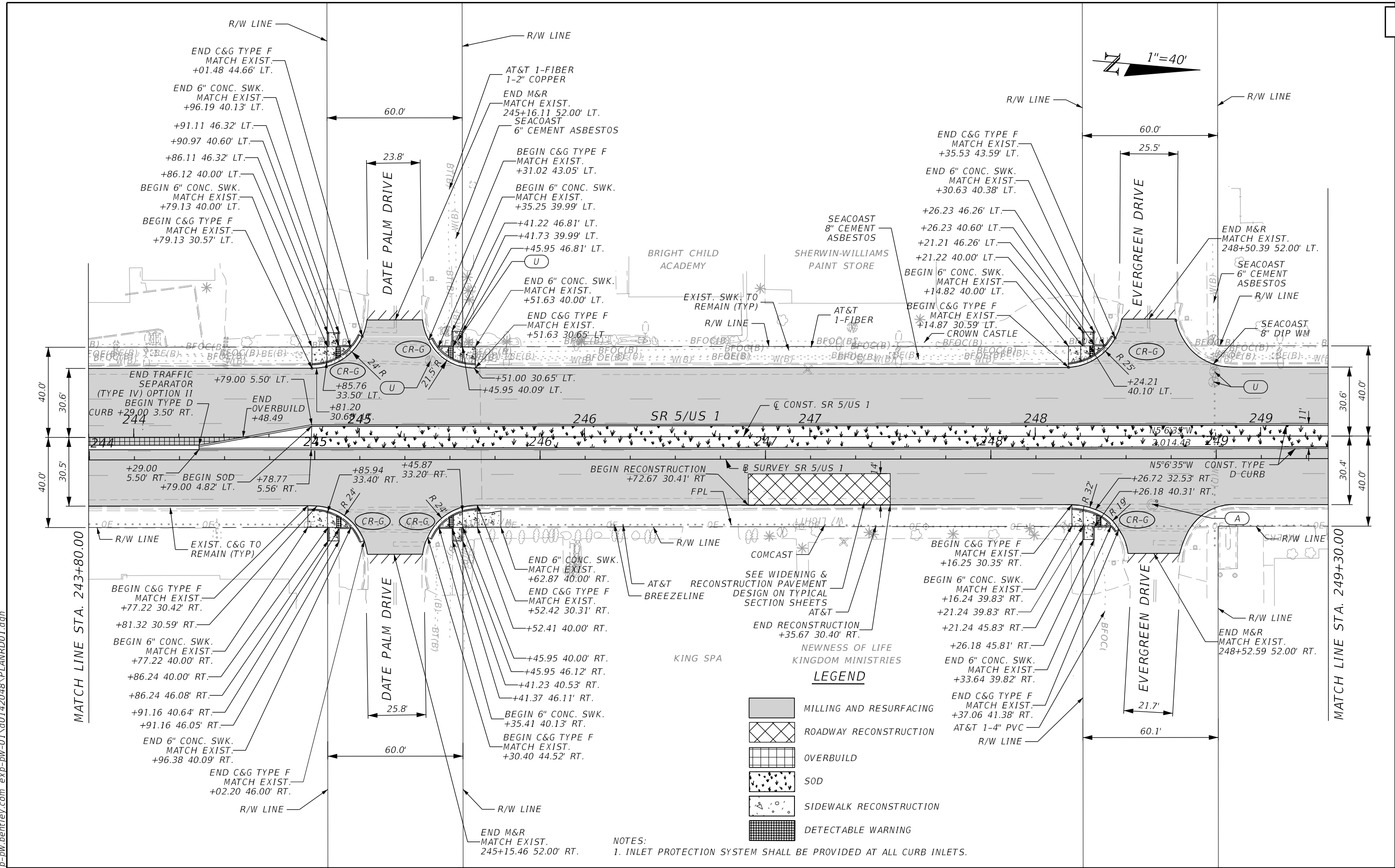
NOTES:
1. INLET PROTECTION SYSTEM SHALL BE PROVIDED AT ALL CURB INLETS.

REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			ROADWAY PLAN SHEET	SHEET NO. 33
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
					SR 5	PALM BEACH	438386-2-52-01		

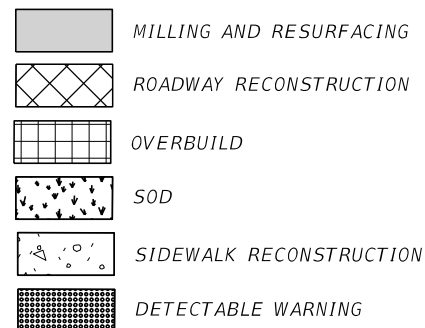
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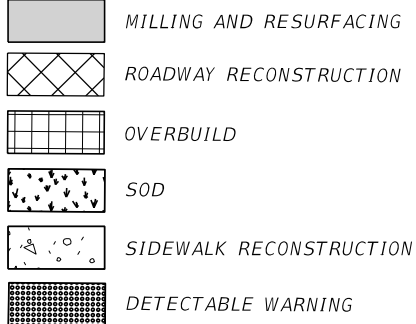
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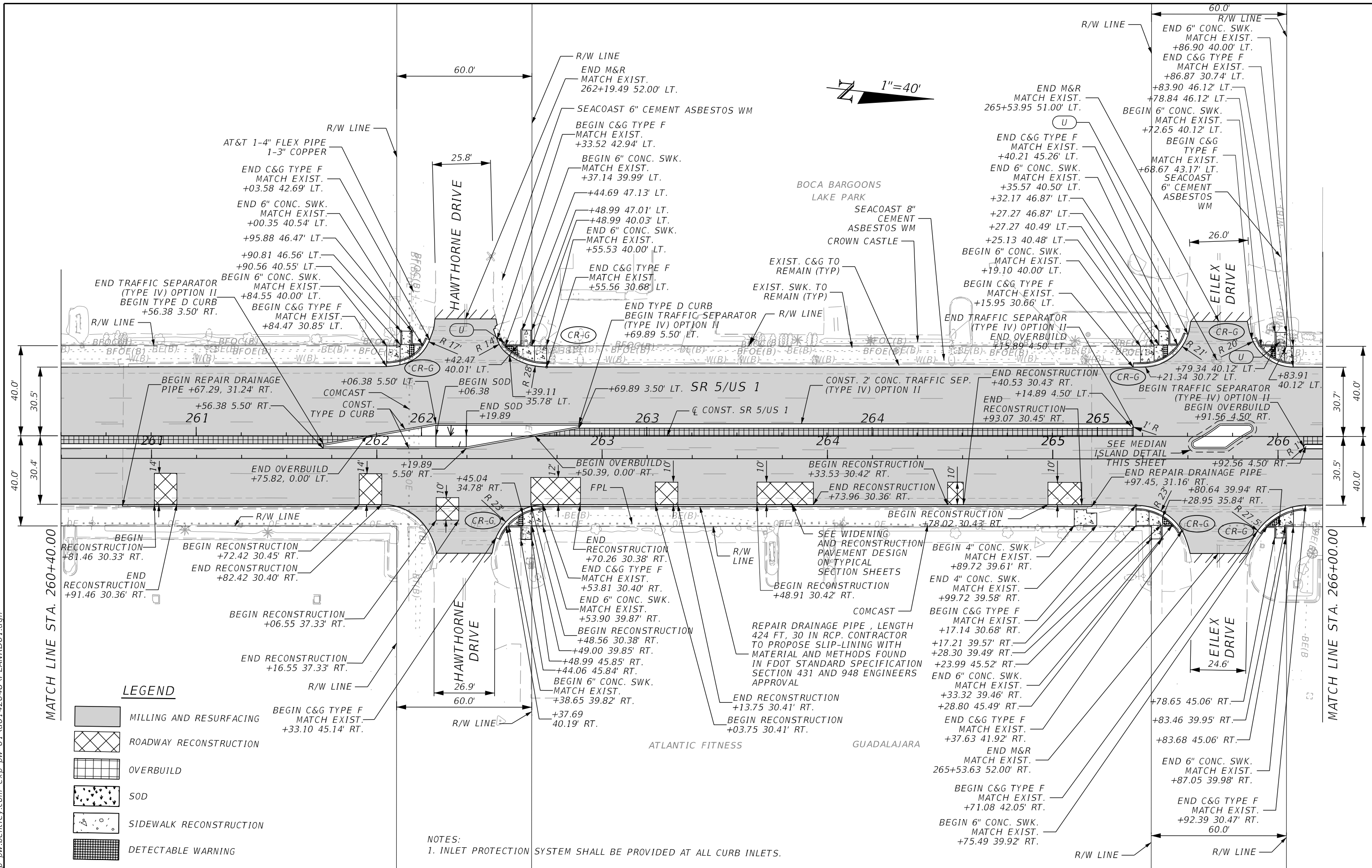
REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			ROADWAY PLAN SHEET	SHEET NO. 35
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
					SR 5	PALM BEACH	438386-2-52-01		



REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			ROADWAY PLAN SHEET	SHEET NO.
DATE	DESCRIPTION	DATE	DESCRIPTION	JOSE LUIS SANTIAGO, P.E. LICENSE NUMBER 60248 EXP U.S. SERVICE INC. 201 ALHAMBRA CIR. - SUITE 800 CORAL GABLES, FLORIDA - 33134	ROAD NO.	COUNTY	FINANCIAL PROJECT ID		36
					SR 5	PALM BEACH	438386-2-52-01		

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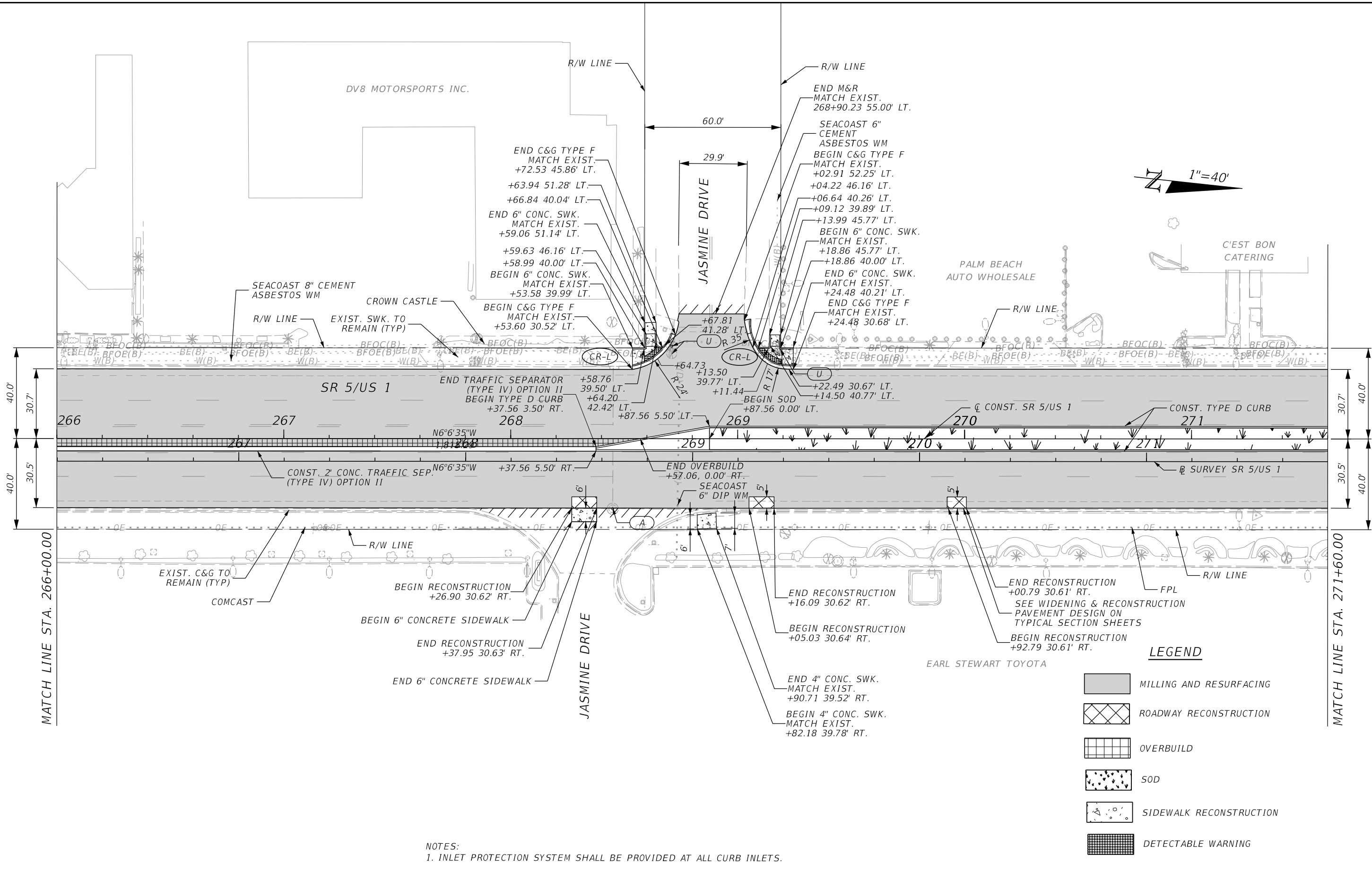


REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			ROADWAY PLAN SHEET	SHEET NO. 38
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
					SR 5	PALM BEACH	438386-2-52-01		
				JOSE LUIS SANTIAGO, P.E. LICENSE NUMBER 60248 EXP U.S. SERVICE INC. 201 ALHAMBRA CIR. - SUITE 800 CORAL GABLES, FLORIDA - 33134					

Item 9.

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

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NOTES:
1. INLET PROTECTION SYSTEM SHALL BE PROVIDED AT ALL CURB INLETS.

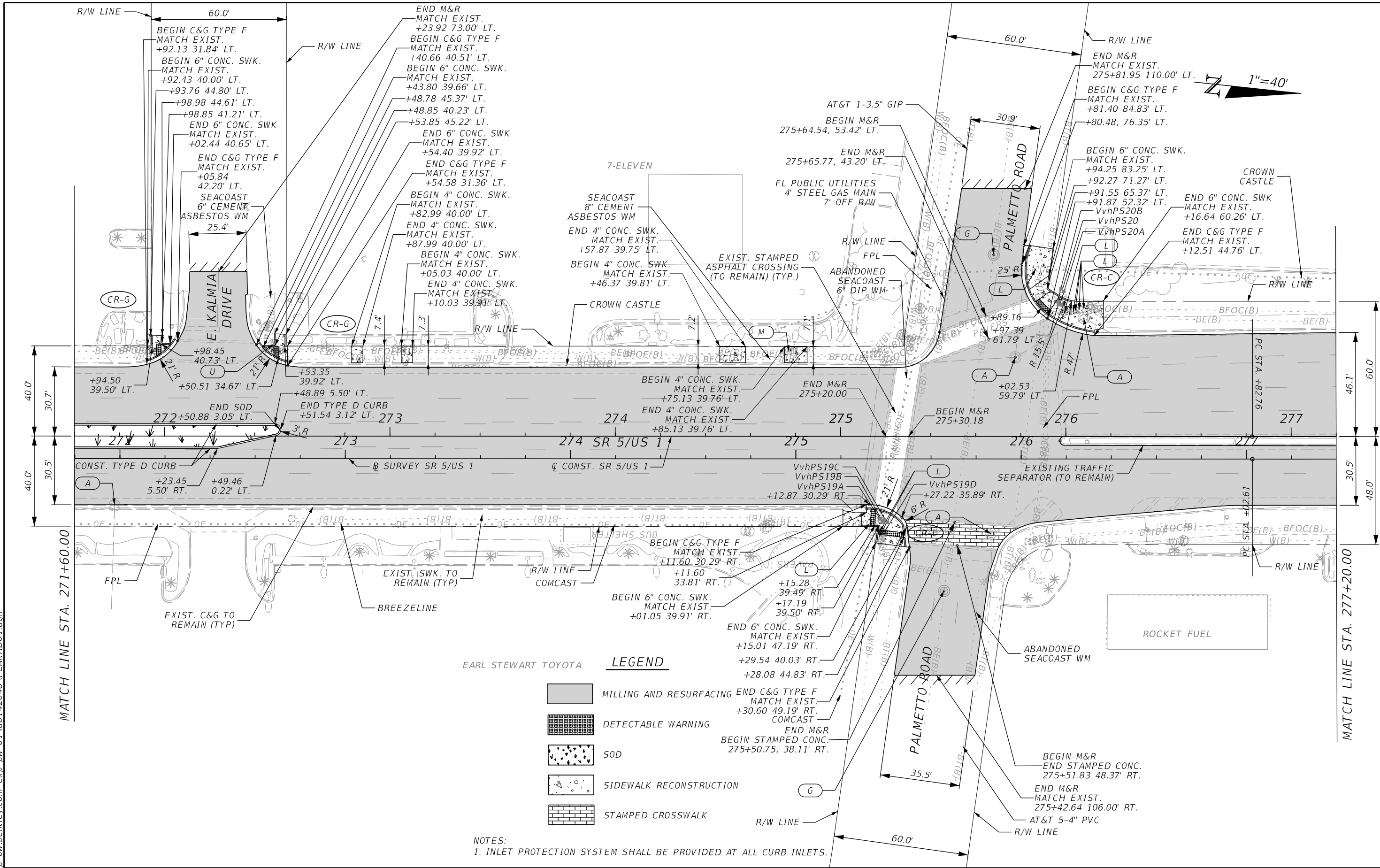
REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

ENGINEER OF RECORD
JOSE LUIS SANTIAGO, P.E.
LICENSE NUMBER 60248
EXP U.S. SERVICE INC.
201 ALHAMBRA CIR. - SUITE 800
CORAL GABLES, FLORIDA - 33134

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
SR 5	PALM BEACH	438386-2-52-01

ROADWAY PLAN SHEET	
SHEET NO.	
39	

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REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			ROADWAY PLAN SHEET	SHEET NO. 40
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
					SR 5	PALM BEACH	438386-2-52-01		

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.



Project Update

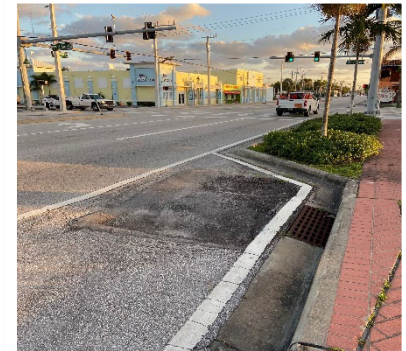
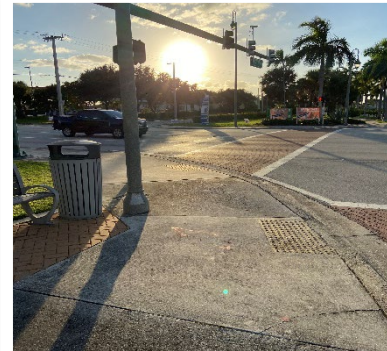
Mobility Improvements Project

**State Road (SR) 5/US-1 from 59 Street to State Road
850/Northlake Boulevard**

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

Mobility Improvements Project

Financial Project ID Number: 438386-2-52-01



COMMISSION MEETING Wednesday, April 17, 2024



Florida Department of
TRANSPORTATION

Item 9.

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

Mobility Improvement Project

Financial Project ID Number: 438386-2-52-01



Introductions

Meet the Team

Item 9.



Damaris Williams
FDOT Project Manager
FDOT District Four



Jose Santiago
Consultant Project Manager
EXP



Roxana Matamoros
Consultant Deputy Project Manager
EXP



Maria Ballester
Consultant Project Engineer
EXP

Agenda

Item 9.

1. Project Location
2. Scope / Proposed Improvements
3. Proposed Medians
4. Locally Funded Agreement (LFA)
5. Construction Impacts
6. Project Schedule and Cost
7. Questions and Answers
8. Closing and Contact Information
9. Safety Message

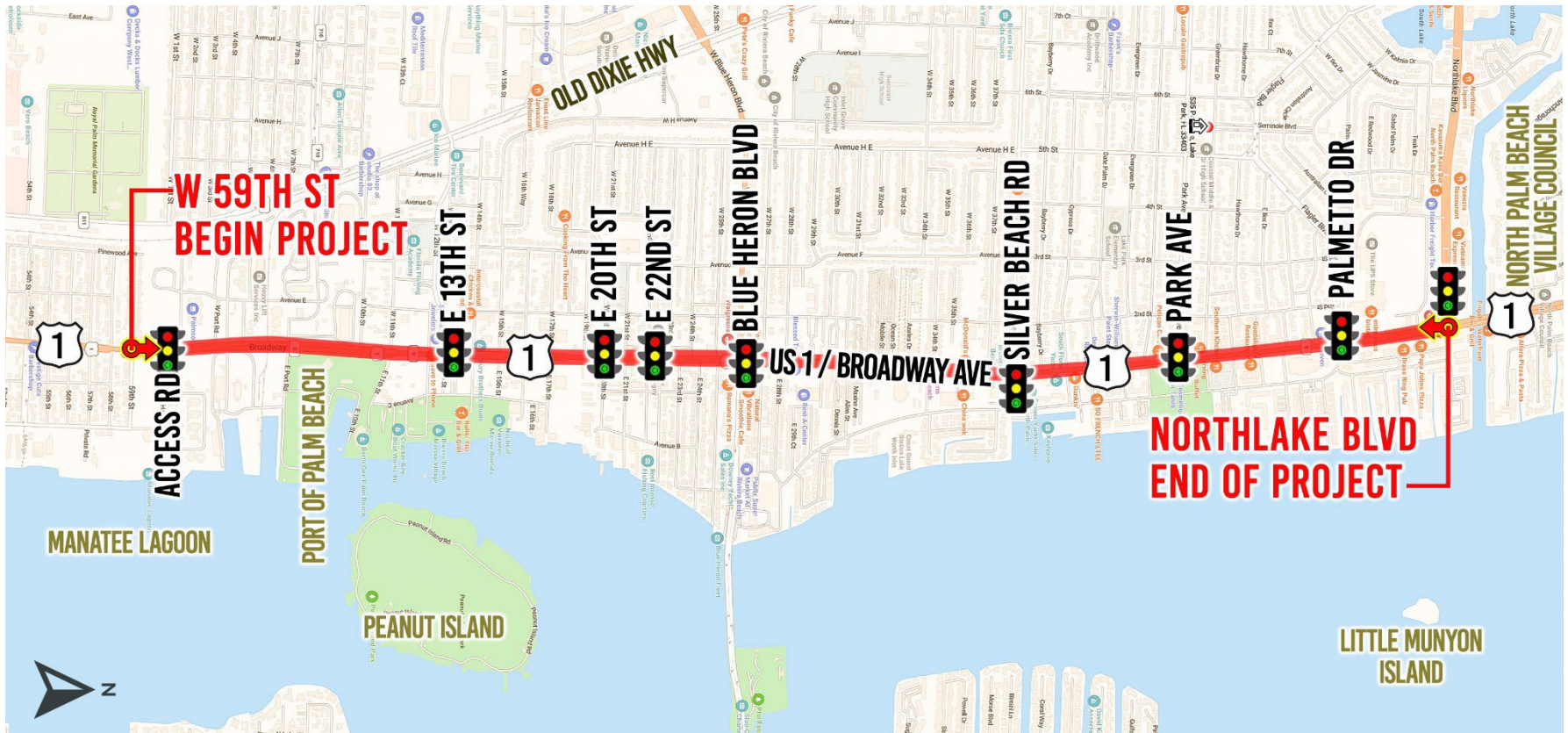
Project Location

Project Location

Item 9.

State Road (SR) 5/US-1 from 59 Street to
State Road 850/Northlake Boulevard

Mobility Improvements Project
Financial Project ID Number:
438386-2-52-01



Scope / Proposed Improvements

Scope / Proposed Improvements

Item 9.

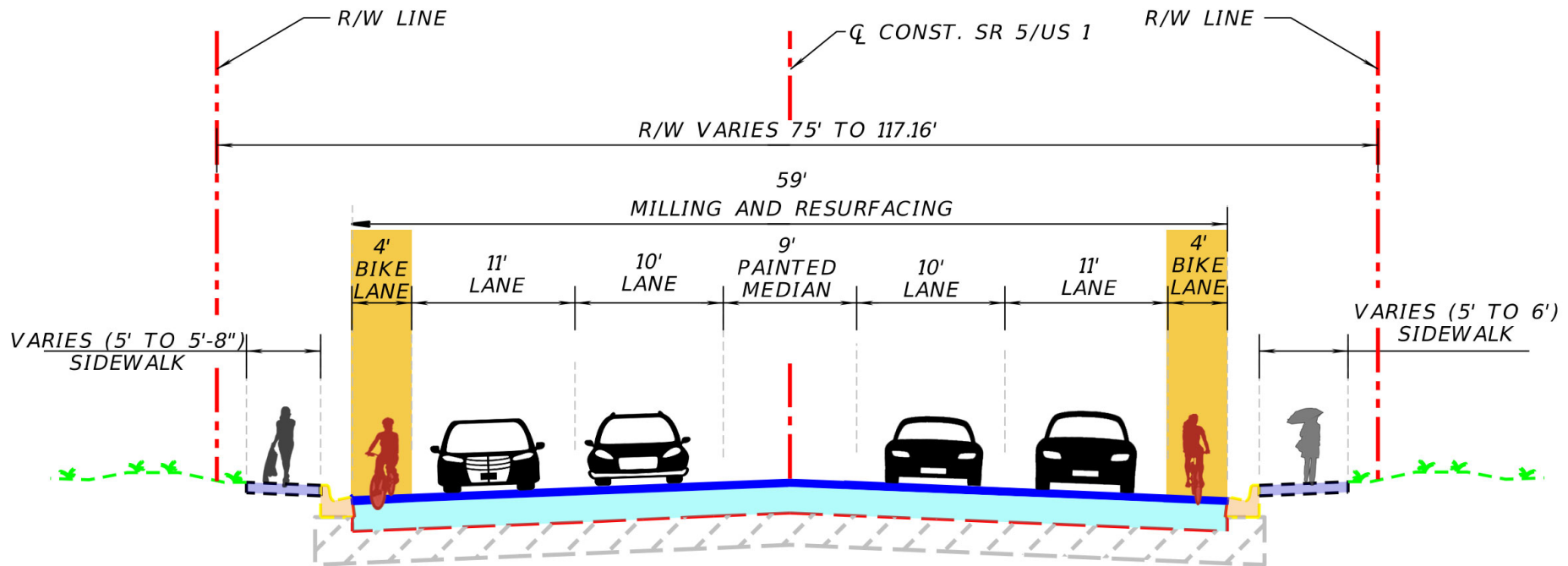
438386-2-52-01 (State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard)

- Adding 4-foot bicycle lanes by widening into existing medians and restriping the road
- New median sections from Silver Beach Rd. to Palmetto Drive
- Repaving of the roadway
- Lighting retrofits to illuminate roadway from 59th Street to Silver Beach Rd. and pedestrian crossings at signalized intersections
- Pedestrian Signal upgrades at nine intersections
- Barrier wall relocation at the Skypass Bridge to accommodate 10-foot shared use path

Proposed Roadway Improvements with Bike Lane Addition

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

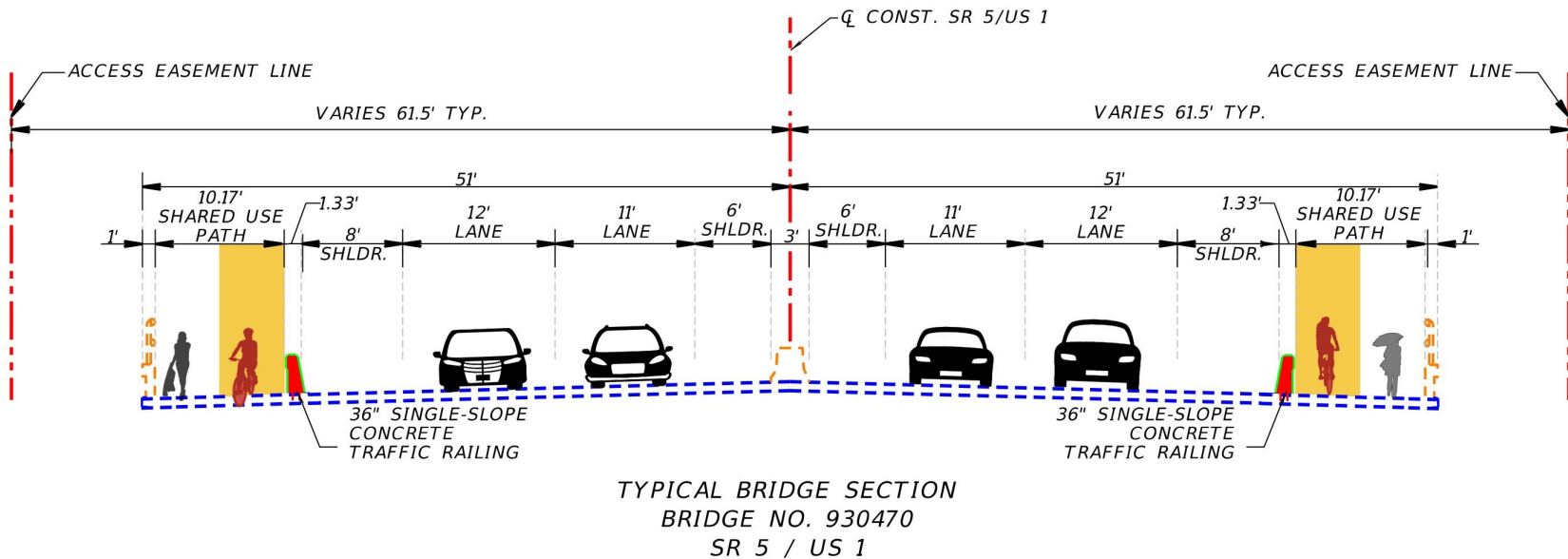
Item 9.



Typical 1 – 59th Street to South of Bridge

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

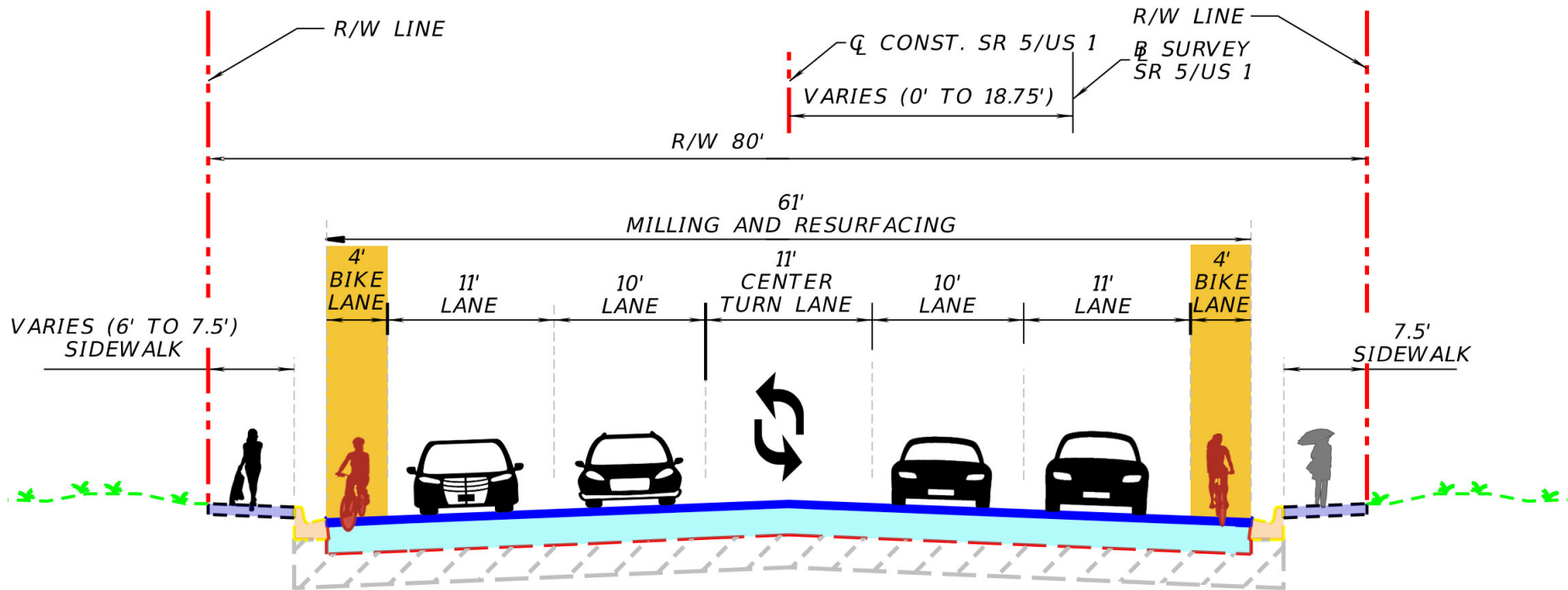
Item 9.



Typical 2 – South of Bridge to North of Bridge

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

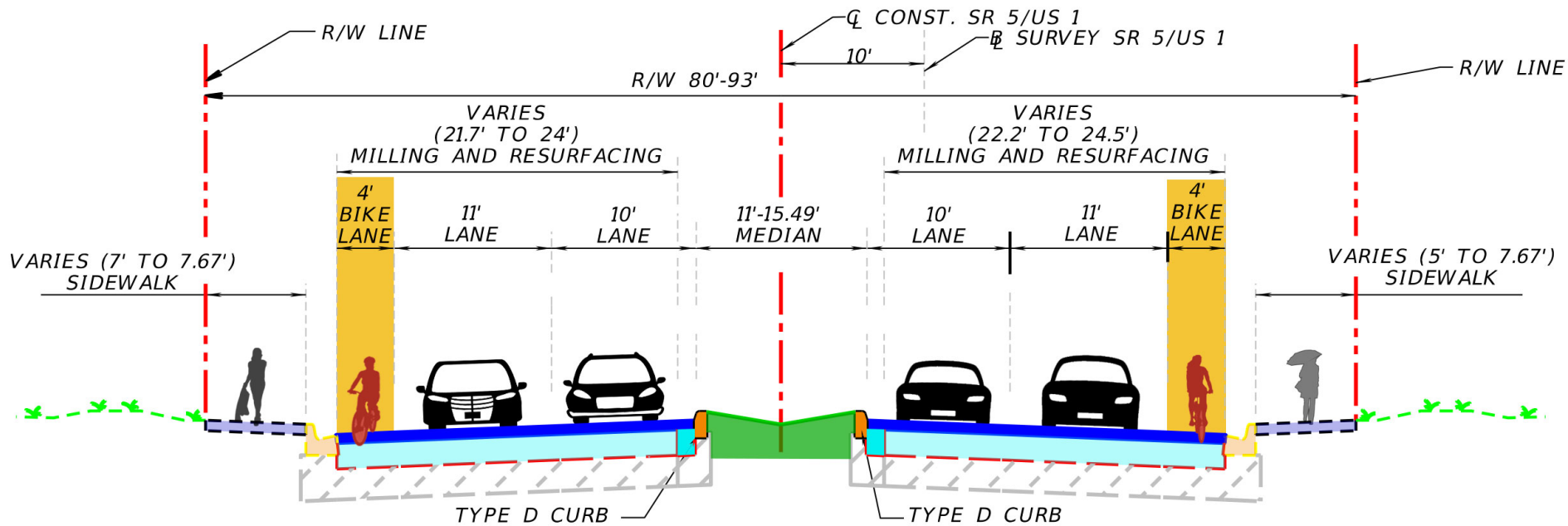
Item 9.



Typical 3 – North of the Bridge to W. 13th Street
W. 17th Street to W. 20th Street

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

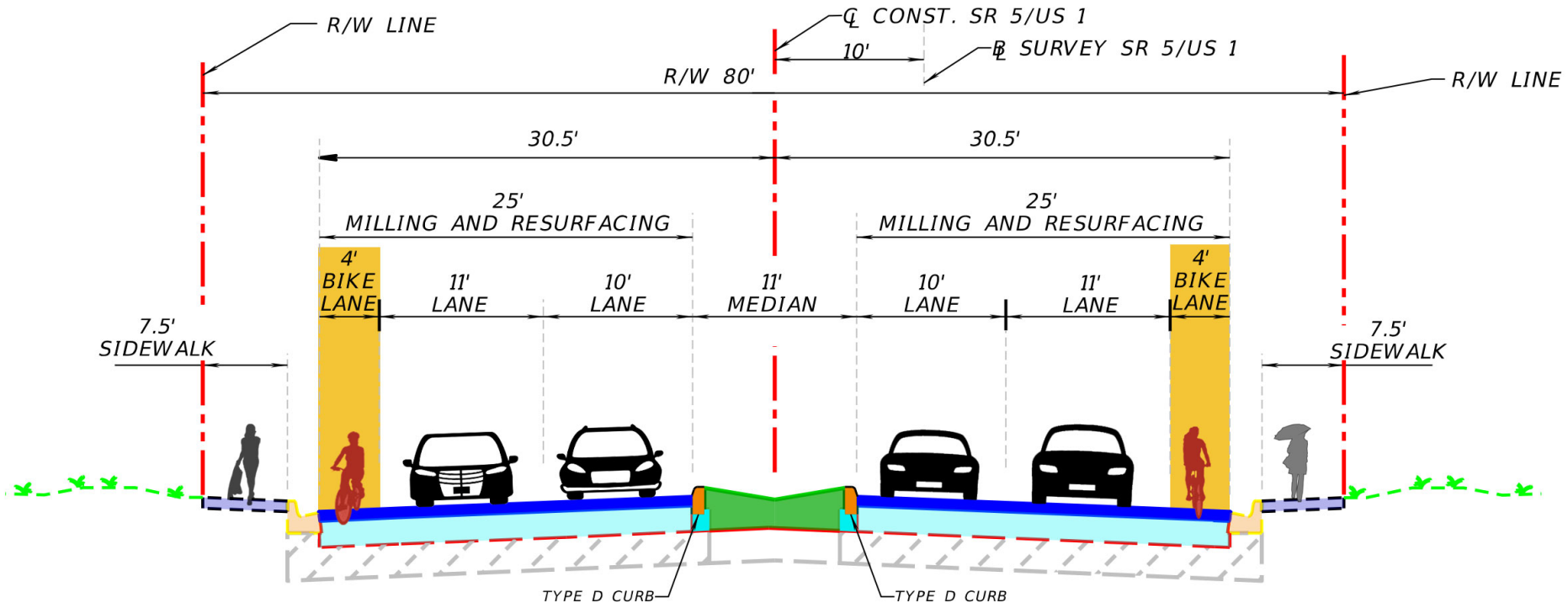
Item 9.



Typical 4 – W. 13th Street to W. 17th Street
W. 20th Street to Silver Beach Road

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

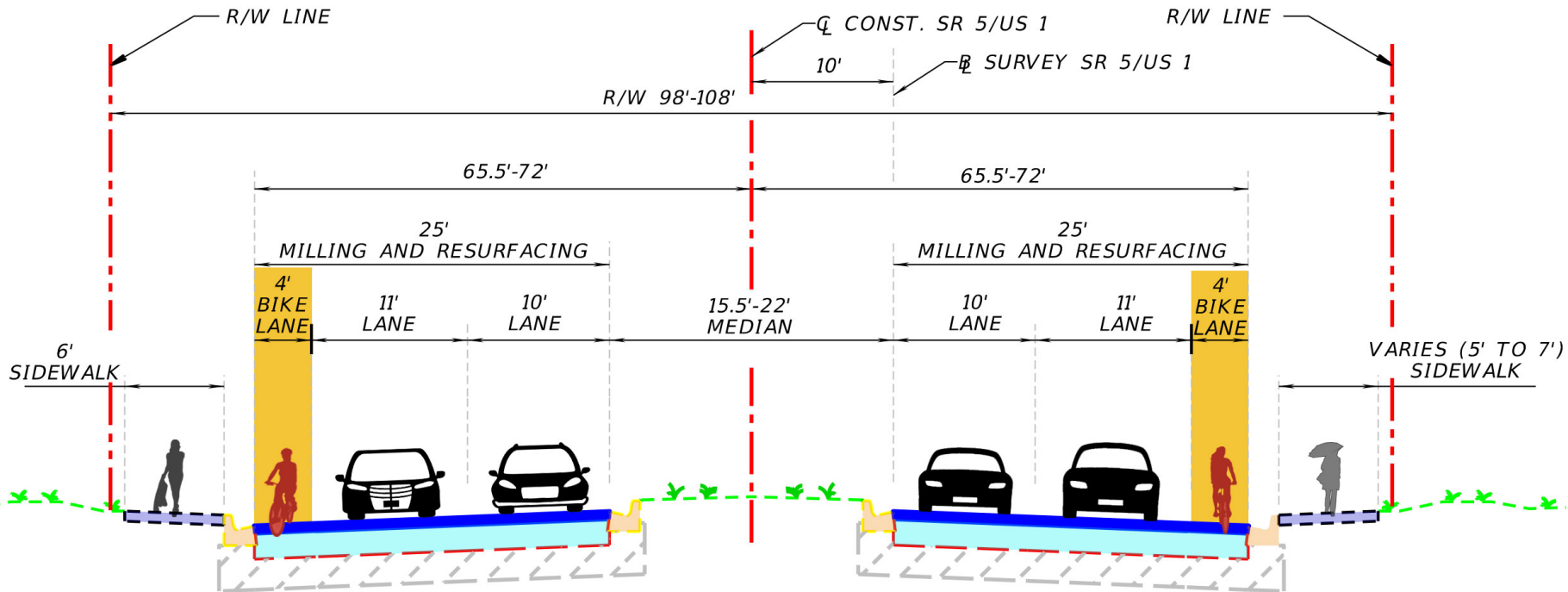
Item 9.



Typical 5 – Silver Beach Road to Palmetto Drive

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

Item 9.



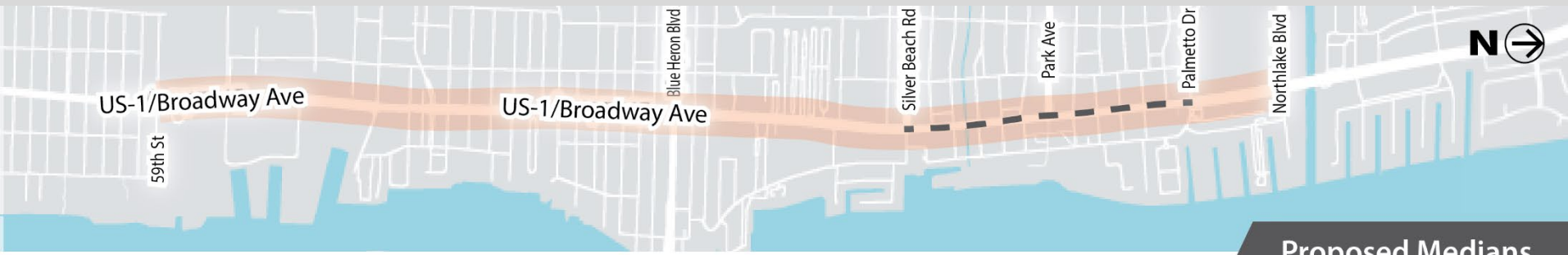
Typical 6 – Palmetto Drive to Northlake Boulevard/ Shore Court

Proposed Medians

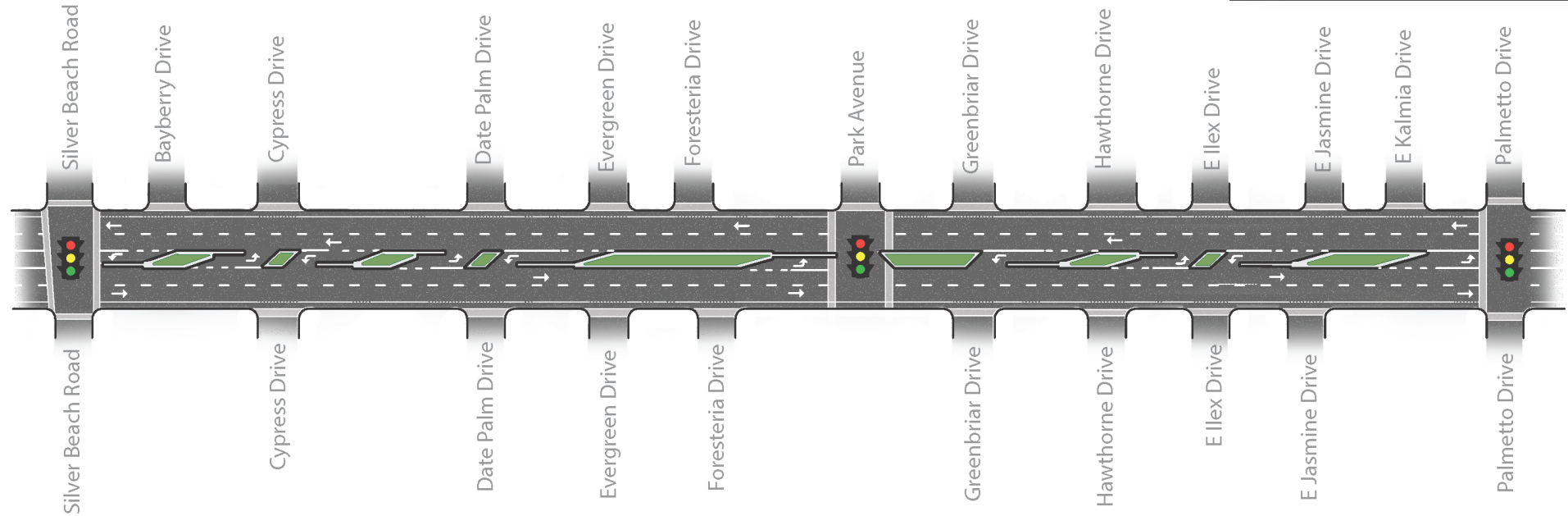


Proposed Medians

Item 9.



Proposed Medians



Local Funds Agreement (LFA)

LFA Scope with the Town of Lake Park

Item 9.

438386-2-52-01 (State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard)

- Pattern Pavement Concrete Crosswalk Replacement
South Leg of Silver Beach Road
East Leg of Palmetto Drive
- One decorative light pole
NE Corner of Silver Beach Road and US 1



Cost Estimate Covered by Town of Lake Park:

8-inch Concrete Slab

Pattern Pavement

Decorative Light Pole Cost Differential

20% Contingency

Construction Impacts



Construction Impacts

Item 9.



- Temporary sidewalk closures during construction
- Median access changes during construction
- One lane will remain open at all times during construction
- Lane closures may occur during non-peak hours

NON-PEAK
HOURS

9PM – 6AM

(Sunday – Thursday Nights)

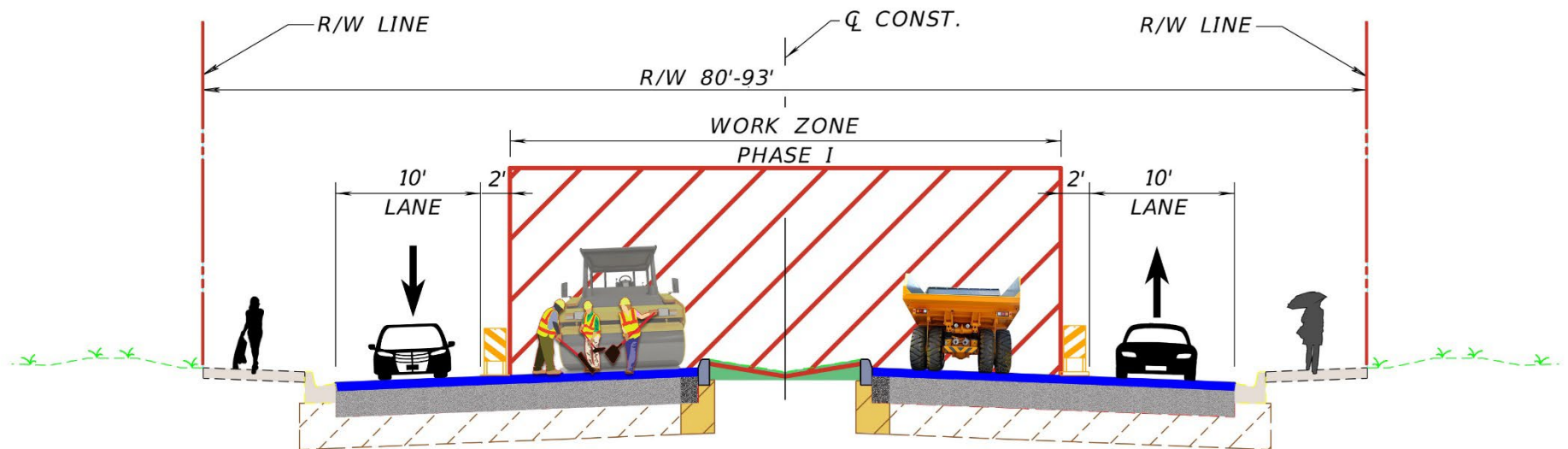
11PM – 7:30AM

(Friday & Saturday Nights)

- Access to adjacent properties will be maintained and open at all times
- All work is to be done in phases to reduce impacts of construction to the community

Construction Impacts

Item 9.



Project Schedule and Cost

Project Schedule and Cost

Item 9.

Start Date: Spring 2025

Completion Date: Winter 2025

Estimated Construction Cost: \$ 11.3 million

Questions and Answers

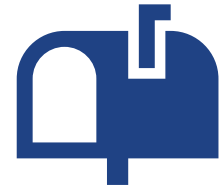
Closing and Contact Information

Contact Information

Item 9.

If you have additional questions, please contact: FDOT Project Manager, Damaris Williams, P.E.

3400 West Commercial Boulevard Fort
Lauderdale, FL 33309



Email: Damaris.Williams@dot.state.fl.us



(954) 777-4679 or
Toll Free: (866) 336-8435; Ext. 4679



Safety Message

Item 9.

EVERY BICYCLIST IS IMPORTANT TO SOMEONE.

Safe drivers help keep bicyclists safe
on our roadways by staying calm and
focused behind the wheel.

Check out these custom
Do Not Disturb messages
and safe driving playlists:



Let's Get Everyone Home Safely.





Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: June 12, 2024

Agenda Item No.

Agenda Title: A RESOLUTION OF THE TOWNCOMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A LANDSCAPE MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION PERTAINING TO SILVER BEACH ROAD TO PALMETTO DRIVE ALONG US-1/SR-5/BROADWAY AVENUE AS DEPICTED IN EXHIBIT A.

☐ SPECIAL PRESENTATION/REPORTS ☐ CONSENT AGENDA
☐ BOARD APPOINTMENT ☐ OLD BUSINESS
☐ ORDINANCE
☒ **NEW BUSINESS**
☐ OTHER

John

Digitally signed by John D'Agostino
 DN: cn=John D'Agostino, o=Town of Lake
 Park, ou=Town Manager,
 email=jdagostino@lakeparkflorida.gov,
 c=US
 Date: 2024.06.07 12:41:55 -0400

Approved by Town Manager D'Agostino

Date: _____

Nadia Di Tommaso / Community Development Director

Name/Title

Originating Department: Town Manager/Public Works/Community Development	Costs: Not-to-exceed \$76,156 <i>(for the lighting and</i> <i>crosswalk components)</i> Funding Source: Discretionary Surtax Acct: # 301-63100 <input type="checkbox"/> Finance Barbara A. Gould	Attachments: → Resolution and Exhibits A and B → FDOT Presentation
Advertised: Date: Paper: <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone or Not applicable in this case <u> ND </u> Please initial one.

Summary Explanation/Background:

As the Town Commission may recall, streetscape plans for the US-1 corridor were adopted as part of the Land Development Regulations for the Federal Highway Mixed Use District Overlay (FHMUDO) back in 2017. In follow-up to that adoption, the Palm Beach County Transportation Planning Authority (TPA) and the Federal Department of Transportation (FDOT) were working on a Mobility Improvement Project named the "State Road (SR) 5/US-1 from 59th Street to State Road 850/Northlake Boulevard". This overall area includes the Town's portion of US-1 from Silver Beach Road to Palmetto Drive. Since this project's inception several years ago, the Town held a public workshop in August 2019 to initiate discussions with the Commission and the FHMUDO property

owners (who were invited by direct mail) on the proposed roadway/median improvements. The Town Manager's Office, Community Development and Public Works, also held several follow-up discussions with FDOT geared towards making sure FDOT was aware of all our pending redevelopment plans for the corridor; was aware of the Town's desire to incorporate landscape medians along the corridor; and was aware of the need to maximize traffic circulation at the southern and northern areas of the corridor, particularly around Bayberry/Cypress and Ilex in order to accommodate the traffic movements in those areas. The Town also worked closely with the Earl Stewart Toyota dealership in order to ensure the final design would allow for adequate circulation and access within their site, rather than having to rely on Lake Shore Drive which is prohibited.

FDOT also held a public workshop last year at Town Hall, for which they notified everyone per their public outreach requirements for this type of mobility project. In follow-up to the Staff and Commission discussions and public input received, FDOT finalized their plans.

The scope of work and proposed Improvements, along with the project schedule and costs are included in FDOT's enclosed presentation. Since the scope of work includes lighting as well, a Lighting Maintenance Memorandum Agreement is required. Since landscaping and crosswalks are also included, a Landscape(Crosswalks) Maintenance Memorandum Agreement is also required. Both the decorative lighting (one pole) and the stamped crosswalk improvements come at an added cost for which the Town Manager has agreed to contribute in order to ensure these improvements are made. The total cost for these improvements is a not-to-exceed amount of \$76,156.00. A separate Local Funding Agreement is required by FDOT for this amount. In addition, the Town expressed an interest in incorporating additional plantings in the median other than just sod, and FDOT acknowledged that these will also be programmed separately.

In summary, given that the final design is ready pursuant to the prior discussions and input received, FDOT is ready to move forward with construction and requires the following Resolutions from the Town in order to remain on schedule:

- ➔ Resolution of Support for the Roadway Plans
- ➔ Resolution approving the Maintenance Memorandum Agreement for the Lighting
- ➔ **Resolution approving the Maintenance Memorandum Agreement for the Landscape (Crosswalks) - (THIS AGENDA ITEM)**
- ➔ Resolution approving the Local Funding Agreement for the not-to-exceed amount of \$76,156

All of the Resolutions and agreements have been reviewed and approved by town counsel.

*****THERE ARE FOUR SEPARATE AGENDA ITEMS (i.e. Resolutions) associated with this same project for Commission consideration*****

Recommended Motion: I move to APPROVE Resolution _-06-24.

RESOLUTION 41-06-24**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A LANDSCAPE MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION PERTAINING TO SILVER BEACH ROAD TO PALMETTO DRIVE ALONG US-1/SR-5/BROADWAY AVENUE AS DEPICTED IN EXHIBIT A.**

WHEREAS, the Town of Lake Park Florida ("Town") is a municipality and given those powers and responsibilities enumerated by Chapter 166 Florida Statutes, and the Florida Constitution; and

WHEREAS, the Florida Department of Transportation ("FDOT") seeks to enhance the safety and aesthetics of the roadway systems by installing lighting improvements; and

WHEREAS, the FDOT has jurisdiction over State Road (S.R.) 5/US-1 from Mile Post (M.P.) 14.166 to M.P. 14.558 and from M.P. 0.00 to 0.384 as depicted on the Exhibit A attached; and

WHEREAS, FDOT, for the purpose of safety, protection of the investment, and other reasons, seeks to install certain improvements within the right of way of State Road 5 (US-1), including new turfed medians and decorative crosswalks, as described within Exhibit "B" and

WHEREAS, the Town IS ENTERING INTO A MEMORANDUM OF Understanding with FDOT whereby it agrees to maintain the specific elements constructed under Project Number 438386-2-52-01 to include decorative lighting, hereinafter called IMPROVEMENTS, installed along SR 5/US-1 at section 93020000 from M.P. 14.166 to M.P. 14.558 and from section 93040000 from M.P. 0.00 to M.P. 0.384 as detailed within Exhibit A (Project Location, Description and Aerial); and

WHEREAS, The Town agrees to maintain those improvements, including the new medians, areas outside the traveled way to the right-of-way line, areas within the traveled way that may contain specialty surfacing (also known as patterned pavement), and any other hardscape (if applicable), but excluding standard concrete sidewalk; and agrees such improvements shall be maintained by periodic mowing, fertilizing, weeding, litter pick-up, and/or repairs associated with the specialty surfacing, as needed, including any future agreed upon improvements;

WHEREAS, the Town and FDOT's responsibilities and obligations are more fully set out in the Landscape Maintenance Memorandum of Agreement, pursuant to Exhibit B; and

WHEREAS, the Town Manager recommends that the Landscape Maintenance Memorandum of Agreement between the FDOT and the Town be approved.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA.

Section 1. The foregoing recitals are incorporated herein.

Section 2. The Town Mayor is hereby authorized and directed to execute the Landscape Maintenance Memorandum of Agreement between the FDOT and the Town.

EXHIBIT "A"**SECTION NO.: 93020000 & 93040000****FM No.(s): 438386-2-52-01****COUNTY: Palm Beach****S.R. No.: 5****PROJECT LOCATION, DESCRIPTION, AND AERIAL****I. Location:**

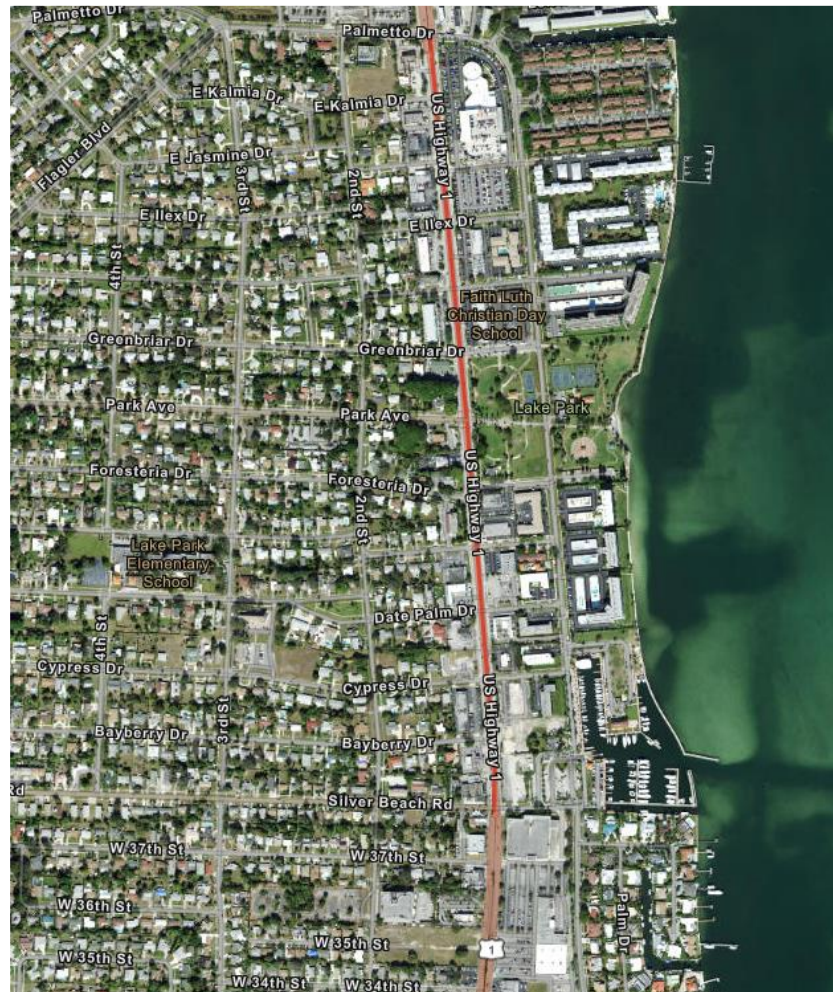
The IMPROVEMENTS associated with this AGREEMENT are located in the Town of Lake Park, in Palm Beach County, Florida along SR 5/US-1 section 93020000 from M.P. 14.166 to M.P. 14.558 and from section 93040000 from M.P. 0.00 to M.P. 0.384

II. Description of Work:

Project Number 438386-2-52-01 to include decorative light and stamped crosswalk. The AGENCY shall be responsible for maintaining the IMPROVEMENTS described in this AGREEMENT.

III. Aerial:

#5575147 v1 26508-00001



#5575147 v1 26508-00001

SECTION: 93020000 / 9304000
 PERMIT: 438386-2-52-01
 COUNTY: Palm Beach
 STATE RD: 5

**FLORIDA DEPARTMENT OF TRANSPORTATION
 DISTRICT FOUR
 LANDSCAPE MAINTENANCE MEMORANDUM OF AGREEMENT**

THIS AGREEMENT, made and entered into this _____ day of _____, 20____, by and between the **FLORIDA DEPARTMENT OF TRANSPORTATION**, a component AGENCY of the State of Florida, hereinafter called the DEPARTMENT and the **TOWN OF LAKE PARK**, a municipal corporation, existing under the Laws of Florida, hereinafter called the AGENCY.

W I T N E S S E T H:

WHEREAS, the DEPARTMENT has jurisdiction over **State Road 5 (US-1)** as part of the State Highway System; and

WHEREAS, as part of the continual updating of the State Highway System, the DEPARTMENT, for the purpose of safety, protection of the investment and other reasons, has constructed and does maintain the highway facility as described in **Exhibit "A"** within the corporate limits of the AGENCY; and

WHEREAS, the DEPARTMENT seeks to install certain improvements within the right of way of **State Road 5 (US-1)**, including new turfed medians and decorative crosswalks, as described within **Exhibit "B"**; and

WHEREAS, it is the intent of the AGENCY and the DEPARTMENT that the AGENCY shall maintain all right of way within the medians, outside the traveled way and improvements made to the traveled way that was made at the request of the AGENCY; and

WHEREAS, the AGENCY is agreeable to maintaining those improvements within the AGENCY'S limits, including the new medians, areas outside the traveled way to the right of way line, areas within the traveled way that may contain specialty surfacing (also known as patterned pavement), and any other hardscape (if applicable), but excluding standard concrete sidewalk; and agrees such improvements shall be maintained by periodic mowing, fertilizing, weeding, litter pick-up, and/or repairs associated with the specialty surfacing, as needed, including any future agreed upon improvements; and

WHEREAS, the parties hereto mutually recognize the need for entering into an Agreement designating and setting forth the responsibilities of each party; and

WHEREAS, the AGENCY, by Resolution No. _____ dated _____, 20____, attached hereto and by this reference made a part hereof in **Exhibit "E"**, desires to enter into this Agreement and authorizes its officers to do so;

NOW THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties covenant and agree as follows:

1. The recitals set forth above are true and correct and are deemed incorporated herein.

2. INSTALLATION OF FACILITIES

The DEPARTMENT shall install or cause to be installed landscape, irrigation and/or *hardscape* improvements on the highway facilities substantially as specified in plans and specifications hereinafter referred to as the Project(s) and incorporated herein as referenced in **Exhibit "B"**. *Hardscape* shall mean, but not be limited to, site furnishings, tree grates, landscape accent lighting, and/or any non-standard roadway, sidewalk, median or crosswalk specialty surfacing, including concrete pavers, color stamped concrete, color stamped asphalt (also known as patterned pavement), and brick paver detectable warnings.

If there are any major changes to the plan(s), the DEPARTMENT shall provide the modified plan(s) to the AGENCY and the AGENCY shall provide their approval or disapproval to the DEPARTMENT within 10 business days. The DEPARTMENT may elect to withdraw the improvements if changes are not approved within the given time frame.

3. MAINTENANCE OF FACILITIES

A. The AGENCY agrees to maintain the improvements, as existing and those to be installed, now or in the future, within the physical limits described in **Exhibit "A"** and as further described in **Exhibit "B"**. The non-standard improvements within and outside the traveled way shall be maintained by the AGENCY regardless if the said improvement was made by the DEPARTMENT, the AGENCY, or others authorized pursuant to section 8. Periodic repairs or any concrete replacement associated with specialty surfacing (if applicable) shall follow the DEPARTMENT'S safety and maintenance guidelines and **Exhibit "D"**, Patterned Pavement Maintenance. The AGENCY'S responsibility for maintenance shall include all landscaped, turfed and hardscape areas on the sidewalk or within the medians, areas outside the traveled way to the right-of-way, and/or areas within the traveled way containing specialty surfacing. The AGENCY shall be solely responsible for all maintenance and/or damage to any FDOT installed sidewalks directly attributable to AGENCY maintained trees or other improvements. It shall be the responsibility of the AGENCY to restore an unacceptable ride condition of the roadway caused by the differential characteristics of non-standard traveled way surfacing and the associated header curb and concrete areas (if applicable) on DEPARTMENT right-of-way within the limits of this Agreement.

B. Such maintenance to be provided by the AGENCY is specifically set out as follows: to maintain, which means to keep the hardscape areas clean, free from weeds and to repair said hardscape as is necessary to prevent a safety hazard. To maintain also means to keep the header curbs that contain the specialty surfacing treatment in optimum condition. To maintain also means to mow the turf to the proper height; water, fertilize and to keep plants and turf as free as practicable from disease and harmful insects; to keep litter removed from the median and areas outside the travel way to the right of way line. Any changes to the original plans shall be submitted by permit application to the DEPARTMENT for review and approval.

- C. If it becomes necessary to provide utilities (water/electricity) to the medians or areas outside the traveled way to maintain these improvements, all costs associated with the utilities for the landscape improvements including, but not limited to any impact and connection fees, and the on-going cost of utility usage for water and electrical are the maintaining AGENCY'S responsibility.

(1) The AGENCY shall be solely responsible for any impact and/or connection fees.

(2) The AGENCY shall be responsible for the described ongoing utility costs upon final acceptance of the construction project by the DEPARTMENT and thereafter.

- D. The maintenance functions to be performed by the AGENCY may be subject to periodic inspections by the DEPARTMENT at the discretion of the DEPARTMENT. Such inspection findings will be shared with the AGENCY and shall be the basis of all decisions regarding repayment, reworking, or Agreement termination. The AGENCY shall not change or deviate from said plans without written approval of the DEPARTMENT.

4. DEPARTMENT ACCESS TO FACILITIES

The DEPARTMENT will periodically need access to various features within the limits of this agreement. Upon request of the DEPARTMENT, the AGENCY will have 14 calendar days to provide access to the items noted by the DEPARTMENT. This may require temporary or permanent removal of improvements such as hardscape, landscape or other items conflicting with the items to which the Department needs access.

Should the AGENCY fail to remove or relocate items as requested, the DEPARTMENT may:

- (a) Remove conflicting improvements or any portion thereof.
- (b) Restore the area with any material meeting Department standards.
- (c) Restore the improvements at the request and funding of the AGENCY.

5. NOTICE OF MAINTENANCE DEFICIENCIES

- A. If at any time after the AGENCY has undertaken the maintenance responsibilities for the improvements, it shall come to the attention of the DEPARTMENT'S District Secretary that the limits, or a part thereof, are not properly maintained pursuant to the terms of this Agreement, said District Secretary may at his/her option, issue a written notice that a deficiency or deficiencies exist(s), by sending a certified letter to the AGENCY, placing said AGENCY on notice thereof. Thereafter the AGENCY shall have a period of thirty (30) calendar days within which to correct the cited deficiencies. If said deficiencies are not corrected within this time, the DEPARTMENT may at its option, proceed as follows:

- (1) Maintain the improvements or any part thereof, with DEPARTMENT or Contractor's personnel and invoice the AGENCY for expenses incurred, and/or
- (2) At the discretion of the DEPARTMENT, terminate the Agreement in accordance with Paragraph 10 of this Agreement and remove, by the DEPARTMENT or Contractor's personnel, all of the improvements installed under this Agreement or any preceding Agreements, and charge the AGENCY the reasonable cost of such removal.

- B. The AGENCY agrees to reimburse the DEPARTMENT all monies expended by the DEPARTMENT for the improvements listed in **Exhibit "B"** in the amounts listed in **Exhibit "D"** should the improvements fail to be maintained in accordance with the terms and conditions of this Agreement.

6. FUTURE DEPARTMENT IMPROVEMENTS

It is understood between the parties hereto that the improvements covered by this Agreement may be removed, relocated, or adjusted at any time in the future as determined to be necessary by the DEPARTMENT in order that the adjacent state road be widened, altered, or otherwise changed to meet future criteria or planning needs of the DEPARTMENT.

The AGENCY shall be given sixty (60) calendar days' notice to remove said improvements at AGENCY'S expense after which time the DEPARTMENT may remove same. All permits, fees, and any mitigation associated with the removal, relocation or adjustments of these improvements are the maintaining AGENCY'S responsibility.

7. FUTURE AGENCY IMPROVEMENTS

The AGENCY may construct additional landscape improvements within the limits of the rights of way identified in **Exhibit "A"** of this Agreement, subject to the following conditions:

- (a) Plans for any new landscape improvements shall be subject to approval by the DEPARTMENT. The AGENCY shall not change or deviate from said plans without written approval by the DEPARTMENT.
- (b) The AGENCY shall procure a permit from the DEPARTMENT.
- (c) All landscape improvements shall be developed and implemented in accordance with appropriate state safety and roadway design standards.
- (d) The AGENCY agrees to comply with the requirements of this Agreement with regard to any additional landscape improvements it chooses to have installed and there will be no cost to the DEPARTMENT.

8. ADJACENT PROPERTY OWNER IMPROVEMENTS

The DEPARTMENT may allow an adjacent property owner to construct additional landscape improvements within the limits of the rights of way identified in **Exhibit "A"** of this Agreement and the AGENCY shall be responsible for maintaining those improvements under this Agreement subject to the following conditions:

- (a) Plans for any new landscape improvements shall be subject to approval by the DEPARTMENT and shall require a valid permit attached with a letter of consent to said plans by the AGENCY. The plans shall not be changed or deviated from without written approval by the DEPARTMENT and the AGENCY.
- (b) All landscape improvements shall be developed and implemented in accordance with appropriate state safety and roadway design standards.

- (c) The AGENCY agrees to comply with the requirements of this Agreement with regard to any additional landscape improvements installed by an adjacent owner.

9. LANDSCAPE IMPROVEMENTS COST

The DEPARTMENT agrees to enter into a contract to have installed said improvements for the amount indicated in Exhibit "C", Cost Estimate, at approximately \$25,839.00. This cost is to be paid for by the AGENCY via a separate Locally Funded Agreement.

The AGENCY shall be invited to assist the DEPARTMENT in the final acceptance of the improvements associated with the roadway construction project by the DEPARTMENT.

10. AGREEMENT TERMINATION

In addition to those conditions otherwise contained herein, this Agreement may be terminated under any one (1) of the following conditions:

- (a) By the DEPARTMENT, if the AGENCY fails to perform its duties under this Agreement, following ten (10) days written notice.
- (b) By the DEPARTMENT, for refusal by the AGENCY to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the AGENCY in conjunction with this Agreement.

11. AGREEMENT TERM

- A. This Agreement commences upon execution by all parties and shall remain in effect for as long as the landscape items exist.
- B. If the DEPARTMENT chooses not to implement the landscape improvements described in **Exhibit "B"**, this Agreement becomes void and the original Agreement is reinstated, if any.

12. LIABILITY AND INSURANCE REQUIREMENTS

- A. With respect to any of the AGENCY'S agents, consultants, sub-consultants, contractors, and/or sub-contractors, such party in any contract for the landscape improvements shall agree to indemnify, defend, save and hold harmless the DEPARTMENT from all claims, demands, liabilities, and suits of any nature arising out of, because of or due to any intentional and/or negligent act or occurrence, omission or commission of such agents, consultants, subconsultants, contractors and/or subcontractors. The AGENCY shall provide to the DEPARTMENT written evidence of the foregoing upon the request of the DEPARTMENT. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the DEPARTMENT for its own negligence.
- B. In the event that the AGENCY contracts with a third party to provide the services set forth herein, any contract with such third party shall include the following provisions:
 - (1) AGENCY'S contractor shall at all times during the term of this Agreement keep and maintain in full force and effect, at contractor's sole cost and expense,

Comprehensive General Liability with minimum limits of \$1,000,000.00 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability and Worker's Compensation insurance with minimum limits of \$500,000.00 per Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability and Worker's Compensation policy without restrictive endorsements, as filed by the Insurance Services Office and shall name the DEPARTMENT as an additional insured on such policies.

- (2) AGENCY'S contractor shall furnish AGENCY with Certificates of Insurance of Endorsements evidencing the insurance coverage specified herein prior to the beginning performance of work under this Agreement.
- (3) Coverage is not to cease and is to remain in full force and effect (subject to cancellation notice) until all performance required of AGENCY'S contractor is completed. All policies must be endorsed to provide the DEPARTMENT with at least thirty (30) days' notice of cancellation and/or restriction. If any of the insurance coverage will expire prior to the completion of work, copies of renewal policies shall be furnished at least (30) days prior to the date of expiration.

13. E-VERIFY REQUIREMENTS

The AGENCY shall:

- (a) Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the AGENCY during the term of the contract; and
- (b) Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

14. SUPERSEDED AGREEMENTS

This writing embodies the entire Agreement and understanding between the parties hereto and there are no other Agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.

15. FISCAL TERMS

The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the DEPARTMENT that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT which are for an amount in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and which

have a term for a period of more than one year.

16. DISPUTES

The DEPARTMENT'S District Secretary shall decide all questions, difficulties, and disputes of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution or fulfillment of the service hereunder and the character, quality, amount and value thereof; and his decision upon all claims, questions and disputes shall be final and conclusive upon the parties hereto.

17. ASSIGNMENT

This Agreement may not be assigned or transferred by the AGENCY in whole or part without the consent of the DEPARTMENT.

18. LAWS GOVERNING

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The AGENCY agrees to waive forum and venue and that the DEPARTMENT shall determine the forum and venue in which any dispute under this agreement is decided.

19. NOTICES

Any and all notices given or required under this Agreement shall be in writing and either personally delivered with receipt acknowledgement or sent by certified mail, return receipt requested. All notices shall be sent to the following addresses.

If to the DEPARTMENT:

Florida Dept. of Transportation
3400 West Commercial Blvd.
Ft. Lauderdale, FL 33309-3421
Attn: Kaylee Kildare
District IV Landscape Manager

If to the AGENCY:

Town of Lake Park
535 Park Avenue
Lake Park, FL 33403
Attn: Ms. Nadia DiTommaso
Community Development Director

20. LIST OF EXHIBITS

Exhibit A: Project Location and Maintenance Boundaries
Exhibit B: Roadway Improvement Plans
Exhibit C: Approximate Cost for Landscape Improvements
Exhibit D: Patterned Pavement Maintenance
Exhibit E: Resolution

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

TOWN of LAKE PARK

By: _____
Chairperson / Mayor / Manager

Date: _____

Attest: _____
City Clerk

(SEAL)

Legal Approval: _____

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

By: _____
Transportation Development Director

Date: _____

Attest: _____
Executive Secretary

(SEAL)

Legal Review: _____
Office of the District General Counsel

SECTION: 93020000 / 9304000
PERMIT: 438386-2-52-01
COUNTY: Palm Beach
STATE RD: 5

EXHIBIT A

PROJECT LOCATION AND MAINTENANCE BOUNDARIES

I. ROADWAY PROJECT LOCATION:

State Road 5 (US-1) from 59th Street (M.P. 12.729) to SR-850 (Northlake Blvd) (M.P. 14.558)

II. LIMITS OF MAINTENANCE FOR LANDSCAPE IMPROVEMENTS:

Landscape improvements within the limits of State Road 5 (US-1)

Roadway ID 93020000

State Road 5 (US-1) from Silver Beach Road (M.P. 14.167) to Park Avenue (M.P. 14.588)

and

Roadway ID 93040000

State Road 5 (US-1) from Park Avenue (M.P. 0.00) to Palmetto Drive (M.P. 0.395)

III. LANDSCAPE MAINTENANCE BOUNDARY MAP:

See Attached



LIMITS OF MAINTENANCE BY TOWN OF LAKE PARK:



SECTION: 93020000 / 9304000
PERMIT: 438386-2-52-01
COUNTY: Palm Beach
STATE RD: 5

EXHIBIT B

ROADWAY IMPROVEMENT PLANS

The DEPARTMENT agrees to install the improvements in accordance with the roadway plans and specifications attached hereto and incorporated herein.

Please see attached plans prepared by: Jose Luis Santiago, P.E.
EXP U.S. Service Inc.

Date: March 15, 2024

Plan Sheets: 1-2, 12-13, 33-40, 47

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CONTRACT PLANS COMPONENTS

ROADWAY
SIGNING AND PAVEMENT MARKING
SIGNALIZATION
LIGHTING
STRUCTURES

INDEX OF ROADWAY PLANS

SHEET NO.	SHEET DESCRIPTION
1	KEY SHEET
2	SIGNATURE SHEET
3 - 8	TYPICAL SECTIONS
9 - 11	PROJECT CONTROL
12 - 13	GENERAL NOTES
14 - 43	ROADWAY PLAN SHEET
44 - 46	TRAFFIC MONITORING SITE
47	SPECIAL DETAILS
48 - 55	DRAINAGE STRUCTURES
133 - 140	TEMPORARY TRAFFIC CONTROL PLANS
TD-1 - TD-4	TREE DISPOSITION CHART
TD-5 - TD-32	TREE DISPOSITION
UTV-1*	VERIFIED UTILITY LOCATE

* These sheets are included in the index of Roadway Plans only to indicate that they are part of the Roadway Plans. These sheets are contained in a separate digitally signed and sealed documents.

DEVELOPMENTAL STANDARD PLANS (DSPs):

D-528001 BIKE LANE RAMPS

GOVERNING STANDARD PLANS:

Florida Department of Transportation, FY2023-24 Standard Plans for Road and Bridge Construction and applicable Interim Revisions (IRs).

Standard Plans for Road Construction and associated IRs are available at the following website: <http://www.fdot.gov/design/standardplans>

Standard Plans for Bridge Construction are included in the Structures Plans Component

GOVERNING STANDARD SPECIFICATIONS:

Florida Department of Transportation, FY 2023-24 Standard Specifications for Road and Bridge Construction at the following website: <http://www.fdot.gov/programmanagement/Implemented/SpecBooks>

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

ROADWAY PLANS

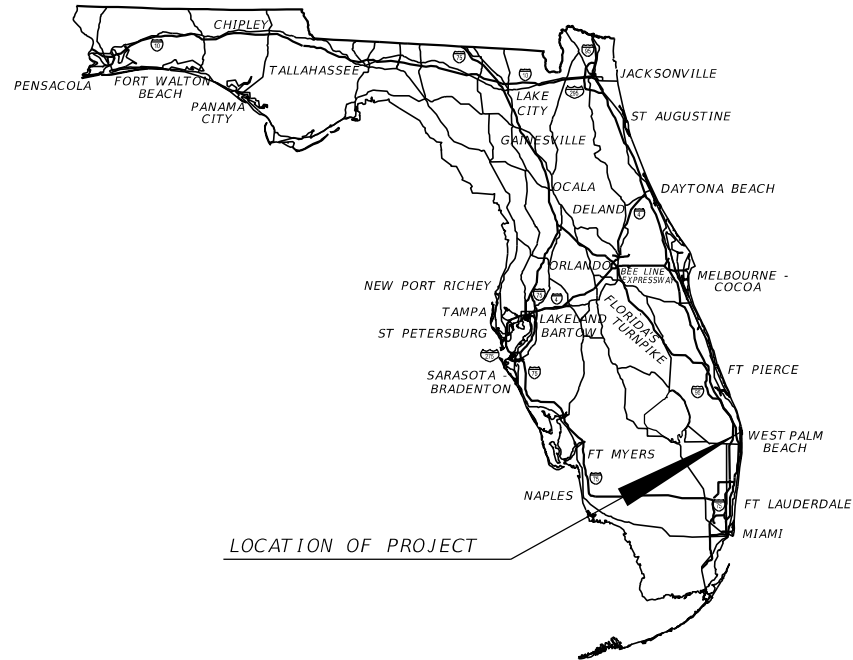
FINANCIAL PROJECT ID 438386-2-52-01, 438386-2-52-02,
438386-2-52-03, 438386-2-52-04, 438386-2-52-05

(FEDERAL FUNDS)

PALM BEACH COUNTY (93020500, 93020000, 93040000)

STATE ROAD NO. 5 (US-1)
ADD BIKE LANES AND RESURFACE
FROM 59TH STREET TO SR-850/NORTHLAKE BOULEVARD

PROJECT LOCATION URL:	https://tinyurl.com/bdeuudb2
PROJECT LIMITS:	93020500 BEGIN MP 0.001 - END MP 0.590 93020000 BEGIN MP 12.729 - END MP 14.558 93040000 BEGIN MP 0.000 - END MP 0.624
EXCEPTIONS:	NONE
BRIDGE LIMITS:	93020500 BR# 930470 MP 0.143 - END MP 0.503
RAILROAD CROSSING:	93020500 PORT OF PALM BEACH TRACKS MP 0.277



LOCATION OF PROJECT

ROADWAY PLANS

ENGINEER OF RECORD:

JOSE LUIS SANTIAGO, P.E.
P.E. LICENSE NUMBER 60248
EXP U.S. SERVICES INC.
201 ALHAMBRA CIRCLE SUITE 800
CORAL GABLES, FL 33134
(786) 801 6360
CONTRACT NO.: T4697
VENDOR NO.: F460523964-001

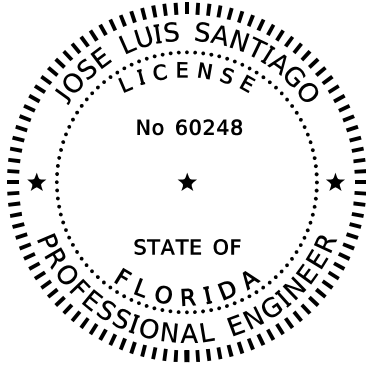
FDOT PROJECT MANAGER:

DAMARIS WILLIAMS, P.E.

CONSTRUCTION CONTRACT NO.	FISCAL YEAR	SHEET NO.
T4697	25	1

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

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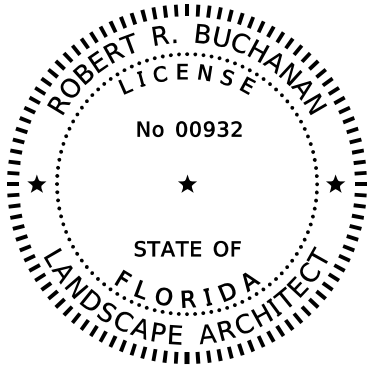
ON THE DATE ADJACENT TO THE SEAL

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THE SIGNATURE MUST BE VERIFIED
ON ANY ELECTRONIC COPIES.

EXP U.S. SERVICES, INC.
201 ALHAMBRA CIRCLE, SUITE 800
CORAL GABLES, FLORIDA 33134
JOSE L. SANTIAGO, P.E. NO. 60248

THE ABOVE NAMED PROFESSIONAL ENGINEER SHALL BE RESPONSIBLE FOR THE
FOLLOWING SHEETS IN ACCORDANCE WITH RULE 61G15-23.004, F.A.C.

<u>SHEET NO.</u>	<u>SHEET DESCRIPTION</u>
1	KEY SHEET
2	SIGNATURE SHEET
3 - 8	TYPICAL SECTIONS
9 - 11	PROJECT CONTROL
12 - 13	GENERAL NOTES
14 - 43	ROADWAY PLANS
47	SPECIAL DETAILS
133 - 140	TEMPORARY TRAFFIC CONTROL PLANS



THIS ITEM HAS BEEN DIGITALLY
SIGNED AND SEALED BY:

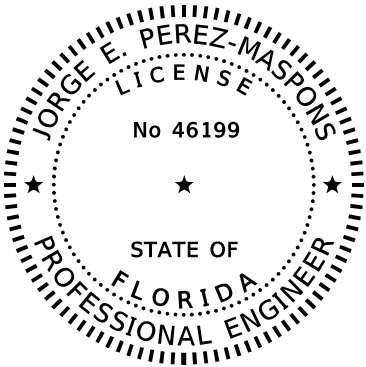
ON THE DATE ADJACENT TO THE SEAL

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ON ANY ELECTRONIC COPIES.

METRO CONSULTING GROUP, LLC
341 N. MAITLAND AVENUE, SUITE 220
MAITLAND, FL 32751
ROBERT R. BUCHANAN, P.E. NO. 00932

THE ABOVE NAMED LANDSCAPE ARCHITECT SHALL BE RESPONSIBLE FOR THE
FOLLOWING SHEETS IN ACCORDANCE WITH RULE 61G10-11.011, F.A.C.

<u>SHEET NO.</u>	<u>SHEET DESCRIPTION</u>
2	SIGNATURE SHEET
TD-1 - TD-4	TREE DISPOSITION CHART
TD-5 - TD-32	TREE DISPOSITION



THIS ITEM HAS BEEN DIGITALLY
SIGNED AND SEALED BY:

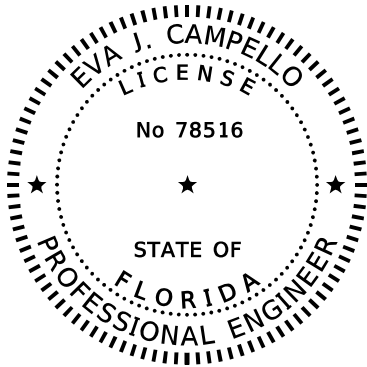
ON THE DATE ADJACENT TO THE SEAL

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THE SIGNATURE MUST BE VERIFIED
ON ANY ELECTRONIC COPIES.

PE CONSULTING ENGINEERING, INC.
14810 SW 97 AVE,
MIAMI, FL 33176
JORGE E. PEREZ-MASPONS, P.E. NO. 46199

THE ABOVE NAMED PROFESSIONAL ENGINEER SHALL BE RESPONSIBLE FOR THE
FOLLOWING SHEETS IN ACCORDANCE WITH RULE 61G15-23.004, F.A.C.

<u>SHEET NO.</u>	<u>SHEET DESCRIPTION</u>
2	SIGNATURE SHEET
48 - 55	DRAINAGE STRUCTURES



THIS ITEM HAS BEEN DIGITALLY
SIGNED AND SEALED BY:

ON THE DATE ADJACENT TO THE SEAL

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THE SIGNATURE MUST BE VERIFIED
ON ANY ELECTRONIC COPIES.

CTS ENGINEERING, LLC
3230 W. COMMERCIAL BLVD., SUITE 220
FORT LAUDERDALE, FL 33309
EVA J. CAMPELLO, P.E. NO. 78516

THE ABOVE NAMED PROFESSIONAL ENGINEER SHALL BE RESPONSIBLE FOR THE
FOLLOWING SHEETS IN ACCORDANCE WITH RULE 61G15-23.004, F.A.C.

<u>SHEET NO.</u>	<u>SHEET DESCRIPTION</u>
2	SIGNATURE SHEET
44 - 46	TRAFFIC MONITORING SITE

REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			SIGNATURE SHEET	SHEET NO. 2
ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
SR 5	PALM BEACH	438386-2-52-01		

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GENERAL NOTES

1. ALL SURVEY INFORMATION WAS OBTAINED FROM A LICENSED FLORIDA PROFESSIONAL SURVEYOR AND MAPPER AND UTILIZED AS SUPPORTING DATA IN THE PRODUCTION OF DESIGN PLANS AND FOR CONSTRUCTION ON SUBJECT PROJECT. THE PROFESSIONAL SURVEYOR AND MAPPER OF RECORD IS:

MANUEL G. VERA, P.S.M.

P.S.M. NO: 5291

M.G. VERA & ASSOCIATES, INC.

13960 SW 47TH STREET

MIAMI, FL 33175-3616

CERTIFICATE OF AUTHORIZATION: LB2439
2. THE LOCATION(S) OF THE UTILITIES SHOWN IN THE PLANS (INCLUDING THOSE DESIGNATED Vv, Vh AND Vvh) ARE BASED ON LIMITED INVESTIGATION TECHNIQUES AND SHOULD BE CONSIDERED APPROXIMATE ONLY. THE VERIFIED LOCATIONS/ELEVATIONS APPLY ONLY AT THE POINTS SHOWN. INTERPOLATIONS BETWEEN THESE POINTS HAVE NOT BEEN VERIFIED.
3. UTILITY/AGENCY OWNERS:

COMPANY	CONTACT	TELEPHONE NUMBERS
AT&T DISTRUBUTION	GARTH BEDWARD	561-540-9263
AVIATION COORDINATOR	LAURIE MCSERMOTT	954-777-4497
BREEZELINE	TROY GAETA	954-213-3367
CITY OF RIVIERA BEACH	JOHN ARMSTRONG	561-515-6495
CITY OF WEST PALM BEACH	JOE MINGLE	561-670-7225
CITY OF WEST PALM BEACH PUBLIC UTILITIES	TRACY WARD	561-494-1040 X1120
COMCAST- PBG	JUSTIN CASSELL	786-427-4049
CROWN CASTLE NG	FIBERDIG TEAM	888-632-0931 X2
FLORIDA PUBLIC UTILITES	IVAN GIBBS	561-398-2338
FPL- PALM BEACH	RONA SOLOMON	386-586-6403
FPL- MARTIN FUEL SUPPLY PIPELINES	RON HOLMES	863-221-6506
FPL- TRANSMISSION	THOMAS COLUCCI	315-219-7458
FREIGHT COORDINATION	AUTUMN YOUNG	954-777-4279
HOTWIRE COMMUNICATIONS	WALTER DAVILA	954-699-0900
LUMEN	NETWORK RELATIONS	877-366-8344 X3
MCI	MCIU01 INVESTIGATIONS	800-624-9675 X2
PALM BEACH COUNTY	MELLISA ACKERT	561-684-4101
PALM BEACH INFORMATION SYSTEM SERVICES	FEDERICO DUBOIS	561-742-4356
PALM BEACH COUNTY SCHOOLS	MICHAEL OWENS	561-882-1938
PALM BEACH COUNTY TRAFFIC OPERATIONS	JOHN LETSCH	561-233-3923
PALM BEACH TPA	VALERIE NEILSON	561-684-4170
PALM TRAN BUS SERVICE	ERIN GALLOWAY	561-841-4270
RAILROAD COORDINATOR	MAURICE BORROWS	954-777-4379
RAILROAD COORDINATOR	ALEXANDER BARR	954-777-4284
SEACOAST UTILITY AUTHORITY	LAURA NIEMANN	561-627-2900 X1462
TMR-30 PL (FLORIDA)	RON HOLMES	713-951-5379
TOWN OF LAKE PARK	JOHN WYLIE	561-881-3345
VILLAGE OF NORTH PALM BEACH	PAOLA WEST	561-882-1156
WINDSTREAM COMMUNICATION	LOCATE DESK	800-289-1901
4. THIS PROJECT IS LOCATED WITHIN 10 NAUTICAL MILES FROM THE AIRPORT.
5. THERE IS A POTENTIAL GROUNDWATER CONTAMINATION ADJACENT TO THE PROJECT CORRIDOR. POTENTIALLY CONTAMINATED AREAS SHALL BE TREATED AS IDENTIFIED AREAS OF CONTAMINATION. IF DEWATERING METHODS ARE EMPLOYED, CONTAMINATION IMPACTS MAY OCCUR AT APPROXIMATELY STA 131+00 TO 132+00.
6. ALL STATIONS ARE BASED ON THE CL UNLESS OTHERWISE STATED.
7. APPLY SIKACRETE-211 SCC PLUS AS SHOWN ON PLAN TO CORRECT ANY SLOPE BREAKS AT CONNECTION OF THE PROPOSED AND EXISTING SIDEWALK. RESULTANT SLOPES NOT TO EXCEED 2%.

REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			GENERAL NOTES	SHEET NO.
DATE	DESCRIPTION	DATE	DESCRIPTION	JOSE LUIS SANTIAGO, P.E. LICENSE NUMBER 60248 EXP U.S. SERVICE INC. 201 ALHAMBRA CIR. - SUITE 800 CORAL GABLES, FLORIDA - 33134	ROAD NO.	COUNTY	FINANCIAL PROJECT ID		12
					SR 5	PALM BEACH	438386-2-52-01		

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8. CONTRACTOR TO COORDINATE WITH CITY OF RIVIERA BEACH FOR BENCHES AT 166+25 RT AND 167+40 RT FOR REMOVAL AND REPLACEMENT IN KIND AFTER CONSTRUCTION IS COMPLETED.
CITY ENGINEER: TERRENCE BAILEY CONTACT: 561-845-4080

UTILTY LEGEND

- A STORM SEWER MH TO BE ADJUSTED BY FDOT
- B CITY OF RIVIERA BEACH WATER VALVE TO BE ADJUSTED BY FDOT
- C CITY OF RIVIERA BEACH WATER MANHOLE TO BE ADJUSTED BY FDOT
- D CITY OF RIVIERA BEACH SANITARY SEWER MH TO BE ADJUSTED BY FDOT
- E CITY OF RIVIERA BEACH WATER METER TO BE ADJUSTED BY FDOT
- F CITY OF WEST PALM BEACH WATER VALVE TO BE ADJUSTED BY FDOT
- G FPL MH TO BE ADJUSTED BY FPL
- H AT&T MH TO BE ADJUSTED BY AT&T
- I CITY OF RIVIERA BEACH WATER METER TO BE RELOCATED BY FDOT
- J CITY OF RIVIERA BEACH WATER VALVE TO BE RELOCATED BY FDOT

- K STORM SEWER MH TO BE RELOCATED BY FDOT
- L TRAFFIC SIGNAL PULLBOX TO BE ADJUSTED BY FDOT
- M STREET LIGHTING PULLBOX TO BE ADJUSTED BY FDOT
- P ELECTRICAL PULLBOX TO BE ADJUSTED BY FDOT
- Q CITY OF WEST PALM BEACH FIRE HYDRANT TO BE RELOCATED BY FDOT
- R CITY OF WEST PALM BEACH WATER MH TO BE ADJUSTED BY FDOT
- T CITY OF WEST PALM BEACH SANITARY MH TO BE ADJUSTED BY FDOT
- U WATER VALVE TO BE ADJUSTED BY SEACOAST UTILITY AUTHORITY
- V WATER METER TO BE ADJUSTED BY SEACOAST UTILITY AUTHORITY
- Y CITY OF RIVIERA BEACH IRRIGATION LINE TO BE CAPPED BY FDOT
- Z CITY OF RIVIERA BEACH DIP TO BE RELOCATED BY FDOT
- AA IRRIGATION CONTROL VALVE TO BE RELOCATED BY FDOT

NOTES ADDED AS PER FPL TRANSMISSION.

1. MAINTAIN CLEARANCES AS REQUIRED BY OSHA, WHEN WORKING IN THE PROXIMITY OF FPL'S HIGH VOLTAGE TRANSMISSION CONDUCTORS & OWNER VOLTAGE DISTRIBUTION CONDUCTIONS.
2. MAINTAIN ACCESS TO ALL FPL FACILITIES AT ALL TIMES DURING CONSUTRUCTION.
3. ALL EXISTING FACILITIES MUST REMAIN ENERGIZED DURING ROAD CONSTRUCTION.

PAY ITEM 590-70-5 IRRIGATION SYSTEM-MODIFY EXISTING SYSTEM:
INCLUDES ALL LABOR, MATERIAL, EQUIPMENT AND INCIDENTALS FOR THE RESTORATION OF THE IMPACTED IRRIGATION ZONES BY MEANS OF OPEN TRENCHING FOR MODIFIED MEDIANS, INCLUDES THE COST FOR RESTORING IMPACTED SYSTEM COMPONENTS AND INSTALLATION INCLUDING BUT NOT LIMITED TO: IRRIGATION HEADS NOZZLES, FITTINGS, PIPES, SLEEVES, BACKFILLING, SITE RESTORATION, DEBRIS REMOVAL, SYSTEM TESTING AND COORDINATION WITH THE CITY OF RIVERA BEACH. THE CONTRACTOR WILL NOT BE RESPONSIBLE FOR THE COST OF ELECTRIC POWER OR (NORMAL USAGE) OF WATER UTILIZED WITH SYSTEM.

INDIVIDUAL IRRIGATION QUANTITITES ARE BASED ON AS-BUILT IRRIGATION PLANS (PFID 229744-3-52-01):

- IRRIGATION PIPE, ¾" = 3545 LF
- IRRIGATION PIPE, 1" = 900 LF
- IRRIGATION PIPE, 1-¼" = 80 LF
- IRRIGATION PIPE, 1-½" = 470 LF
- IRRIGATION SLEEVE, 1-½" = 45 LF
- IRRIGATION SLEEVE, 2" = 430 LF
- IRRIGATION SLEEVE, 3" = 130 LF
- SPRINKLER HEADS = 332 EA
- VALVES = 21 EA

PAY ITEM 0431-1530 PIPE LINER SLIPLINING 30 INCHES:
INCLUDES ANY FLOWABLE FILL AND PIPE CLEANING NEEDED AS INCIDENTAL TO THE WORK.

RAILROAD NOTES.

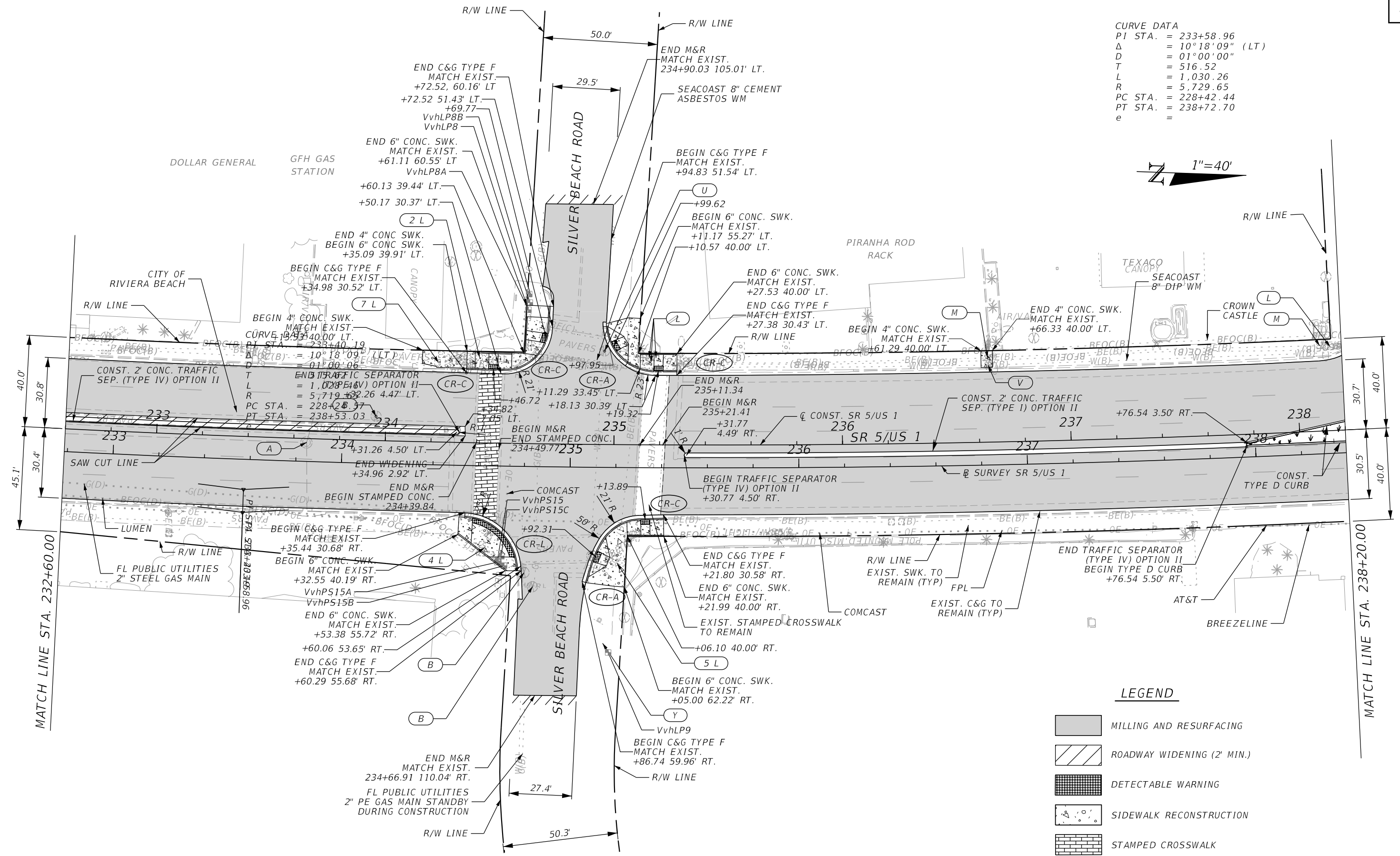
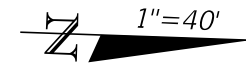
1. PORT OF PALM BEACH- MAIN POINTS OF CONTACT

PORT RAIL PHONE (DISPATCH)- ON DUTY ENGINEER- 561-308-9525
ALAN FAWCETT- TRAIN MASTER- 561-346-9119
KEITH LEGGETT- ASSISTANT DIRECTOR OF OPERATIONS- 561-383-4190

2. CONTRACTOR SHALL STOP WORK DURING ANY TRAIN MOVEMENTS WITHIN THE PORT OF PALM BEACH.
3. CONTRACTOR TO EXERCISE CAUTION AROUND EXISTING LIGHTS, CAMERAS AND CONDUITS OWNED BY THE PORT OF PALM BEACH.
4. CONTRACTOR SHALL HAVE TWIC IDENTIFICATION TO BE PROVIDED BY THE DEPARTMENT OF HOMELAND SECURITY. IF THE TWIC IDENTIFICATION IS NOT OBTAINED, AN ESCORT WILL BE REQUIRED WITH A REQUIRED TARIFF.
5. CONTRACTOR IS LIMITED TO NIGHT WORK ONLY FROM 7:00 PM TO 5:00 AM, MONDAY THRU SUNDAY WITHIN THE PORT OF PALM BEACH PROPERTY.
6. CONTRACTOR IS DIRECTED TO COORDINATE DIRECTLY WITH TROPICAL SHIPPING FOR THE REMOVAL OF THEIR EQUIPMENT STORED UNDER THE BRIDGE IN CONFLICT WITH THE PROPOSED WORK PRIOR TO CONSTRUCTION.
TROPICAL SHIPPING- CLAUDE CLEVINGER- 561-215-9122 (EMAIL ADDRESS: CCLEVINGER@TROPICAL.COM)
7. THE PORT OF PALM BEACH SHALL PROVIDE FLAGS AND SIGNAGE DURING CONSTRUCTION AND CONTROL ALL TRAIN MOVEMENTS WITHIN THE PORT OF PALM BEACH PROPERTY.

REVISIONS				ENGINEER OF RECORD		STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			GENERAL NOTES	SHEET NO.
DATE	DESCRIPTION	DATE	DESCRIPTION	JOSE LUIS SANTIAGO, P.E. LICENSE NUMBER 60248 EXP U.S. SERVICE INC. 201 ALHAMBRA CIR. - SUITE 800 CORAL GABLES, FLORIDA - 33134		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
						SR 5	PALM BEACH	438386-2-52-01		13

CURVE DATA
PI STA. = 233+58.96
Δ = 10°18'09" (LT)
D = 01°00'00"
T = 516.52
L = 1,030.26
R = 5,729.65
PC STA. = 228+42.44
PT STA. = 238+72.70
e =



LEGEND

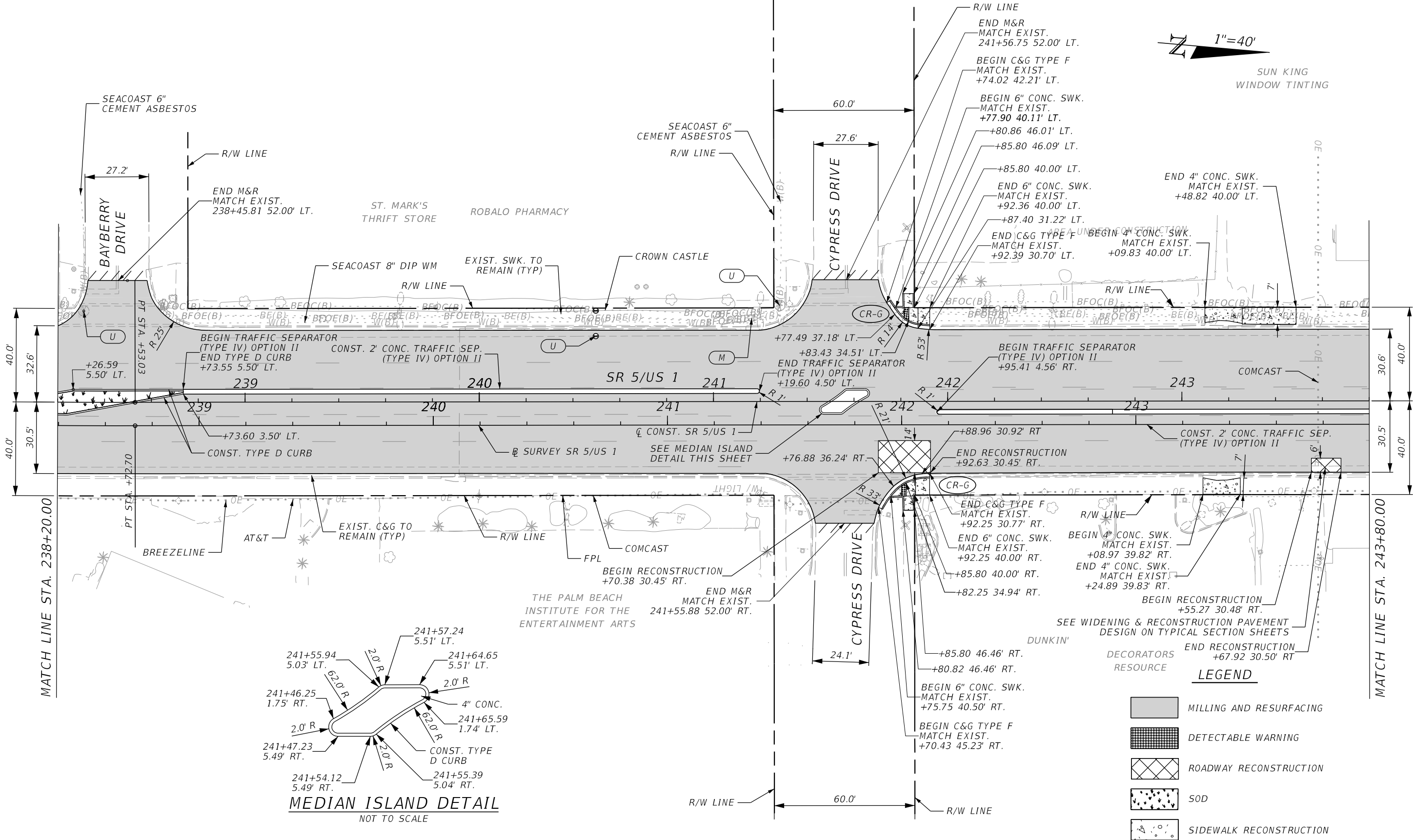
- MILLING AND RESURFACING
- ROADWAY WIDENING (2' MIN.)
- DETECTABLE WARNING
- SIDEWALK RECONSTRUCTION
- STAMPED CROSSWALK

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REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			ROADWAY PLAN SHEET	SHEET NO. 33
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
					SR 5	PALM BEACH	438386-2-52-01		

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REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

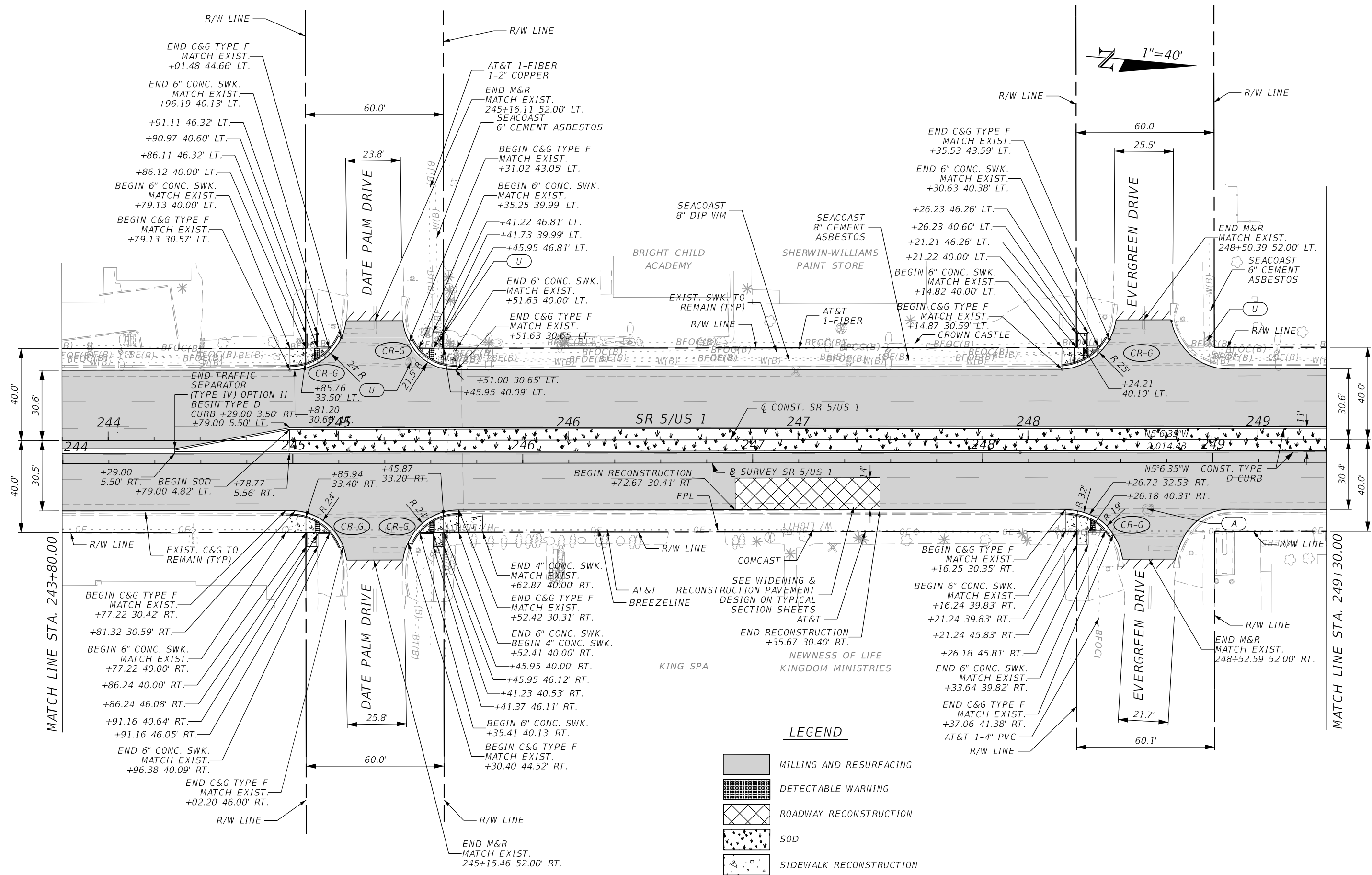
ENGINEER OF RECORD
JOSE LUIS SANTIAGO, P.E. LICENSE NUMBER 60248 EXP U.S. SERVICE INC. 201 ALHAMBRA CIR. - SUITE 800 CORAL GABLES, FLORIDA - 33134

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
SR 5	PALM BEACH	438386-2-52-01

ROADWAY PLAN SHEET	

SHEET NO.
34

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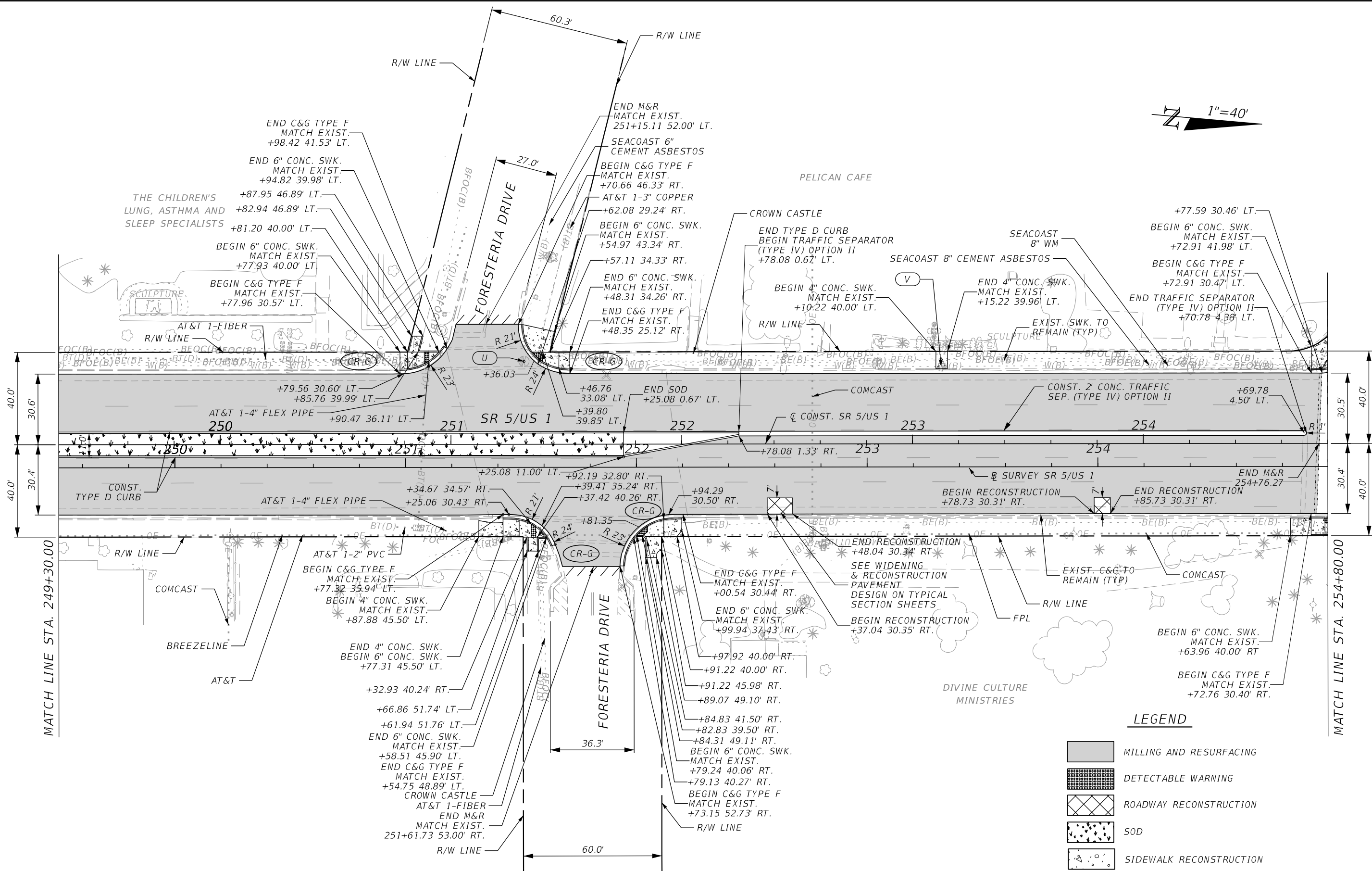
LEGEND

- MILLING AND RESURFACING
- DETECTABLE WARNING
- ROADWAY RECONSTRUCTION
- SOD
- SIDEWALK RECONSTRUCTION

REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			ROADWAY PLAN SHEET	SHEET NO. 35
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
					SR 5	PALM BEACH	438386-2-52-01		

JOSE LUIS SANTIAGO, P.E.
LICENSE NUMBER 60248
EXP U.S. SERVICE INC.
201 ALHAMBRA CIR. - SUITE 800
CORAL GABLES, FLORIDA - 33134

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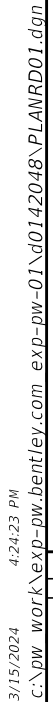
- MILLING AND RESURFACING
- DETECTABLE WARNING
- ROADWAY RECONSTRUCTION
- SOD
- SIDEWALK RECONSTRUCTION

REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			SHEET NO.
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID	
					SR 5	PALM BEACH	438386-2-52-01	

JOSE LUIS SANTIAGO, P.E.
LICENSE NUMBER 60248
EXP U.S. SERVICE INC.
201 ALHAMBRA CIR. - SUITE 800
CORAL GABLES, FLORIDA - 33134

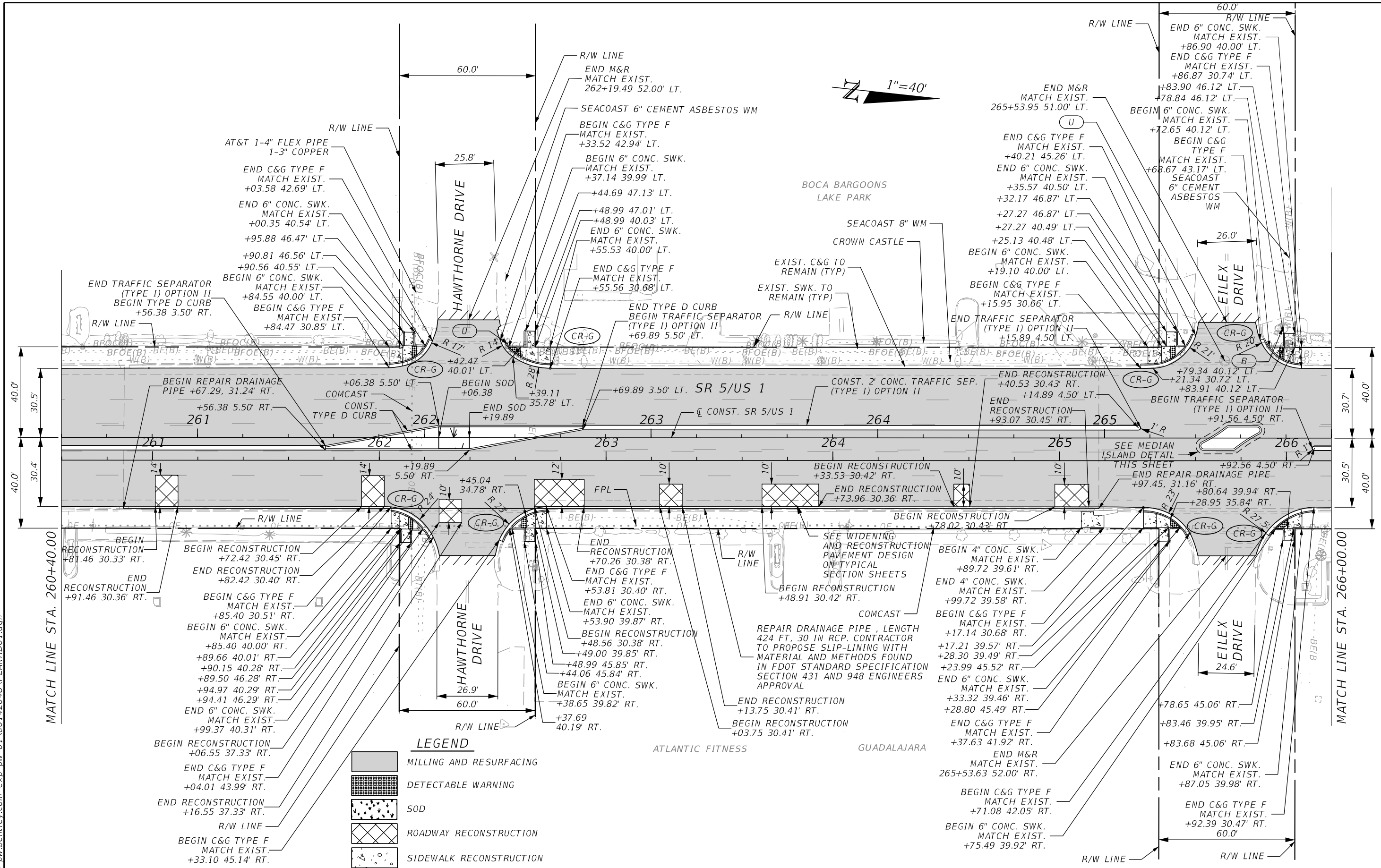
ROADWAY PLAN SHEET

36



REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			ROADWAY PLAN SHEET	SHEET NO.
DATE	DESCRIPTION		DATE	DESCRIPTION	ROAD NO.	COUNTY	FINANCIAL PROJECT ID		37
					SR 5	PALM BEACH	438386-2-52-01		

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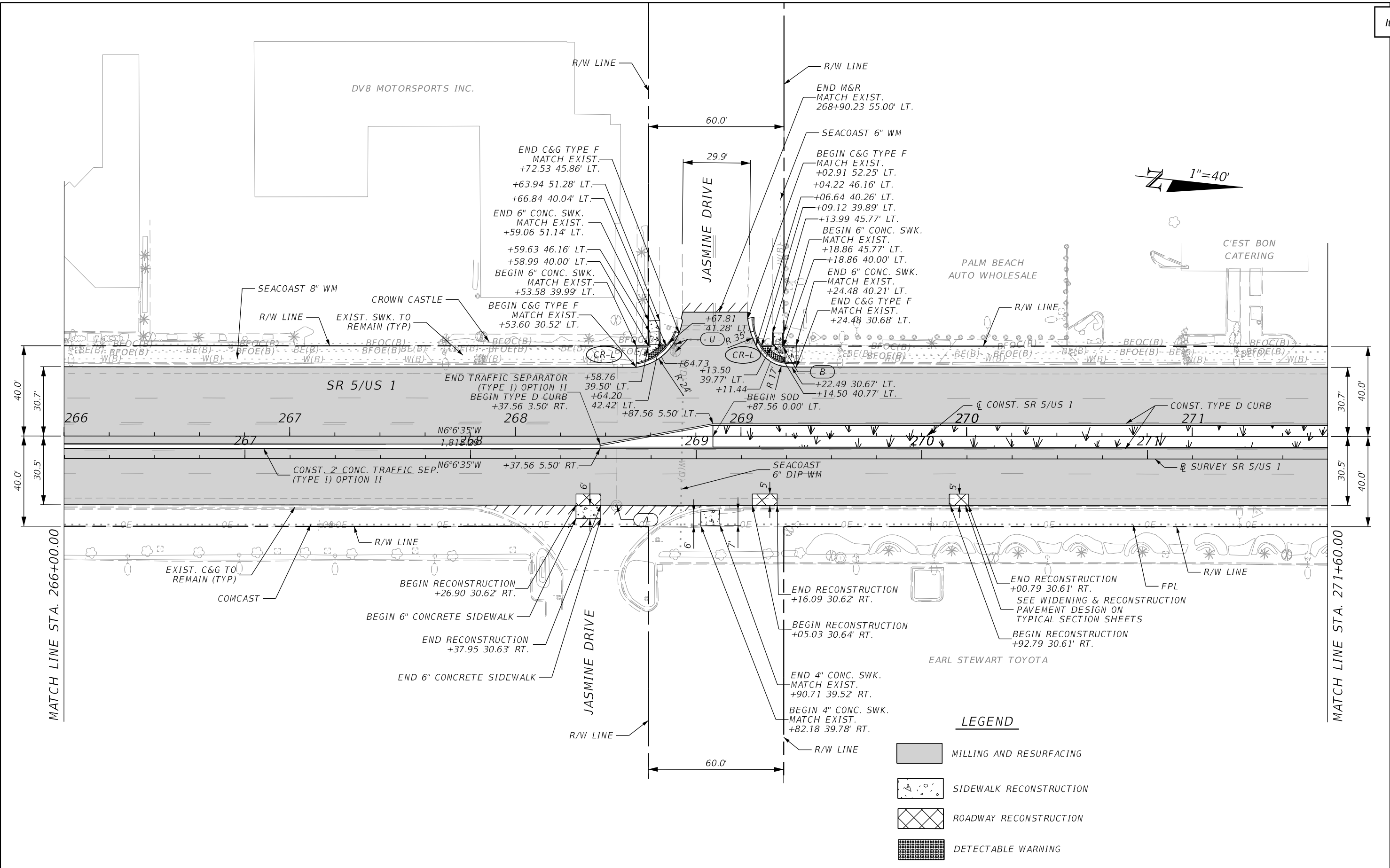


REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			SHEET NO.
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID	
					SR 5	PALM BEACH	438386-2-52-01	

ROADWAY PLAN SHEET

38

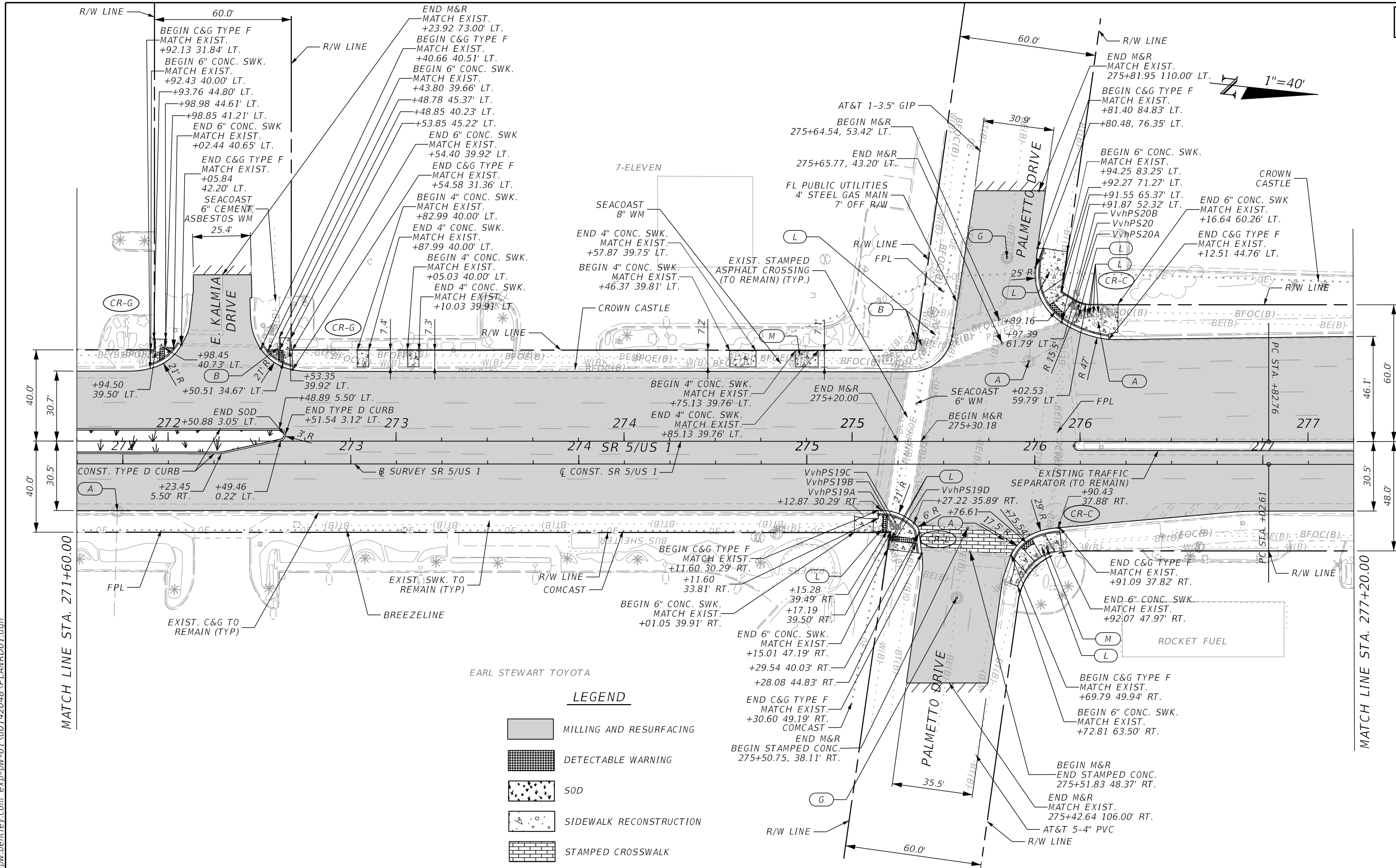
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REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			ROADWAY PLAN SHEET	SHEET NO. 39
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
				JOSE LUIS SANTIAGO, P.E. LICENSE NUMBER 60248 EXP U.S. SERVICE INC. 201 ALHAMBRA CIR. - SUITE 800 CORAL GABLES, FLORIDA - 33134	SR 5	PALM BEACH	438386-2-52-01		

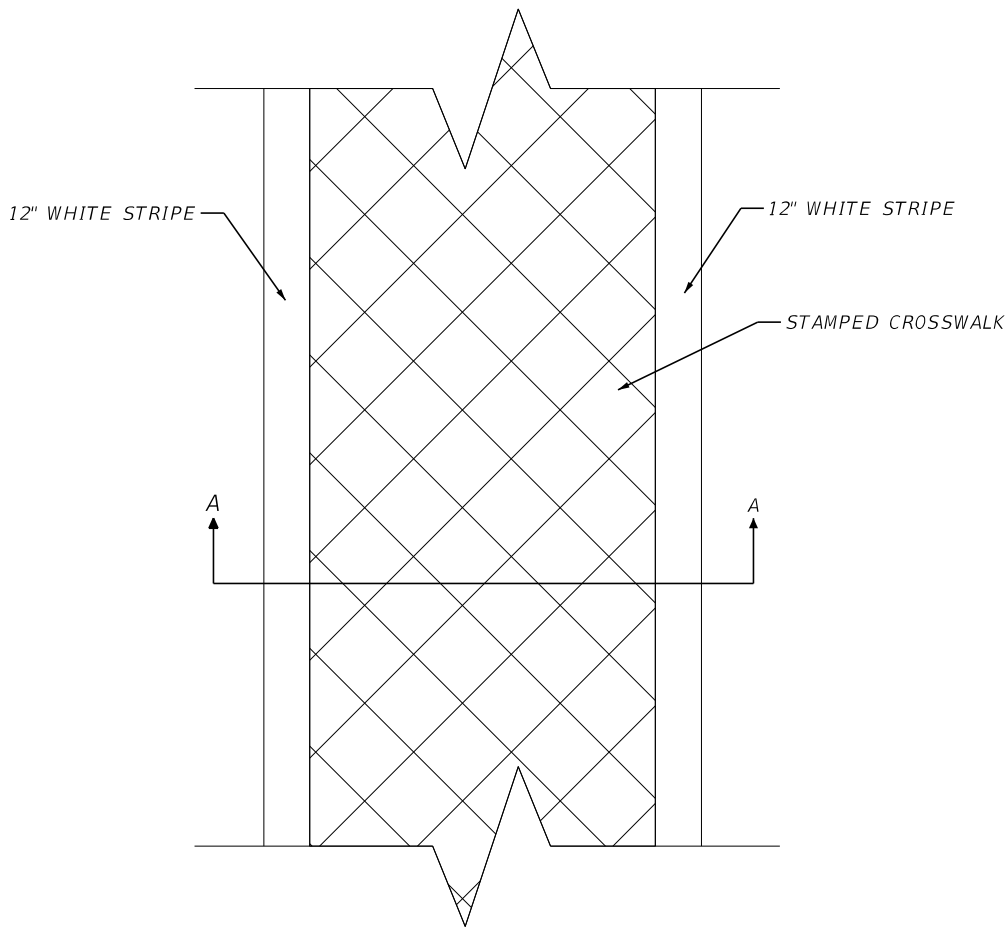
THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

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REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			ROADWAY PLAN SHEET	SHEET NO. 40
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
					SR 5	PALM BEACH	438386-2-52-01		

STAMPED CROSSWALKS DETAIL



NOTES:

REFER TO ROADWAY AND SIGNING & MARKING PLANS FOR CROSSWALK LOCATIONS AND LAYOUT.

PATTERN TOOL SHALL BE CLOSED TOP TO IMPRINT SURFACE TEXTURE AND TO CONTROL JOINT DEPTH. JOINT DEPTH NOT TO EXCEED 1/2".

XYLENE BASED, ACRYLIC COPOLYMER SEALER WITH 20% SOLIDS TO BE USED AS FINAL TREATMENT. PATTERNED CONCRETE SHALL BE SEALED WITH ONE COAT OF PATTERNED CONCRETE SEAL. PRODUCT SHALL BE APPLIED IN ACCORDANCE WITH MANUFACTURER'S SPECIFICATIONS.

PRIOR TO INSTALLATION OF THE PATTERNED ASPHALT THE CONTRACTOR SHALL PROVIDE A 8' x 8' MOCK UP AT THE JOBSITE FOR EACH PATTERN TO BE USED. ENGINEER SHALL APPROVE COLOR, TEXTURE, AND WORKMANSHIP OF THE MOCK-UP THEN RETAIN AS A STANDARD FOR JUDGING COMPLETED WORK.

THE COLORING SHALL BE CONSISTENT THROUGHOUT.

THE SURFACE VARIATIONS SHALL NOT BE MORE THAN 1/4" UNDER A 10 FOOT STRAIGHT EDGE, NOR MORE THEN 1/8th INCH ON A 5 FOOT TRANSVERSE SECTION. THE EDGE OF THE CONCRETE SHALL BE CAREFULLY FINISHED WITH AN EDGING TOOL HAVING A RADIUS OF 5/8INCH.

COLOR AND PATTERN ARE REPRESENTATIVE OF THE CHOSEN ALTERNATIVE APPROVED BY THE TOWN OR CITY. SIMILAR PATTERNS AND COLORS MAY BE CHOSEN PENDING FINAL APPROVAL BY THE TOWN OR THE CITY PRIOR TO CONSTRUCTION OF MOCK-UP.

TOOLS SHALL BE PROMPTLY TAMPED INTO THE SURFACE TO ACHIEVE THE DESIRED TEXTURE.

TRANSVERSE JOINTS SHALL BE CUT AT ALL EDGE AND LANE LINES EXCEPT WHEN SUCH A JOINT WILL CREATE A SLAB SECTION LESS THEN 10'. THE JOINTS SHALL BE 1/4 THE DEPTH OF THE SLAB AND SEALED.

TOWN OF LAKE PARK
ASPHALT CROSSWALKS

INTERSECTIONS:

SILVER BEACH RD
PALMETTO RD

PATTERN:

LIMESTONE TEXTURED
RUNNING BOND

COLOR:

TOFFEE

CITY OF RIVIERA BEACH
ASPHALT CROSSWALKS

INTERSECTIONS:

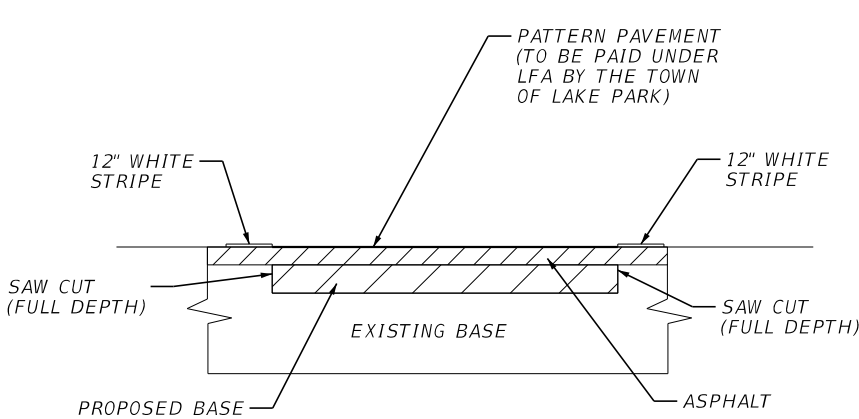
W 13TH ST
W 22ND ST
BLUE HERON BLVD

PATTERN:

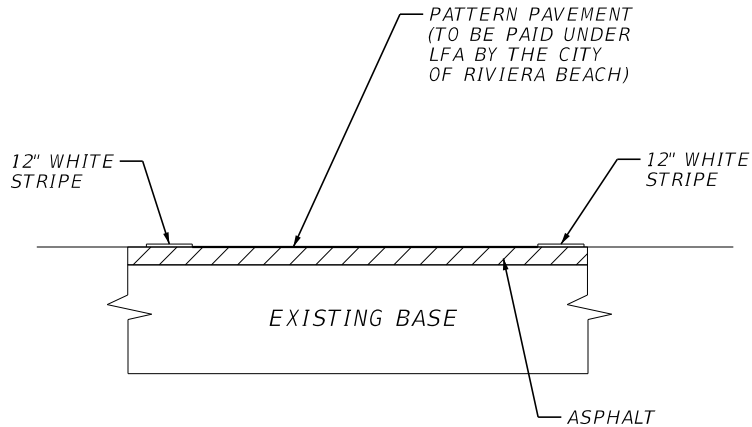
DIAGONAL HERRINGBONE

COLOR:

RUBY RED



SECTION A - A



SECTION A - A

REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			SHEET NO.
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID	
				JOSE LUIS SANTIAGO, P.E. LICENSE NUMBER 60248 EXP U.S. SERVICE INC. 201 ALHAMBRA CIR. - SUITE 800 CORAL GABLES, FLORIDA - 33134	SR 5	PALM BEACH	438386-2-52-01	47

SPECIAL DETAILS

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

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SECTION: 93020000 / 9304000
 PERMIT: 438386-2-52-01
 COUNTY: Palm Beach
 STATE RD: 5

EXHIBIT C

APPROXIMATE COST FOR LANDSCAPE IMPROVEMENTS

This Exhibit forms an integral part of the MAINTENANCE MEMORANDUM OF AGREEMENT between the Florida Department of Transportation and the AGENCY.

ITEM #	ITEM	QNTY	UNIT	UNIT PRICE	COST	COMMENT
523-3	Patterned Pavement, Vehicular Areas	135	SY	\$ 191.40	\$25,839.00	Crosswalks

*Amounts are approximate and include contingencies

ANTICIPATED TERMS OF A SEPARATE AGREEMENT

I.	FDOT PARTICIPATION:	\$ 0.00
II.	AGENCY PARTICIPATION: (Via Separate Agreement)	\$25,839.00
III.	APPROXIMATE LANDSCAPE IMPROVEMENT COST:	\$25,839.00

SECTION: 93020000 / 9304000
 PERMIT: 438386-2-52-01
 COUNTY: Palm Beach
 STATE RD: 5

EXHIBIT D

PATTERNED PAVEMENT MAINTENANCE

This Exhibit forms an integral part of the MAINTENANCE MEMORANDUM OF AGREEMENT between the Florida Department of Transportation and the AGENCY.

"Maintenance" of all patterned pavement crosswalks in these Agreements shall be defined, at a minimum, to include its frictional characteristics and integrity as follows:

1. Within 60 days of project acceptance by the Department, all lanes of each patterned crosswalk shall be evaluated for surface friction. The friction test shall be conducted in accordance with **FM 5-592 (Florida Test Method for Friction Measuring Protocol for Patterned Pavements)* using either a Locked Wheel Friction Tester or Dynamic Friction Tester. **All costs for friction testing are the responsibility of the AGENCY.**
2. The initial friction resistance shall be at least **35** obtained at 40 mph with a ribbed tire test (FN40R) or equivalent (see FM 5-592). Failure to achieve this minimum resistance shall require all deficient crosswalk areas to be removed to their full extent (lane-by-lane) and replaced with the same product installed initially. The AGENCY is responsible for all costs associated with the removal and replacement of the crosswalk. If the Department determines that more than 50% of the lanes in the intersection require replacement, the entire intersection installation may be reconstructed with a different product on the Approved Products List (APL) or replaced with conventional pavement.
3. Approximately **one year** after project acceptance and **every two years** thereafter and for the life of the adjacent pavement, only the outside traffic lane areas of each patterned crosswalk shall be tested for friction resistance in accordance with **ASTM E274** or **ASTM E1911**. Friction resistance shall, at a minimum, have a FN40R value of **30** (or equivalent).
4. The results of all friction tests shall be sent to the **Operations Engineer** at the local FDOT District Four Operations Center (Palm Beach Operations, 7900 Forest Hill Blvd., West Palm Beach, FL 33413, (561)432-4966) with a cover letter either certifying that the crosswalks comply with the minimum friction criteria, or stating what remedial action will be taken to restore the friction.
5. Failure to achieve the minimum resistance shall require all lanes of the crosswalk to be friction tested to determine the extent of the deficiency. All deficient areas shall be removed to their full extent (lane-by-lane) and replaced with the same product installed initially. If the Department determines that more than 50% of the lanes in the

intersection require replacement, the entire intersection installation may be reconstructed with a different product on the QPL or replaced with conventional pavement.

6. When remedial action is required in accordance with the above requirements, the local agency shall complete all necessary repairs at its own expense within 90 days of the date when the deficiency was identified. No more than two full depth patterned pavement repairs shall be made to an area without first resurfacing the underlying pavement to 1" minimum depth.
7. The Department will not be responsible for replacing the treatment following any construction activities by the Department in the vicinity of the treatment, or any costs for testing.
8. Should the local agency fail to satisfactorily perform any required remedial work or testing in accordance with this agreement, the Department reserves the right to replace the patterned pavement with conventional pavement (matching the adjacent pavement) and bill the local agency for this cost.

***FM 5-592:**

<https://www.fdot.gov/materials/administration/resources/library/publications/fstm/bynumber.shtm>

SECTION: 93020000 / 9304000
PERMIT: 438386-2-52-01
COUNTY: Palm Beach
STATE RD: 5

EXHIBIT E

RESOLUTION

This Exhibit forms an integral part of the LANDSCAPE MAINTENANCE MEMORANDUM OF AGREEMENT between the Florida Department of Transportation and the AGENCY.

Please see attached

(Will be provided by Town)



Project Update

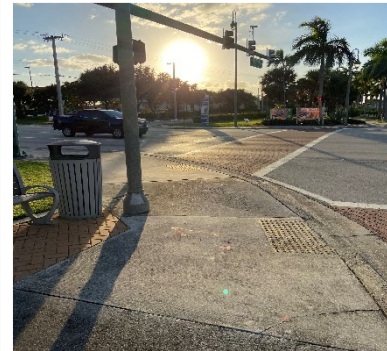
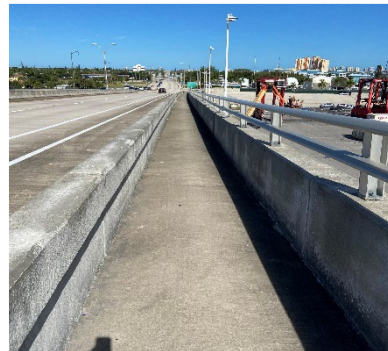
Mobility Improvements Project

**State Road (SR) 5/US-1 from 59 Street to State Road
850/Northlake Boulevard**

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

Mobility Improvements Project

Financial Project ID Number: 438386-2-52-01



COMMISSION MEETING Wednesday, April 17, 2024

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

Mobility Improvement Project

Financial Project ID Number: 438386-2-52-01



Introductions

Meet the Team

Item 10.



Damaris Williams
FDOT Project Manager
FDOT District Four



Jose Santiago
Consultant Project Manager
EXP



Roxana Matamoros
Consultant Deputy Project Manager
EXP



Maria Ballester
Consultant Project Engineer
EXP

Agenda

Item 10.

1. Project Location
2. Scope / Proposed Improvements
3. Proposed Medians
4. Locally Funded Agreement (LFA)
5. Construction Impacts
6. Project Schedule and Cost
7. Questions and Answers
8. Closing and Contact Information
9. Safety Message

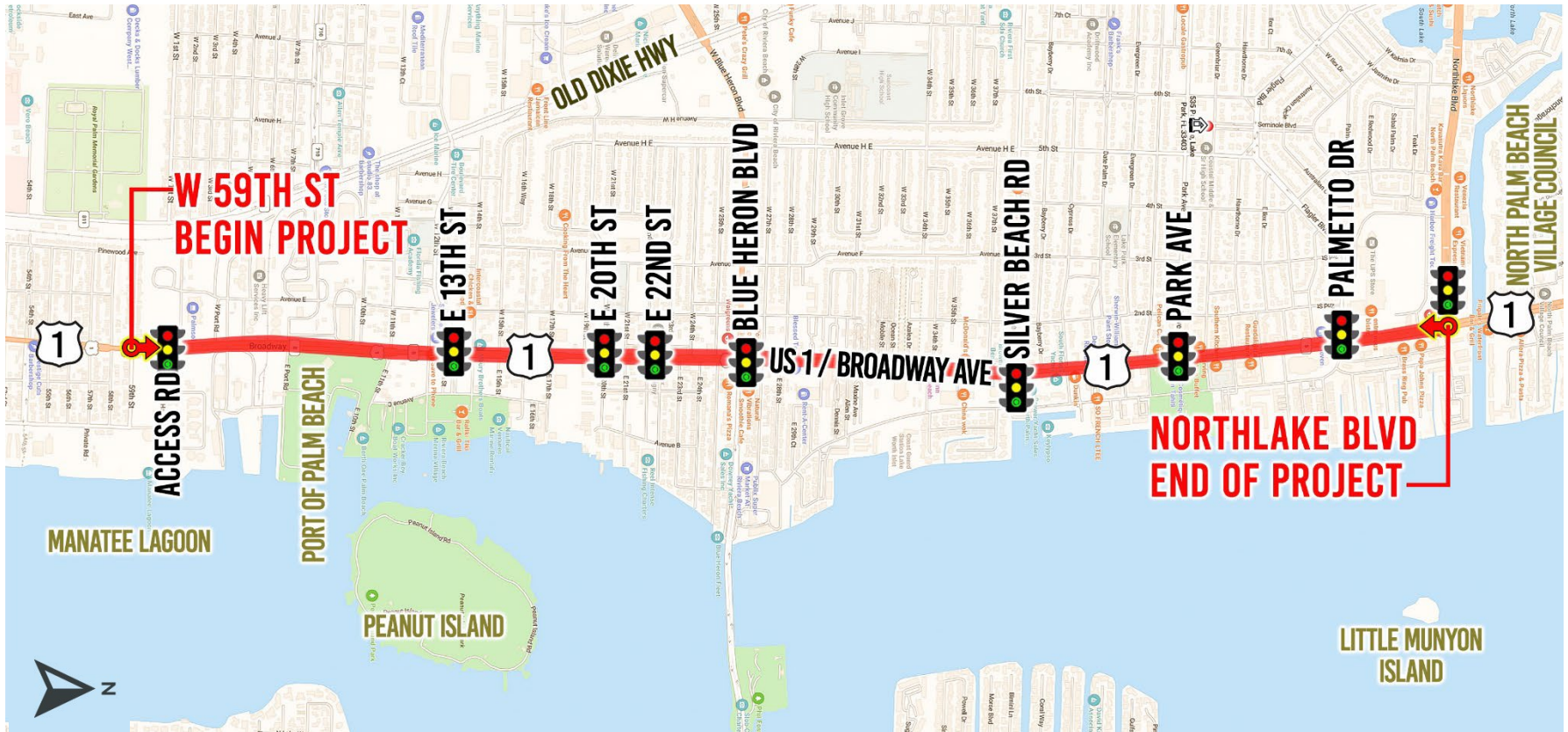
Project Location

Project Location

Item 10.

State Road (SR) 5/US-1 from 59 Street to
State Road 850/Northlake Boulevard

Mobility Improvements Project
Financial Project ID Number:
438386-2-52-01



Scope / Proposed Improvements

Scope / Proposed Improvements

Item 10.

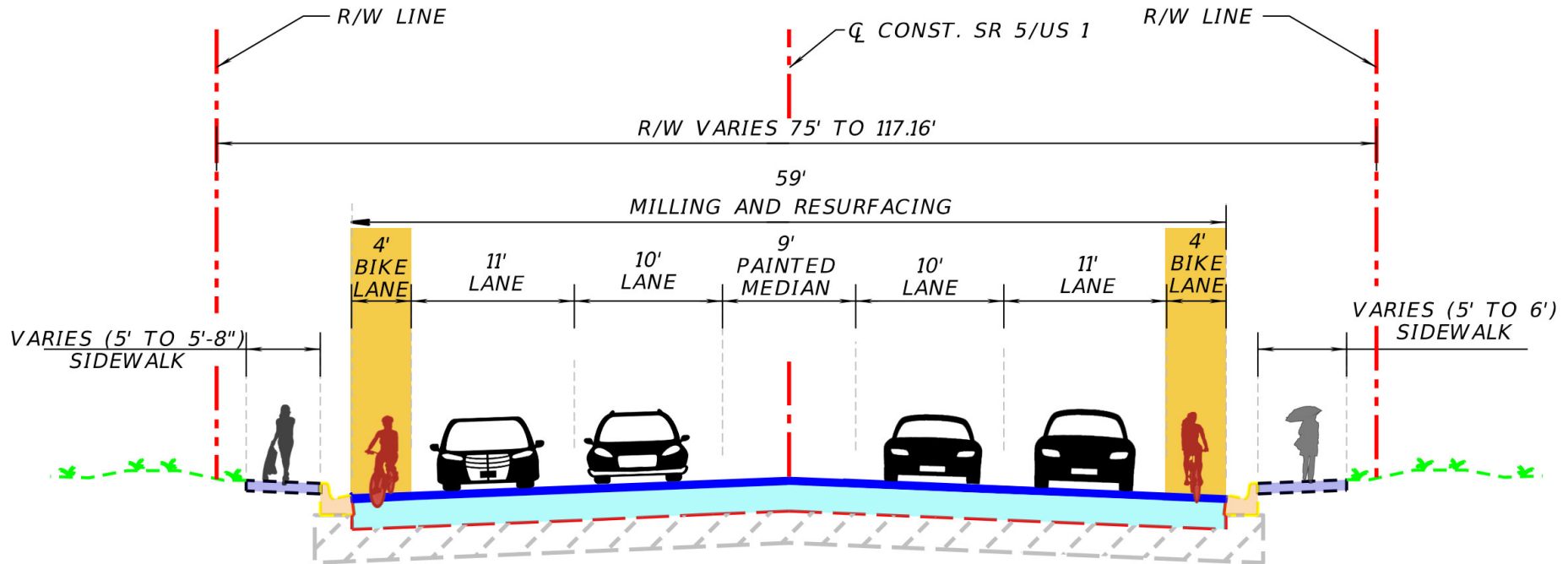
438386-2-52-01 (State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard)

- Adding 4-foot bicycle lanes by widening into existing medians and restriping the road
- New median sections from Silver Beach Rd. to Palmetto Drive
- Repaving of the roadway
- Lighting retrofits to illuminate roadway from 59th Street to Silver Beach Rd. and pedestrian crossings at signalized intersections
- Pedestrian Signal upgrades at nine intersections
- Barrier wall relocation at the Skypass Bridge to accommodate 10-foot shared use path

Proposed Roadway Improvements with Bike Lane Addition

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

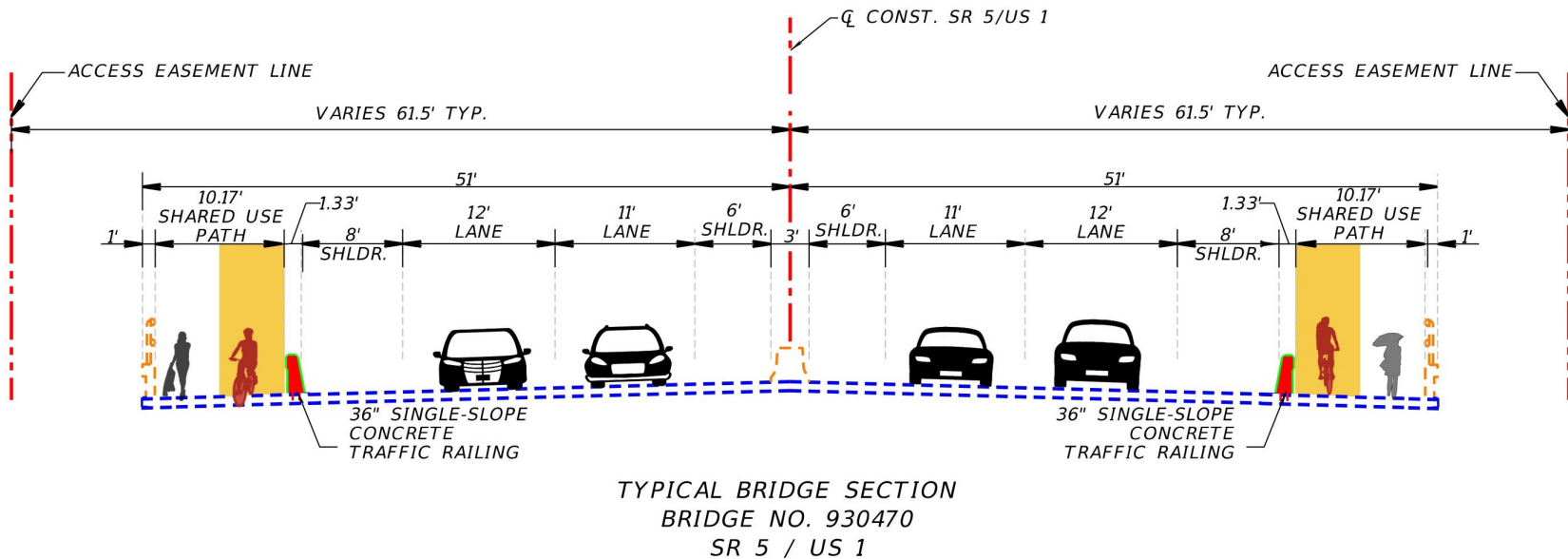
Item 10.



Typical 1 – 59th Street to South of Bridge

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

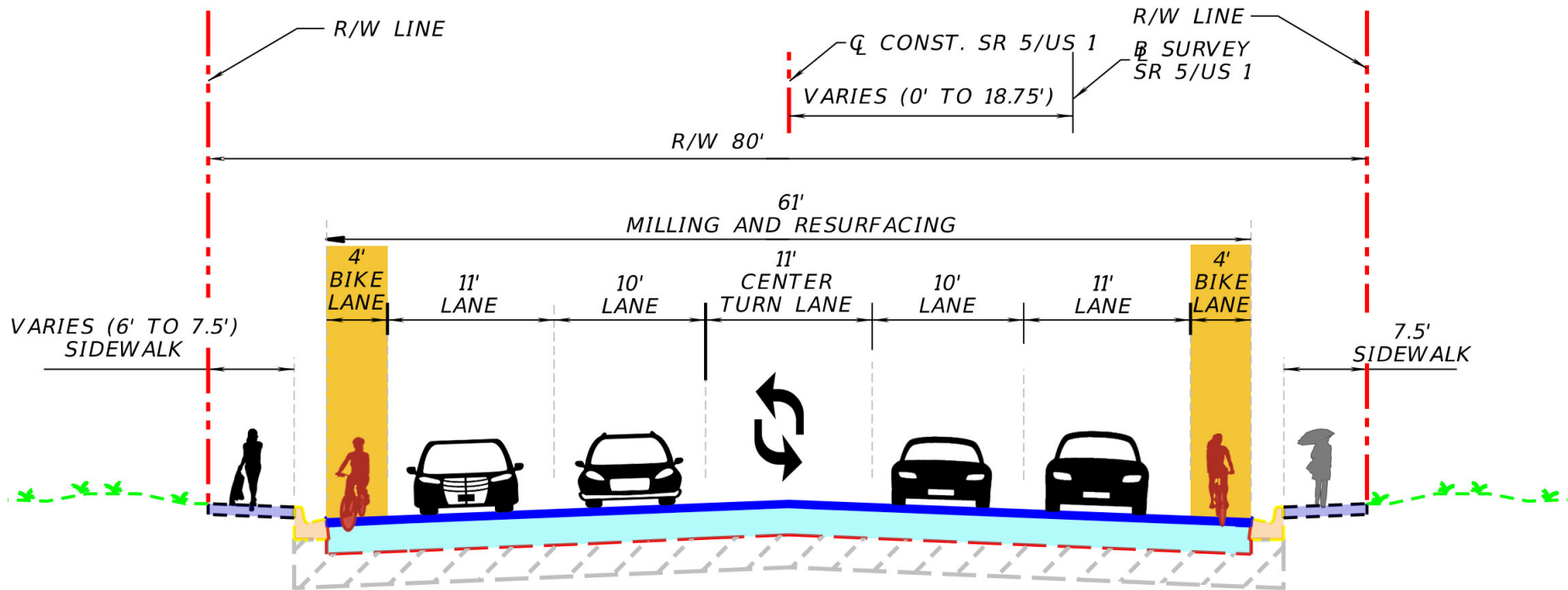
Item 10.



Typical 2 – South of Bridge to North of Bridge

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

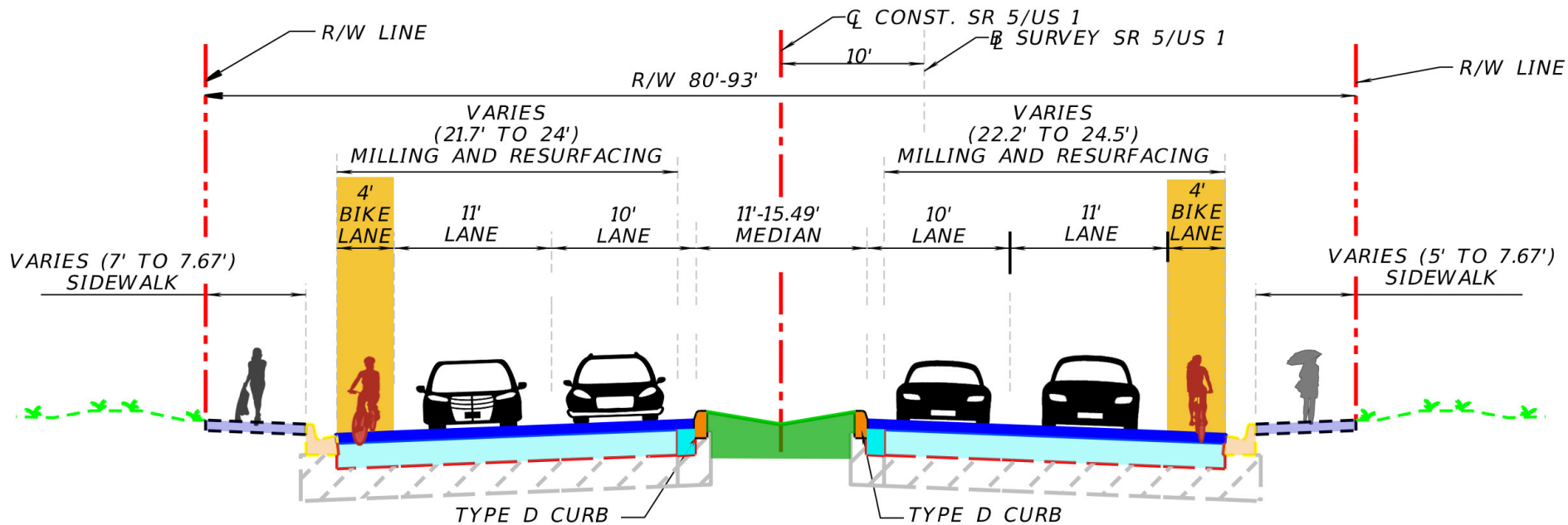
Item 10.



Typical 3 – North of the Bridge to W. 13th Street
W. 17th Street to W. 20th Street

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

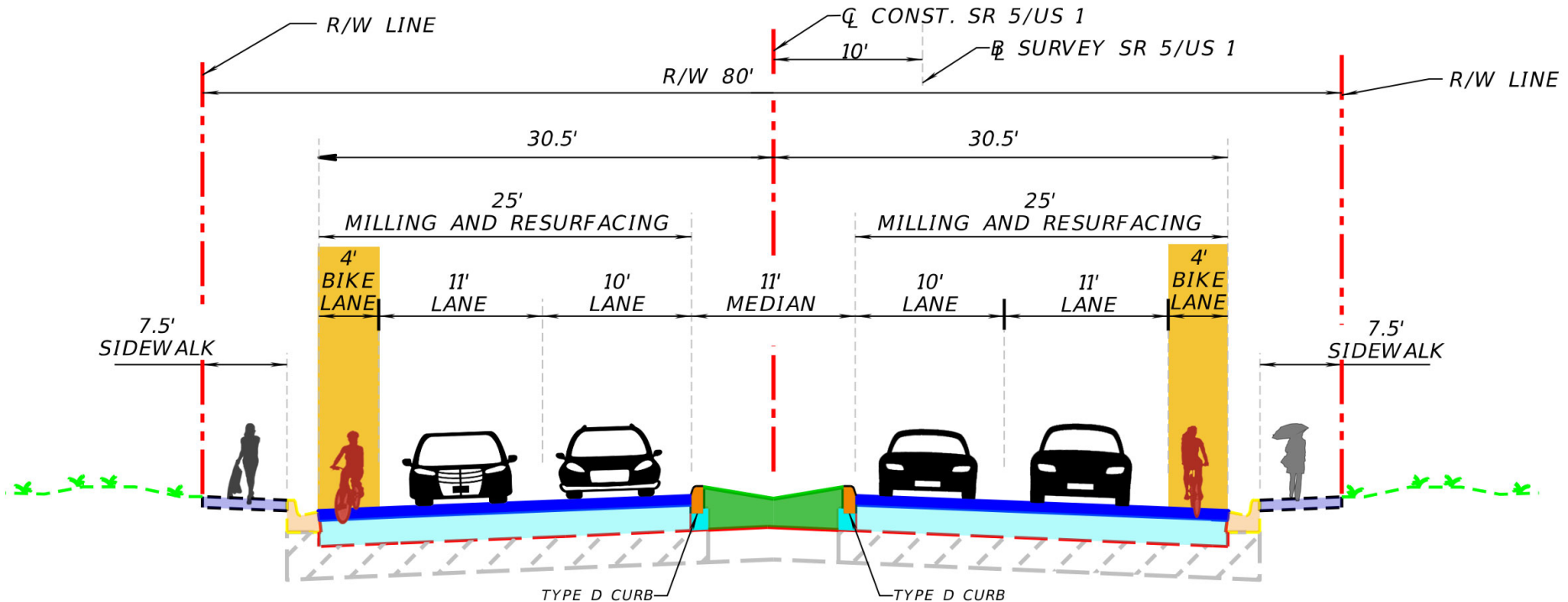
Item 10.



Typical 4 – W. 13th Street to W. 17th Street
W. 20th Street to Silver Beach Road

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

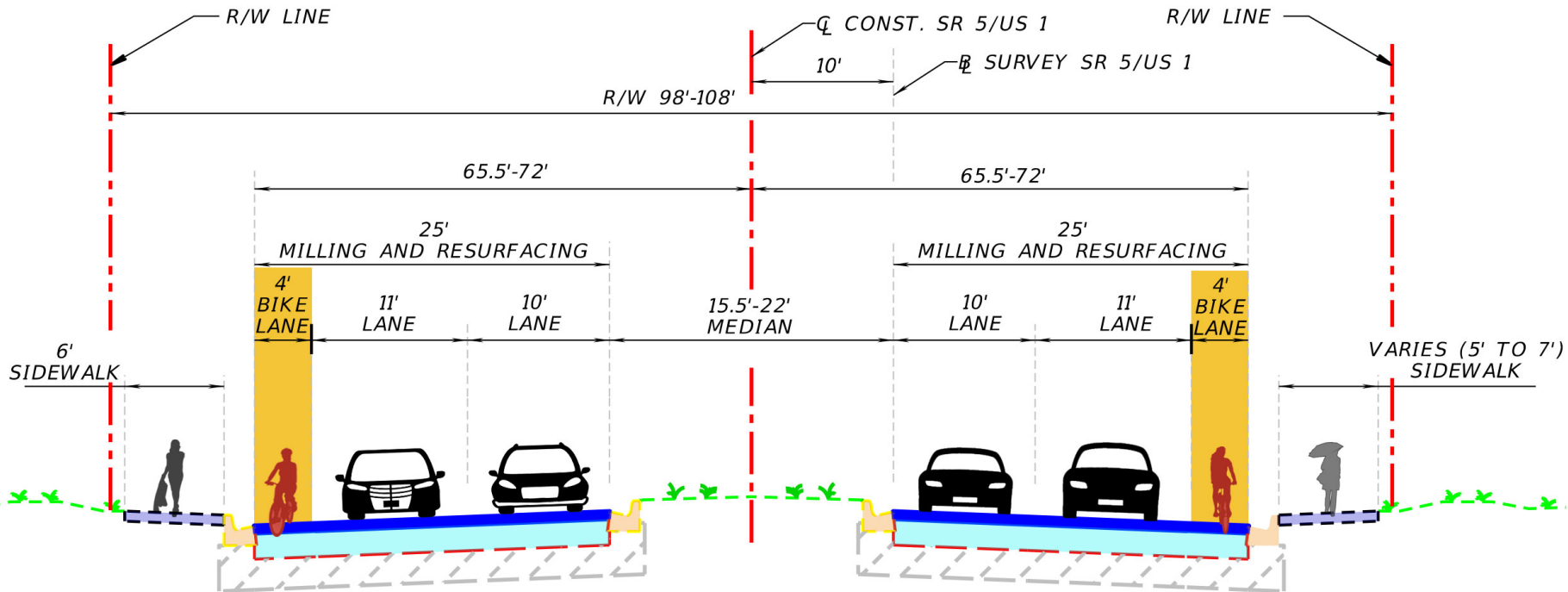
Item 10.



Typical 5 – Silver Beach Road to Palmetto Drive

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

Item 10.



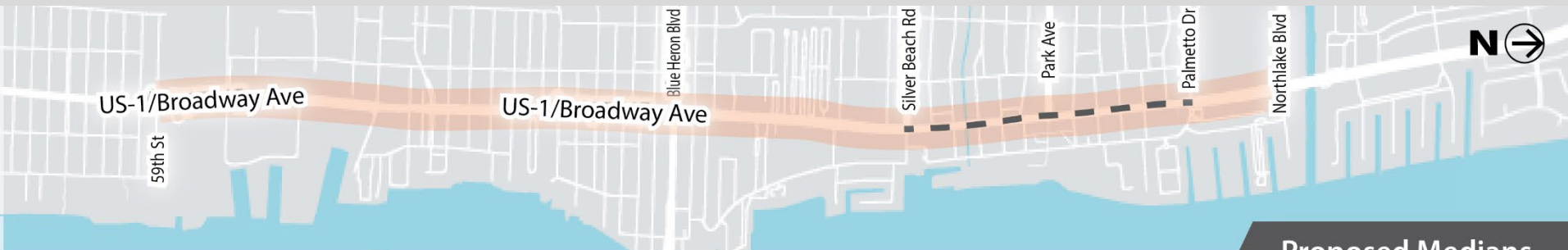
Typical 6 – Palmetto Drive to Northlake Boulevard/ Shore Court

Proposed Medians

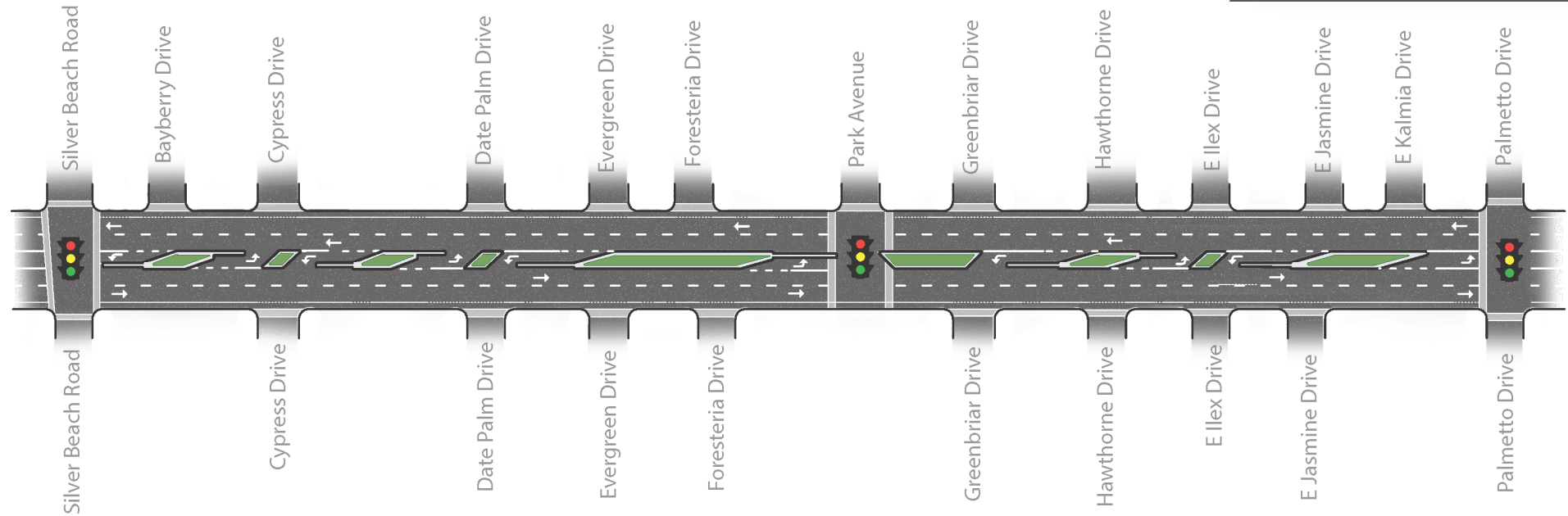


Proposed Medians

Item 10.



Proposed Medians



Local Funds Agreement (LFA)

LFA Scope with the Town of Lake Park

Item 10.

438386-2-52-01 (State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard)

- Pattern Pavement Concrete Crosswalk Replacement
South Leg of Silver Beach Road
East Leg of Palmetto Drive
- One decorative light pole
NE Corner of Silver Beach Road and US 1



Cost Estimate Covered by Town of Lake Park:

8-inch Concrete Slab

Pattern Pavement

Decorative Light Pole Cost Differential

20% Contingency

Construction Impacts



Construction Impacts



- Temporary sidewalk closures during construction
- Median access changes during construction
- One lane will remain open at all times during construction
- Lane closures may occur during non-peak hours

NON-PEAK
HOURS

9PM – 6AM

(Sunday – Thursday Nights)

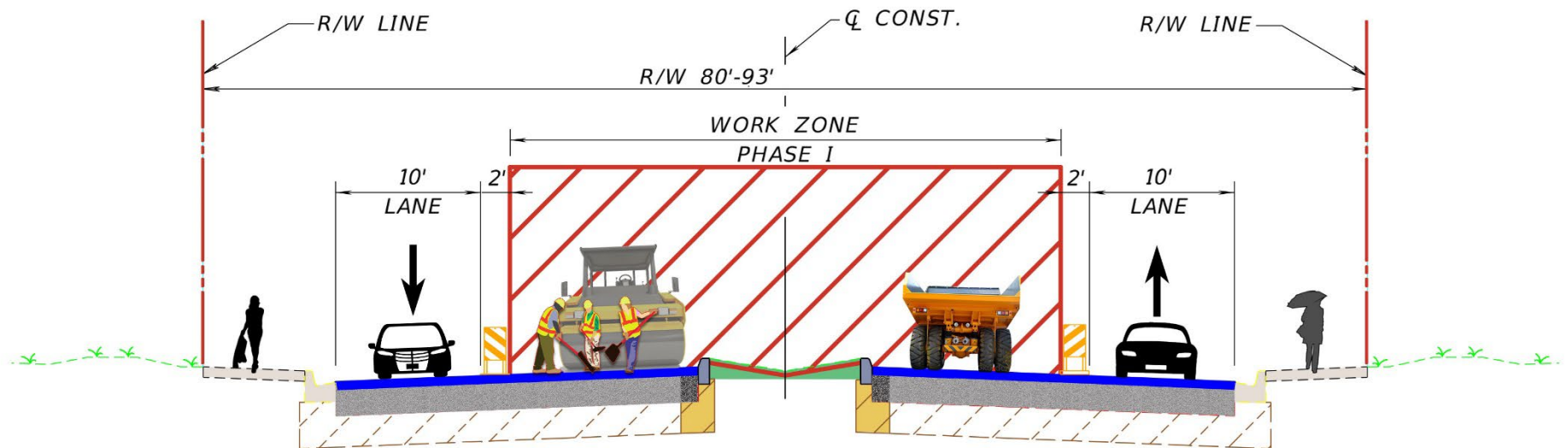
11PM – 7:30AM

(Friday & Saturday Nights)

- Access to adjacent properties will be maintained and open at all times
- All work is to be done in phases to reduce impacts of construction to the community

Construction Impacts

Item 10.



Project Schedule and Cost

Project Schedule and Cost

Item 10.

Start Date: Spring 2025

Completion Date: Winter 2025

Estimated Construction Cost: \$ 11.3 million

Questions and Answers

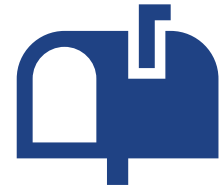
Closing and Contact Information

Contact Information

Item 10.

If you have additional questions, please contact: FDOT Project Manager, Damaris Williams, P.E.

3400 West Commercial Boulevard Fort
Lauderdale, FL 33309



Email: Damaris.Williams@dot.state.fl.us



(954) 777-4679 or
Toll Free: (866) 336-8435; Ext. 4679



Safety Message

Item 10.

EVERY BICYCLIST IS
IMPORTANT TO
SOMEONE.

Safe drivers help keep bicyclists safe
on our roadways by staying calm and
focused behind the wheel.

Check out these custom
Do Not Disturb messages
and safe driving playlists:



Let's Get Everyone Home Safely.





Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: June 12, 2024

Agenda Item No.

Agenda Title: A RESOLUTION BY THE TOWN OF LAKE PARK COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A LIGHTING MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION FROM SILVER BEACH ROAD TO PALMETTO DRIVE ALONG US-1/SR-5/BROADWAY AVENUE AS DEPICTED IN EXHIBIT A.

☐ SPECIAL PRESENTATION/REPORTS ☐ CONSENT AGENDA
☐ BOARD APPOINTMENT ☐ OLD BUSINESS
☐ ORDINANCE
☒ **NEW BUSINESS**
☐ OTHER

John

Digitally signed by John D'Agostino
 DN: cn=John D'Agostino, o=Town
 of Lake Park, ou=Town Manager,
 email=jdagostino@lakeparkflorida.g
 ov, c=US
 Date: 2024.06.06 14:43:12 -0400

Approved by Town Manager D'Agostino
 Nadia Di Tommaso / Community Development Director

Date: _____

Name/Title

Originating Department: Town Manager/Public Works/Community Development	Costs: Not-to-exceed \$76,156 <i>(for the lighting and</i> <i>crosswalk components)</i> Funding Source: Discretionary Surtax Acct: # 301-63100 <input type="checkbox"/> Finance <small>Barbara A. Gould</small>	Attachments: → Resolution and Exhibits A and B → FDOT Presentation
Advertised: Date: Paper: <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone or Not applicable in this case <u> ND </u> Please initial one.

Summary Explanation/Background:

As the Town Commission may recall, streetscape plans for the US-1 corridor were adopted as part of the Land Development Regulations for the Federal Highway Mixed Use District Overlay (FHMUDO) back in 2017. In follow-up to that adoption, the Palm Beach County Transportation Planning Authority (TPA) and the Federal Department of Transportation (FDOT) were working on a Mobility Improvement Project named the "State Road (SR) 5/US-1 from 59th Street to State Road 850/Northlake Boulevard". This overall area includes the Town's portion of US-1 from Silver Beach Road to Palmetto Drive. Since this project's inception several years ago, the Town held a public workshop in August 2019 to initiate discussions with the Commission and the FHMUDO property

owners (who were invited by direct mail) on the proposed roadway/median improvements. The Town Manager's Office, Community Development and Public Works, also held several follow-up discussions with FDOT geared towards making sure FDOT was aware of all our pending redevelopment plans for the corridor; was aware of the Town's desire to incorporate landscape medians along the corridor; and was aware of the need to maximize traffic circulation at the southern and northern areas of the corridor, particularly around Bayberry/Cypress and Ilex in order to accommodate the traffic movements in those areas. The Town also worked closely with the Earl Stewart Toyota dealership in order to ensure the final design would allow for adequate circulation and access within their site, rather than having to rely on Lake Shore Drive which is prohibited.

FDOT also held a public workshop last year at Town Hall, for which they notified everyone per their public outreach requirements for this type of mobility project. In follow-up to the Staff and Commission discussions and public input received, FDOT finalized their plans.

The scope of work and proposed Improvements, along with the project schedule and costs are included in FDOT's enclosed presentation. Since the scope of work includes lighting as well, a Lighting Maintenance Memorandum Agreement is required. Since landscaping and crosswalks are also included, a Landscape(Crosswalks) Maintenance Memorandum Agreement is also required. Both the decorative lighting (one pole) and the stamped crosswalk improvements come at an added cost for which the Town Manager has agreed to contribute in order to ensure these improvements are made. The total cost for these improvements is a not-to-exceed amount of \$76,156.00. A separate Local Funding Agreement is required by FDOT for this amount. In addition, the Town expressed an interest in incorporating additional plantings in the median other than just sod, and FDOT acknowledged that these will also be programmed separately.

In summary, given that the final design is ready pursuant to the prior discussions and input received, FDOT is ready to move forward with construction and requires the following Resolutions from the Town in order to remain on schedule:

- ➔ Resolution of Support for the Roadway Plans
- ➔ **Resolution approving the Maintenance Memorandum Agreement for the Lighting-(THIS AGENDA ITEM)**
- ➔ Resolution approving the Maintenance Memorandum Agreement for the Landscape (Crosswalks)
- ➔ Resolution approving the Local Funding Agreement for the not-to-exceed amount of \$76,156

All of the Resolutions and agreements have been reviewed and approved by town counsel.

*****THERE ARE FOUR SEPARATE AGENDA ITEMS (i.e. Resolutions) associated with this same project for Commission consideration*****

Recommended Motion: I move to APPROVE Resolution _-06-24.

RESOLUTION 42-06-24**A RESOLUTION BY THE TOWN OF LAKE PARK COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A LIGHTING MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION FROM SILVER BEACH ROAD TO PALMETTO DRIVE ALONG US-1/SR-5/BROADWAY AVENUE AS DEPICTED IN EXHIBIT A.**

WHEREAS, the Town of Lake Park Florida (Town) is a municipality and given those powers and responsibilities enumerated by Chapter 166 Florida Statutes, and the Florida Constitution; and

WHEREAS, the Florida Department of Transportation (FDOT) seeks to enhance the safety and aesthetics of the roadway systems by installing lighting improvements; and

WHEREAS, the FDOT has jurisdiction over State Road (S.R.) 5/US-1 from Mile Post (M.P.) 14.166 to M.P. 14.558 and from M.P. 0.00 to 0.384 as depicted on the “Exhibit A” attached; and

WHEREAS, FDOT, for the purpose of safety, protection of the investment, and other reasons, has constructed and does maintain SR 5/US-1 at section 93020000 from M.P. 14.166 to M.P. 14.558 and from section 93040000 from M.P. 0.00 to M.P. 0.384 (within the limits of the Town); and

WHEREAS, the Town shall maintain the specific elements constructed under Project Number 438386-2-52-01 to include decorative lighting, hereinafter called IMPROVEMENTS, installed along SR 5/US-1 at section 93020000 from M.P. 14.166 to M.P. 14.558 and from section 93040000 from M.P. 0.00 to M.P. 0.384 as detailed within Exhibit A (Project Location, Description and Aerial); and

WHEREAS, The Town agrees to maintain the IMPROVEMENTS to be installed under Project Number 438386-2-52-01 within the construction limits. Maintenance by the FDOT will include but not be limited to inspection, repair, restoration, replacement, coating, and general maintenance of all decorative or non-standard features within the limits of construction. This includes Project Number 438386-2-52-01 for decorative light poles, installed along SR 5/US-1, at section 93020000 from M.P. 14.166 to M.P. 14.558 and from section 93040000 from M.P. 0.00 to M.P. 0.384;

WHEREAS, the Town and FDOT's responsibilities and obligations are more fully set out in the Lighting Maintenance Memorandum of Agreement; and

WHEREAS, the Town Manager recommends the approval of the Lighting Maintenance Memorandum of Agreement between the FDOT and the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA.

Section 1. The foregoing recitals are incorporated herein.

Section 2. The Town Mayor is hereby authorized and directed to sign the Lighting Maintenance Memorandum of Agreement between the State of Florida Department of Transportation and the Town of Lake Park, attached hereto and incorporated herein as Exhibit B.

Section 3. This Resolution shall be effective upon execution.

EXHIBIT "A"**SECTION NO.: 93020000 & 93040000****FM No.(s): 438386-2-52-01****COUNTY: Palm Beach****S.R. No.: 5****PROJECT LOCATION, DESCRIPTION, AND AERIAL****I. Location:**

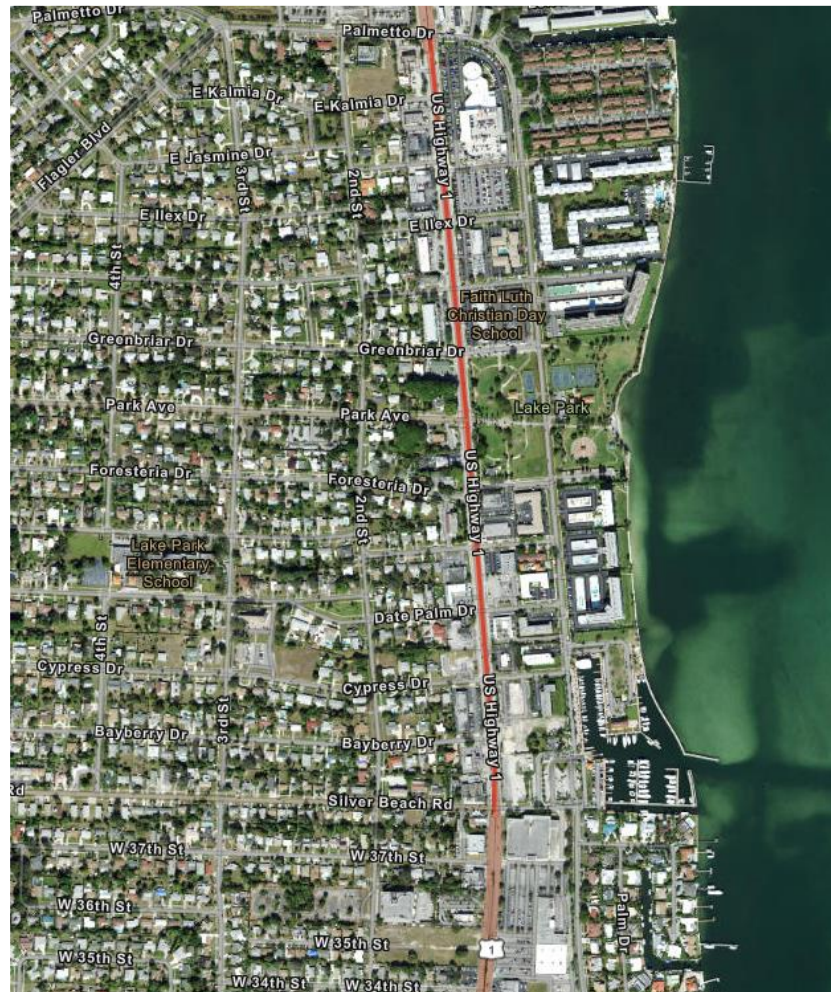
The IMPROVEMENTS associated with this AGREEMENT are located in the Town of Lake Park, in Palm Beach County, Florida along SR 5/US-1 section 93020000 from M.P. 14.166 to M.P. 14.558 and from section 93040000 from M.P. 0.00 to M.P. 0.384

II. Description of Work:

Project Number 438386-2-52-01 to include decorative light and stamped crosswalk. The AGENCY shall be responsible for maintaining the IMPROVEMENTS described in this AGREEMENT.

III. Aerial:

#5519577 v1 26508-00001



SECTION NO.: 93020000 & 93040000
FM No.(s): 438386-2-52-01
COUNTY: Palm Beach
S.R. No.: 5

Item 11.

**DISTRICT FOUR
LIGHTING MAINTENANCE MEMORANDUM OF AGREEMENT**

THIS AGREEMENT made and entered into this date _____, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, a component **AGENCY** of the State of Florida, hereinafter called the **DEPARTMENT**, and **TOWN OF LAKE PARK**, a municipal corporation existing under the Laws of Florida, hereinafter called the **AGENCY**.

WITNESSETH:

WHEREAS, the **DEPARTMENT** has jurisdiction over State Road (S.R.) 5/US-1 from Mile Post (M.P.) 14.166 to M.P. 14.558 and from M.P. 0.00 to 0.384; and

WHEREAS, the **DEPARTMENT** seeks to install and have maintained by the **AGENCY** certain highway **IMPROVEMENTS**; and

WHEREAS, as part of the continual updating of the State of Florida Highway System, the **DEPARTMENT**, for the purpose of safety, protection of the investment and other reasons, has constructed and does maintain SR 5/US-1 at section 93020000 from M.P. 14.166 to M.P. 14.558 and from section 93040000 from M.P. 0.00to M.P. 0.384 (within the limits of the **AGENCY**); and

WHEREAS, it is the intent of the **AGENCY** and the **DEPARTMENT** that the **AGENCY** shall maintain the specific elements constructed under Project Number **438386-2-52-01** to include decorative lighting; hereinafter called **IMPROVEMENTS** installed along SR 5/US-1 at section 93020000 from M.P. 14.166 to M.P. 14.558 and from section 93040000 from M.P. 0.00to M.P. 0.384 as detailed within **Exhibit A (Project Location, Description and Aerial)**; and

WHEREAS, the Project involves the scope of work as described within **Exhibit B (Construction Plans)**, which will benefit the **AGENCY**; and

WHEREAS the parties hereto mutually recognize the need for entering into an **AGREEMENT** designation and setting forth the responsibilities of each party; and

WHEREAS the **AGENCY** by Resolution Number _____ entered this date _____, attached hereto and by this reference made a part hereof, desires to enter into this **AGREEMENT** and authorizes its officers to do so;

NOW THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties covenant and agree as follows:

1. RECITALS

The recitals set forth above are true and correct and are deemed incorporated herein.

2. INSTALLATION OF FACILITIES

- A. The **DEPARTMENT** shall construct under Project Number **438386-2-52-01** ("the **IMPROVEMENTS**") as detailed in **Exhibit A** and **Exhibit B** that will benefit the **AGENCY**.
- B. The **IMPROVEMENTS** shall comply with the laws and regulations relating to the Americans with Disabilities Act of 1990, as currently enacted or as may be amended from time to time ("ADA"). If there are any major changes to the plan(s), the **DEPARTMENT** shall provide the modified plan(s) to the **AGENCY** and the **AGENCY** shall provide their approval or disapproval to the **DEPARTMENT** within ten (10) business days. The **DEPARTMENT** may elect to withdraw the **IMPROVEMENTS** if changes are not approved within the given time frame.
- C. The **AGENCY** shall be invited to assist the **DEPARTMENT** in final inspection before acceptance of the **IMPROVEMENTS** by the **DEPARTMENT**.

The **AGENCY** must maintain the **IMPROVEMENTS** associated within the limits of the Project.

3. MAINTENANCE OF FACILITIES

- A. The **AGENCY** agrees to maintain the **IMPROVEMENTS** to be installed under Project Number **438386-2-52-01** within the limits of construction. Maintenance by the **AGENCY** will include but not limited to inspection, repair, restoration, replacement, coating, and general maintenance of all decorative or non-standard features within the limits of construction. This includes Project Number **438386-2-52-01** for decorative light poles, installed along SR 5/US-1 , at section 93020000 from M.P. 14.166 to M.P. 14.558 and from section 93040000 from M.P. 0.00to M.P. 0.384.

This maintenance **AGREEMENT** will apply to all existing decorative or non-standard lights already installed within the limits of the **AGENCY**.

1) The **AGENCY** agrees to maintain, at its sole cost and expense, the **IMPROVEMENTS** set forth in **Exhibit A** in compliance with any and all applicable laws which shall include, but not be limited to, laws and regulations relating to the Americans with Disabilities Act ("ADA") of 1990, as currently enacted or as may be amended from time to time.

2) The **IMPROVEMENTS** shall be kept clean and free from trash and debris. The **IMPROVEMENTS** shall be kept free of graffiti. The **IMPROVEMENTS** shall be free of pests such as stinging insects, rodents, and vermin, including removal of nests as needed.

As part of the maintenance responsibility, the **AGENCY** shall keep in good repair and replace all defective or worn-out parts of the **IMPROVEMENTS**. The **AGENCY'S** responsibility to keep the **IMPROVEMENTS** in good repair shall include all necessary inspection, maintenance, repair, and replacement of any type or nature, including, but not limited to maintenance, repair, coating replacement, and replacement due to normal wear and tear caused by a named storm event, acts of God, vandalism, and accidents. The **AGENCY** shall take all necessary steps to maintain the **IMPROVEMENTS** in a manner to protect against injury to any person or property.

3) The **AGENCY** shall perform all activities necessary to keep the **IMPROVEMENTS** fully operating, properly functioning, with a minimum of 90% of the lights burning for any lighting type or roadway system at all times in accordance with the original design thereof,

whether necessitated by normal wear and tear, accidental or intentional damage, or acts of nature. Said maintenance shall include, but shall not be limited to, providing electrical power, and paying all charges associated therewith, routine inspection and testing, preventative maintenance, emergency maintenance, replacement of any component parts of the **IMPROVEMENTS**, as may be necessary.

4) The above-named functions to be performed by the **AGENCY** may be subject to periodic inspections by the **DEPARTMENT** at the discretion of the **DEPARTMENT**. Such inspection findings will be shared with the **AGENCY** and shall be the basis of all decisions regarding, reworking relating to the maintenance obligation / function or **AGREEMENT** termination.

5) The **AGENCY** shall be solely responsible for any damages to surrounding property, real estate, vehicles, pedestrians, or other assets occurring as a result of maintenance and operation of the **IMPROVEMENTS** and shall repair such damage to the satisfaction of the **DEPARTMENT** at no expense to the **DEPARTMENT**, as per the requirements in **Exhibit C (Maintenance Plan Requirements)**.

6) The **AGENCY** shall be responsible for maintaining the light pole structures and electrical components. The **AGENCY** shall replace the structure if destroyed in an accident by third parties. The **DEPARTMENT** expressly assigns its rights, interests and privileges pertaining damage **IMPROVEMENTS** to the **AGENCY**, so that **AGENCY** can pursue all claims and causes of actions against the third parties responsible for the damage. The **DEPARTMENT** will assist the **AGENCY** as necessary and will confirm **AGENCY'S** authorization to pursue recovery. The **AGENCY** will be responsible for all attorneys' fees and costs incurred in its recovery activities. The **AGENCY** shall not file suit in the name of the **DEPARTMENT**.

- B. The **AGENCY** shall indemnify the **DEPARTMENT** for any and all costs or expenses incurred by the **DEPARTMENT** for the **AGENCY'S** failure to comply with all ADA Laws existing and as may be amended. Costs and expenses shall include the costs to make the facility ADA compliant, attorney's fees and costs and any judgments. Adjacent sidewalk areas shall be accessible at all times. If sidewalk closures are needed, alternate routes shall be clearly identified, and any missing sidewalk shall be restored either with permanent or temporary materials at the end of each workday.
- C. All **IMPROVEMENTS** shall at all times have notification signs posted with the name and phone number of the department within the **AGENCY** responsible for maintenance of the **IMPROVEMENTS** so that the **AGENCY** can be contacted regarding problems with the **IMPROVEMENTS**. The **AGENCY** shall promptly respond and correct all complaints regarding maintenance. The **IMPROVEMENTS** to be constructed with this Project shall not contain advertising; nor shall the **AGENCY** allow any advertising to be placed upon the **IMPROVEMENTS** in the future.
- D. It is understood and agreed by the parties that upon "final acceptance" (as that term is described in the Standard Specifications for Roadway and Bridge Construction, as amended by contract documents section 5-11) by the **DEPARTMENT** of the Project and Notice thereof to the **AGENCY**, the **AGENCY** shall be responsible for maintenance of the Project in accordance with the following Federally and State accepted standards (current editions at the time of execution of this **AGREEMENT** and any amendments hereafter) and all costs related thereto: (a) FDOT Design Manual (FDM), (b) Florida Green Book, (c) Standard Specifications for Roadway and Bridge Construction, (d) FDOT Standard Plans

for Roadway Construction, (e) Manual on Uniform Traffic Control Devices (MUTCD), and (f) all other applicable local, state, or federal laws, rules, resolutions, or ordinances, and FDOT procedures. In the event of a conflict between documents, standards, and procedures the more stringent shall apply.

- DI. Any work impacting traffic flow along SR 5/US-1 must be coordinated with the **DEPARTMENT**. Lane closures must be submitted for approval in accordance with **DEPARTMENT** procedures and policies and will meet the goals established in the **DEPARTMENT'S** Open Roads Policy.

4. NOTICE OF MAINTENANCE DEFICIENCIES

- A. If, at any time while the terms of this **AGREEMENT** are in effect, it shall come to the attention of the **DEPARTMENT** that the **AGENCY'S** responsibility as established herein or a part thereof is not being properly accomplished pursuant to the terms of this **AGREEMENT**, the **DEPARTMENT** may issue a written notice, that a deficiency or deficiencies exist(s), by sending a certified letter to the **AGENCY**, in care of the **TOWN OF LAKE PARK, TOWN MAYOR**, to place the **AGENCY** on notice regarding its maintenance deficiencies. Thereafter, the **AGENCY** shall have a period of sixty (60) days within which to correct the cited deficiency or deficiencies. If said deficiencies are not corrected within the time period, the **DEPARTMENT** may, at its option, proceed under one or more or a combination of the following items:
- 1) The **DEPARTMENT** may repair any item or a number of items. Corrective actions will be performed with the **DEPARTMENT** and/or its independent contractor's materials, equipment, and personnel. The actual cost for such work will be charged to the **AGENCY**.
 - 2) The **DEPARTMENT** may remove or replace any item or number of items with the standard **DEPARTMENT** item. Corrective actions will be performed with the **DEPARTMENT** and/or its independent contractor's materials, equipment, and personnel. The actual cost for such work will be charged to the **AGENCY**.
 - 3) If there is no standard equivalent item or if in the **DEPARTMENT'S** discretion the item is not necessary for the operations of the roadway, the **DEPARTMENT** may remove the item in its entirety and restore the area to a condition acceptable to the **DEPARTMENT**. Corrective actions will be performed with the **DEPARTMENT** and/or its independent contractor's materials, equipment, and personnel. The actual cost for such work will be charged to the **AGENCY**.
 - 4) At the discretion of the **DEPARTMENT**, terminate the **AGREEMENT** in accordance with Paragraph 7 of this **AGREEMENT** and remove, by the **DEPARTMENT** or its contractor's, all the **IMPROVEMENTS** installed under this **AGREEMENT** and charge the **AGENCY** the reasonable cost of such removal.

5. FUTURE DEPARTMENT IMPROVEMENTS

It is understood between the parties hereto that the **IMPROVEMENTS** covered by this **AGREEMENT** may be removed, relocated, or adjusted at any time in the future as determined to be necessary by the **DEPARTMENT** in order for an adjacent state road to be widened, altered, or otherwise changed to meet with future criteria or planning of the **DEPARTMENT**.

6. FUTURE AGENCY IMPROVEMENTS

The **AGENCY** may construct additional **IMPROVEMENTS** within the limits of the rights of ways identified as a result of this document subject to the following conditions:

- 1) Plans for any new **IMPROVEMENTS** shall be subject to approval by the **DEPARTMENT**. The **AGENCY** shall not change or deviate from said plans without prior written approval by the **DEPARTMENT**.
- 2) The **AGENCY** shall procure a permit and/ or Construction **AGREEMENT** from the **DEPARTMENT**, as appropriate.
- 3) All **IMPROVEMENTS** shall be developed and implemented in accordance with appropriate State of Florida safety and roadway design standards.
- 4) The **AGENCY** agrees to comply with the requirements of this **AGREEMENT** regarding any additional **IMPROVEMENTS** installed at no cost to the **DEPARTMENT**.

7. AGREEMENT TERMINATION

This **AGREEMENT** may be terminated under anyone (1) of the following conditions:

- 1) By the **DEPARTMENT**, if the **AGENCY** fails to perform its duties under this **AGREEMENT**, following ten (10) days written notice. The **AGENCY** shall reimburse the **DEPARTMENT** for any expenditure for the installation, relocation, or removal of said **IMPROVEMENTS**.
- 2) By the **DEPARTMENT**, for refusal by the **AGENCY** to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes that is made or received by the **AGENCY** in conjunction with this **AGREEMENT**.
- 3) By the Department with a six (6) month written notice.

8. AGREEMENT TERM

The term of this **AGREEMENT** commences upon execution by all parties. The term of this **AGREEMENT** shall remain in effect for as long as the **IMPROVEMENTS** exist.

9. LIABILITY AND INSURANCE REQUIREMENTS

- A. With respect to any of the **AGENCY'S** agents, consultants, sub-consultants, contractors, and/or sub-contractors, such party in any contract for the **IMPROVEMENTS** shall agree to indemnify, defend, save and hold harmless the **DEPARTMENT** from all claims, demands, liabilities, and suits of any nature arising out of, because of or due to any intentional and/or negligent act or occurrence, omission or commission of such agents, consultants, sub consultants, contractors and/or subcontractors. The **AGENCY** shall provide to the **DEPARTMENT** written evidence of the foregoing upon the request of the **DEPARTMENT**. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the **DEPARTMENT** for its own negligence.

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B. In the event that **AGENCY** contracts with a third party to provide the services set forth herein, any contract with such third party shall include the following provisions:

- 1) **AGENCY'S** contractor shall at all times during the term of this **AGREEMENT** keep and maintain in full force and effect, at contractor's sole cost and expense, Comprehensive General Liability with minimum limits of \$1,000,000.00 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability and Worker's Compensation insurance with minimum limits of \$500,000.00 per Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability and Worker's Compensation policy without restrictive endorsements, as filed by the Insurance Services Office and shall name the **DEPARTMENT** as an additional insured.
- 2) **AGENCY'S** contractor shall furnish **AGENCY** with Certificates of Insurance of Endorsements evidencing the insurance coverages specified herein prior to the beginning performance of work under this **AGREEMENT**.
- 3) Coverage is not to cease and shall remain in full force and effect (subject to cancellation notice) until all performance required of **AGENCY'S** contractor is completed. All policies must be endorsed to provide the **DEPARTMENT** with at least thirty (30) days' notice of cancellation and /or restriction. If any of the insurance coverages will expire prior to the completion of work, copies of renewal policies shall be furnished at least (30) days prior to the date of expiration.

10. E-VERIFY REQUIREMENTS

The **AGENCY** shall:

- 1) Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the **AGENCY** for the work performed under this **AGREEMENT**; and
- 2) Expressly require any contractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. DEPARTMENT of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

11. ENTIRE AGREEMENT

This writing embodies the entire Agreement and understanding between the parties hereto and there are no other Agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby except the Local Funded Agreement(s) and State Highway Lighting Maintenance and Compensation Agreement(s) signed between the parties, as amended, as to all other **IMPROVEMENTS** not specifically mentioned in this Agreement. The streetlights installed under this Project will be compensated as streetlights under the State Highway Lighting Maintenance and Compensation Agreement. If the **DEPARTMENT** and **AGENCY** fail to agree on the annual lump sum amount to be paid under the State Highway Lighting Maintenance and Compensation Agreement, this Agreement shall supersede that Agreement and the **AGENCY** agrees to maintain the lights solely under this Agreement.

12. EXPENDITURE OF MONEY

The **DEPARTMENT**, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The **DEPARTMENT** shall require a statement from the Comptroller of the **DEPARTMENT** that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the **DEPARTMENT** which are for an amount in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) and which have a term for a period of more than one year.

13. DISPUTES

The **DEPARTMENT'S** District Secretary shall decide all questions, difficulties, and disputes of any nature whatsoever that may arise under or by reason of this **AGREEMENT**, the prosecution or fulfillment of the service hereunder and the character, quality, amount, and value thereof; and his decision upon all claims, questions and disputes shall be final and conclusive upon the parties hereto.

14. ASSIGNMENT

This **AGREEMENT** may not be assigned or transferred by the **AGENCY** in whole or part without the prior consent of the **DEPARTMENT**.

15. LAWS GOVERNING

This **AGREEMENT** shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail, the **AGENCY** agrees to waive forum and venue and that the **DEPARTMENT** shall determine the forum and venue in which any dispute under this **AGREEMENT** is decided.

16. NOTICES

All notices given or required under this **AGREEMENT** shall be in writing and either personally delivered with receipt acknowledgement or sent by certified mail, return receipt requested. All notices shall be sent to the following addresses.

If to the **DEPARTMENT**:

State of Florida Department of Transportation
Attention: District Maintenance Engineer
3400 West Commercial Blvd
Ft. Lauderdale, FL 33309-3421

AGENCY:
Town of Lake Park

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535 Park Avenue,
Lake Park, FL 33403
Attention: Town Mayor

17. LIST OF EXHIBITS

Exhibit A: Project Location, Description and Aerial
Exhibit B: Lighting Plans
Exhibit C: Maintenance Plan Requirements

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IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

AGENCY:

Town of Lake Park, a municipal Corporation of
the State of Florida:

By: _____ Date: _____
City Manager / Mayor

Print Name: _____

ATTEST:

By: _____ Date: _____
Clerk

Print Name: _____

Approved as to Form:

By: _____ Date: _____
City Attorney

Print Name: _____

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IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

DEPARTMENT:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

Sign: _____
Director of Operations

Print Name: Paul A. Lampley

Date: _____

Approval as to Form:

Sign: _____
Assistant General Counsel

Print Name: Francine Steelman

Date: _____

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EXHIBIT A

PROJECT LOCATION, DESCRIPTION, AND AERIAL

I. Location:

The **IMPROVEMENTS** associated with this **AGREEMENT** are located in the Town of Lake Park, in Palm Beach County, Florida along SR 5/US-1 section 93020000 from M.P. 14.166 to M.P. 14.558 and from section 93040000 from M.P. 0.00 to M.P. 0.384

II. Description of Work:

Project Number **438386-2-52-01** to include decorative light. The **AGENCY** shall be responsible for maintaining the **IMPROVEMENTS** described in this **AGREEMENT**.

III. Aerial



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EXHIBIT B

LIGHTING PLANS

Lighting Plans prepared by Stephen Allen Hughes, P.E., dated December 11, 2023, as approved by the **DEPARTMENT**.

LIGHTING PLANS (attached)

Sheets Included:

PDF Page Number (#)	Plan Sheet (#)	Sheet(s) Description
13	L-1	KEY SHEET
14	L-2	SIGNATURE SHEET
15	L-3	GENERAL NOTES
16	L-4	LIGHTING LEGEND
17 THRU 20	L-5 to L-8	LIGHTING DATA TABLE
21 THRU 43	L-9 to L-31	LIGHTING PLAN
44 – 45	L-32 to L-33	LIGHTING POLE FOUNDATION
46	L-34	SERVICE POINT DETAIL

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EXHIBIT C

MAINTENANCE PLAN REQUIREMENTS

In reference to Maintenance to be performed under this **AGREEMENT**, the **AGENCY** shall submit to the **DEPARTMENT** a maintenance plan detailing the means and methods for accomplishing any maintenance or repairs to the **IMPROVEMENTS** in accordance with all **DEPARTMENT** Standards, Procedures and Specifications. This plan shall be submitted and approved by the **DEPARTMENT** prior to commencing any maintenance or repair activities. The **AGENCY** shall comply with the **DEPARTMENT'S** applicable Maintenance Rating Program Standards. The plan should at minimum detail how the **AGENCY** will address the following:

1. Providing for continuous traffic control and necessary traffic control devices as required for the safe movement of traffic of vehicular and pedestrian traffic past the location of the structure being repaired for the duration of the repair in accordance with **DEPARTMENT** Standards, Procedures and Specifications.
2. Protection of adjacent surrounding property, real estate, vehicles, pedestrians, attachments to the light poles, or other assets during the preparation and recoating of surfaces.
3. Containment of debris or materials used in or resulting from the repair.

After the maintenance plan is approved, the **AGENCY** shall submit a work plan to the **DEPARTMENT** for approval prior to each repair to be performed detailing:

1. The proposed date of the repair
2. The location of the repair
3. The nature of the repair
4. The materials to be used for the repair
5. The methods to be used for the repair



Project Update

Mobility Improvements Project

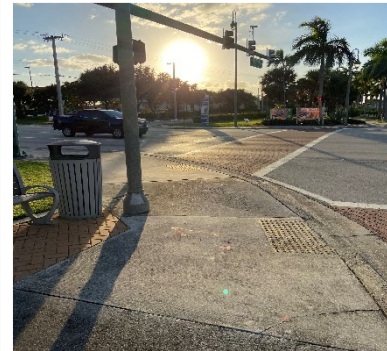
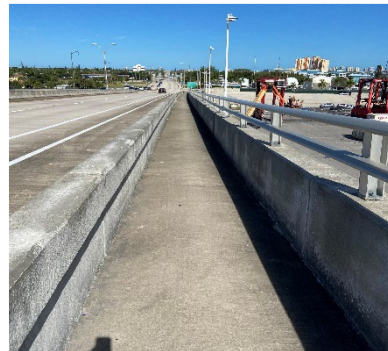
**State Road (SR) 5/US-1 from 59 Street to State Road
850/Northlake Boulevard**



State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

Mobility Improvements Project

Financial Project ID Number: 438386-2-52-01



COMMISSION MEETING Wednesday, April 17, 2024



Florida Department of
TRANSPORTATION

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State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

Mobility Improvement Project

Financial Project ID Number: 438386-2-52-01



Introductions

Meet the Team

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Damaris Williams
FDOT Project Manager
FDOT District Four



Jose Santiago
Consultant Project Manager
EXP



Roxana Matamoros
Consultant Deputy Project Manager
EXP



Maria Ballester
Consultant Project Engineer
EXP

Agenda

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1. Project Location
2. Scope / Proposed Improvements
3. Proposed Medians
4. Locally Funded Agreement (LFA)
5. Construction Impacts
6. Project Schedule and Cost
7. Questions and Answers
8. Closing and Contact Information
9. Safety Message

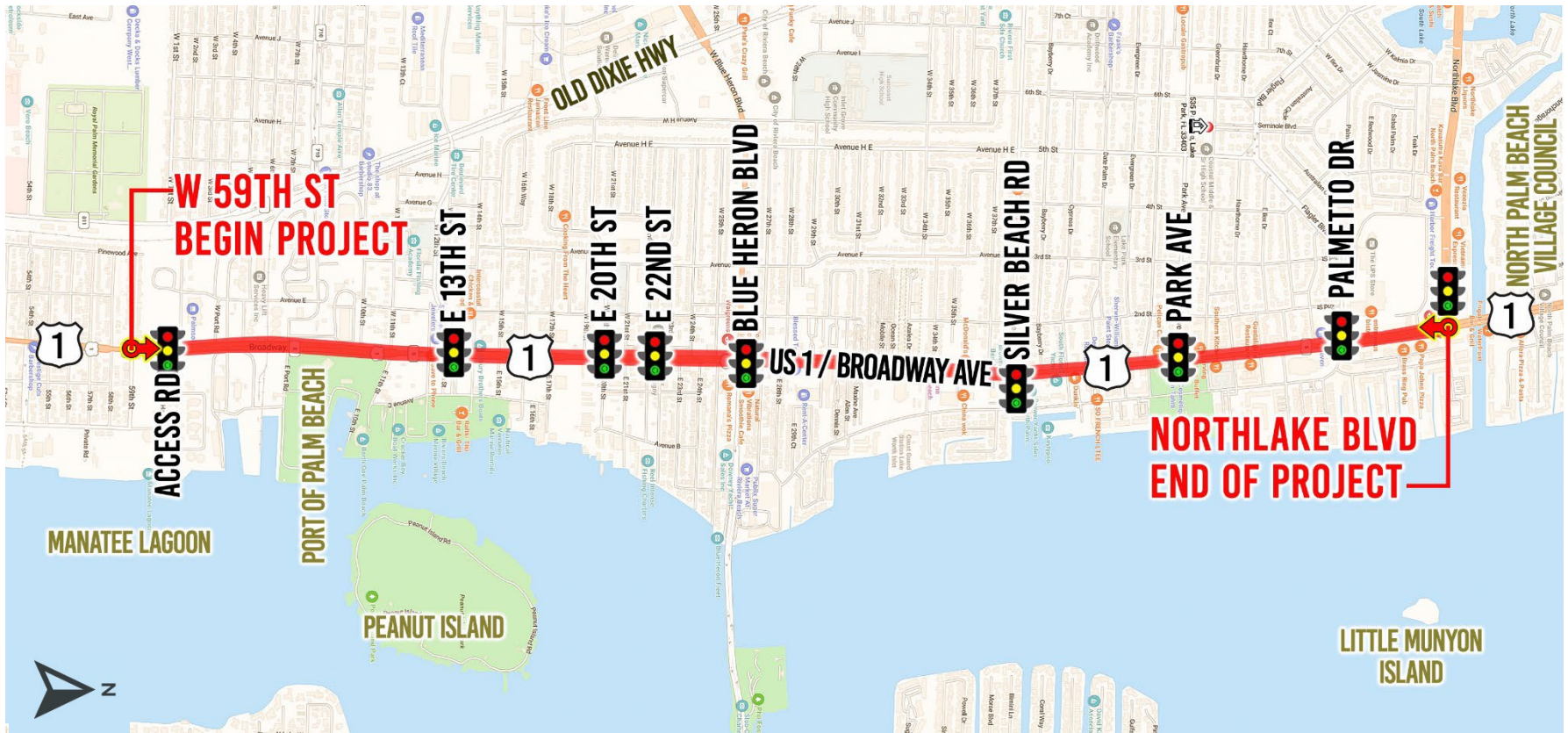
Project Location

Project Location

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State Road (SR) 5/US-1 from 59 Street to
State Road 850/Northlake Boulevard

Mobility Improvements Project
Financial Project ID Number:
438386-2-52-01



Scope / Proposed Improvements

Scope / Proposed Improvements

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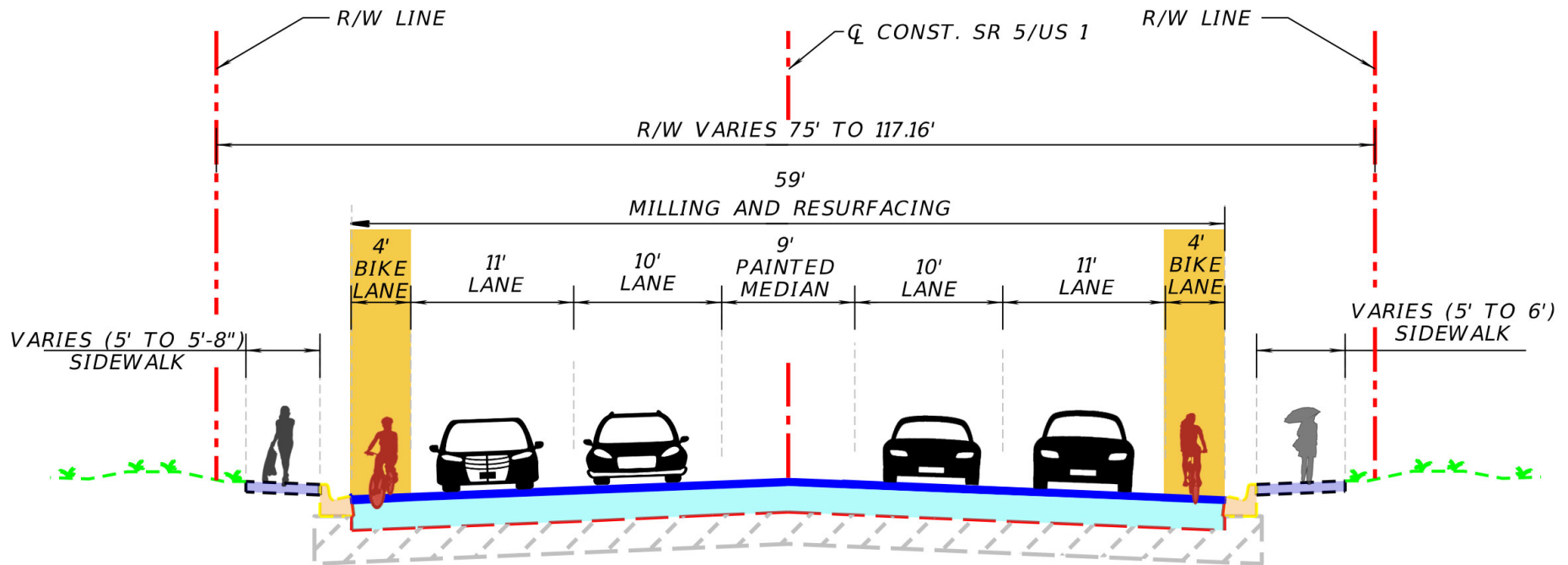
438386-2-52-01 (State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard)

- Adding 4-foot bicycle lanes by widening into existing medians and restriping the road
- New median sections from Silver Beach Rd. to Palmetto Drive
- Repaving of the roadway
- Lighting retrofits to illuminate roadway from 59th Street to Silver Beach Rd. and pedestrian crossings at signalized intersections
- Pedestrian Signal upgrades at nine intersections
- Barrier wall relocation at the Skypass Bridge to accommodate 10-foot shared use path

Proposed Roadway Improvements with Bike Lane Addition

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

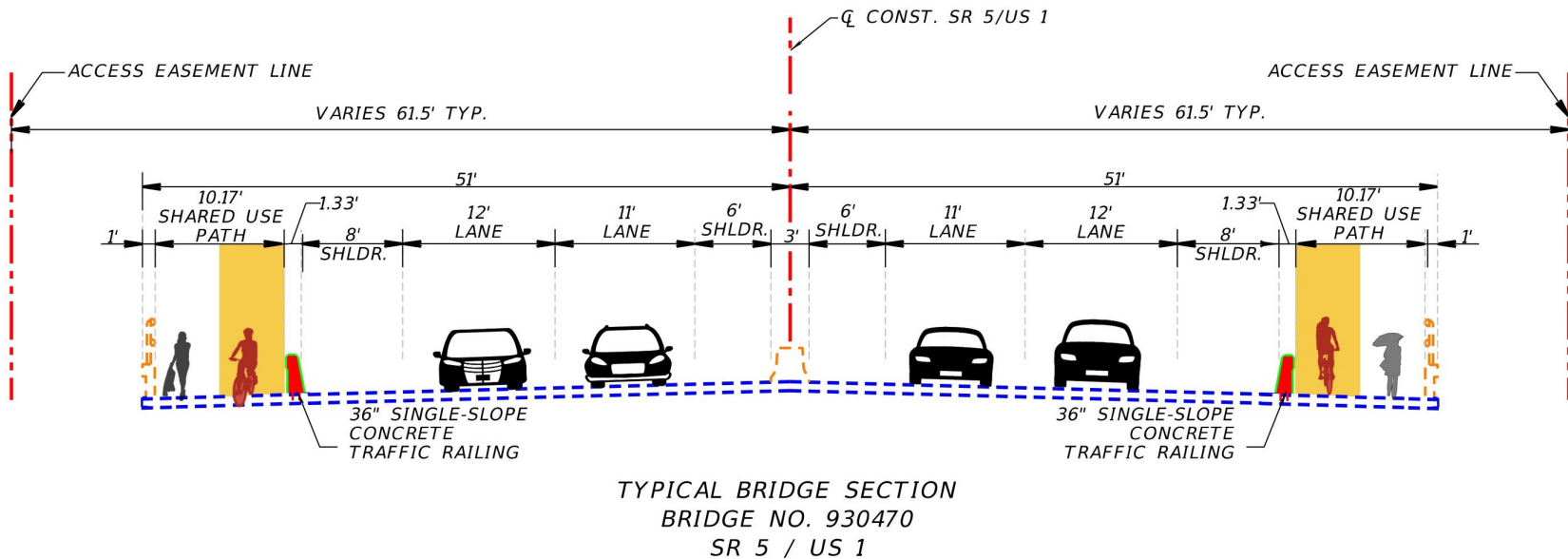
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Typical 1 – 59th Street to South of Bridge

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

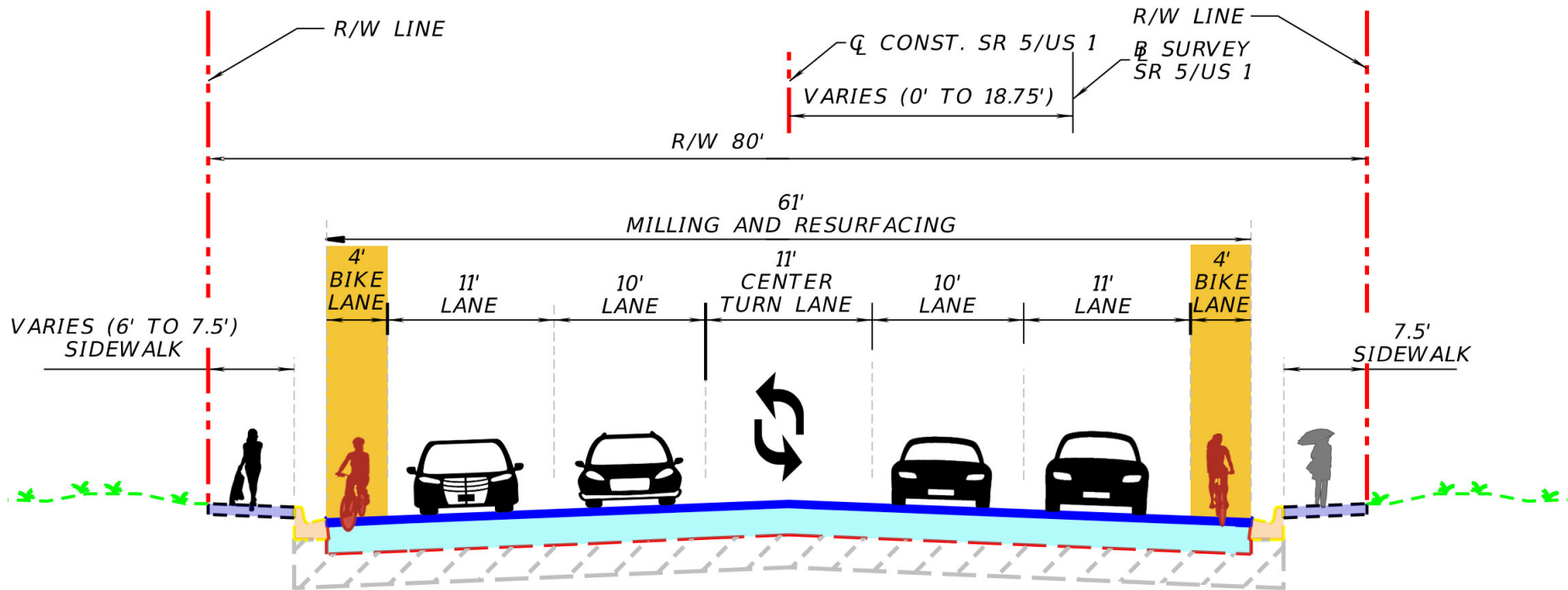
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Typical 2 – South of Bridge to North of Bridge

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

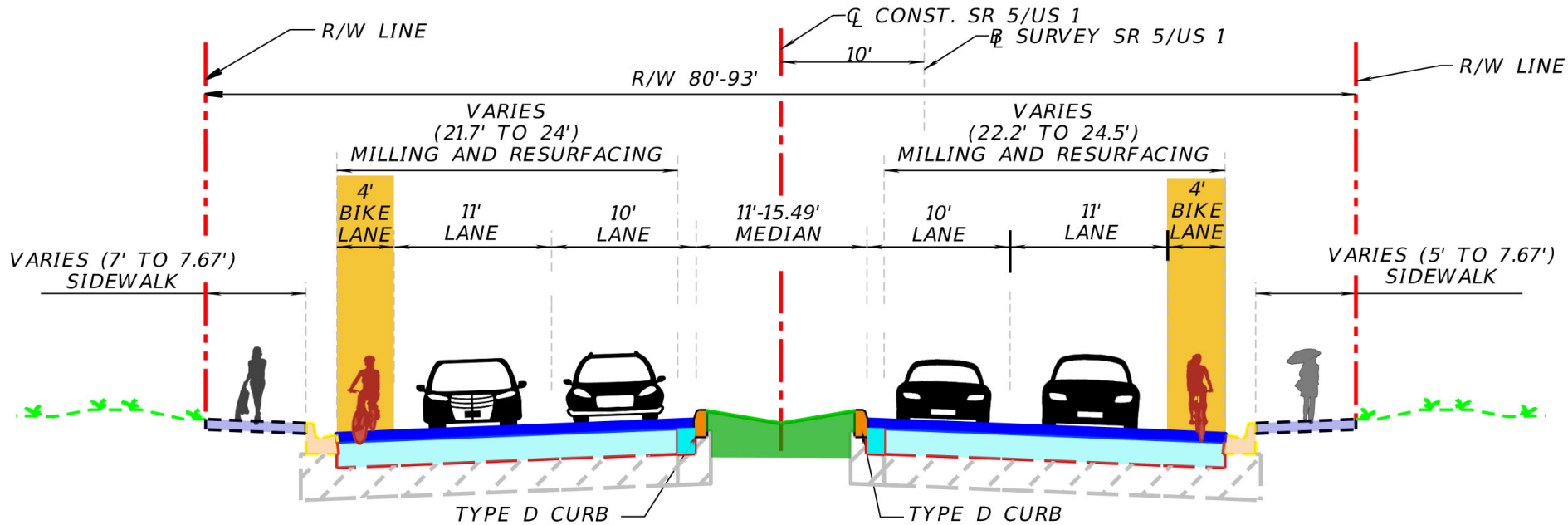
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Typical 3 – North of the Bridge to W. 13th Street
W. 17th Street to W. 20th Street

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

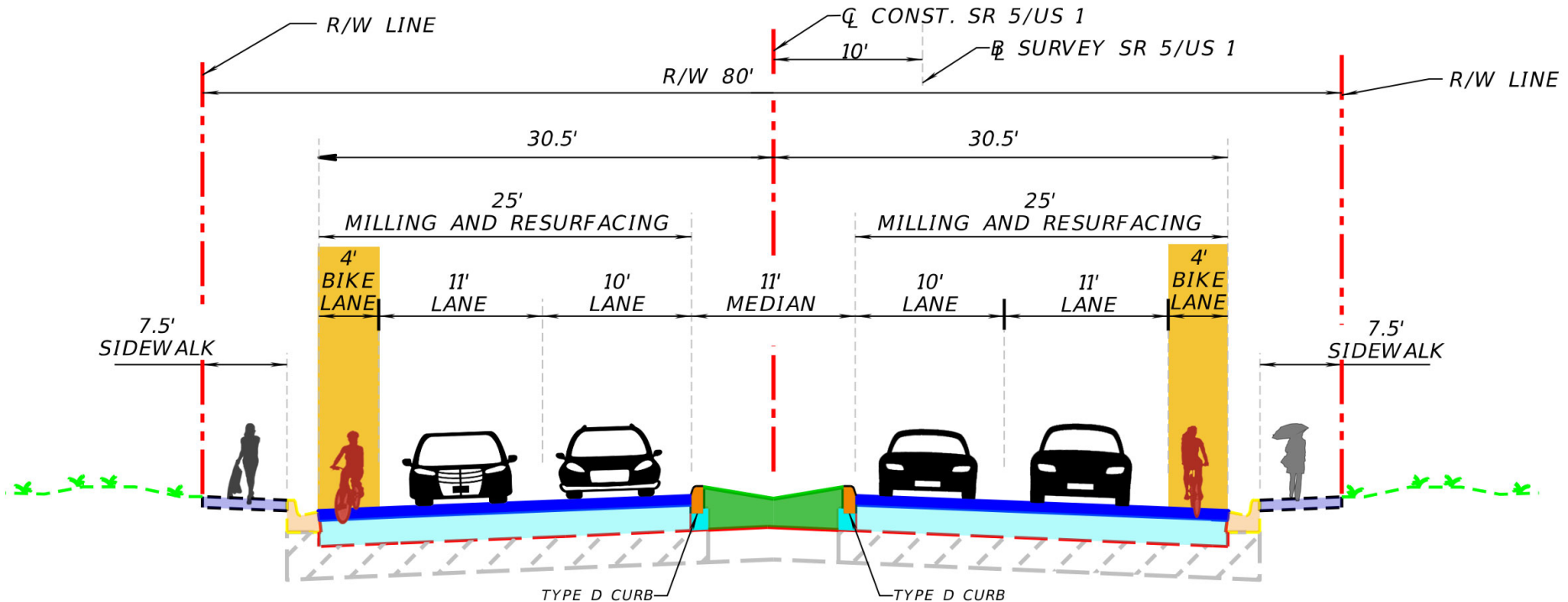
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Typical 4 – W. 13th Street to W. 17th Street
W. 20th Street to Silver Beach Road

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

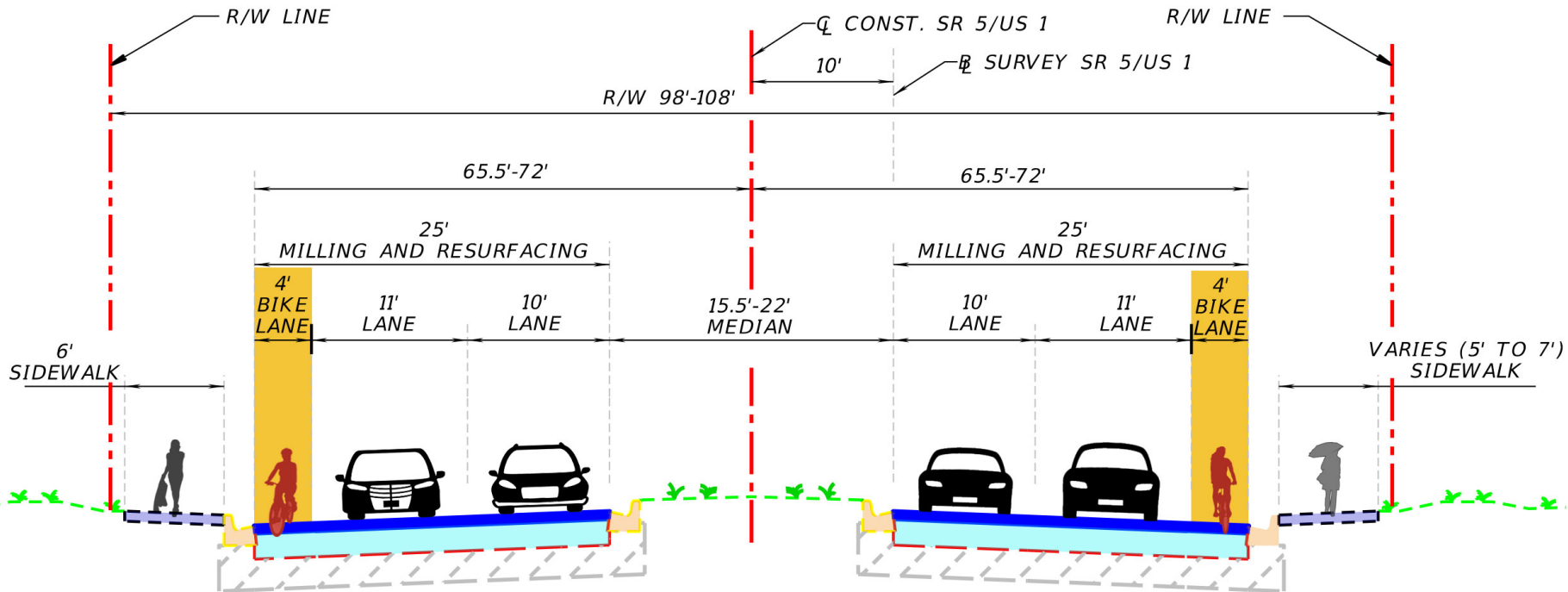
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Typical 5 – Silver Beach Road to Palmetto Drive

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

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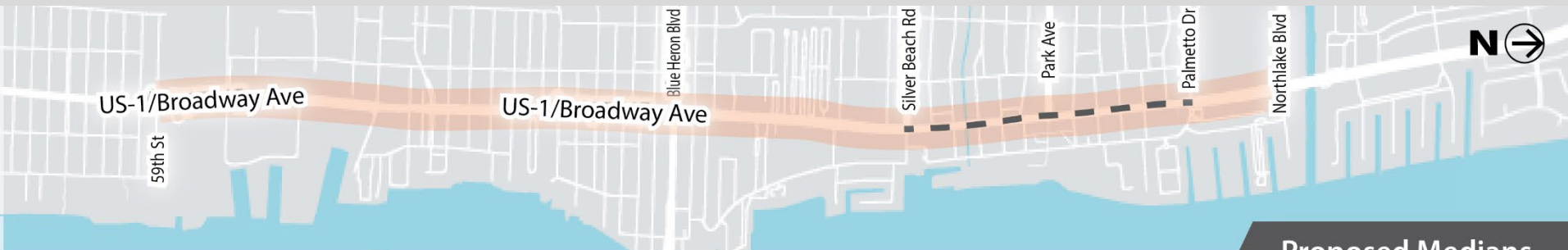
Typical 6 – Palmetto Drive to Northlake Boulevard/ Shore Court

Proposed Medians

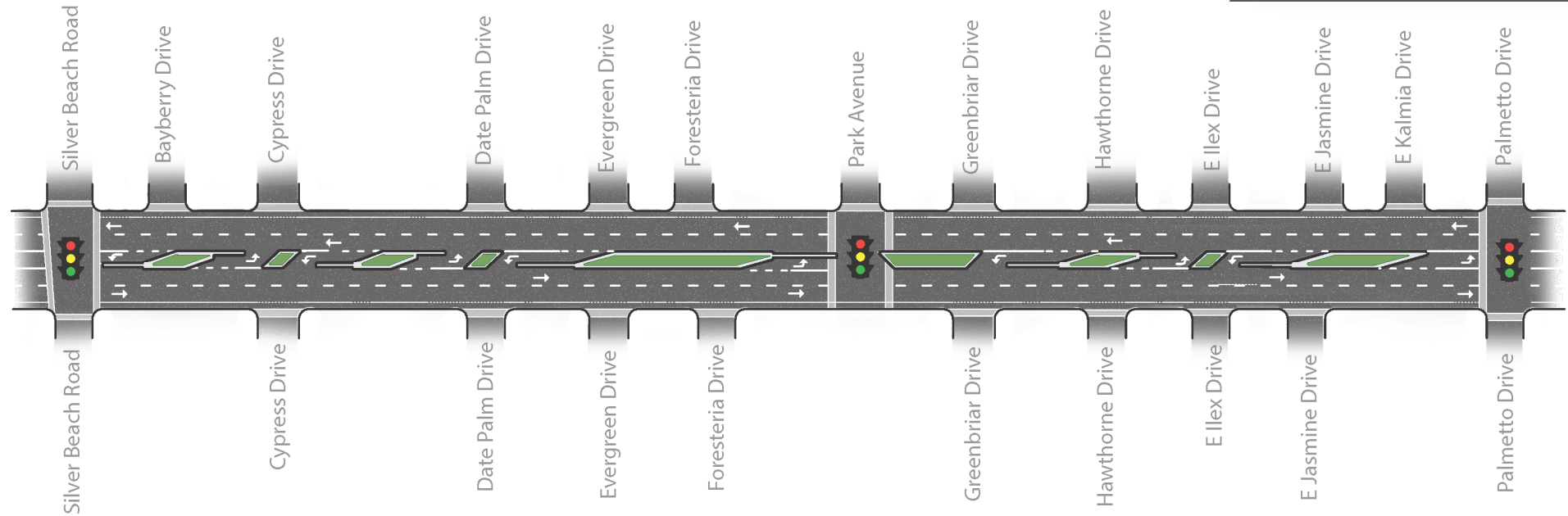


Proposed Medians

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Proposed Medians



Local Funds Agreement (LFA)

LFA Scope with the Town of Lake Park

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438386-2-52-01 (State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard)

- Pattern Pavement Concrete Crosswalk Replacement
South Leg of Silver Beach Road
East Leg of Palmetto Drive
- One decorative light pole
NE Corner of Silver Beach Road and US 1



Cost Estimate Covered by Town of Lake Park:

8-inch Concrete Slab

Pattern Pavement

Decorative Light Pole Cost Differential

20% Contingency

Construction Impacts



Construction Impacts



- Temporary sidewalk closures during construction
- Median access changes during construction
- One lane will remain open at all times during construction
- Lane closures may occur during non-peak hours

NON-PEAK
HOURS

9PM – 6AM

(Sunday – Thursday Nights)

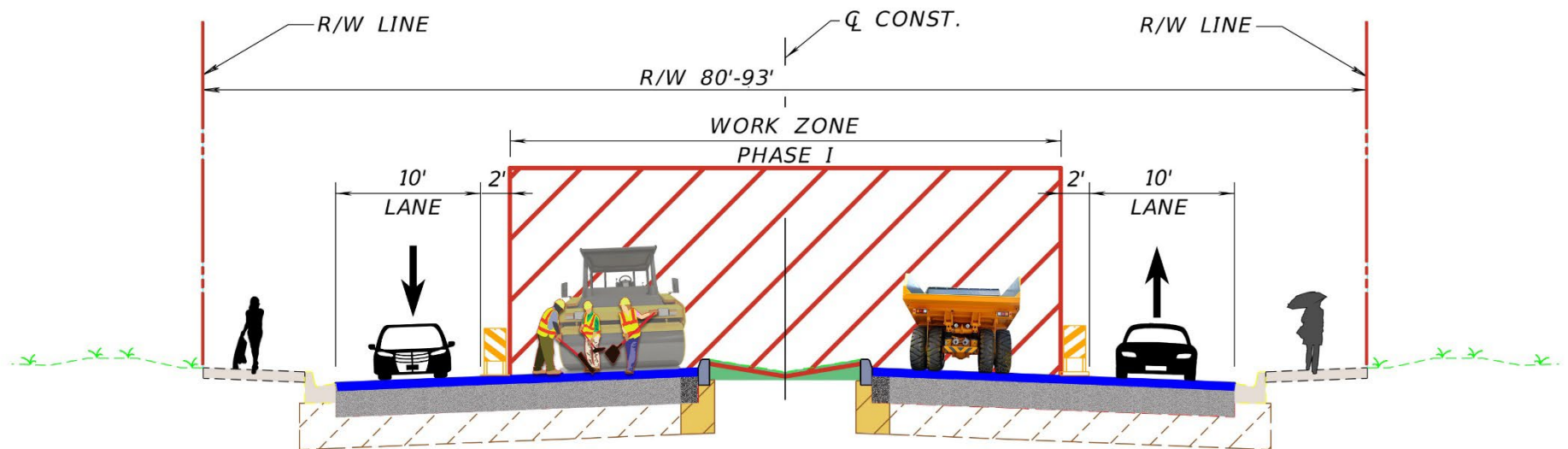
11PM – 7:30AM

(Friday & Saturday Nights)

- Access to adjacent properties will be maintained and open at all times
- All work is to be done in phases to reduce impacts of construction to the community

Construction Impacts

Item 11.



Project Schedule and Cost

Project Schedule and Cost

Item 11.

Start Date: Spring 2025

Completion Date: Winter 2025

Estimated Construction Cost: \$ 11.3 million

Questions and Answers

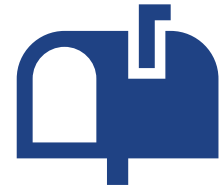
Closing and Contact Information

Contact Information

Item 11.

If you have additional questions, please contact: FDOT Project Manager, Damaris Williams, P.E.

3400 West Commercial Boulevard Fort
Lauderdale, FL 33309



Email: Damaris.Williams@dot.state.fl.us



(954) 777-4679 or
Toll Free: (866) 336-8435; Ext. 4679



Safety Message

Item 11.

EVERY BICYCLIST IS IMPORTANT TO SOMEONE.

Safe drivers help keep bicyclists safe
on our roadways by staying calm and
focused behind the wheel.

Check out these custom
Do Not Disturb messages
and safe driving playlists:



Let's Get Everyone Home Safely.





Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: June 12, 2024

Agenda Item No.

Agenda Title: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A LOCALLY FUNDED AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION.

☐ SPECIAL PRESENTATION/REPORTS ☐ CONSENT AGENDA
☐ BOARD APPOINTMENT ☐ OLD BUSINESS
☐ ORDINANCE
☒ **NEW BUSINESS**
☐ OTHER

John

D'Agostino

Digitally signed by John D'Agostino
 DN: cn=John D'Agostino, o=Town of
 Lake Park, ou=Town Manager,
 email=jdagostino@lakeparkflorida.go
 v, c=US
 Date: 2024.06.07 17:49:23 -04'00'

Approved by Town Manager

Date: _____

Nadia Di Tommaso / Community Development Director

Name/Title

Originating Department: Town Manager/Public Works/Community Development	Costs: Not-to-exceed \$76,156 <i>(for the lighting and crosswalk components)</i> Funding Source: Discretionary Surtax Acct: # 301-63100 [] Finance Barbara A. Gould <small>Digitally signed by Barbara A. Gould DN: cn=Barbara A. Gould, o=Town of Lake Park, ou=Finance Dept, email=bgould@lakeparkflorida.gov, c=US Date: 2024.06.07 17:49:23 -04'00'</small>	Attachments: ➔ Resolution and Exhibits A and B ➔ FDOT Presentation
Advertised: Date: Paper: <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone or Not applicable in this case ND Please initial one.

Summary Explanation/Background:

As the Town Commission may recall, streetscape plans for the US-1 corridor were adopted as part of the Land Development Regulations for the Federal Highway Mixed Use District Overlay (FHMUDO) back in 2017. In follow-up to that adoption, the Palm Beach County Transportation Planning Authority (TPA) and the Federal Department of Transportation (FDOT) were working on a Mobility Improvement Project named the "State Road (SR) 5/US-1 from 59th Street to State Road 850/Northlake Boulevard". This overall area includes the Town's portion of US-1 from Silver Beach Road to Palmetto Drive. Since this project's inception several years ago, the Town held a public workshop in August 2019 to initiate discussions with the Commission and the FHMUDO property owners (who were invited by direct mail) on the proposed roadway/median improvements. The Town Manager's Office, Community Development and Public Works, also held several follow-up

discussions with FDOT geared towards making sure FDOT was aware of all our pending redevelopment plans for the corridor; was aware of the Town's desire to incorporate landscape medians along the corridor; and was aware of the need to maximize traffic circulation at the southern and northern areas of the corridor, particularly around Bayberry/Cypress and Ilex in order to accommodate the traffic movements in those areas. The Town also worked closely with the Earl Stewart Toyota dealership in order to ensure the final design would allow for adequate circulation and access within their site, rather than having to rely on Lake Shore Drive which is prohibited.

FDOT also held a public workshop last year at Town Hall, for which they notified everyone per their public outreach requirements for this type of mobility project. In follow-up to the Staff and Commission discussions and public input received, FDOT finalized their plans.

The scope of work and proposed Improvements, along with the project schedule and costs are included in FDOT's enclosed presentation. Since the scope of work includes lighting as well, a Lighting Maintenance Memorandum Agreement is required. Since landscaping and crosswalks are also included, a Landscape(Crosswalks) Maintenance Memorandum Agreement is also required. Both the decorative lighting (one pole) and the stamped crosswalk improvements come at an added cost for which the Town Manager has agreed to contribute in order to ensure these improvements are made. The total cost for these improvements is a not-to-exceed amount of \$76,156.00. A separate Local Funding Agreement is required by FDOT for this amount. In addition, the Town expressed an interest in incorporating additional plantings in the median other than just sod, and FDOT acknowledged that these will also be programmed separately.

In summary, given that the final design is ready pursuant to the prior discussions and input received, FDOT is ready to move forward with construction and requires the following Resolutions from the Town in order to remain on schedule:

- ➔ Resolution of Support for the Roadway Plans
- ➔ Resolution approving the Maintenance Memorandum Agreement for the Lighting
- ➔ Resolution approving the Maintenance Memorandum Agreement for the Landscape (Crosswalks)
- ➔ **Resolution approving the Local Funding Agreement for the not-to-exceed amount of \$76,156 - (THIS AGENDA ITEM)**

All of the Resolutions and agreements have been reviewed and approved by town counsel.

*****THERE ARE FOUR SEPARATE AGENDA ITEMS (i.e. Resolutions) associated with this same project for Commission consideration*****

Recommended Motion: I move to APPROVE Resolution _-06-24.

RESOLUTION 43-06-24

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A LOCALLY FUNDED AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION.

WHEREAS, the Town of Lake Park, Florida (TOWN) is a municipality and given those powers and responsibilities enumerated by Chapter 166 Florida Statutes, and the Florida Constitution; and

WHEREAS, the Florida Department of Transportation (DEPARTMENT) will be performing certain construction work along SR-5/US-1 from 59th Street to SR-850/Northlake Blvd. in Palm Beach County, Florida. (the construction), which has been funded in Fiscal Year 2024/2025; and

WHEREAS, as part of the DEPARTMENT’S construction work, the TOWN has requested that the DEPARTMENT construct decorative lighting and stamped patterned pavement (FM Number 438386-2-52-05) as set forth in the attached Exhibit A, which is incorporated herein (“the Project”); and

WHEREAS, the TOWN has agreed to provide the DEPARTMENT with the funding needed for the Project; and

WHEREAS, the TOWN and the DEPARTMENT have agreed that it would be more practical, expeditious, and economical for the DEPARTMENT to incorporate the Project into the DEPARTMENT’S construction.

NOW THEREFORE BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:

Section 1. The recitals set forth above are true and correct and are deemed incorporated herein.

Section 2. The DEPARTMENT shall ensure that the Project complies with all applicable Federal, State, and Local laws, rules, regulations, guidelines, and standards.

1. The TOWN shall make available to the DEPARTMENT all of its previous studies, maps, drawings, surveys and other data and information pertaining to the Project in the TOWN’S possession to the DEPARTMENT at no extra cost.

2. The DEPARTMENT shall have the sole responsibility for resolving claims and requests for additional work for the Project. The DEPARTMENT will make reasonable efforts to obtain the TOWN'S input in its decisions.
3. The total cost for the DEPARTMENT'S construction along SR-5, which includes the TOWN'S Project, is estimated to be ELEVEN MILLION THREE HUNDRED FOUR THOUSAND FIVE HUNDRED NINETY DOLLARS AND NO CENTS (\$11,304,590.00). The TOWN'S payment for the Project, which is to be included within the DEPARTMENT'S construction is an estimated to be SEVENTY-SIX THOUSAND ONE HUNDRED FIFTY-SIX DOLLARS AND NO CENTS (\$76,156.00). In the event the actual cost of the Project is less than the TOWN'S payment, the DEPARTMENT shall refund the difference to the TOWN. If the actual cost of the Project, without modifications, results in a sum greater than that paid by the TOWN, the additional costs of the Project shall be paid to the DEPARTMENT by the TOWN.
4. The TOWN and the DEPARTMENT'S responsibilities and obligations are more fully set out in the Locally Funded Agreement attached hereto and incorporated herein as Exhibit B.

EXHIBIT "A"**SECTION NO.: 93020000 & 93040000****FM No.(s): 438386-2-52-01****COUNTY: Palm Beach****S.R. No.: 5****PROJECT LOCATION, DESCRIPTION, AND AERIAL****I. Location:**

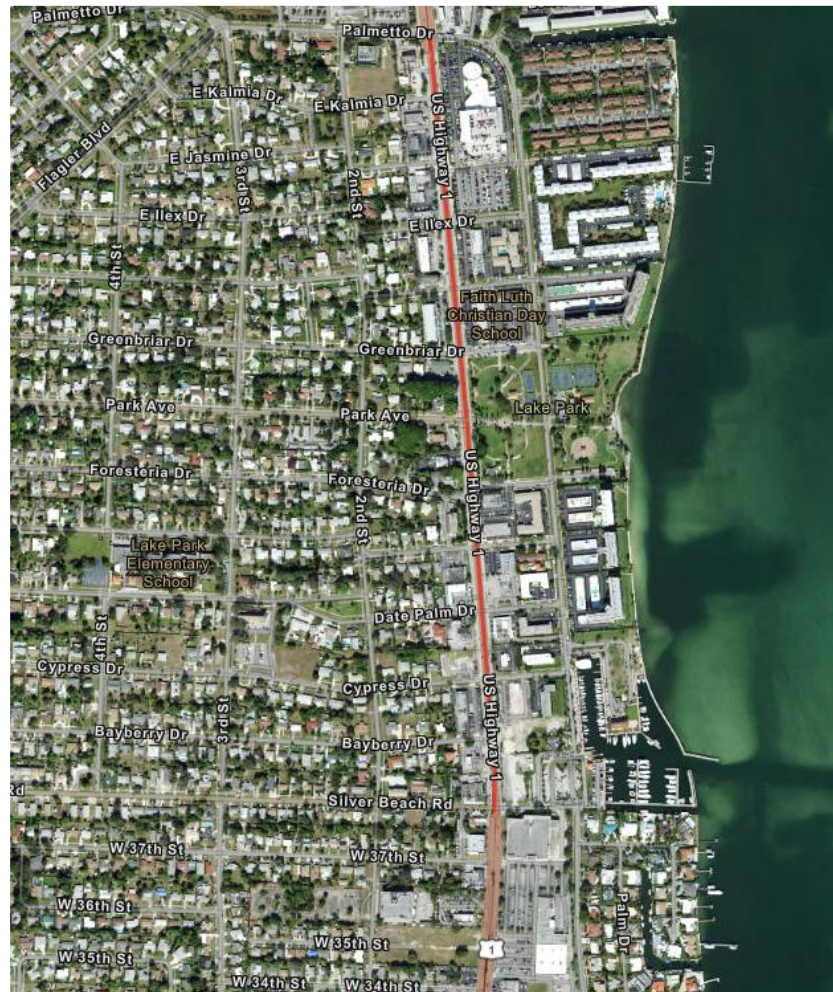
The IMPROVEMENTS associated with this AGREEMENT are located in the Town of Lake Park, in Palm Beach County, Florida along SR 5/US-1 section 93020000 from M.P. 14.166 to M.P. 14.558 and from section 93040000 from M.P. 0.00 to M.P. 0.384

II. Description of Work:

Project Number 438386-2-52-01 to include decorative light and stamped crosswalk. The AGENCY shall be responsible for maintaining the IMPROVEMENTS described in this AGREEMENT.

III. Aerial:

#5588930 v1 26508-00001



STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION LOCALLY FUNDED AGREEMENT

THIS Locally Funded Agreement ("Agreement"), entered into this _____ day of _____, 20_____, by and between the State of Florida Department of Transportation hereinafter called the DEPARTMENT, and the Town of Lake Park located at 535 Park Avenue, Lake Park, FL 33403, hereinafter called the TOWN, also referred to as the PARTICIPANT in Exhibit B (Three Party Escrow Agreement).

WITNESSETH

WHEREAS, the DEPARTMENT and the TOWN are desirous of having the TOWN provide additional financial assistance to the DEPARTMENT for reconstruction work along SR-5/US-1 from 59th Street to SR-850/Northlake Blvd. in Palm Beach County, Florida. (Financial Management (FM) Number 438386-2-52-01, Funded in Fiscal Year 2024/2025); and

WHEREAS, as part of the DEPARTMENT'S construction work, the TOWN has requested that the DEPARTMENT perform the following additional work: Construction of decorative lighting and stamped patterned pavement (FM Number 438386-2-52-05) as set forth in **Exhibit A** attached hereto and made a part hereof and hereinafter referred to as the "Project"; and

WHEREAS, the TOWN has agreed to provide the DEPARTMENT with the additional funding needed for the Project; and

WHEREAS, the improvements are in the interest of both the TOWN and the DEPARTMENT and it would be more practical, expeditious, and economical for the DEPARTMENT to perform such activities; and

WHEREAS, the TOWN by Resolution No. _____ adopted on _____, 20_____, a copy of which is attached hereto and made a part hereof, authorizes the proper officials to enter into this Agreement.

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

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. The DEPARTMENT shall be responsible for assuring that the Project complies with all applicable Federal, State and Local laws, rules, regulations, guidelines, and standards.
3. The TOWN agrees to make all previous studies, maps, drawings, surveys and other data and information pertaining to the Project available to the DEPARTMENT at no extra cost. The PARTICIPANT agrees that no part of the Project is subject to any permit from the PARTICIPANT.

4. The DEPARTMENT shall have the sole responsibility for resolving claims and requests for additional work for the Project. The DEPARTMENT will make reasonable efforts to obtain the TOWN'S input in its decisions.
5. The total cost for the Project and the DEPARTMENT'S reconstruction along SR-5, is estimated to be ELEVEN MILLION THREE HUNDRED FOUR THOUSAND FIVE HUNDRED NINETY DOLLARS AND NO CENTS (\$11,304,590.00). The TOWN'S payment for the Project is an estimated amount of SEVENTY-SIX THOUSAND ONE HUNDRED FIFTY-SIX DOLLARS AND NO CENTS (\$76,156.00), which sum shall be paid to the DEPARTMENT. In the event the actual cost of the Project is less than the TOWN'S payment, the difference shall be refunded to the TOWN. If the actual cost of the Project, without modifications, results in a sum greater than that paid by the TOWN, then any additional cost shall be the sole responsibility of the TOWN and shall be paid to the DEPARTMENT.
 - A. The TOWN agrees that it will, within thirty (30) days of execution of this Agreement, furnish the DEPARTMENT with a check in the amount of SEVENTY-SIX THOUSAND ONE HUNDRED FIFTY-SIX DOLLARS AND NO CENTS (\$76,156.00) towards the Project Costs.

In the event payment is not received by the DEPARTMENT within thirty (30) days of execution of this Agreement, the DEPARTMENT reserves the right to terminate this Agreement and remove the Project from the Department's Work Program and not construct the Project.

Remittance shall be made payable to the Department of Financial Services, Revenue Processing. Payment shall be clearly marked to indicate that it is to be applied to FM No. 438386-2-52-05. The DEPARTMENT shall utilize this amount towards the costs of Project No. 438386-2-52-05.

Payment shall be mailed to:
 Florida Department of Transportation
 Office of Comptroller
 General Accounting Office, LFA Section
 605 Suwannee Street, MS 42B
 Tallahassee, Florida 32399

In lieu of mailing payment to the DEPARTMENT, the TOWN may also submit the payment for the Project via wire transfer.

Wire transfer/Payments are to be made to:

Wells Fargo Bank, N.A.
 Account # 4834783896
 ABA # 121000248
 State of Florida Department of Financial Services
 Bureau of Collateral Management
 Re: DOT – K 11-78, Financial project # 438386-2-52-05

In order for FDOT to receive credit for the funds due to the Department, the reference line must contain "FDOT" and an abbreviated purpose, financial project number or LFA account number.

Once the wire transfer is complete, please contact Ashley Sheffield at 850-414-4887. In addition to calling Ms. Sheffield, the TOWN shall send an email notification to D4-LFA@dot.state.fl.us stating the day and time the wire transfer was sent.

- B. The TOWN's share of the accepted bid for the Project (hereinafter referred to as "Accepted Bid") and the DEPARTMENT'S work plus allowances is hereinafter defined as the "Total Accepted Bid". Allowances are hereby defined as contingency, mobilization (MOB), and Maintenance of Traffic (MOT). If the TOWN'S share of the accepted bid for the Project plus allowances is in excess of the advance deposit amount, the TOWN will provide an additional deposit within fourteen (14) calendar days of notification from the DEPARTMENT or prior to posting of the accepted bid, whichever is earlier, so that the total deposit is equal to the bid amount plus allowances. The DEPARTMENT will notify the TOWN as soon as it becomes apparent the accepted bid amount plus allowances is in excess of the advance deposit amount; however, failure of the DEPARTMENT to so notify the TOWN shall not relieve the TOWN from its obligation to pay for its full participation. If the TOWN cannot provide the additional deposit within fourteen (14) calendar days, a letter must be submitted to and approved by the DEPARTMENT'S Project Manager indicating when the deposit will be made and the DEPARTMENT'S written consent to the payment of the additional deposit and said date. The TOWN understands the request and approval of the additional time could delay the Project, and additional costs may be incurred due to delay of the Project. In the event of non-payment, the DEPARTMENT reserves the right to terminate this Agreement and remove the Project and the DEPARTMENT'S roadway work from the DEPARTMENT'S Work Program.
- C. If the TOWN'S payment for the accepted bid amount plus allowances is less than the advance deposit amount, the DEPARTMENT will refund the amount that the advance deposit exceeds the TOWN'S payment for the accepted bid amount plus allowances if such refund is requested by the TOWN in writing.
- D. Should Project modifications occur that increase the TOWN'S payment for the Project, the TOWN will be notified by the DEPARTMENT. The TOWN agrees to provide, without delay, in advance of the additional work being performed, adequate funds to ensure that cash on deposit with the DEPARTMENT is sufficient to fully fund the Project. The DEPARTMENT shall notify the TOWN as soon as it becomes apparent the actual costs will overrun the award amount; however, failure of the DEPARTMENT to so notify the TOWN shall not relieve the TOWN from its obligation to pay for its full participation. Funds due from the TOWN, for the Project, not paid within forty (40) calendar days from the date of the invoice are subject to an interest charge at a rate established pursuant to *Section 55.03, F.S.*

- E. The DEPARTMENT intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred and sixty (360) days of final payment to the Contractor. The DEPARTMENT considers the Project and the resurfacing work complete when the final payment has been made to the Contractor, not when the construction work is complete. All Project & construction cost records and accounts shall be subject to audit by a representative of the TOWN for a period of three (3) years after final close out of the Project and the resurfacing work. The TOWN will be notified of the final cost. Both parties agree that in the event the final accounting of total Project costs pursuant to the terms of this Agreement is less than the total deposits to date, a refund of the excess will be made by the DEPARTMENT to the TOWN. If the final accounting is not performed within three hundred sixty (360) days, the TOWN is not relieved from its obligation to pay.
 - F. In the event the final accounting of total Project costs indicate that the Project costs are greater than the total deposits to date, the TOWN will pay the additional amount within forty (40) calendar days from the date of the invoice from the DEPARTMENT. The TOWN agrees to pay interest at a rate as established pursuant to *Section 55.03, F.S.*, on any invoice not paid within forty (40) calendar days until the invoice is paid.
 - G. The payment of funds under this Agreement will be sent directly to the Department of Financial Services, Division of Treasury for deposit as provided in the Three-Party Escrow Agreement between the TOWN, the DEPARTMENT and the State of Florida, Department of Financial Services, Division of Treasury a copy of which is attached hereto and made a part hereof as **Exhibit B**.
6. Upon completion of the Project, the TOWN shall be responsible for the maintenance of the decorative lighting and the stamped pavement patterned.
- The TOWN will comply with the provisions set forth in the Lighting Maintenance Memorandum of Agreement (MMOA) and the Landscape Maintenance Memorandum of Agreement (LMMOA) which are attached hereto and made a part hereof as **Exhibit C and Exhibit D**, respectively. The TOWN shall agree to maintain the Project in accordance with the terms of **Exhibit C & Exhibit D**. The terms of this paragraph shall survive the termination of this Agreement.
- 7. In the event it becomes necessary for either party to institute suit for the enforcement of the provisions of this Agreement, each party shall be responsible to pay their own attorney fees and court costs. The jurisdictional venue with respect to any such litigation shall be in Broward County.
 - 8. This Agreement and any interest herein shall not be assigned, transferred, or otherwise encumbered by the TOWN under any circumstances without the prior written consent of the DEPARTMENT. However, this Agreement shall run to the DEPARTMENT and its successors.

9. Except as otherwise set forth herein, this Agreement shall continue in effect and be binding to both the TOWN and the DEPARTMENT until the Project (FM# 438386-2-52-05) is completed as evidenced by the written acceptance of the DEPARTMENT.
10. The TOWN warrants that it has not employed or obtained any company or person, other than bona fide employees of the TOWN, to solicit or secure this Agreement, and it has not paid or agreed to pay any company, corporation, individual or firm, other than a bona fide employee employed by the TOWN. For breach or violation of this provision, the DEPARTMENT shall have the right to terminate the Agreement without liability.
11. The TOWN / Vendor/ Contractor:
 - (A) shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the TOWN/ Vendor/Contractor during the term of the contract; and
 - (B) shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
12. This Agreement is governed by and construed in accordance with the laws of the State of Florida.
13. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written. It is further agreed that no modification, amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
14. Any or all notices (except invoices) given or required under this Agreement shall be in writing and either personally delivered with receipt acknowledged or sent by certified mail, return receipt requested. All notices delivered shall be sent to the following addresses:

If to the DEPARTMENT:

Florida Department of Transportation - District Four
 3400 West Commercial Blvd.
 Fort Lauderdale, Florida 33309-3421
 Attn: Mya Gray
 With a copy to: Damaris Williams, P.E.
 A second copy to: Office of the General Counsel

If to the TOWN:

Town of Lake Park

535 Park Avenue

Lake Park, FL 33403

Attn: Ms. Nadia DiTommaso

Federal Employer ID No.: F-596-000-355

This space is intentionally left blank.

IN WITNESS WHEREOF, this Agreement is to be executed by the parties below for the purposes specified herein. Authorization has been given to enter into and execute this Agreement by Resolution No. _____, hereto attached.

TOWN OF LAKE PARK

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: _____
NAME: _____
TITLE: _____

BY: _____
JOHN P. KRANE, P.E.
DIRECTOR OF TRANSPORTATION DEVELOPMENT

ATTEST:

LEGAL REVIEW:

TOWN CLERK (SEAL)

BY: _____
OFFICE OF THE GENERAL COUNSEL

APPROVED:

APPROVED:

BY: _____
TOWN ATTORNEY

BY: _____
DISTRICT PROGRAM MANAGEMENT ADMINISTRATOR

EXHIBIT A
SCOPE OF SERVICES
FM# 438386-2-52-05

The scope of work performed on behalf of the Town of Lake Park is detailed below. The Town of Lake Park will be contributing funds for the following:

Construction/ Installation of pattern pavement crosswalks in a limestone textured running bond with 12" white stripe border. The Color of the pattern pavement is "Toffee". The crosswalks receiving this installation includes the south crosswalk at the intersection of Silver Beach Road, and the east crosswalk at the intersection of Palmetto Drive.

Construction / installation of new decorative light pole near Silver Beach Road to supplement the existing decorative lighting system. The pole will consist of a decorative spun concrete pole, decorative arm, and cobra head luminaire. The new pole, arm, and luminaire housing will be color "green" and aesthetically similar to the existing light poles.

Exhibit B

THREE PARTY ESCROW AGREEMENT

THIS AGREEMENT is made and entered into by and between the State of Florida, Department of Transportation ("FDOT"), Town of Lake Park ("Participant"), and the State of Florida, Department of Financial Services, Division of Treasury ("Escrow Agent"), and shall become effective upon the Agreement's execution by Escrow Agent.

WHEREAS, FDOT and Participant are engaged in the following project ("Project"):

Project Name: Construction of decorative lighting and stamped patterned pavement
along SR-5/US-1
Project #: 438386-2-52-05
County: Palm Beach

WHEREAS, FDOT and Participant desire to establish an escrow account for the project.

NOW THEREFORE, in consideration of the premises and the covenants contained herein, the parties agree to the following:

1. An initial deposit will be made into an interest bearing escrow account established hereunder for the purposes of the Project. The escrow account will be opened with the Escrow Agent on behalf of FDOT upon Escrow Agent's receipt and execution of this Agreement.
2. Other deposits to the escrow account may be made during the life of this Agreement.
3. Deposits will be delivered in accordance with instructions provided by the Escrow Agent to the FDOT for deposit into the escrow account. A wire transfer or ACH deposit is the preferred method of payment and should be used whenever possible.
4. FDOT's Comptroller or designee shall be the sole signatory on the escrow account with the Escrow Agent and shall have sole authority to authorize withdrawals from the account. Withdrawals will only be made to FDOT or the Participant in accordance with the instructions provided to the Escrow Agent by FDOT's Comptroller or designee.
5. Moneys in the escrow account will be invested in accordance with section 17.61, Florida Statutes. The Escrow Agent will invest the moneys expeditiously. Income is only earned on the moneys while invested. There is no guaranteed rate of return. Investments in the escrow account will be assessed a fee in accordance with Section 17.61(4)(b), Florida Statutes. All income of the investments shall accrue to the escrow account.
6. Unless instructed otherwise by FDOT, all interest accumulated in the escrow account shall remain in the account for the purposes of the Project.

7. The Escrow Agent agrees to provide written confirmation of receipt of funds to FDOT. FDOT agrees to provide a copy of such written confirmation to Participant upon request.
8. The Escrow Agent further agrees to provide quarterly reports to FDOT concerning the escrow account. FDOT agrees to provide a copy of such quarterly reports to Participant upon request.
9. The Escrow Agent shall not be liable for any error of judgment or for any act done or omitted by it in good faith, or for anything which it may in good faith do or refrain from doing in connection herewith.
10. Escrow Agent shall have no liability for any claim, cost, expense, damage or loss due to the acts or omissions of FDOT and Participant, nor from any separate agreements between FDOT and Participant and shall have no responsibility to monitor or enforce any responsibilities herein or in any separate agreements associated with this Agreement between FDOT and Participant.
11. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida.
12. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
13. This Agreement shall terminate upon disbursement by the Escrow Agent of all money held by it in the escrow account in accordance with the instructions given by FDOT's Comptroller or designee and notification from FDOT to Escrow Agent that the account is to be closed.

The remainder of this page is blank.

IN WITNESS WHEREOF, the parties have duly executed the Agreement on the date(s) below.

Item 12.

For FDOT (signature)

Name and Title

59-3024028

Federal Employer I.D. Number

Date

For PARTICIPANT (signature)

Name

Title

F-596-000-355

Federal Employer I.D. Number

Date

FDOT Legal Review:

For Escrow Agent (signature)

Name and Title

Date

NOT for Execution.

EXHIBIT C

MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE TOWN OF LAKE PARK

SECTION NO.: 93020000 & 93040000
FM No.(s): 438386-2-52-01
COUNTY: Palm Beach
S.R. No.: 5

Item 12.

**DISTRICT FOUR
LIGHTING MAINTENANCE MEMORANDUM OF AGREEMENT**

THIS AGREEMENT made and entered into this date _____, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, a component **AGENCY** of the State of Florida, hereinafter called the **DEPARTMENT**, and **TOWN OF LAKE PARK**, a municipal corporation existing under the Laws of Florida, hereinafter called the **AGENCY**.

WITNESSETH:

WHEREAS, the **DEPARTMENT** has jurisdiction over State Road (S.R.) 5/US-1 from Mile Post (M.P.) 14.166 to M.P. 14.558 and from M.P. 0.00 to 0.384; and

WHEREAS, the **DEPARTMENT** seeks to install and have maintained by the **AGENCY** certain highway **IMPROVEMENTS**; and

WHEREAS, as part of the continual updating of the State of Florida Highway System, the **DEPARTMENT**, for the purpose of safety, protection of the investment and other reasons, has constructed and does maintain SR 5/US-1 at section 93020000 from M.P. 14.166 to M.P. 14.558 and from section 93040000 from M.P. 0.00 to M.P. 0.384 (within the limits of the **AGENCY**); and

WHEREAS, it is the intent of the **AGENCY** and the **DEPARTMENT** that the **AGENCY** shall maintain the specific elements constructed under Project Number **438386-2-52-01** to include decorative lighting; hereinafter called **IMPROVEMENTS** installed along SR 5/US-1 at section 93020000 from M.P. 14.166 to M.P. 14.558 and from section 93040000 from M.P. 0.00 to M.P. 0.384 as detailed within **Exhibit A (Project Location, Description and Aerial)**; and

WHEREAS, the Project involves the scope of work as described within **Exhibit B (Construction Plans)**, which will benefit the **AGENCY**; and

WHEREAS the parties hereto mutually recognize the need for entering into an **AGREEMENT** designation and setting forth the responsibilities of each party; and

WHEREAS the **AGENCY** by Resolution Number _____ entered this date _____, attached hereto and by this reference made a part hereof, desires to enter into this **AGREEMENT** and authorizes its officers to do so;

NOW THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties covenant and agree as follows:

1. RECITALS

The recitals set forth above are true and correct and are deemed incorporated herein.

2. INSTALLATION OF FACILITIES

SECTION NO.: 93020000 & 93040000
FM No.(s): 438386-2-52-01
COUNTY: Palm Beach
S.R. No.: 5

- A. The **DEPARTMENT** shall construct under Project Number **438386-2-52-01** ("the **IMPROVEMENTS**") as detailed in **Exhibit A** and **Exhibit B** that will benefit the **AGENCY**.
- B. The **IMPROVEMENTS** shall comply with the laws and regulations relating to the Americans with Disabilities Act of 1990, as currently enacted or as may be amended from time to time ("ADA"). If there are any major changes to the plan(s), the **DEPARTMENT** shall provide the modified plan(s) to the **AGENCY** and the **AGENCY** shall provide their approval or disapproval to the **DEPARTMENT** within ten (10) business days. The **DEPARTMENT** may elect to withdraw the **IMPROVEMENTS** if changes are not approved within the given time frame.
- C. The **AGENCY** shall be invited to assist the **DEPARTMENT** in final inspection before acceptance of the **IMPROVEMENTS** by the **DEPARTMENT**.

The **AGENCY** must maintain the **IMPROVEMENTS** associated within the limits of the Project.

3. MAINTENANCE OF FACILITIES

- A. The **AGENCY** agrees to maintain the **IMPROVEMENTS** to be installed under Project Number **438386-2-52-01** within the limits of construction. Maintenance by the **AGENCY** will include but not limited to inspection, repair, restoration, replacement, coating, and general maintenance of all decorative or non-standard features within the limits of construction. This includes Project Number **438386-2-52-01** for decorative light poles, installed along SR 5/US-1, at section 93020000 from M.P. 14.166 to M.P. 14.558 and from section 93040000 from M.P. 0.00 to M.P. 0.384.

This maintenance **AGREEMENT** will apply to all existing decorative or non-standard lights already installed within the limits of the **AGENCY**.

- 1) The **AGENCY** agrees to maintain, at its sole cost and expense, the **IMPROVEMENTS** set forth in **Exhibit A** in compliance with any and all applicable laws which shall include, but not be limited to, laws and regulations relating to the Americans with Disabilities Act ("ADA") of 1990, as currently enacted or as may be amended from time to time.

- 2) The **IMPROVEMENTS** shall be kept clean and free from trash and debris. The **IMPROVEMENTS** shall be kept free of graffiti. The **IMPROVEMENTS** shall be free of pests such as stinging insects, rodents, and vermin, including removal of nests as needed.

As part of the maintenance responsibility, the **AGENCY** shall keep in good repair and replace all defective or worn-out parts of the **IMPROVEMENTS**. The **AGENCY'S** responsibility to keep the **IMPROVEMENTS** in good repair shall include all necessary inspection, maintenance, repair, and replacement of any type or nature, including, but not limited to maintenance, repair, coating replacement, and replacement due to normal wear and tear caused by a named storm event, acts of God, vandalism, and accidents. The **AGENCY** shall take all necessary steps to maintain the **IMPROVEMENTS** in a manner to protect against injury to any person or property.

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- 3) The **AGENCY** shall perform all activities necessary to keep the **IMPROVEMENTS** fully operating, properly functioning, with a minimum of 90% of the lights burning for any lighting type or roadway system at all times in accordance with the original design thereof, whether necessitated by normal wear and tear, accidental or intentional damage, or acts of nature. Said maintenance shall include, but shall not be limited to, providing electrical power, and paying all charges associated therewith, routine inspection and testing, preventative maintenance, emergency maintenance, replacement of any component parts of the **IMPROVEMENTS**, as may be necessary.
- 4) The above-named functions to be performed by the **AGENCY** may be subject to periodic inspections by the **DEPARTMENT** at the discretion of the **DEPARTMENT**. Such inspection findings will be shared with the **AGENCY** and shall be the basis of all decisions regarding, reworking relating to the maintenance obligation / function or **AGREEMENT** termination.
- 5) The **AGENCY** shall be solely responsible for any damages to surrounding property, real estate, vehicles, pedestrians, or other assets occurring as a result of maintenance and operation of the **IMPROVEMENTS** and shall repair such damage to the satisfaction of the **DEPARTMENT** at no expense to the **DEPARTMENT**, as per the requirements in **Exhibit C (Maintenance Plan Requirements)**.
- 6) The **AGENCY** shall be responsible for maintaining the light pole structures and electrical components. The **AGENCY** shall replace the structure if destroyed in an accident by third parties. The **DEPARTMENT** expressly assigns its rights, interests and privileges pertaining damage **IMPROVEMENTS** to the **AGENCY**, so that **AGENCY** can pursue all claims and causes of actions against the third parties responsible for the damage. The **DEPARTMENT** will assist the **AGENCY** as necessary and will confirm **AGENCY'S** authorization to pursue recovery. The **AGENCY** will be responsible for all attorneys' fees and costs incurred in its recovery activities. The **AGENCY** shall not file suit in the name of the **DEPARTMENT**.
- B. The **AGENCY** shall indemnify the **DEPARTMENT** for any and all costs or expenses incurred by the **DEPARTMENT** for the **AGENCY'S** failure to comply with all ADA Laws existing and as may be amended. Costs and expenses shall include the costs to make the facility ADA compliant, attorney's fees and costs and any judgments. Adjacent sidewalk areas shall be accessible at all times. If sidewalk closures are needed, alternate routes shall be clearly identified, and any missing sidewalk shall be restored either with permanent or temporary materials at the end of each workday.
- C. All **IMPROVEMENTS** shall at all times have notification signs posted with the name and phone number of the department within the **AGENCY** responsible for maintenance of the **IMPROVEMENTS** so that the **AGENCY** can be contacted regarding problems with the **IMPROVEMENTS**. The **AGENCY** shall promptly respond and correct all complaints regarding maintenance. The **IMPROVEMENTS** to be constructed with this Project shall not contain advertising; nor shall the **AGENCY** allow any advertising to be placed upon the **IMPROVEMENTS** in the future.
- D. It is understood and agreed by the parties that upon "final acceptance" (as that term is described in the Standard Specifications for Roadway and Bridge Construction, as

amended by contract documents section 5-11) by the **DEPARTMENT** of the Project and Notice thereof to the **AGENCY**, the **AGENCY** shall be responsible for maintenance of the Project in accordance with the following Federally and State accepted standards (current editions at the time of execution of this **AGREEMENT** and any amendments hereafter) and all costs related thereto: (a) FDOT Design Manual (FDM), (b) Florida Green Book, (c) Standard Specifications for Roadway and Bridge Construction, (d) FDOT Standard Plans for Roadway Construction, (e) Manual on Uniform Traffic Control Devices (MUTCD), and (f) all other applicable local, state, or federal laws, rules, resolutions, or ordinances, and FDOT procedures. In the event of a conflict between documents, standards, and procedures the more stringent shall apply.

- DI. Any work impacting traffic flow along SR 5/US-1 must be coordinated with the **DEPARTMENT**. Lane closures must be submitted for approval in accordance with **DEPARTMENT** procedures and policies and will meet the goals established in the **DEPARTMENT'S** Open Roads Policy.

4. NOTICE OF MAINTENANCE DEFICIENCIES

- A. If, at any time while the terms of this **AGREEMENT** are in effect, it shall come to the attention of the **DEPARTMENT** that the **AGENCY'S** responsibility as established herein or a part thereof is not being properly accomplished pursuant to the terms of this **AGREEMENT**, the **DEPARTMENT** may issue a written notice, that a deficiency or deficiencies exist(s), by sending a certified letter to the **AGENCY**, in care of the **TOWN OF LAKE PARK, TOWN MAYOR**, to place the **AGENCY** on notice regarding its maintenance deficiencies. Thereafter, the **AGENCY** shall have a period of sixty (60) days within which to correct the cited deficiency or deficiencies. If said deficiencies are not corrected within the time period, the **DEPARTMENT** may, at its option, proceed under one or more or a combination of the following items:

- 1) The **DEPARTMENT** may repair any item or a number of items. Corrective actions will be performed with the **DEPARTMENT** and/or its independent contractor's materials, equipment, and personnel. The actual cost for such work will be charged to the **AGENCY**.
- 2) The **DEPARTMENT** may remove or replace any item or number of items with the standard **DEPARTMENT** item. Corrective actions will be performed with the **DEPARTMENT** and/or its independent contractor's materials, equipment, and personnel. The actual cost for such work will be charged to the **AGENCY**.
- 3) If there is no standard equivalent item or if in the **DEPARTMENT'S** discretion the item is not necessary for the operations of the roadway, the **DEPARTMENT** may remove the item in its entirety and restore the area to a condition acceptable to the **DEPARTMENT**. Corrective actions will be performed with the **DEPARTMENT** and/or its independent contractor's materials, equipment, and personnel. The actual cost for such work will be charged to the **AGENCY**.
- 4) At the discretion of the **DEPARTMENT**, terminate the **AGREEMENT** in accordance with Paragraph 7 of this **AGREEMENT** and remove, by the **DEPARTMENT** or its contractor's, all the **IMPROVEMENTS** installed under this **AGREEMENT** and charge the **AGENCY** the reasonable cost of such removal.

5. FUTURE DEPARTMENT IMPROVEMENTS

It is understood between the parties hereto that the **IMPROVEMENTS** covered by this **AGREEMENT** may be removed, relocated, or adjusted at any time in the future as determined to be necessary by the **DEPARTMENT** in order for an adjacent state road to be widened, altered, or otherwise changed to meet with future criteria or planning of the **DEPARTMENT**.

6. FUTURE AGENCY IMPROVEMENTS

The **AGENCY** may construct additional **IMPROVEMENTS** within the limits of the rights of ways identified as a result of this document subject to the following conditions:

- 1) Plans for any new **IMPROVEMENTS** shall be subject to approval by the **DEPARTMENT**. The **AGENCY** shall not change or deviate from said plans without prior written approval by the **DEPARTMENT**.
- 2) The **AGENCY** shall procure a permit and/ or Construction **AGREEMENT** from the **DEPARTMENT**, as appropriate.
- 3) All **IMPROVEMENTS** shall be developed and implemented in accordance with appropriate State of Florida safety and roadway design standards.
- 4) The **AGENCY** agrees to comply with the requirements of this **AGREEMENT** regarding any additional **IMPROVEMENTS** installed at no cost to the **DEPARTMENT**.

7. AGREEMENT TERMINATION

This **AGREEMENT** may be terminated under anyone (1) of the following conditions:

- 1) By the **DEPARTMENT**, if the **AGENCY** fails to perform its duties under this **AGREEMENT**, following ten (10) days written notice. The **AGENCY** shall reimburse the **DEPARTMENT** for any expenditure for the installation, relocation, or removal of said **IMPROVEMENTS**.
- 2) By the **DEPARTMENT**, for refusal by the **AGENCY** to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes that is made or received by the **AGENCY** in conjunction with this **AGREEMENT**.
- 3) By the Department with a six (6) month written notice.

8. AGREEMENT TERM

The term of this **AGREEMENT** commences upon execution by all parties. The term of this **AGREEMENT** shall remain in effect for as long as the **IMPROVEMENTS** exist.

9. LIABILITY AND INSURANCE REQUIREMENTS

- A. With respect to any of the **AGENCY'S** agents, consultants, sub-consultants, contractors, and/or sub-contractors, such party in any contract for the **IMPROVEMENTS** shall agree to indemnify, defend, save and hold harmless the **DEPARTMENT** from all claims, demands, liabilities, and suits of any nature arising out of, because of or due to any intentional and/or negligent act or occurrence, omission or commission of such agents, consultants, sub consultants, contractors and/or subcontractors. The **AGENCY** shall provide to the **DEPARTMENT** written evidence of the foregoing upon the request of the **DEPARTMENT**. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the **DEPARTMENT** for its own negligence.
- B. In the event that **AGENCY** contracts with a third party to provide the services set forth herein, any contract with such third party shall include the following provisions:
- 1) **AGENCY'S** contractor shall at all times during the term of this **AGREEMENT** keep and maintain in full force and effect, at contractor's sole cost and expense, Comprehensive General Liability with minimum limits of \$1,000,000.00 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability and Worker's Compensation insurance with minimum limits of \$500,000.00 per Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability and Worker's Compensation policy without restrictive endorsements, as filed by the Insurance Services Office and shall name the **DEPARTMENT** as an additional insured.
 - 2) **AGENCY'S** contractor shall furnish **AGENCY** with Certificates of Insurance of Endorsements evidencing the insurance coverages specified herein prior to the beginning performance of work under this **AGREEMENT**.
 - 3) Coverage is not to cease and shall remain in full force and effect (subject to cancellation notice) until all performance required of **AGENCY'S** contractor is completed. All policies must be endorsed to provide the **DEPARTMENT** with at least thirty (30) days' notice of cancellation and /or restriction. If any of the insurance coverages will expire prior to the completion of work, copies of renewal policies shall be furnished at least (30) days prior to the date of expiration.

10. E-VERIFY REQUIREMENTS

The **AGENCY** shall:

- 1) Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the **AGENCY** for the work performed under this **AGREEMENT**; and
- 2) Expressly require any contractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. DEPARTMENT of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

11. ENTIRE AGREEMENT

This writing embodies the entire Agreement and understanding between the parties hereto and there are no other Agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby except the Local Funded Agreement(s) and State Highway Lighting Maintenance and Compensation Agreement(s) signed between the parties, as amended, as to all other **IMPROVEMENTS** not specifically mentioned in this Agreement. The streetlights installed under this Project will be compensated as streetlights under the State Highway Lighting Maintenance and Compensation Agreement. If the **DEPARTMENT** and **AGENCY** fail to agree on the annual lump sum amount to be paid under the State Highway Lighting Maintenance and Compensation Agreement, this Agreement shall supersede that Agreement and the **AGENCY** agrees to maintain the lights solely under this Agreement.

12. EXPENDITURE OF MONEY

The **DEPARTMENT**, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The **DEPARTMENT** shall require a statement from the Comptroller of the **DEPARTMENT** that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the **DEPARTMENT** which are for an amount in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) and which have a term for a period of more than one year.

13. DISPUTES

The **DEPARTMENT'S** District Secretary shall decide all questions, difficulties, and disputes of any nature whatsoever that may arise under or by reason of this **AGREEMENT**, the prosecution or fulfillment of the service hereunder and the character, quality, amount, and value thereof, and his decision upon all claims, questions and disputes shall be final and conclusive upon the parties hereto.

14. ASSIGNMENT

This **AGREEMENT** may not be assigned or transferred by the **AGENCY** in whole or part without the prior consent of the **DEPARTMENT**.

15. LAWS GOVERNING

This **AGREEMENT** shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail, the **AGENCY** agrees to waive forum and venue and that the **DEPARTMENT** shall determine the forum and venue in which any dispute under

SECTION NO.: 93020000 & 93040000
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Item 12.

this **AGREEMENT** is decided.

16. NOTICES

All notices given or required under this **AGREEMENT** shall be in writing and either personally delivered with receipt acknowledgement or sent by certified mail, return receipt requested. All notices shall be sent to the following addresses.

If to the **DEPARTMENT**:

State of Florida Department of Transportation
Attention: District Maintenance Engineer
3400 West Commercial Blvd
Ft. Lauderdale, FL 33309-3421

AGENCY:

Town of Lake Park
535 Park Avenue,
Lake Park, FL 33403
Attention: Town Mayor

17. LIST OF EXHIBITS

Exhibit A: Project Location, Description and Aerial
Exhibit B: Lighting Plans
Exhibit C: Maintenance Plan Requirements

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Item 12.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

AGENCY:

Town of Lake Park, a municipal Corporation of
the State of Florida:

By: _____ Date: _____
City Manager / Mayor

Print Name: _____

ATTEST:

By: _____ Date: _____
Clerk

Print Name: _____

Approved as to Form:

By: _____ Date: _____
City Attorney

Print Name: _____

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Item 12.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

DEPARTMENT:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

Sign: _____
Director of Operations

Print Name: Paul A. Lampley

Date: _____

Approval as to Form:

Sign: _____
Assistant General Counsel

Print Name: Francine Steelman

Date: _____

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EXHIBIT A

PROJECT LOCATION, DESCRIPTION, AND AERIAL

I. Location:

The **IMPROVEMENTS** associated with this **AGREEMENT** are located in the Town of Lake Park, in Palm Beach County, Florida along SR 5/US-1 section 93020000 from M.P. 14.166 to M.P. 14.558 and from section 93040000 from M.P. 0.00 to M.P. 0.384

II. Description of Work:

Project Number **438386-2-52-01** to include decorative light. The **AGENCY** shall be responsible for maintaining the **IMPROVEMENTS** described in this **AGREEMENT**.

III. Aerial



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EXHIBIT B

LIGHTING PLANS

Lighting Plans prepared by Stephen Allen Hughes, P.E., dated December 11, 2023, as approved by the **DEPARTMENT**.

LIGHTING PLANS (attached)

Sheets Included:

PDF Page Number (#)	Plan Sheet (#)	Sheet(s) Description
13	L-1	KEY SHEET
14	L-2	SIGNATURE SHEET
15	L-3	GENERAL NOTES
16	L-4	LIGHTING LEGEND
17 THRU 20	L-5 to L-8	LIGHTING DATA TABLE
21 THRU 43	L-9 to L-31	LIGHTING PLAN
44 – 45	L-32 to L-33	LIGHTING POLE FOUNDATION
46	L-34	SERVICE POINT DETAIL

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EXHIBIT C

MAINTENANCE PLAN REQUIREMENTS

In reference to Maintenance to be performed under this **AGREEMENT**, the **AGENCY** shall submit to the **DEPARTMENT** a maintenance plan detailing the means and methods for accomplishing any maintenance or repairs to the **IMPROVEMENTS** in accordance with all **DEPARTMENT** Standards, Procedures and Specifications. This plan shall be submitted and approved by the **DEPARTMENT** prior to commencing any maintenance or repair activities. The **AGENCY** shall comply with the **DEPARTMENT'S** applicable Maintenance Rating Program Standards. The plan should at minimum detail how the **AGENCY** will address the following:

1. Providing for continuous traffic control and necessary traffic control devices as required for the safe movement of traffic of vehicular and pedestrian traffic past the location of the structure being repaired for the duration of the repair in accordance with **DEPARTMENT** Standards, Procedures and Specifications.
2. Protection of adjacent surrounding property, real estate, vehicles, pedestrians, attachments to the light poles, or other assets during the preparation and recoating of surfaces.
3. Containment of debris or materials used in or resulting from the repair.

After the maintenance plan is approved, the **AGENCY** shall submit a work plan to the **DEPARTMENT** for approval prior to each repair to be performed detailing:

1. The proposed date of the repair
2. The location of the repair
3. The nature of the repair
4. The materials to be used for the repair
5. The methods to be used for the repair

EXHIBIT D

**LANDSCAPE MAINTENANCE
MEMORANDUM OF AGREEMENT WITH
THE
TOWN OF LAKE PARK**

SECTION: 93020000 / 9304000
 PERMIT: 438386-2-52-01
 COUNTY: Palm Beach
 STATE RD: 5

**FLORIDA DEPARTMENT OF TRANSPORTATION
 DISTRICT FOUR
 LANDSCAPE MAINTENANCE MEMORANDUM OF AGREEMENT**

THIS AGREEMENT, made and entered into this ____ day of _____, 20____, by and between the **FLORIDA DEPARTMENT OF TRANSPORTATION**, a component AGENCY of the State of Florida, hereinafter called the DEPARTMENT and the **TOWN OF LAKE PARK**, a municipal corporation, existing under the Laws of Florida, hereinafter called the AGENCY.

WITNESSETH:

WHEREAS, the DEPARTMENT has jurisdiction over **State Road 5 (US-1)** as part of the State Highway System; and

WHEREAS, as part of the continual updating of the State Highway System, the DEPARTMENT, for the purpose of safety, protection of the investment and other reasons, has constructed and does maintain the highway facility as described in **Exhibit "A"** within the corporate limits of the AGENCY; and

WHEREAS, the DEPARTMENT seeks to install certain improvements within the right of way of **State Road 5 (US-1)**, including new turfed medians and decorative crosswalks, as described within **Exhibit "B"**; and

WHEREAS, it is the intent of the AGENCY and the DEPARTMENT that the AGENCY shall maintain all right of way within the medians, outside the traveled way and improvements made to the traveled way that was made at the request of the AGENCY; and

WHEREAS, the AGENCY is agreeable to maintaining those improvements within the AGENCY'S limits, including the new medians, areas outside the traveled way to the right of way line, areas within the traveled way that may contain specialty surfacing (also known as patterned pavement), and any other hardscape (if applicable), but excluding standard concrete sidewalk; and agrees such improvements shall be maintained by periodic mowing, fertilizing, weeding, litter pick-up, and/or repairs associated with the specialty surfacing, as needed, including any future agreed upon improvements; and

WHEREAS, the parties hereto mutually recognize the need for entering into an Agreement designating and setting forth the responsibilities of each party; and

WHEREAS, the AGENCY, by Resolution No. _____ dated _____, 20____, attached hereto and by this reference made a part hereof in **Exhibit "E"**, desires to enter into this Agreement and authorizes its officers to do so;

NOW THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties covenant and agree as follows:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. INSTALLATION OF FACILITIES

The DEPARTMENT shall install or cause to be installed landscape, irrigation and/or *hardscape* improvements on the highway facilities substantially as specified in plans and specifications hereinafter referred to as the Project(s) and incorporated herein as referenced in **Exhibit "B"**. *Hardscape* shall mean, but not be limited to, site furnishings, tree grates, landscape accent lighting, and/or any non-standard roadway, sidewalk, median or crosswalk specialty surfacing, including concrete pavers, color stamped concrete, color stamped asphalt (also known as patterned pavement), and brick paver detectable warnings.

If there are any major changes to the plan(s), the DEPARTMENT shall provide the modified plan(s) to the AGENCY and the AGENCY shall provide their approval or disapproval to the DEPARTMENT within 10 business days. The DEPARTMENT may elect to withdraw the improvements if changes are not approved within the given time frame.

3. MAINTENANCE OF FACILITIES

A. The AGENCY agrees to maintain the improvements, as existing and those to be installed, now or in the future, within the physical limits described in **Exhibit "A"** and as further described in **Exhibit "B"**. The non-standard improvements within and outside the traveled way shall be maintained by the AGENCY regardless if the said improvement was made by the DEPARTMENT, the AGENCY, or others authorized pursuant to section 8. Periodic repairs or any concrete replacement associated with specialty surfacing (if applicable) shall follow the DEPARTMENT'S safety and maintenance guidelines and **Exhibit "D"**, Patterned Pavement Maintenance. The AGENCY'S responsibility for maintenance shall include all landscaped, turfed and hardscape areas on the sidewalk or within the medians, areas outside the traveled way to the right-of-way, and/or areas within the traveled way containing specialty surfacing. The AGENCY shall be solely responsible for all maintenance and/or damage to any FDOT installed sidewalks directly attributable to AGENCY maintained trees or other improvements. It shall be the responsibility of the AGENCY to restore an unacceptable ride condition of the roadway caused by the differential characteristics of non-standard traveled way surfacing and the associated header curb and concrete areas (if applicable) on DEPARTMENT right-of-way within the limits of this Agreement.

B. Such maintenance to be provided by the AGENCY is specifically set out as follows: to maintain, which means to keep the hardscape areas clean, free from weeds and to repair said hardscape as is necessary to prevent a safety hazard. To maintain also means to keep the header curbs that contain the specialty surfacing treatment in optimum condition. To maintain also means to mow the turf to the proper height; water, fertilize and to keep plants and turf as free as practicable from disease and harmful insects; to keep litter removed from the median and areas outside the travel way to the right of way line. Any changes to the original plans shall be submitted by permit application to the DEPARTMENT for review and approval.

- C. If it becomes necessary to provide utilities (water/electricity) to the medians or areas outside the traveled way to maintain these improvements, all costs associated with the utilities for the landscape improvements including, but not limited to any impact and connection fees, and the on-going cost of utility usage for water and electrical are the maintaining AGENCY'S responsibility.

- (1) The AGENCY shall be solely responsible for any impact and/or connection fees.
- (2) The AGENCY shall be responsible for the described ongoing utility costs upon final acceptance of the construction project by the DEPARTMENT and thereafter.

- D. The maintenance functions to be performed by the AGENCY may be subject to periodic inspections by the DEPARTMENT at the discretion of the DEPARTMENT. Such inspection findings will be shared with the AGENCY and shall be the basis of all decisions regarding repayment, reworking, or Agreement termination. The AGENCY shall not change or deviate from said plans without written approval of the DEPARTMENT.

4. DEPARTMENT ACCESS TO FACILITIES

The DEPARTMENT will periodically need access to various features within the limits of this agreement. Upon request of the DEPARTMENT, the AGENCY will have 14 calendar days to provide access to the items noted by the DEPARTMENT. This may require temporary or permanent removal of improvements such as hardscape, landscape or other items conflicting with the items to which the Department needs access.

Should the AGENCY fail to remove or relocate items as requested, the DEPARTMENT may:

- (a) Remove conflicting improvements or any portion thereof.
- (b) Restore the area with any material meeting Department standards.
- (c) Restore the improvements at the request and funding of the AGENCY.

5. NOTICE OF MAINTENANCE DEFICIENCIES

- A. If at any time after the AGENCY has undertaken the maintenance responsibilities for the improvements, it shall come to the attention of the DEPARTMENT'S District Secretary that the limits, or a part thereof, are not properly maintained pursuant to the terms of this Agreement, said District Secretary may at his/her option, issue a written notice that a deficiency or deficiencies exist(s), by sending a certified letter to the AGENCY, placing said AGENCY on notice thereof. Thereafter the AGENCY shall have a period of thirty (30) calendar days within which to correct the cited deficiencies. If said deficiencies are not corrected within this time, the DEPARTMENT may at its option, proceed as follows:

- (1) Maintain the improvements or any part thereof, with DEPARTMENT or Contractor's personnel and invoice the AGENCY for expenses incurred, and/or
- (2) At the discretion of the DEPARTMENT, terminate the Agreement in accordance with Paragraph 10 of this Agreement and remove, by the DEPARTMENT or Contractor's personnel, all of the improvements installed under this Agreement or any preceding Agreements, and charge the AGENCY the reasonable cost of such removal.

- B. The AGENCY agrees to reimburse the DEPARTMENT all monies expended by the DEPARTMENT for the improvements listed in **Exhibit "B"** in the amounts listed in **Exhibit "D"** should the improvements fail to be maintained in accordance with the terms and conditions of this Agreement.

6. FUTURE DEPARTMENT IMPROVEMENTS

It is understood between the parties hereto that the improvements covered by this Agreement may be removed, relocated, or adjusted at any time in the future as determined to be necessary by the DEPARTMENT in order that the adjacent state road be widened, altered, or otherwise changed to meet future criteria or planning needs of the DEPARTMENT.

The AGENCY shall be given sixty (60) calendar days' notice to remove said improvements at AGENCY'S expense after which time the DEPARTMENT may remove same. All permits, fees, and any mitigation associated with the removal, relocation or adjustments of these improvements are the maintaining AGENCY'S responsibility.

7. FUTURE AGENCY IMPROVEMENTS

The AGENCY may construct additional landscape improvements within the limits of the rights of way identified in **Exhibit "A"** of this Agreement, subject to the following conditions:

- (a) Plans for any new landscape improvements shall be subject to approval by the DEPARTMENT. The AGENCY shall not change or deviate from said plans without written approval by the DEPARTMENT.
- (b) The AGENCY shall procure a permit from the DEPARTMENT.
- (c) All landscape improvements shall be developed and implemented in accordance with appropriate state safety and roadway design standards.
- (d) The AGENCY agrees to comply with the requirements of this Agreement with regard to any additional landscape improvements it chooses to have installed and there will be no cost to the DEPARTMENT.

8. ADJACENT PROPERTY OWNER IMPROVEMENTS

The DEPARTMENT may allow an adjacent property owner to construct additional landscape improvements within the limits of the rights of way identified in **Exhibit "A"** of this Agreement and the AGENCY shall be responsible for maintaining those improvements under this Agreement subject to the following conditions:

- (a) Plans for any new landscape improvements shall be subject to approval by the DEPARTMENT and shall require a valid permit attached with a letter of consent to said plans by the AGENCY. The plans shall not be changed or deviated from without written approval by the DEPARTMENT and the AGENCY.
- (b) All landscape improvements shall be developed and implemented in accordance with appropriate state safety and roadway design standards.

- (c) The AGENCY agrees to comply with the requirements of this Agreement with regard to any additional landscape improvements installed by an adjacent owner.

9. LANDSCAPE IMPROVEMENTS COST

The DEPARTMENT agrees to enter into a contract to have installed said improvements for the amount indicated in Exhibit "C", Cost Estimate, at approximately \$25,839.00. This cost is to be paid for by the AGENCY via a separate Locally Funded Agreement.

The AGENCY shall be invited to assist the DEPARTMENT in the final acceptance of the improvements associated with the roadway construction project by the DEPARTMENT.

10. AGREEMENT TERMINATION

In addition to those conditions otherwise contained herein, this Agreement may be terminated under any one (1) of the following conditions:

- (a) By the DEPARTMENT, if the AGENCY fails to perform its duties under this Agreement, following ten (10) days written notice.
- (b) By the DEPARTMENT, for refusal by the AGENCY to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the AGENCY in conjunction with this Agreement.

11. AGREEMENT TERM

- A. This Agreement commences upon execution by all parties and shall remain in effect for as long as the landscape items exist.
- B. If the DEPARTMENT chooses not to implement the landscape improvements described in **Exhibit "B"**, this Agreement becomes void and the original Agreement is reinstated, if any.

12. LIABILITY AND INSURANCE REQUIREMENTS

- A. With respect to any of the AGENCY'S agents, consultants, sub-consultants, contractors, and/or sub-contractors, such party in any contract for the landscape improvements shall agree to indemnify, defend, save and hold harmless the DEPARTMENT from all claims, demands, liabilities, and suits of any nature arising out of, because of or due to any intentional and/or negligent act or occurrence, omission or commission of such agents, consultants, subconsultants, contractors and/or subcontractors. The AGENCY shall provide to the DEPARTMENT written evidence of the foregoing upon the request of the DEPARTMENT. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the DEPARTMENT for its own negligence.
- B. In the event that the AGENCY contracts with a third party to provide the services set forth herein, any contract with such third party shall include the following provisions:
 - (1) AGENCY'S contractor shall at all times during the term of this Agreement keep and maintain in full force and effect, at contractor's sole cost and expense,

Comprehensive General Liability with minimum limits of \$1,000,000.00 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability and Worker's Compensation insurance with minimum limits of \$500,000.00 per Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability and Worker's Compensation policy without restrictive endorsements, as filed by the Insurance Services Office and shall name the DEPARTMENT as an additional insured on such policies.

- (2) AGENCY'S contractor shall furnish AGENCY with Certificates of Insurance of Endorsements evidencing the insurance coverage specified herein prior to the beginning performance of work under this Agreement.
- (3) Coverage is not to cease and is to remain in full force and effect (subject to cancellation notice) until all performance required of AGENCY'S contractor is completed. All policies must be endorsed to provide the DEPARTMENT with at least thirty (30) days' notice of cancellation and/or restriction. If any of the insurance coverage will expire prior to the completion of work, copies of renewal policies shall be furnished at least (30) days prior to the date of expiration.

13. E-VERIFY REQUIREMENTS

The AGENCY shall:

- (a) Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the AGENCY during the term of the contract; and
- (b) Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

14. SUPERSEDED AGREEMENTS

This writing embodies the entire Agreement and understanding between the parties hereto and there are no other Agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.

15. FISCAL TERMS

The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the DEPARTMENT that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT which are for an amount in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and which

have a term for a period of more than one year.

16. DISPUTES

The DEPARTMENT'S District Secretary shall decide all questions, difficulties, and disputes of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution or fulfillment of the service hereunder and the character, quality, amount and value thereof; and his decision upon all claims, questions and disputes shall be final and conclusive upon the parties hereto.

17. ASSIGNMENT

This Agreement may not be assigned or transferred by the AGENCY in whole or part without the consent of the DEPARTMENT.

18. LAWS GOVERNING

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The AGENCY agrees to waive forum and venue and that the DEPARTMENT shall determine the forum and venue in which any dispute under this agreement is decided.

19. NOTICES

Any and all notices given or required under this Agreement shall be in writing and either personally delivered with receipt acknowledgement or sent by certified mail, return receipt requested. All notices shall be sent to the following addresses.

If to the DEPARTMENT:
Florida Dept. of Transportation
3400 West Commercial Blvd.
Ft. Lauderdale, FL 33309-3421
Attn: Kaylee Kildare
District IV Landscape Manager

If to the AGENCY:
Town of Lake Park
535 Park Avenue
Lake Park, FL 33403
Attn: Ms. Nadia DiTommaso
Community Development Director

20. LIST OF EXHIBITS

Exhibit A: Project Location and Maintenance Boundaries
Exhibit B: Roadway Improvement Plans
Exhibit C: Approximate Cost for Landscape Improvements
Exhibit D: Patterned Pavement Maintenance
Exhibit E: Resolution

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

TOWN of LAKE PARK

By: _____
Chairperson / Mayor / Manager

Date: _____

Attest: _____
City Clerk

(SEAL)

Legal Approval: _____

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

By: _____
Transportation Development Director

Date: _____

Attest: _____
Executive Secretary

(SEAL)

Legal Review: _____
Office of the District General Counsel

SECTION: 93020000 / 9304000
PERMIT: 438386-2-52-01
COUNTY: Palm Beach
STATE RD: 5

EXHIBIT A

PROJECT LOCATION AND MAINTENANCE BOUNDARIES

I. ROADWAY PROJECT LOCATION:

State Road 5 (US-1) from 59th Street (M.P. 12.729) to SR-850 (Northlake Blvd) (M.P. 14.558)

II. LIMITS OF MAINTENANCE FOR LANDSCAPE IMPROVEMENTS:

Landscape improvements within the limits of State Road 5 (US-1)

Roadway ID 93020000

State Road 5 (US-1) from Silver Beach Road (M.P. 14.167) to Park Avenue (M.P. 14.588)

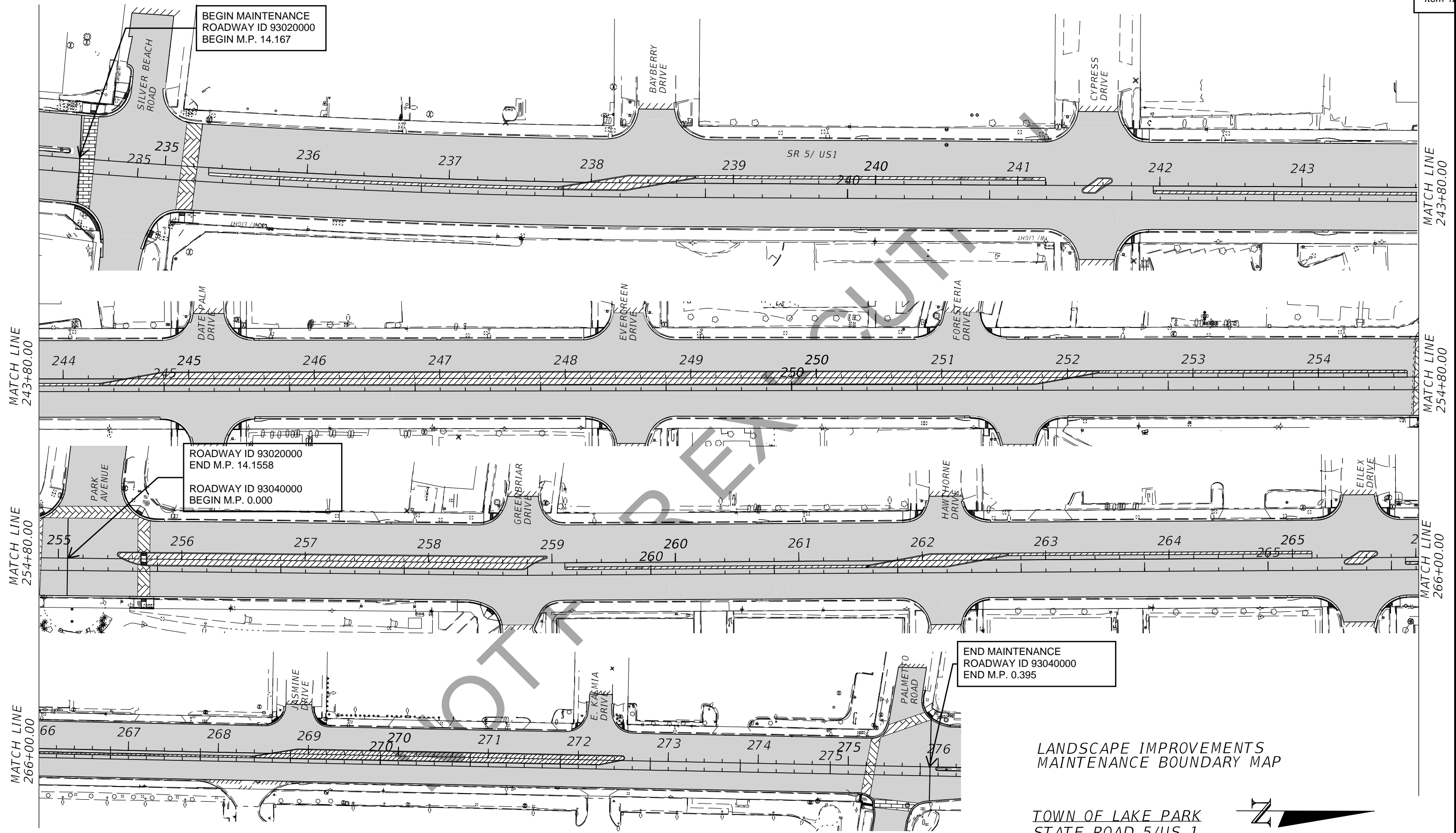
and

Roadway ID 93040000

State Road 5 (US-1) from Park Avenue (M.P. 0.00) to Palmetto Drive (M.P. 0.395)

III. LANDSCAPE MAINTENANCE BOUNDARY MAP:

See Attached



LIMITS OF MAINTENANCE BY TOWN OF LAKE PARK:

- | | | | | | |
|---|--------------------------|---|-------------------------------------|---|-----------------|
|  | PROPOSED STAMPED ASPHALT |  | EXISTING STAMPED CONCRETE TO REMAIN |  | PROPOSED MEDIAN |
|---|--------------------------|---|-------------------------------------|---|-----------------|

**LANDSCAPE IMPROVEMENTS
MAINTENANCE BOUNDARY MAP**

TOWN OF LAKE PARK
STATE ROAD 5/US 1



SECTION: 93020000 / 9304000
PERMIT: 438386-2-52-01
COUNTY: Palm Beach
STATE RD: 5

EXHIBIT B

ROADWAY IMPROVEMENT PLANS

The DEPARTMENT agrees to install the improvements in accordance with the roadway plans and specifications attached hereto and incorporated herein.

Please see attached plans prepared by: Jose Luis Santiago, P.E.
EXP U.S. Service Inc.

Date: March 15, 2024

Plan Sheets: 1-2, 12-13, 33-40, 47

CONTRACT PLANS COMPONENTS

ROADWAY
SIGNING AND PAVEMENT MARKING
SIGNALIZATION
LIGHTING
STRUCTURES

INDEX OF ROADWAY PLANS

SHEET NO.	SHEET DESCRIPTION
1	KEY SHEET
2	SIGNATURE SHEET
3 - 8	TYPICAL SECTIONS
9 - 11	PROJECT CONTROL
12 - 13	GENERAL NOTES
14 - 43	ROADWAY PLAN SHEET
44 - 46	TRAFFIC MONITORING SITE
47	SPECIAL DETAILS
48 - 55	DRAINAGE STRUCTURES
133 - 140	TEMPORARY TRAFFIC CONTROL PLANS
TD-1 - TD-4	TREE DISPOSITION CHART
TD-5 - TD-32	TREE DISPOSITION
UTV-1*	VERIFIED UTILITY LOCATE

* These sheets are included in the index of Roadway Plans only to indicate that they are part of the Roadway Plans. These sheets are contained in a separate digitally signed and sealed documents.

DEVELOPMENTAL STANDARD PLANS (DSPs):
D-528001 BIKE LANE RAMPS

GOVERNING STANDARD PLANS:
Florida Department of Transportation, FY2023-24 Standard Plans for Road and Bridge Construction and applicable Interim Revisions (IRs).

Standard Plans for Road Construction and associated IRs are available at the following website: <http://www.fdot.gov/design/standardplans>

Standard Plans for Bridge Construction are included in the Structures Plans Component

GOVERNING STANDARD SPECIFICATIONS:
Florida Department of Transportation, FY 2023-24 Standard Specifications for Road and Bridge Construction at the following website: <http://www.fdot.gov/programmanagement/Implemented/SpecBooks>

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

ROADWAY PLANS

FINANCIAL PROJECT ID 438386-2-52-01, 438386-2-52-02, 438386-2-52-03, 438386-2-52-04, 438386-2-52-05
(FEDERAL FUNDS)
PALM BEACH COUNTY (93020500, 93020000, 93040000)
STATE ROAD NO. 5 (US-1)
ADD BIKE LANES AND RESURFACE
FROM 59TH STREET TO SR-850/NORTHLAKE BOULEVARD

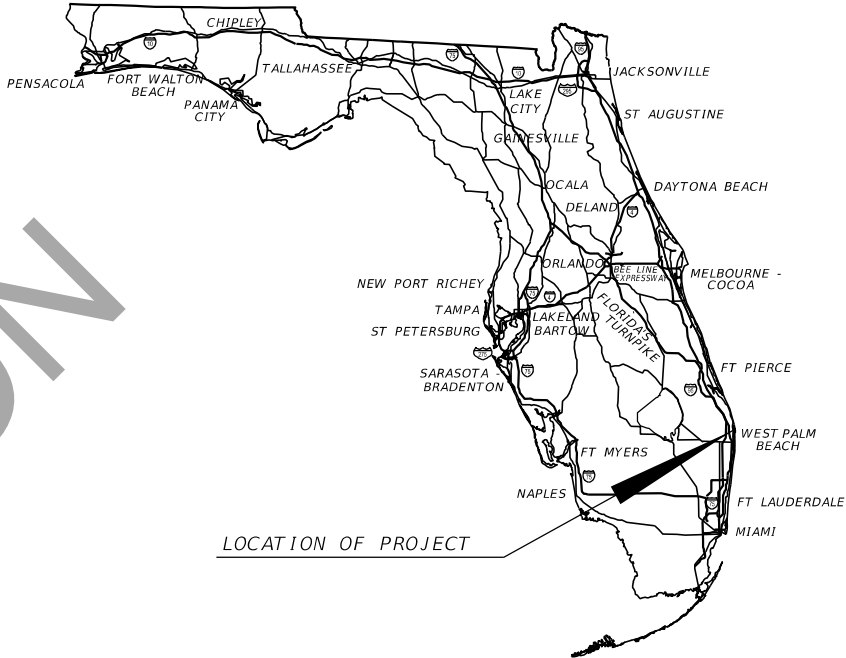
PROJECT LOCATION URL: <https://tinyurl.com/bdeuudb2>

PROJECT LIMITS: 93020500 BEGIN MP 0.001 - END MP 0.590
93020000 BEGIN MP 12.729 - END MP 14.558
93040000 BEGIN MP 0.000 - END MP 0.624

EXCEPTIONS: NONE

BRIDGE LIMITS: 93020500 BR# 930470 MP 0.143 - END MP 0.503

RAILROAD CROSSING: 93020500 PORT OF PALM BEACH TRACKS MP 0.277



LOCATION OF PROJECT

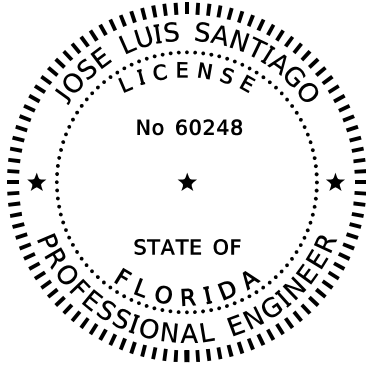
ROADWAY PLANS
ENGINEER OF RECORD:

JOSE LUIS SANTIAGO, P.E.
P.E. LICENSE NUMBER 60248
EXP U.S. SERVICES INC.
201 ALHAMBRA CIRCLE SUITE 800
CORAL GABLES, FL 33134
(786) 801 6360
CONTRACT NO.: T4697
VENDOR NO.: F460523964-001

FDOT PROJECT MANAGER:
DAMARIS WILLIAMS, P.E.

CONSTRUCTION CONTRACT NO.	FISCAL YEAR	SHEET NO.
T4697	25	1

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

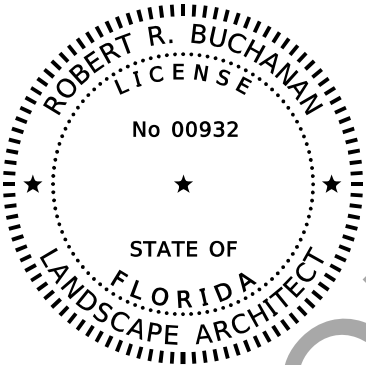


THIS ITEM HAS BEEN DIGITALLY
SIGNED AND SEALED BY:

ON THE DATE ADJACENT TO THE SEAL
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NOT CONSIDERED SIGNED AND SEALED.
THE SIGNATURE MUST BE VERIFIED
ON ANY ELECTRONIC COPIES.
EXP U.S. SERVICES, INC.
201 ALHAMBRA CIRCLE, SUITE 800
CORAL GABLES, FLORIDA 33134
JOSE L. SANTIAGO, P.E. NO. 60248

THE ABOVE NAMED PROFESSIONAL ENGINEER SHALL BE RESPONSIBLE FOR THE
FOLLOWING SHEETS IN ACCORDANCE WITH RULE 61G15-23.004, F.A.C.

<u>SHEET NO.</u>	<u>SHEET DESCRIPTION</u>
1	KEY SHEET
2	SIGNATURE SHEET
3 - 8	TYPICAL SECTIONS
9 - 11	PROJECT CONTROL
12 - 13	GENERAL NOTES
14 - 43	ROADWAY PLANS
47	SPECIAL DETAILS
133 - 140	TEMPORARY TRAFFIC CONTROL PLANS

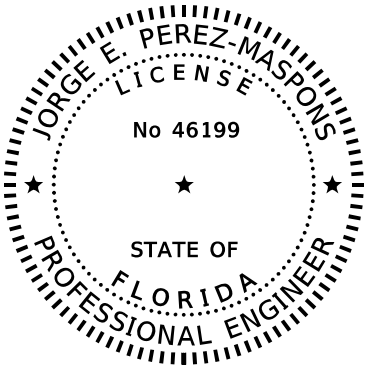


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ON THE DATE ADJACENT TO THE SEAL
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NOT CONSIDERED SIGNED AND SEALED.
THE SIGNATURE MUST BE VERIFIED
ON ANY ELECTRONIC COPIES.
METRO CONSULTING GROUP, LLC
341 N. MAITLAND AVENUE, SUITE 220
MAITLAND, FL 32751
ROBERT R. BUCHANAN, P.E. NO. 00932

THE ABOVE NAMED LANDSCAPE ARCHITECT SHALL BE RESPONSIBLE FOR THE
FOLLOWING SHEETS IN ACCORDANCE WITH RULE 61G10-11.011, F.A.C.

<u>SHEET NO.</u>	<u>SHEET DESCRIPTION</u>
2	SIGNATURE SHEET
TD-1 - TD-4	TREE DISPOSITION CHART
TD-5 - TD-32	TREE DISPOSITION

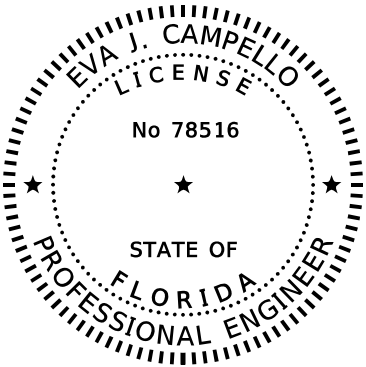


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SIGNED AND SEALED BY:

ON THE DATE ADJACENT TO THE SEAL
PRINTED COPIES OF THIS DOCUMENT ARE
NOT CONSIDERED SIGNED AND SEALED.
THE SIGNATURE MUST BE VERIFIED
ON ANY ELECTRONIC COPIES.
PE CONSULTING ENGINEERING, INC.
14810 SW 97 AVE,
MIAMI, FL 33176
JORGE E. PEREZ-MASPONS, P.E. NO. 46199

THE ABOVE NAMED PROFESSIONAL ENGINEER SHALL BE RESPONSIBLE FOR THE
FOLLOWING SHEETS IN ACCORDANCE WITH RULE 61G15-23.004, F.A.C.

<u>SHEET NO.</u>	<u>SHEET DESCRIPTION</u>
2	SIGNATURE SHEET
48 - 55	DRAINAGE STRUCTURES



THIS ITEM HAS BEEN DIGITALLY
SIGNED AND SEALED BY:

ON THE DATE ADJACENT TO THE SEAL
PRINTED COPIES OF THIS DOCUMENT ARE
NOT CONSIDERED SIGNED AND SEALED.
THE SIGNATURE MUST BE VERIFIED
ON ANY ELECTRONIC COPIES.
CTS ENGINEERING, LLC
3230 W. COMMERCIAL BLVD., SUITE 220
FORT LAUDERDALE, FL 33309
EVA J. CAMPELLO, P.E. NO. 78516

THE ABOVE NAMED PROFESSIONAL ENGINEER SHALL BE RESPONSIBLE FOR THE
FOLLOWING SHEETS IN ACCORDANCE WITH RULE 61G15-23.004, F.A.C.

<u>SHEET NO.</u>	<u>SHEET DESCRIPTION</u>
2	SIGNATURE SHEET
44 - 46	TRAFFIC MONITORING SITE

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REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
SR 5	PALM BEACH	438386-2-52-01

SIGNATURE SHEET	

SHEET NO.
2

GENERAL NOTES

1. ALL SURVEY INFORMATION WAS OBTAINED FROM A LICENSED FLORIDA PROFESSIONAL SURVEYOR AND MAPPER AND UTILIZED AS SUPPORTING DATA IN THE PRODUCTION OF DESIGN PLANS AND FOR CONSTRUCTION ON SUBJECT PROJECT. THE PROFESSIONAL SURVEYOR AND MAPPER OF RECORD IS:

MANUEL G. VERA, P.S.M.

P.S.M. NO: 5291

M.G. VERA & ASSOCIATES, INC.

13960 SW 47TH STREET

MIAMI, FL 33175-3616

CERTIFICATE OF AUTHORIZATION: LB2439

2. THE LOCATION(S) OF THE UTILITIES SHOWN IN THE PLANS (INCLUDING THOSE DESIGNATED Vv, Vh AND Vvh) ARE BASED ON LIMITED INVESTIGATION TECHNIQUES AND SHOULD BE CONSIDERED APPROXIMATE ONLY. THE VERIFIED LOCATIONS/ELEVATIONS APPLY ONLY AT THE POINTS SHOWN. INTERPOLATIONS BETWEEN THESE POINTS HAVE NOT BEEN VERIFIED.

3. UTILITY/AGENCY OWNERS:	COMPANY	CONTACT	TELEPHONE NUMBERS
	AT&T DISTRUBUTION	GARTH BEDWARD	561-540-9263
	AVIATION COORDINATOR	LAURIE MCSERMOTT	954-777-4497
	BREEZELINE	TROY GAETA	954-213-3367
	CITY OF RIVIERA BEACH	JOHN ARMSTRONG	561-515-6495
	CITY OF WEST PALM BEACH	JOE MINGLE	561-670-7225
	CITY OF WEST PALM BEACH PUBLIC UTILITIES	TRACY WARD	561-494-1040 X1120
	COMCAST- PBG	JUSTIN CASSELL	786-427-4049
	CROWN CASTLE NG	FIBERDIG TEAM	888-632-0931 X2
	FLORIDA PUBLIC UTILITES	IVAN GIBBS	561-398-2338
	FPL- PALM BEACH	RONA SOLOMON	386-586-6403
	FPL- MARTIN FUEL SUPPLY PIPELINES	RON HOLMES	863-221-6506
	FPL- TRANSMISSION	THOMAS COLUCCI	315-219-7458
	FREIGHT COORDINATION	AUTUMN YOUNG	954-777-4279
	HOTWIRE COMMUNICATIONS	WALTER DAVILA	954-699-0900
	LUMEN	NETWORK RELATIONS	877-366-8344 X3
	MCI	MCIU01 INVESTIGATIONS	800-624-9675 X2
	PALM BEACH COUNTY	MELLISA ACKERT	561-684-4101
	PALM BEACH INFORMATION SYSTEM SERVICES	FEDERICO DUBOIS	561-742-4356
	PALM BEACH COUNTY SCHOOLS	MICHAEL OWENS	561-882-1938
	PALM BEACH COUNTY TRAFFIC OPERATIONS	JOHN LETSCH	561-233-3923
	PALM BEACH TPA	VALERIE NEILSON	561-684-4170
	PALM TRAN BUS SERVICE	ERIN GALLOWAY	561-841-4270
	RAILROAD COORDINATOR	MAURICE BORROWS	954-777-4379
	RAILROAD COORDINATOR	ALEXANDER BARR	954-777-4284
	SEACOAST UTILITY AUTHORITY	LAURA NIEMANN	561-627-2900 X1462
	TMR-30 PL (FLORIDA)	RON HOLMES	713-951-5379
	TOWN OF LAKE PARK	JOHN WYLIE	561-881-3345
	VILLAGE OF NORTH PALM BEACH	PAOLA WEST	561-882-1156
	WINDSTREAM COMMUNICATION	LOCATE DESK	800-289-1901

4. THIS PROJECT IS LOCATED WITHIN 10 NAUTICAL MILES FROM THE AIRPORT.

5. THERE IS A POTENTIAL GROUNDWATER CONTAMINATION ADJACENT TO THE PROJECT CORRIDOR. POTENTIALLY CONTAMINATED AREAS SHALL BE TREATED AS IDENTIFIED AREAS OF CONTAMINATION. IF DEWATERING METHODS ARE EMPLOYED, CONTAMINATION IMPACTS MAY OCCUR AT APPROXIMATELY STA 131+00 TO 132+00.

6. ALL STATIONS ARE BASED ON THE CL UNLESS OTHERWISE STATED.

7. APPLY SIKACRETE-211 SCC PLUS AS SHOWN ON PLAN TO CORRECT ANY SLOPE BREAKS AT CONNECTION OF THE PROPOSED AND EXISTING SIDEWALK. RESULTANT SLOPES NOT TO EXCEED 2%.

REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			GENERAL NOTES	SHEET NO.
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
					SR 5	PALM BEACH	438386-2-52-01		12

JOSE LUIS SANTIAGO, P.E.
LICENSE NUMBER 60248
EXP U.S. SERVICE INC.
201 ALHAMBRA CIR. - SUITE 800
CORAL GABLES, FLORIDA - 33134

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

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8. CONTRACTOR TO COORDINATE WITH CITY OF RIVIERA BEACH FOR BENCHES AT 166+25 RT AND 167+40 RT FOR REMOVAL AND REPLACEMENT IN KIND AFTER CONSTRUCTION IS COMPLETED.
CITY ENGINEER: TERRENCE BAILEY CONTACT: 561-845-4080

UTILTY LEGEND

- A STORM SEWER MH TO BE ADJUSTED BY FDOT
- B CITY OF RIVIERA BEACH WATER VALVE TO BE ADJUSTED BY FDOT
- C CITY OF RIVIERA BEACH WATER MANHOLE TO BE ADJUSTED BY FDOT
- D CITY OF RIVIERA BEACH SANITARY SEWER MH TO BE ADJUSTED BY FDOT
- E CITY OF RIVIERA BEACH WATER METER TO BE ADJUSTED BY FDOT
- F CITY OF WEST PALM BEACH WATER VALVE TO BE ADJUSTED BY FDOT
- G FPL MH TO BE ADJUSTED BY FPL
- H AT&T MH TO BE ADJUSTED BY AT&T
- I CITY OF RIVIERA BEACH WATER METER TO BE RELOCATED BY FDOT
- J CITY OF RIVIERA BEACH WATER VALVE TO BE RELOCATED BY FDOT

- K STORM SEWER MH TO BE RELOCATED BY FDOT
- L TRAFFIC SIGNAL PULLBOX TO BE ADJUSTED BY FDOT
- M STREET LIGHTING PULLBOX TO BE ADJUSTED BY FDOT
- P ELECTRICAL PULLBOX TO BE ADJUSTED BY FDOT
- Q CITY OF WEST PALM BEACH FIRE HYDRANT TO BE RELOCATED BY FDOT
- R CITY OF WEST PALM BEACH WATER MH TO BE ADJUSTED BY FDOT
- T CITY OF WEST PALM BEACH SANITARY MH TO BE ADJUSTED BY FDOT
- U WATER VALVE TO BE ADJUSTED BY SEACOAST UTILITY AUTHORITY
- V WATER METER TO BE ADJUSTED BY SEACOAST UTILITY AUTHORITY
- Y CITY OF RIVIERA BEACH IRRIGATION LINE TO BE CAPPED BY FDOT
- Z CITY OF RIVIERA BEACH DIP TO BE RELOCATED BY FDOT
- AA IRRIGATION CONTROL VALVE TO BE RELOCATED BY FDOT

NOTES ADDED AS PER FPL TRANSMISSION.

1. MAINTAIN CLEARANCES AS REQUIRED BY OSHA, WHEN WORKING IN THE PROXIMITY OF FPL'S HIGH VOLTAGE TRANSMISSION CONDUCTORS & OWNER VOLTAGE DISTRIBUTION CONDUCTIONS.
2. MAINTAIN ACCESS TO ALL FPL FACILITIES AT ALL TIMES DURING CONSUTRUCTION.
3. ALL EXISTING FACILITIES MUST REMAIN ENERGIZED DURING ROAD CONSTRUCTION.

PAY ITEM 590-70-5 IRRIGATION SYSTEM-MODIFY EXISTING SYSTEM:
INCLUDES ALL LABOR, MATERIAL, EQUIPMENT AND INCIDENTALS FOR THE RESTORATION OF THE IMPACTED IRRIGATION ZONES BY MEANS OF OPEN TRENCHING FOR MODIFIED MEDIANS, INCLUDES THE COST FOR RESTORING IMPACTED SYSTEM COMPONENTS AND INSTALLATION INCLUDING BUT NOT LIMITED TO: IRRIGATION HEADS NOZZLES, FITTINGS, PIPES, SLEEVES, BACKFILLING, SITE RESTORATION, DEBRIS REMOVAL, SYSTEM TESTING AND COORDINATION WITH THE CITY OF RIVERA BEACH. THE CONTRACTOR WILL NOT BE RESPONSIBLE FOR THE COST OF ELECTRIC POWER OR (NORMAL USAGE) OF WATER UTILIZED WITH SYSTEM.

INDIVIDUAL IRRIGATION QUANTITITES ARE BASED ON AS-BUILT IRRIGATION PLANS (PFID 229744-3-52-01):

- IRRIGATION PIPE, 3/4" = 3545 LF
- IRRIGATION PIPE, 1" = 900 LF
- IRRIGATION PIPE, 1-1/4" = 80 LF
- IRRIGATION PIPE, 1-1/2 = 470 LF
- IRRIGATION SLEEVE, 1-1/2 = 45 LF
- IRRIGATION SLEEVE, 2" = 430 LF
- IRRIGATION SLEEVE, 3" = 130 LF
- SPRINKLER HEADS = 332 EA
- VALVES = 21 EA

PAY ITEM 0431-1530 PIPE LINER SLIPLINING 30 INCHES:
INCLUDES ANY FLOWABLE FILL AND PIPE CLEANING NEEDED AS INCIDENTAL TO THE WORK.

RAILROAD NOTES.

1. PORT OF PALM BEACH- MAIN POINTS OF CONTACT

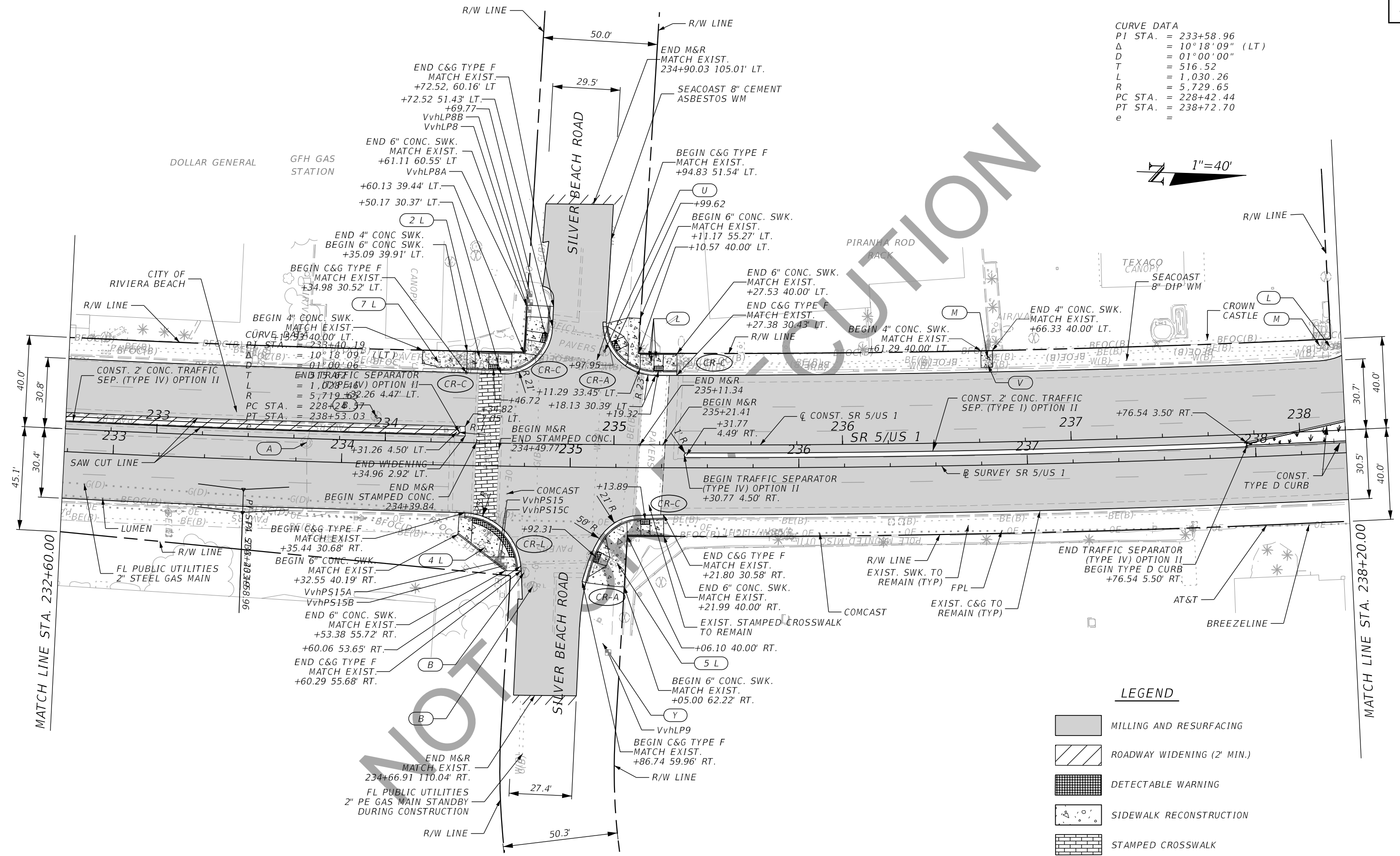
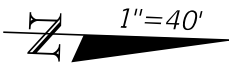
PORT RAIL PHONE (DISPATCH)- ON DUTY ENGINEER- 561-308-9525
ALAN FAWCETT- TRAIN MASTER- 561-346-9119
KEITH LEGGETT- ASSISTANT DIRECTOR OF OPERATIONS- 561-383-4190

2. CONTRACTOR SHALL STOP WORK DURING ANY TRAIN MOVEMENTS WITHIN THE PORT OF PALM BEACH.
3. CONTRACTOR TO EXERCISE CAUTION AROUND EXISTING LIGHTS, CAMERAS AND CONDUITS OWNED BY THE PORT OF PALM BEACH.
4. CONTRACTOR SHALL HAVE TWIC IDENTIFICATION TO BE PROVIDED BY THE DEPARTMENT OF HOMELAND SECURITY. IF THE TWIC IDENTIFICATION IS NOT OBTAINED, AN ESCORT WILL BE REQUIRED WITH A REQUIRED TARIFF.
5. CONTRACTOR IS LIMITED TO NIGHT WORK ONLY FROM 7:00 PM TO 5:00 AM, MONDAY THRU SUNDAY WITHIN THE PORT OF PALM BEACH PROPERTY.
6. CONTRACTOR IS DIRECTED TO COORDINATE DIRECTLY WITH TROPICAL SHIPPING FOR THE REMOVAL OF THEIR EQUIPMENT STORED UNDER THE BRIDGE IN CONFLICT WITH THE PROPOSED WORK PRIOR TO CONSTRUCTION.
TROPICAL SHIPPING- CLAUDE CLEVINGER- 561-215-9122 (EMAIL ADDRESS: CCLEVINGER@TROPICAL.COM)
7. THE PORT OF PALM BEACH SHALL PROVIDE FLAGS AND SIGNAGE DURING CONSTRUCTION AND CONTROL ALL TRAIN MOVEMENTS WITHIN THE PORT OF PALM BEACH PROPERTY.

REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			GENERAL NOTES
DATE	DESCRIPTION	DATE	DESCRIPTION	JOSE LUIS SANTIAGO, P.E. LICENSE NUMBER 60248 EXP U.S. SERVICE INC. 201 ALHAMBRA CIR. - SUITE 800 CORAL GABLES, FLORIDA - 33134	ROAD NO.	COUNTY	FINANCIAL PROJECT ID	
					SR 5	PALM BEACH	438386-2-52-01	

JOSE LUIS SANTIAGO, P.E.
LICENSE NUMBER 60248
EXP U.S. SERVICE INC.
201 ALHAMBRA CIR. - SUITE 800
CORAL GABLES, FLORIDA - 33134

CURVE DATA
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Δ = 10°18'09" (LT)
D = 01°00'00"
T = 516.52
L = 1,030.26
R = 5,729.65
PC STA. = 228+42.44
PT STA. = 238+72.70
e =



LEGEND

- MILLING AND RESURFACING
- ROADWAY WIDENING (2' MIN.)
- DETECTABLE WARNING
- SIDEWALK RECONSTRUCTION
- STAMPED CROSSWALK

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REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			SHEET NO.
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID	
					SR 5	PALM BEACH	438386-2-52-01	

JOSE LUIS SANTIAGO, P.E.
LICENSE NUMBER 60248
EXP U.S. SERVICE INC.
201 ALHAMBRA CIR. - SUITE 800
CORAL GABLES, FLORIDA - 33134

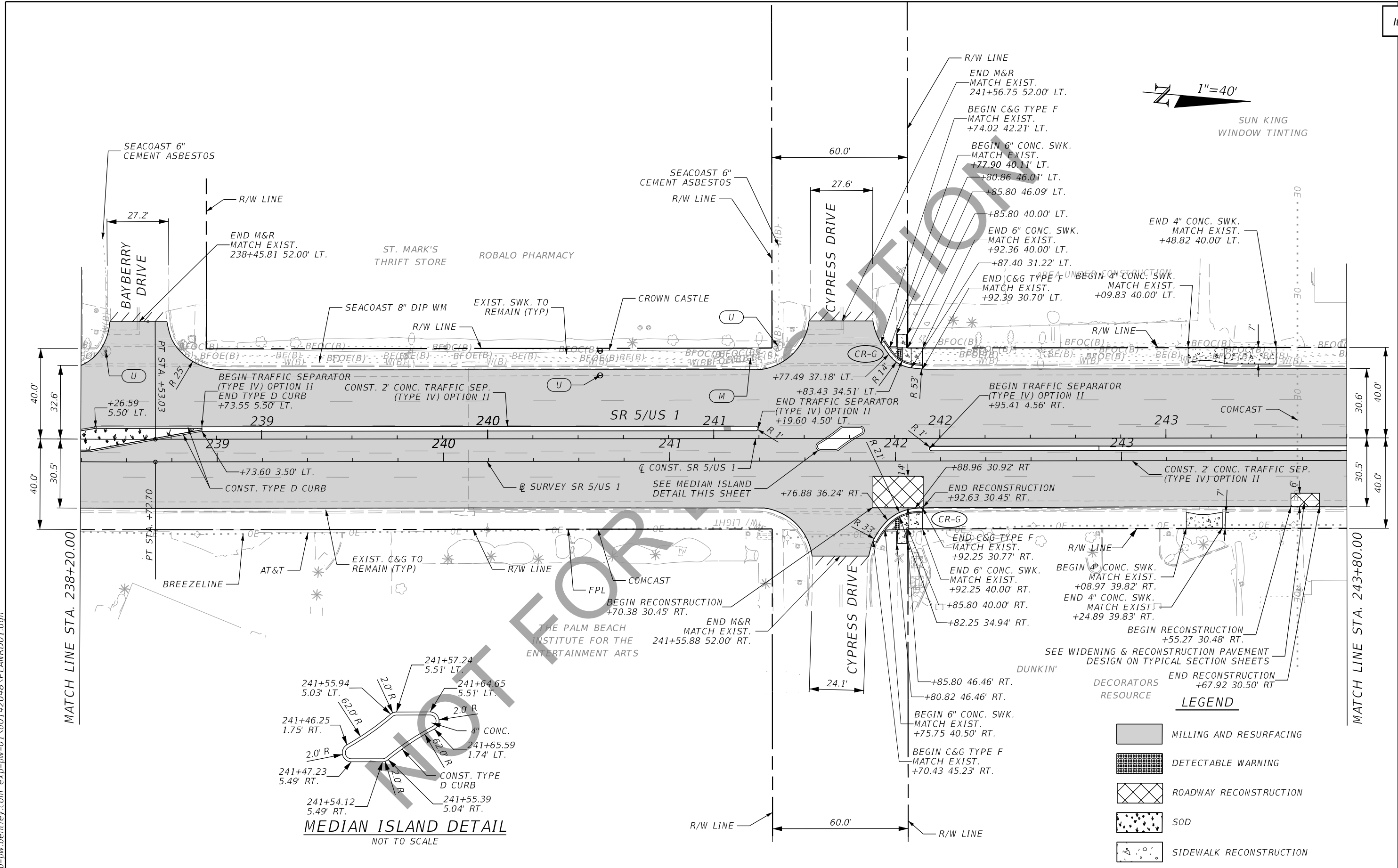
ROADWAY PLAN SHEET

33

517

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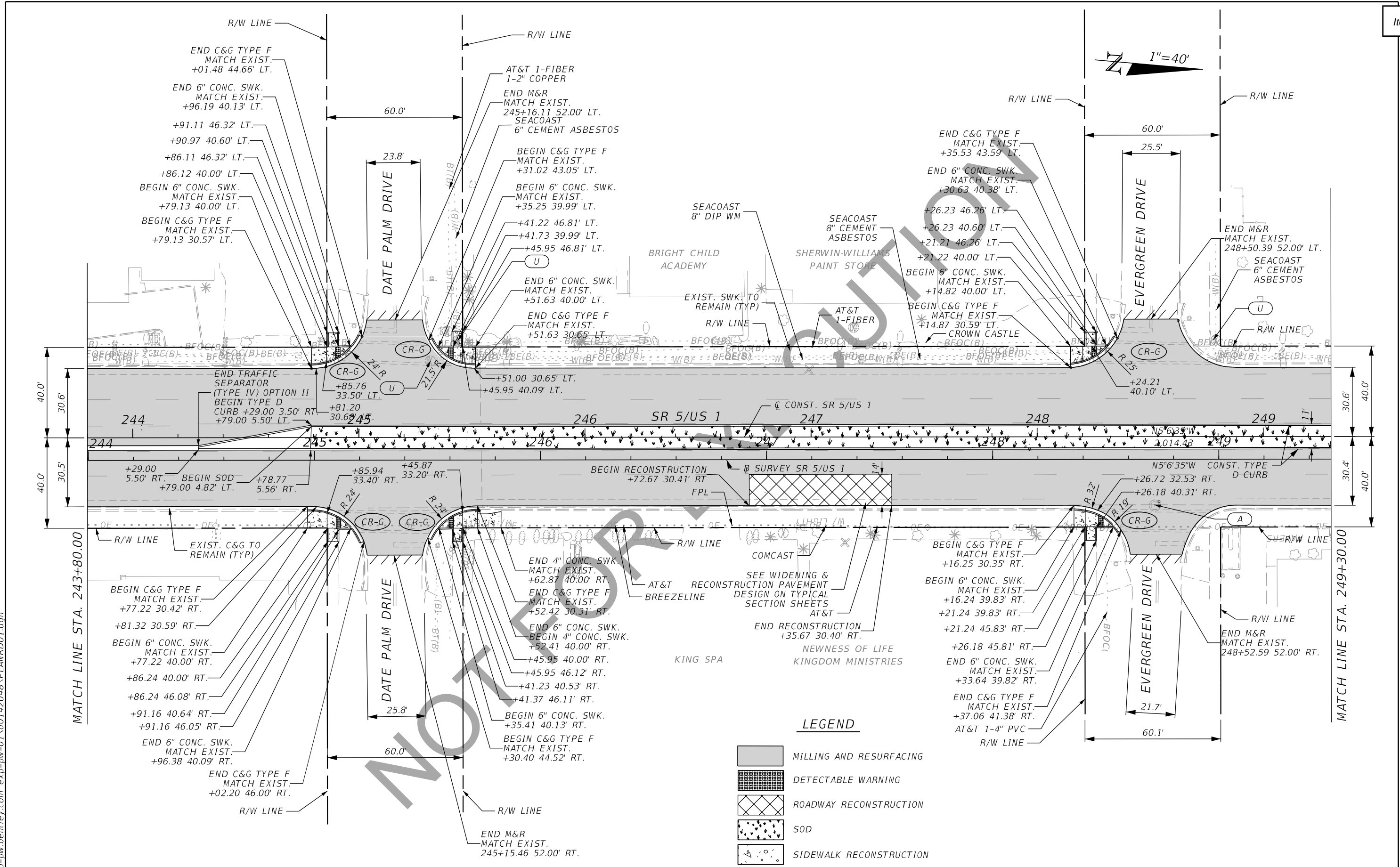
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REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			ROADWAY PLAN SHEET	SHEET NO. 34
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
					SR 5	PALM BEACH	438386-2-52-01		

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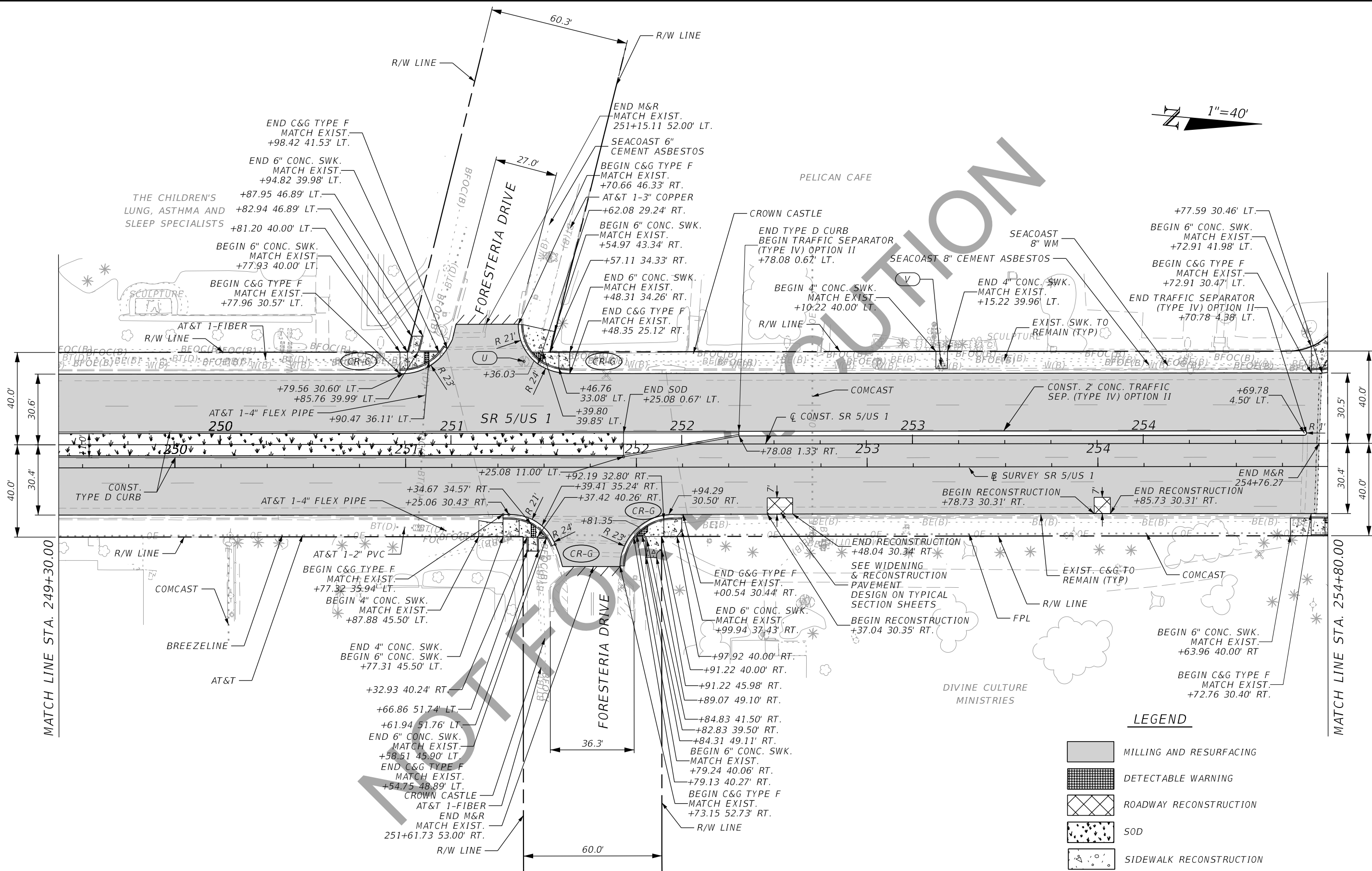
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REVISIONS				ENGINEER OF RECORD JOSE LUIS SANTIAGO, P.E. LICENSE NUMBER 60248 EXP U.S. SERVICE INC. 201 ALHAMBRA CIR. - SUITE 800 CORAL GABLES, FLORIDA - 33134	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			ROADWAY PLAN SHEET	SHEET NO.
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		35

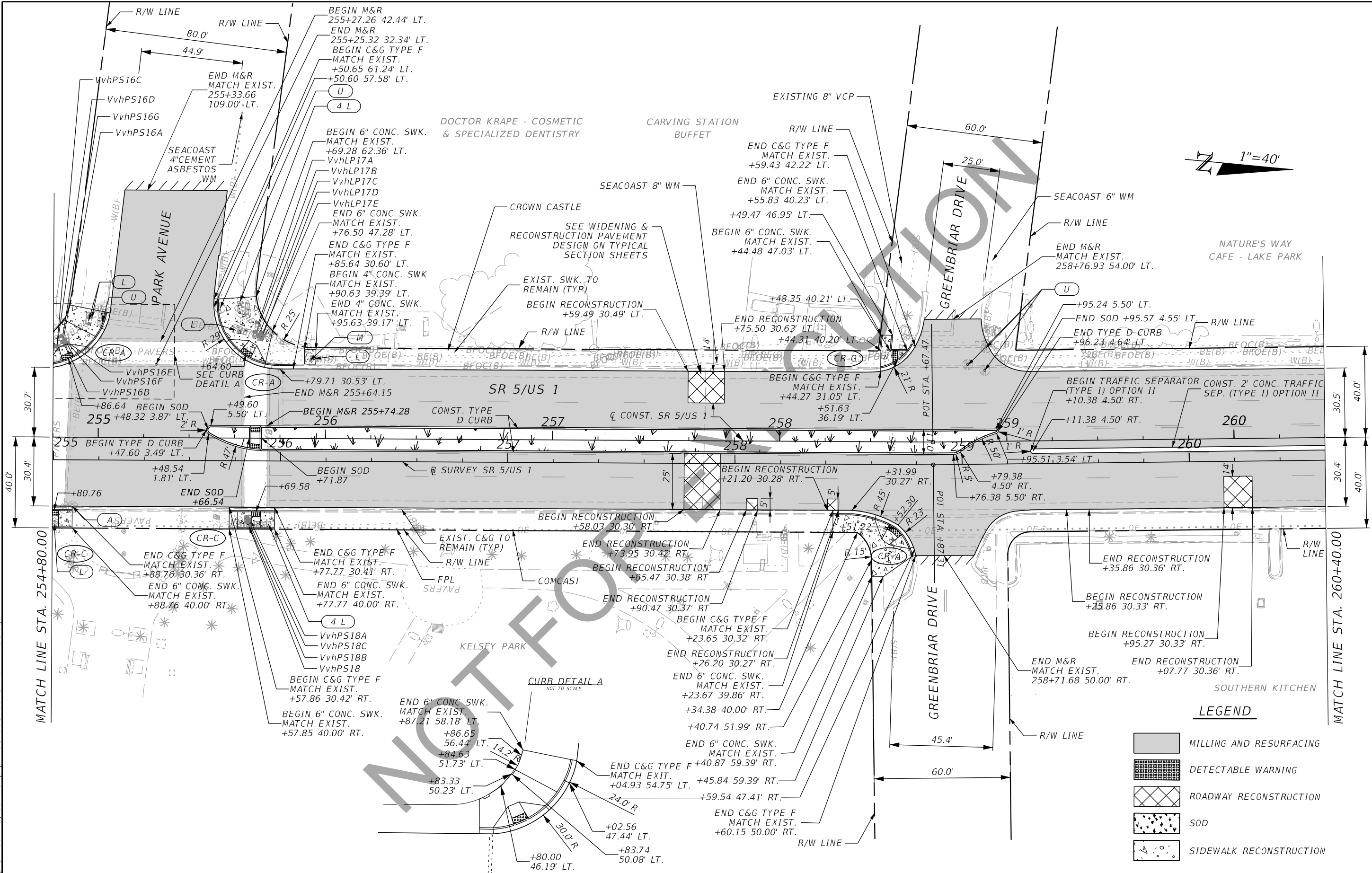
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REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			ROADWAY PLAN SHEET	SHEET NO. 36
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
					SR 5	PALM BEACH	438386-2-52-01		

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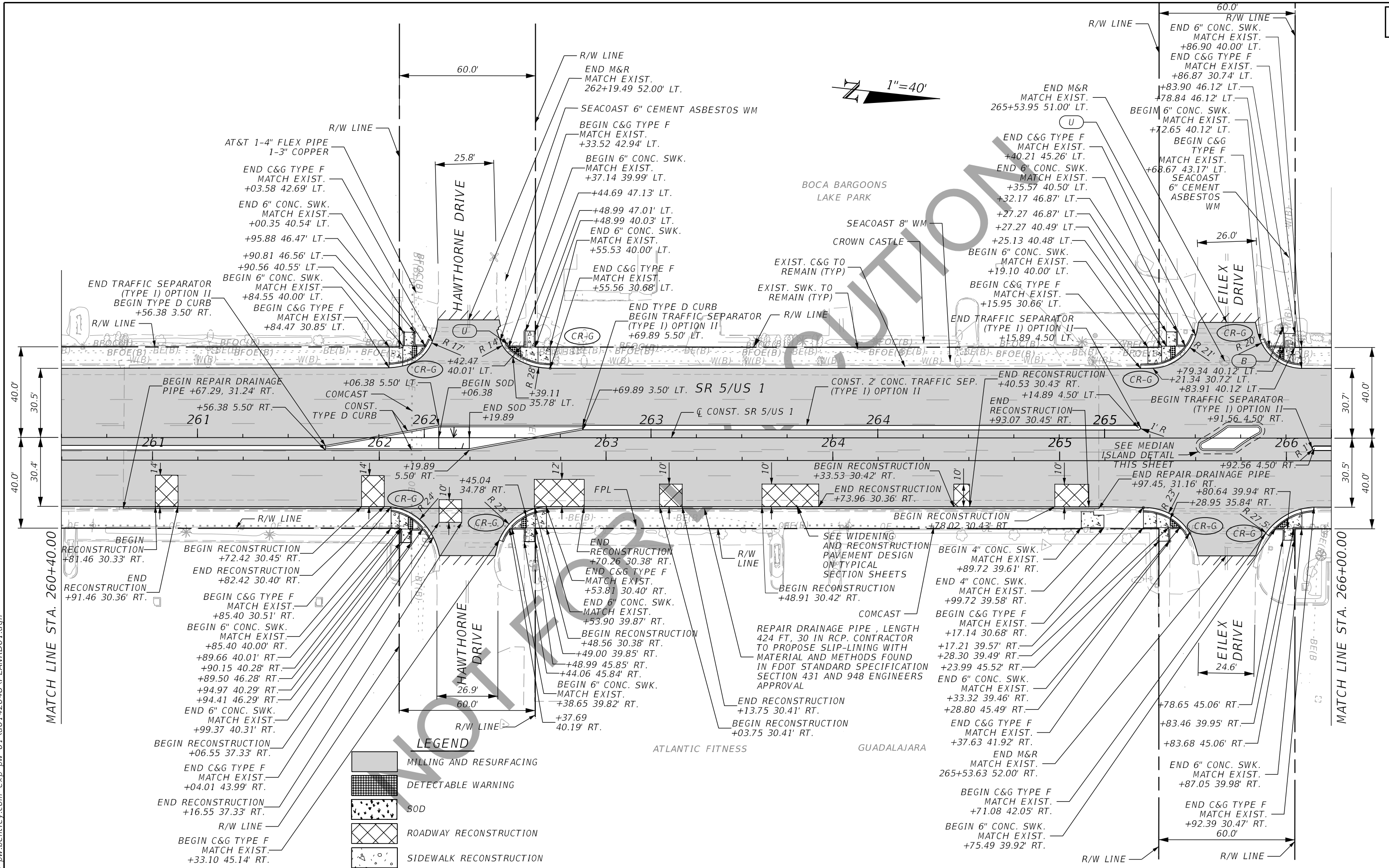


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REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			ROADWAY PLAN SHEET	SHEET NO. 37
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
					SR 5	PALM BEACH	438386-2-52-01		

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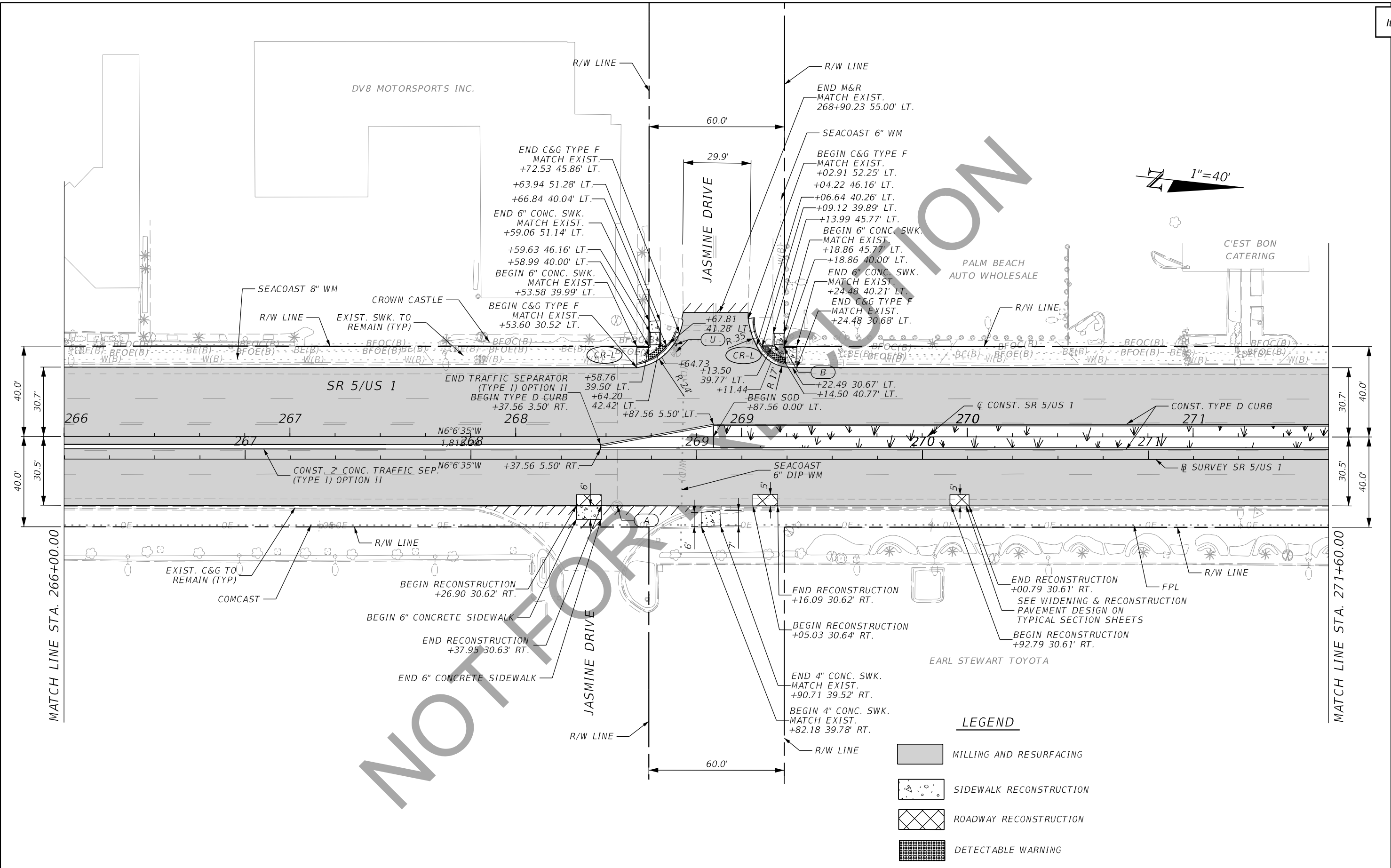


REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			SHEET NO.
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID	
					SR 5	PALM BEACH	438386-2-52-01	

ROADWAY PLAN SHEET

38

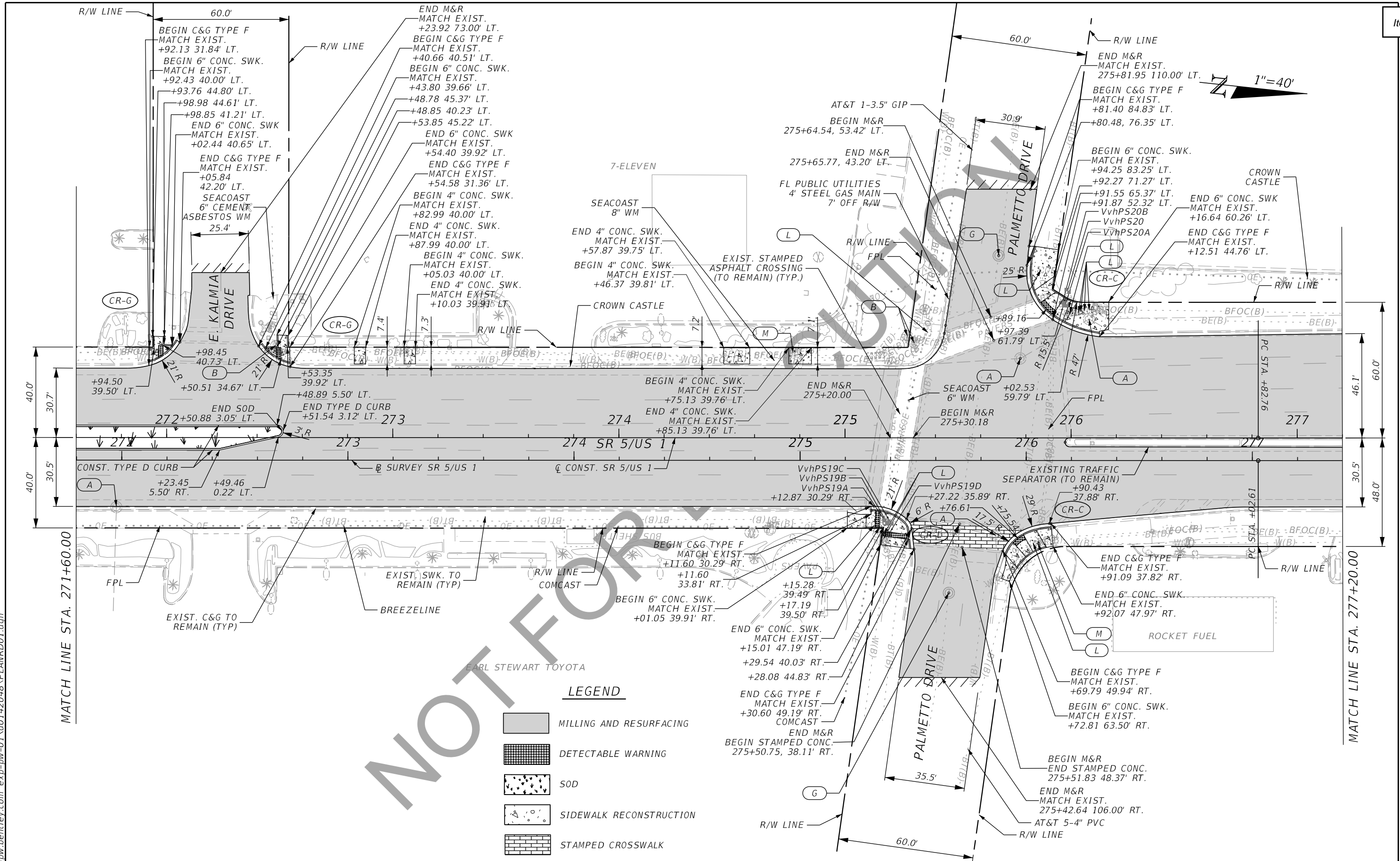
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REVISIONS				ENGINEER OF RECORD		STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			ROADWAY PLAN SHEET	SHEET NO. 39
DATE	DESCRIPTION	DATE	DESCRIPTION	JOSE LUIS SANTIAGO, P.E. LICENSE NUMBER 60248 EXP U.S. SERVICE INC. 201 ALHAMBRA CIR. - SUITE 800 CORAL GABLES, FLORIDA - 33134		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
						SR 5	PALM BEACH	438386-2-52-01		

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

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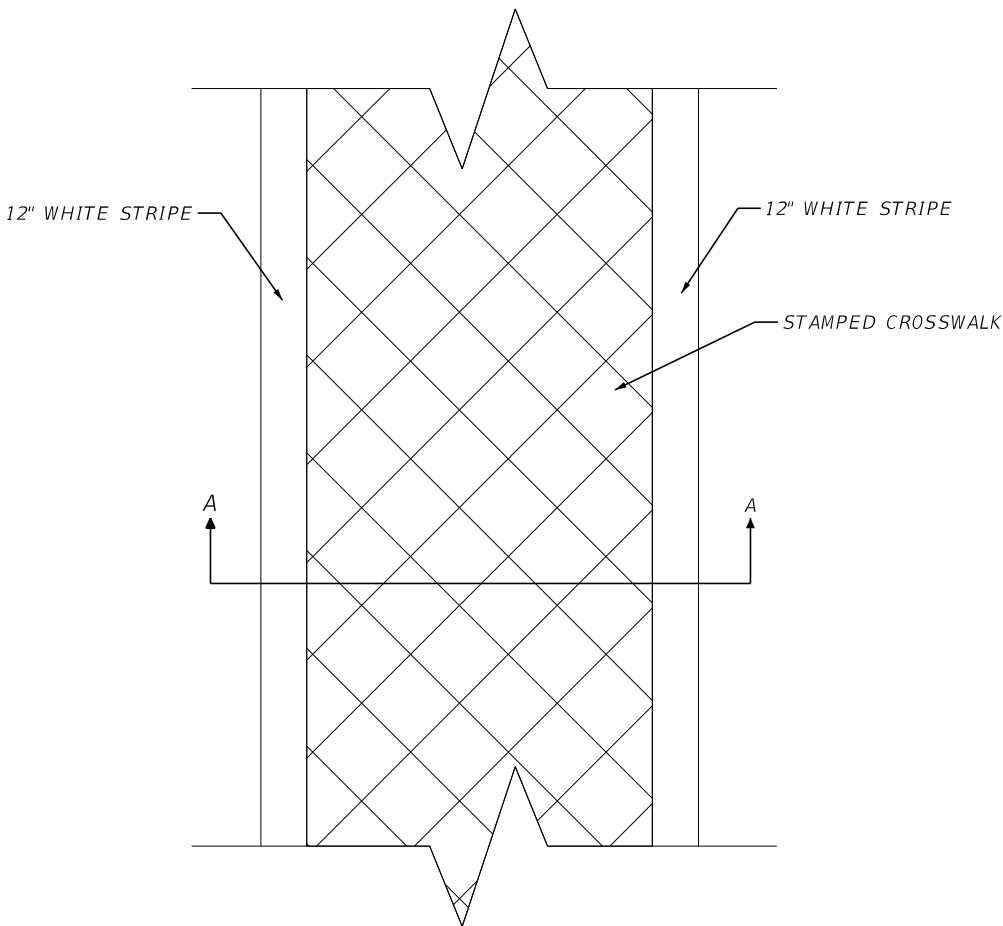
LEGEND

- MILLING AND RESURFACING
- DETECTABLE WARNING
- SOD
- SIDEWALK RECONSTRUCTION
- STAMPED CROSSWALK

REVISIONS				ENGINEER OF RECORD	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			ROADWAY PLAN SHEET	SHEET NO. 40
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
					SR 5	PALM BEACH	438386-2-52-01		

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

STAMPED CROSSWALKS DETAIL



NOTES:

REFER TO ROADWAY AND SIGNING & MARKING PLANS FOR CROSSWALK LOCATIONS AND LAYOUT.

PATTERN TOOL SHALL BE CLOSED TOP TO IMPRINT SURFACE TEXTURE AND TO CONTROL JOINT DEPTH. JOINT DEPTH NOT TO EXCEED 1/2".

XYLENE BASED, ACRYLIC COPOLYMER SEALER WITH 20% SOLIDS TO BE USED AS FINAL TREATMENT. PATTERNED CONCRETE SHALL BE SEALED WITH ONE COAT OF PATTERNED CONCRETE SEAL. PRODUCT SHALL BE APPLIED IN ACCORDANCE WITH MANUFACTURER'S SPECIFICATIONS.

PRIOR TO INSTALLATION OF THE PATTERNED ASPHALT THE CONTRACTOR SHALL PROVIDE A 8' x 8' MOCK UP AT THE JOBSITE FOR EACH PATTERN TO BE USED. ENGINEER SHALL APPROVE COLOR, TEXTURE, AND WORKMANSHIP OF THE MOCK-UP THEN RETAIN AS A STANDARD FOR JUDGING COMPLETED WORK.

THE COLORING SHALL BE CONSISTENT THROUGHOUT.

THE SURFACE VARIATIONS SHALL NOT BE MORE THAN 1/4" UNDER A 10 FOOT STRAIGHT EDGE, NOR MORE THEN 1/8th INCH ON A 5 FOOT TRANSVERSE SECTION. THE EDGE OF THE CONCRETE SHALL BE CAREFULLY FINISHED WITH AN EDGING TOOL HAVING A RADIUS OF 5/8INCH.

COLOR AND PATTERN ARE REPRESENTATIVE OF THE CHOSEN ALTERNATIVE APPROVED BY THE TOWN OR CITY. SIMILAR PATTERNS AND COLORS MAY BE CHOSEN PENDING FINAL APPROVAL BY THE TOWN OR THE CITY PRIOR TO CONSTRUCTION OF MOCK-UP.

TOOLS SHALL BE PROMPTLY TAMPED INTO THE SURFACE TO ACHIEVE THE DESIRED TEXTURE.

TRANSVERSE JOINTS SHALL BE CUT AT ALL EDGE AND LANE LINES EXCEPT WHEN SUCH A JOINT WILL CREATE A SLAB SECTION LESS THEN 10'. THE JOINTS SHALL BE 1/4 THE DEPTH OF THE SLAB AND SEALED.

TOWN OF LAKE PARK
ASPHALT CROSSWALKS

INTERSECTIONS:

SILVER BEACH RD
PALMETTO RD

PATTERN:

LIMESTONE TEXTURED
RUNNING BOND

COLOR:

TOFFEE

CITY OF RIVIERA BEACH
ASPHALT CROSSWALKS

INTERSECTIONS:

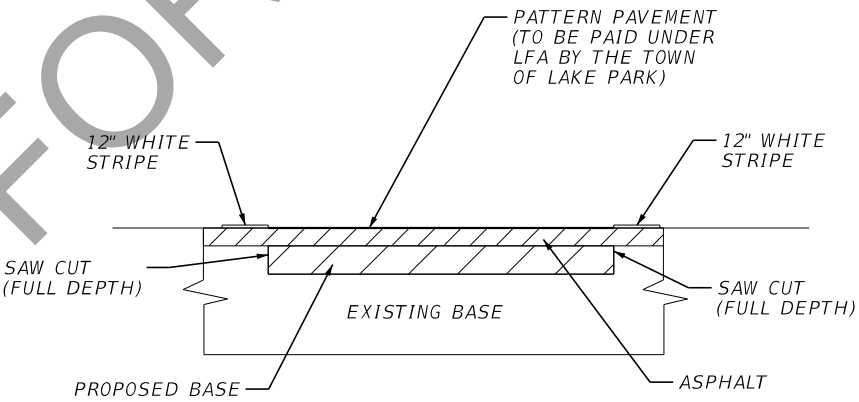
W 13TH ST
W 22ND ST
BLUE HERON BLVD

PATTERN:

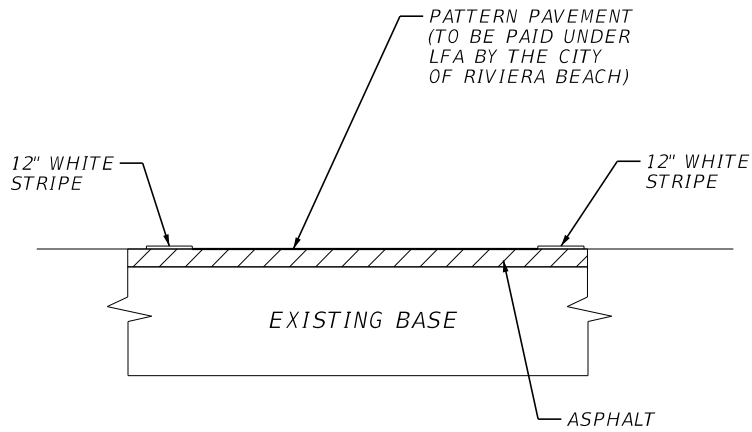
DIAGONAL HERRINGBONE

COLOR:

RUBY RED



SECTION A - A



SECTION A - A

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REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

ENGINEER OF RECORD
JOSE LUIS SANTIAGO, P.E. LICENSE NUMBER 60248 EXP U.S. SERVICE INC. 201 ALHAMBRA CIR. - SUITE 800 CORAL GABLES, FLORIDA - 33134

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
SR 5	PALM BEACH	438386-2-52-01

SPECIAL DETAILS	

SHEET NO.
47

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

SECTION: 93020000 / 9304000
 PERMIT: 438386-2-52-01
 COUNTY: Palm Beach
 STATE RD: 5

EXHIBIT C

APPROXIMATE COST FOR LANDSCAPE IMPROVEMENTS

This Exhibit forms an integral part of the MAINTENANCE MEMORANDUM OF AGREEMENT between the Florida Department of Transportation and the AGENCY.

ITEM #	ITEM	QNTY	UNIT	UNIT PRICE	COST	COMMENT
523-3	Patterned Pavement, Vehicular Areas	135	SY	\$ 191.40	\$25,839.00	Crosswalks

*Amounts are approximate and include contingencies

ANTICIPATED TERMS OF A SEPARATE AGREEMENT

I.	FDOT PARTICIPATION:	\$ 0.00
II.	AGENCY PARTICIPATION: (Via Separate Agreement)	\$25,839.00
III.	APPROXIMATE LANDSCAPE IMPROVEMENT COST:	\$25,839.00

SECTION: 93020000 / 9304000
 PERMIT: 438386-2-52-01
 COUNTY: Palm Beach
 STATE RD: 5

EXHIBIT D

PATTERNED PAVEMENT MAINTENANCE

This Exhibit forms an integral part of the MAINTENANCE MEMORANDUM OF AGREEMENT between the Florida Department of Transportation and the AGENCY.

"Maintenance" of all patterned pavement crosswalks in these Agreements shall be defined, at a minimum, to include its frictional characteristics and integrity as follows:

1. Within 60 days of project acceptance by the Department, all lanes of each patterned crosswalk shall be evaluated for surface friction. The friction test shall be conducted in accordance with **FM 5-592 (Florida Test Method for Friction Measuring Protocol for Patterned Pavements)* using either a Locked Wheel Friction Tester or Dynamic Friction Tester. **All costs for friction testing are the responsibility of the AGENCY.**
2. The initial friction resistance shall be at least **35** obtained at 40 mph with a ribbed tire test (FN40R) or equivalent (see FM 5-592). Failure to achieve this minimum resistance shall require all deficient crosswalk areas to be removed to their full extent (lane-by-lane) and replaced with the same product installed initially. The AGENCY is responsible for all costs associated with the removal and replacement of the crosswalk. If the Department determines that more than 50% of the lanes in the intersection require replacement, the entire intersection installation may be reconstructed with a different product on the Approved Products List (APL) or replaced with conventional pavement.
3. Approximately **one year** after project acceptance and **every two years** thereafter and for the life of the adjacent pavement, only the outside traffic lane areas of each patterned crosswalk shall be tested for friction resistance in accordance with **ASTM E274** or **ASTM E1911**. Friction resistance shall, at a minimum, have a FN40R value of **30** (or equivalent).
4. The results of all friction tests shall be sent to the **Operations Engineer** at the local FDOT District Four Operations Center (Palm Beach Operations, 7900 Forest Hill Blvd., West Palm Beach, FL 33413, (561)432-4966) with a cover letter either certifying that the crosswalks comply with the minimum friction criteria, or stating what remedial action will be taken to restore the friction.
5. Failure to achieve the minimum resistance shall require all lanes of the crosswalk to be friction tested to determine the extent of the deficiency. All deficient areas shall be removed to their full extent (lane-by-lane) and replaced with the same product installed initially. If the Department determines that more than 50% of the lanes in the

intersection require replacement, the entire intersection installation may be reconstructed with a different product on the QPL or replaced with conventional pavement.

6. When remedial action is required in accordance with the above requirements, the local agency shall complete all necessary repairs at its own expense within 90 days of the date when the deficiency was identified. No more than two full depth patterned pavement repairs shall be made to an area without first resurfacing the underlying pavement to 1" minimum depth.
7. The Department will not be responsible for replacing the treatment following any construction activities by the Department in the vicinity of the treatment, or any costs for testing.
8. Should the local agency fail to satisfactorily perform any required remedial work or testing in accordance with this agreement, the Department reserves the right to replace the patterned pavement with conventional pavement (matching the adjacent pavement) and bill the local agency for this cost.

***FM 5-592:**

<https://www.fdot.gov/materials/administration/resources/library/publications/fstm/bynumber.shtm>

SECTION: 93020000 / 9304000
PERMIT: 438386-2-52-01
COUNTY: Palm Beach
STATE RD: 5

EXHIBIT E

RESOLUTION

This Exhibit forms an integral part of the LANDSCAPE MAINTENANCE MEMORANDUM OF AGREEMENT between the Florida Department of Transportation and the AGENCY.

Please see attached

(Will be provided by Town)



Project Update

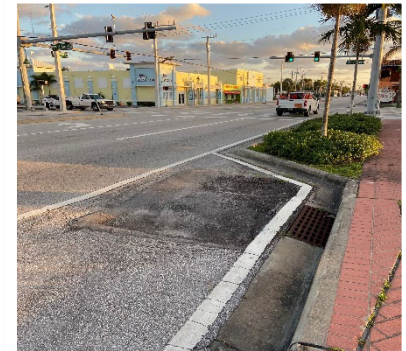
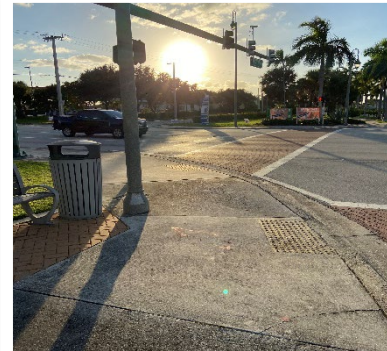
Mobility Improvements Project

**State Road (SR) 5/US-1 from 59 Street to State Road
850/Northlake Boulevard**

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

Mobility Improvements Project

Financial Project ID Number: 438386-2-52-01



COMMISSION MEETING Wednesday, April 17, 2024



Florida Department of
TRANSPORTATION

Item 12.

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

Mobility Improvement Project

Financial Project ID Number: 438386-2-52-01



532

Introductions

Meet the Team

Item 12.



Damaris Williams
FDOT Project Manager
FDOT District Four



Jose Santiago
Consultant Project Manager
EXP



Roxana Matamoros
Consultant Deputy Project Manager
EXP



Maria Ballester
Consultant Project Engineer
EXP

Agenda

Item 12.

1. Project Location
2. Scope / Proposed Improvements
3. Proposed Medians
4. Locally Funded Agreement (LFA)
5. Construction Impacts
6. Project Schedule and Cost
7. Questions and Answers
8. Closing and Contact Information
9. Safety Message

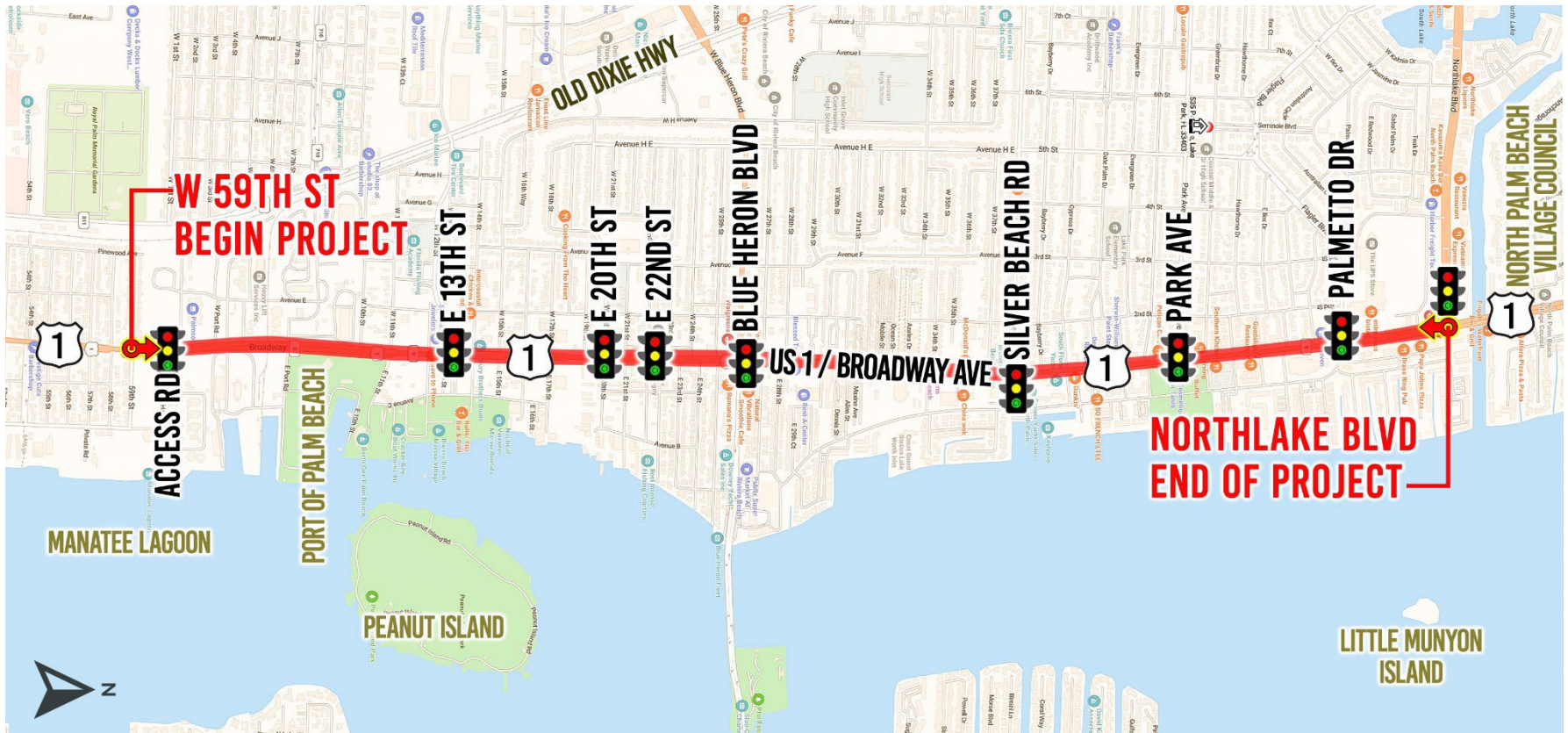
Project Location

Project Location

Item 12.

State Road (SR) 5/US-1 from 59 Street to
State Road 850/Northlake Boulevard

Mobility Improvements Project
Financial Project ID Number:
438386-2-52-01



Scope / Proposed Improvements

Scope / Proposed Improvements

Item 12.

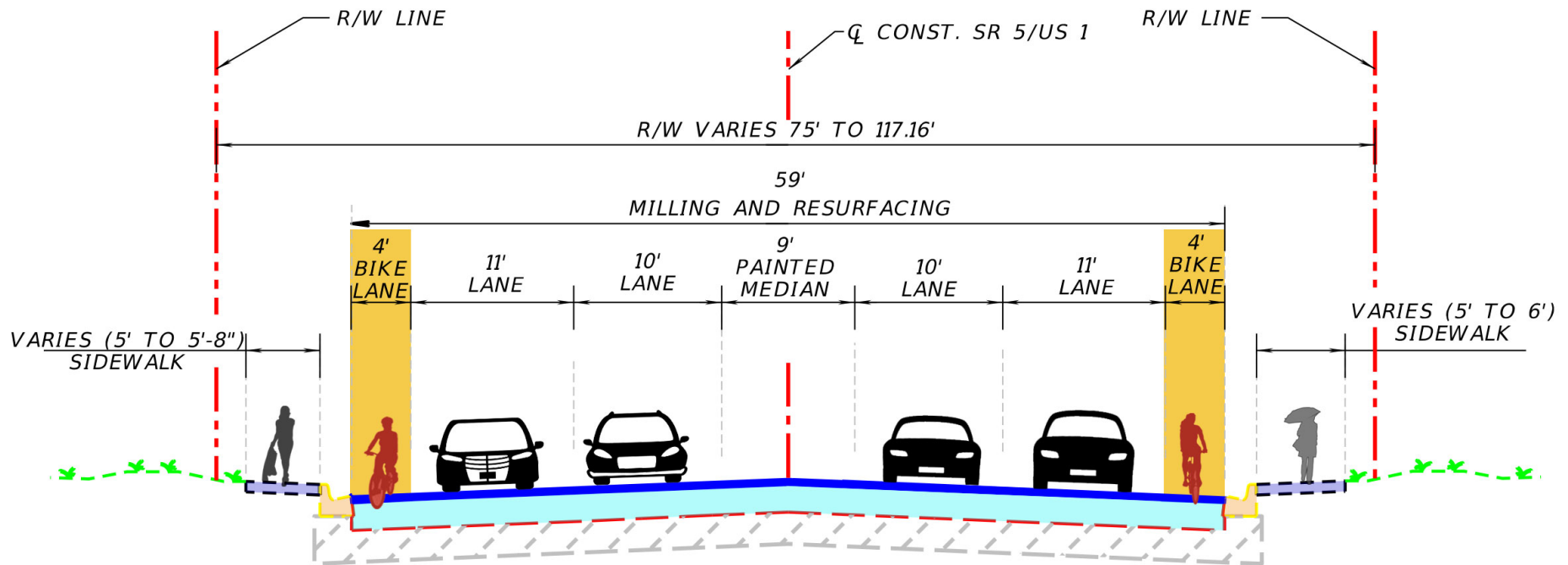
438386-2-52-01 (State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard)

- Adding 4-foot bicycle lanes by widening into existing medians and restriping the road
- New median sections from Silver Beach Rd. to Palmetto Drive
- Repaving of the roadway
- Lighting retrofits to illuminate roadway from 59th Street to Silver Beach Rd. and pedestrian crossings at signalized intersections
- Pedestrian Signal upgrades at nine intersections
- Barrier wall relocation at the Skypass Bridge to accommodate 10-foot shared use path

Proposed Roadway Improvements with Bike Lane Addition

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

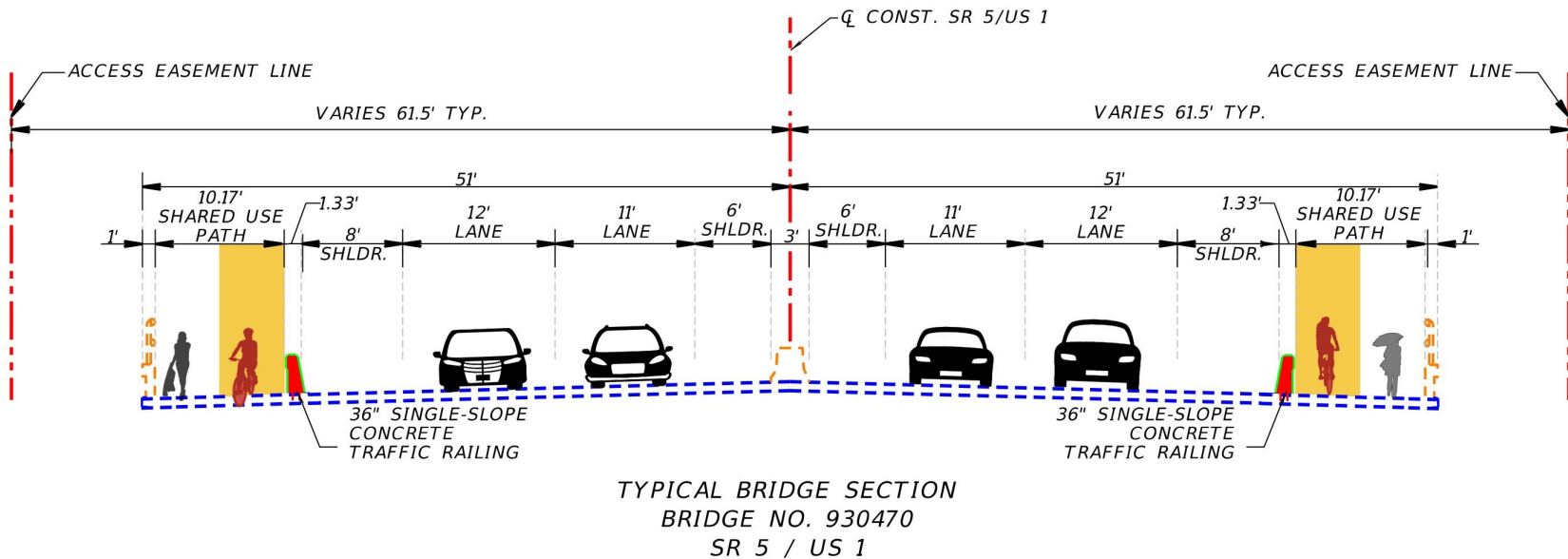
Item 12.



Typical 1 – 59th Street to South of Bridge

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

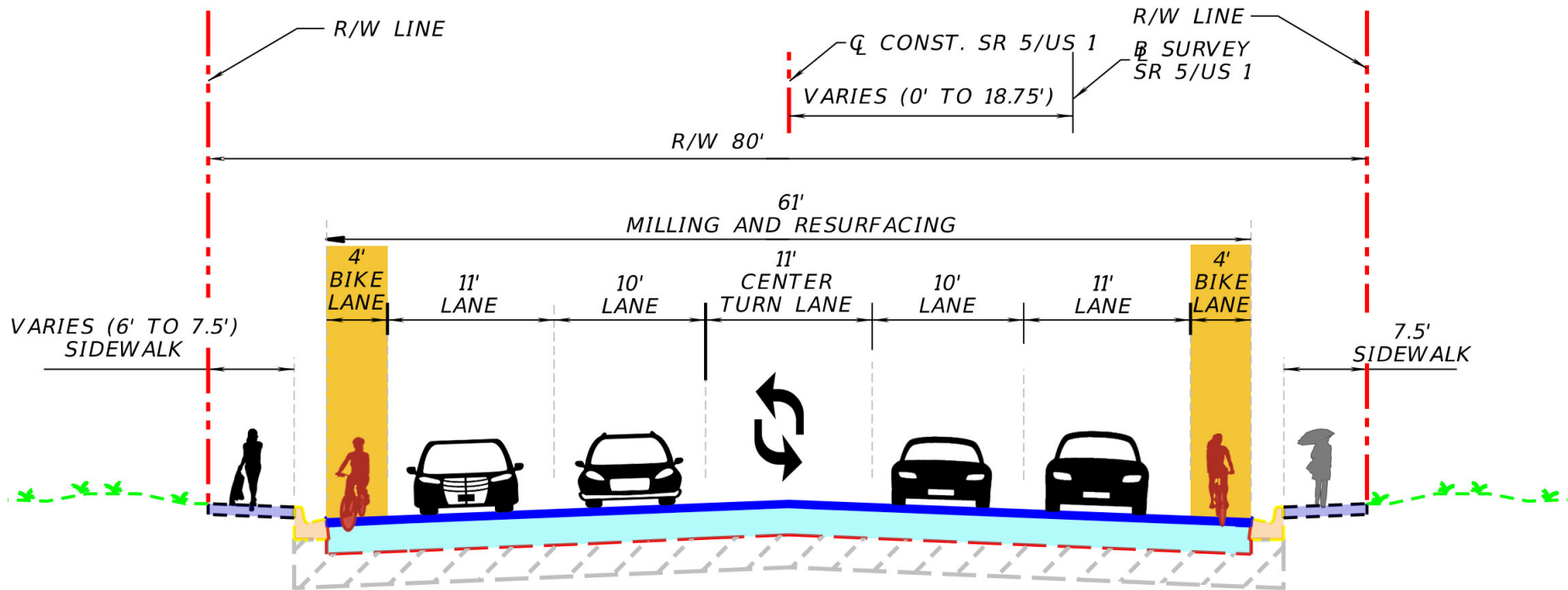
Item 12.



Typical 2 – South of Bridge to North of Bridge

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

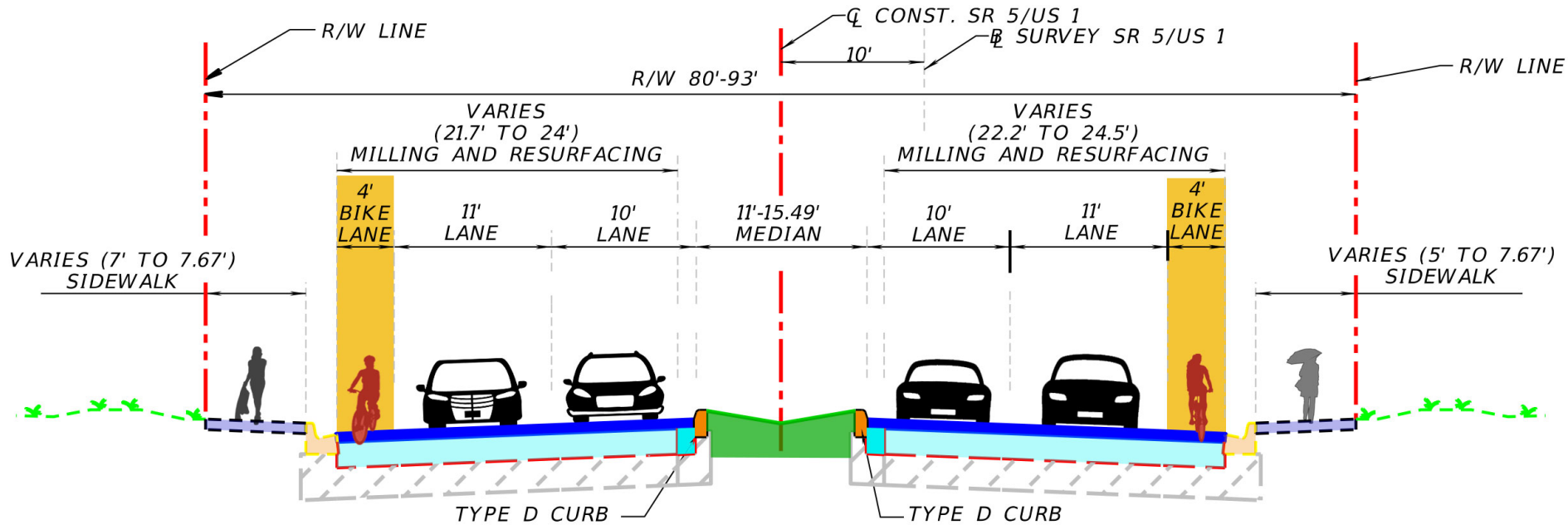
Item 12.



Typical 3 – North of the Bridge to W. 13th Street
W. 17th Street to W. 20th Street

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

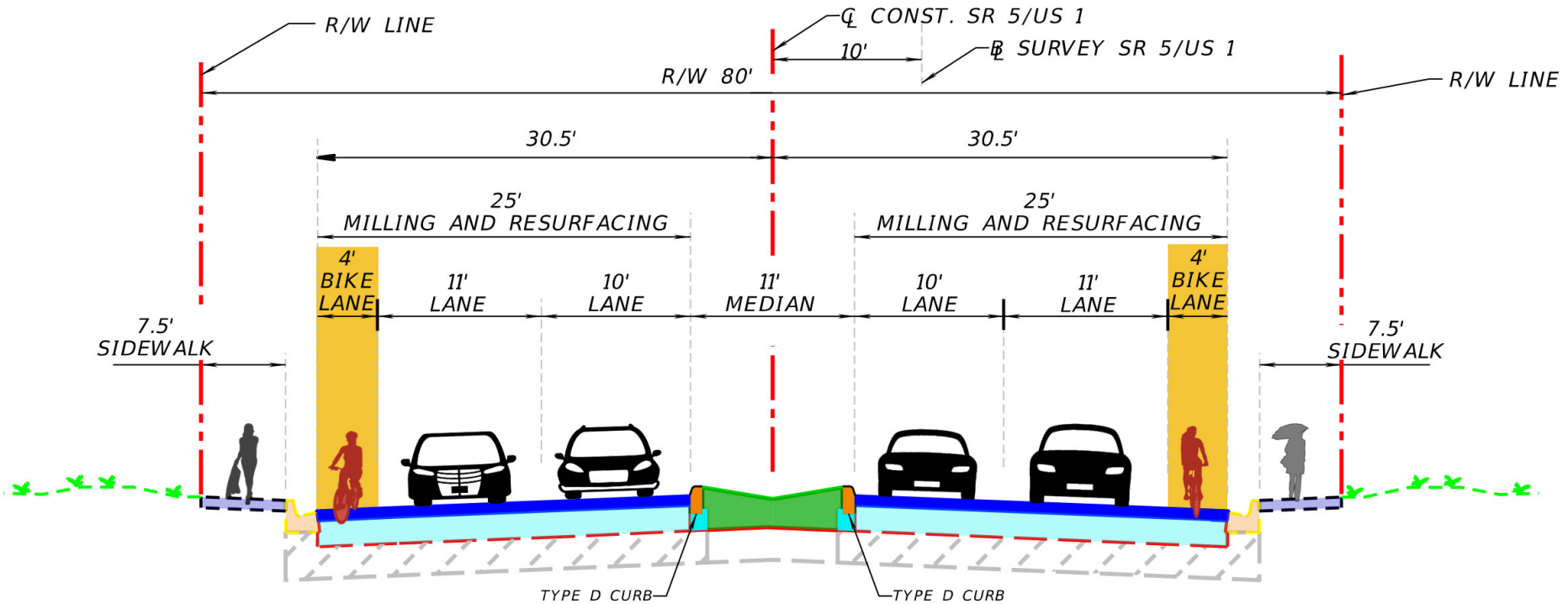
Item 12.



Typical 4 – W. 13th Street to W. 17th Street
W. 20th Street to Silver Beach Road

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

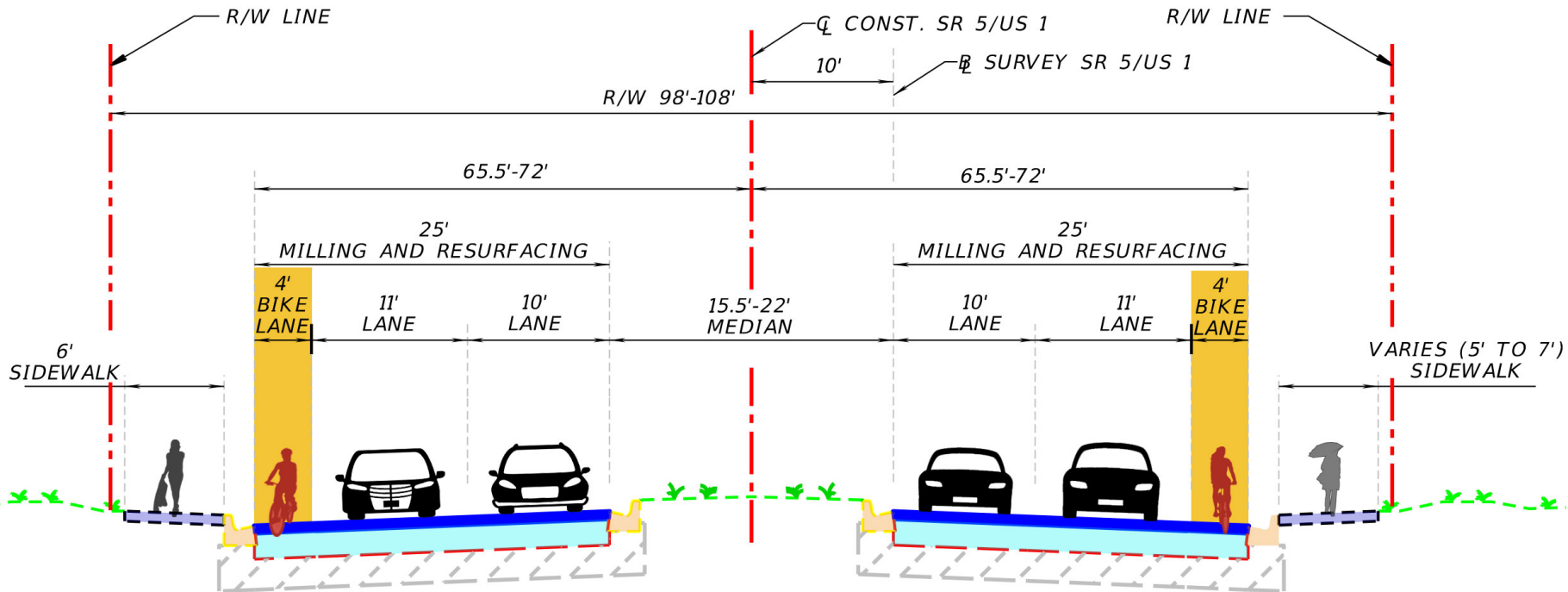
Item 12.



Typical 5 – Silver Beach Road to Palmetto Drive

State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard

Item 12.



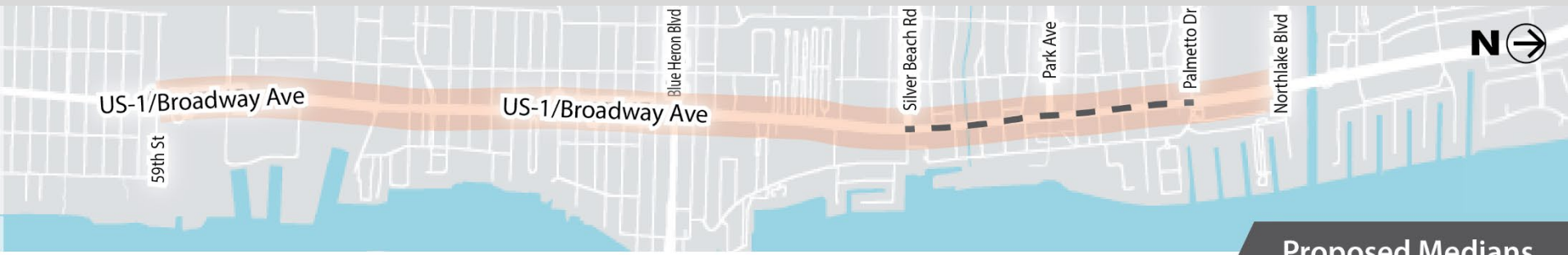
Typical 6 – Palmetto Drive to Northlake Boulevard/ Shore Court

Proposed Medians

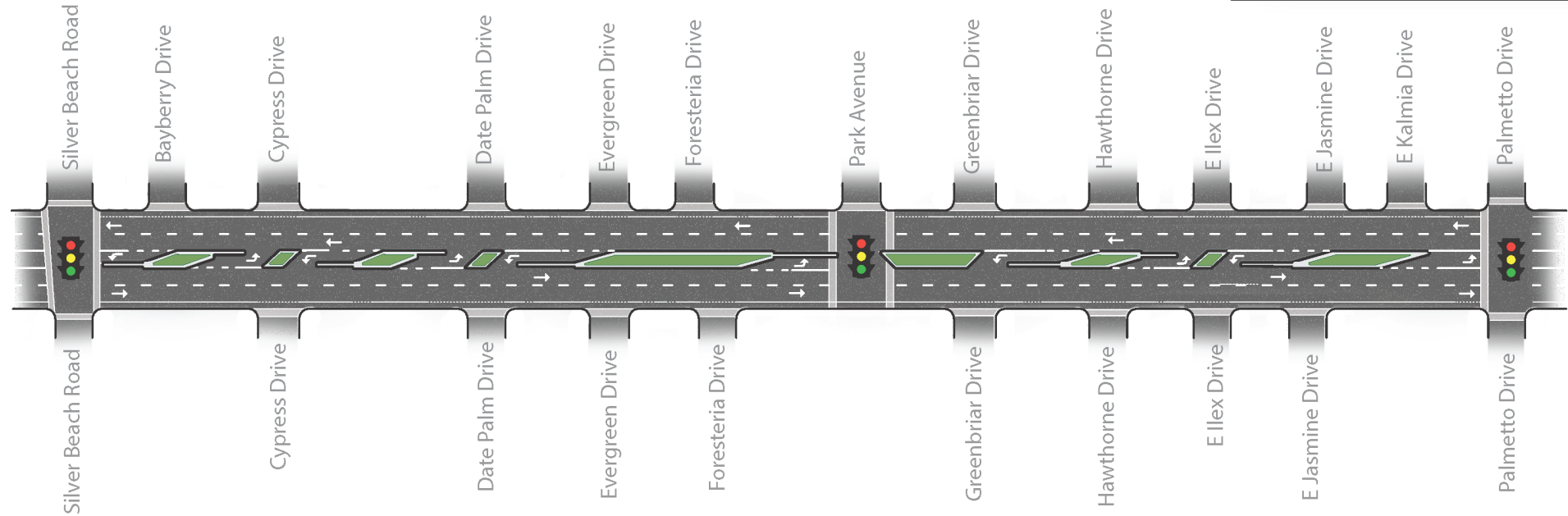


Proposed Medians

Item 12.



Proposed Medians



Local Funds Agreement (LFA)

LFA Scope with the Town of Lake Park

Item 12.

438386-2-52-01 (State Road (SR) 5/US-1 from 59 Street to State Road 850/Northlake Boulevard)

- Pattern Pavement Concrete Crosswalk Replacement
South Leg of Silver Beach Road
East Leg of Palmetto Drive
- One decorative light pole
NE Corner of Silver Beach Road and US 1



Cost Estimate Covered by Town of Lake Park:

8-inch Concrete Slab

Pattern Pavement

Decorative Light Pole Cost Differential

20% Contingency

Construction Impacts



Construction Impacts



- Temporary sidewalk closures during construction
- Median access changes during construction
- One lane will remain open at all times during construction
- Lane closures may occur during non-peak hours

NON-PEAK
HOURS

9PM – 6AM

(Sunday – Thursday Nights)

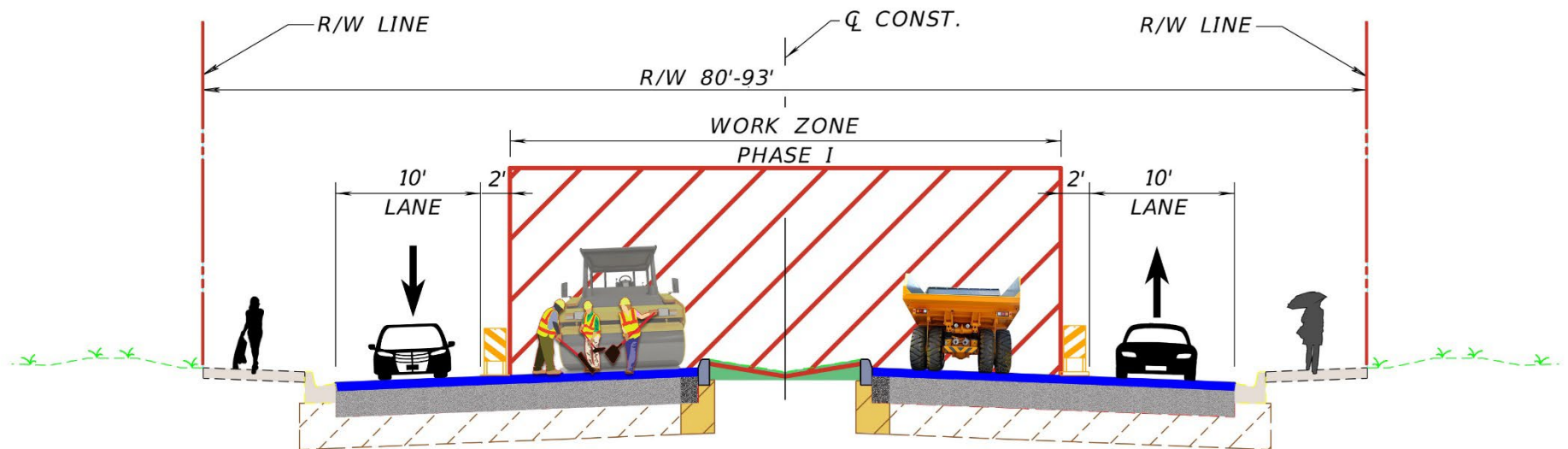
11PM – 7:30AM

(Friday & Saturday Nights)

- Access to adjacent properties will be maintained and open at all times
- All work is to be done in phases to reduce impacts of construction to the community

Construction Impacts

Item 12.



Project Schedule and Cost

Project Schedule and Cost

Item 12.

Start Date: Spring 2025

Completion Date: Winter 2025

Estimated Construction Cost: \$ 11.3 million

Questions and Answers

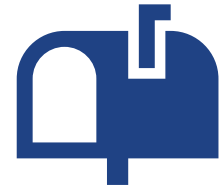
Closing and Contact Information

Contact Information

Item 12.

If you have additional questions, please contact: FDOT Project Manager, Damaris Williams, P.E.

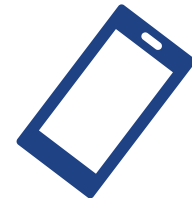
3400 West Commercial Boulevard Fort
Lauderdale, FL 33309



Email: Damaris.Williams@dot.state.fl.us



(954) 777-4679 or
Toll Free: (866) 336-8435; Ext. 4679



Safety Message

Item 12.

EVERY BICYCLIST IS IMPORTANT TO SOMEONE.

Safe drivers help keep bicyclists safe
on our roadways by staying calm and
focused behind the wheel.

Check out these custom
Do Not Disturb messages
and safe driving playlists:



Let's Get Everyone Home Safely.





Town of Lake Park Library Board

Agenda Request Form

Meeting Date: **June 12, 2024**

Agenda Item No.

Agenda Title: DISCUSSION; PROPOSED AFFORDABLE HOUSING ORDINANCE

[] SPECIAL PRESENTATION/REPORTS [] CONSENT AGENDA
 [] BOARD APPOINTMENT [] OLD BUSINESS
 [] PUBLIC HEARING ORDINANCE ON _____ READING
 [X] **NEW BUSINESS**
 [] OTHER: _____

Approved by Town Manager John D'Agostino Digitally signed by John D'Agostino
 DN: cn=John D'Agostino, o=Town of Lake
 Park, ou=Town Manager,
 email=jdagostino@lakeparkflorida.gov, c=US
 Date: 2024.06.07 17:32:39 -04'00' **Date:** _____

 Name/Title

Originating Department: <div style="text-align: center;">Community Development</div>	Costs: \$ 0.00 Funding Source: Acct. # [] Finance _____	Attachments: <div style="text-align: center;"> 1. Staff Report 2. Proposed Ordinance/Chapter 65 </div>
Advertised: Date: _____ Paper: _____ [X] Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ or Not applicable in this case KG Please initial one.

Summary Explanation/Background: **DISCUSSION ITEM:**

In October 2023 the Town Commission, enacted “Zoning in Progress” to allow for the development of regulations for affordable or workforce housing to implement the State mandated Live Local Act (LLA), as well as provide regulation for affordable housing proposed under any program.

Staff has prepared regulations which would be codified as a new chapter in the Code, Chapter 65 Affordable and Workforce Housing. The staff report and proposed ordinance follow.

Following the Commission’s input the ordinance will be reviewed by the Town Attorney and scheduled for a Public Hearing before the Planning and Zoning Board in July. Commission hearings are anticipated for August

Recommended Motion: Discussion and direction, no motion needed.

STAFF REPORT

PROPOSED WORKFORCE HOUSING ORDINANCE – DISCUSSION ITEM FOR TOWN COMMISSION MEETING OF JUNE 12, 2024

A. Background

The Town Commission, at its October 4, 2023 meeting adopted Resolution # 84-10--23 declaring Zoning in Progress to allow for the development of regulations for affordable/workforce housing to implement the State mandated **Live Local Act (LLA)**, as well as provide regulation for affordable housing proposed under any program. This declaration was necessary as the Town had no regulations specific to affordable or workforce housing, and also needed to address any incompatibilities with the LLA and Town Comprehensive Plan. The Zoning in Progress is set to expire on September 30th of this year.

During this period Town staff and Town attorney have reviewed other local ordinances, the Comprehensive Plan and other documents, and have prepared an ordinance for the Town Commission's consideration that creates a new chapter in the Town Code "Chapter 65- Affordable and Workforce Housing."

The Ordinance primarily addresses affordable housing that falls into the "Workforce Housing" category. This is defined by four subcategories of low, moderate, upper moderate and medium. The specific ranges are contained in the definition section of the proposed chapter. These are the four income categories the Town would apply, should a project be submitted under the LLA. Attachment A contains a breakdown of the income categories.

The ordinance does not include creation of housing for the affordable categories of very low and extremely low income, as this housing is most often addressed through HUD subsidy programs.

In addition to providing regulations to address the LLA, the Chapter as written addresses a means to offset affordable and workforce housing lost through redevelopment and a Town program with incentives for the production of workforce housing for home ownership. These are discussed in section E. of this report. The Commission may consider the programs at this time or delete and save for future discussion.

To date, the Town is not aware of any developers intending to submit projects under the LLA. However, unless amended, this act will be in effect until October 2033.

B. Live Local Act in brief

The sections of the Live Local Act that relate to zoning are codified in Florida Statute 166.04151 (7). The relevant section is included herein as **attachment B**.

This section mandates that local governments must allow affordable housing projects that meet the LLA in any district that allows commercial, industrial,

or mixed use. For Lake Park this such projects could be located in the C-1, C-2 and C-1B commercial districts, the C-4 and CLIC-1 industrial districts and the mixed use districts of Park Avenue Downtown (PADD), Twin Cities (C-3), and Federal Highway Mixed Use District Overlay (FHMUDO).

Also of relevance to the Town, the statute includes mandates regarding density, height, administrative review.

Thus, the statute authorizes the locations and densities without regard to the compatibility of the proposed development with surrounding properties as required by the Town's Comprehensive Plan and Land Development Regulations, and without regard for the impacts of height, density or intensity on adjacent existing properties. Without regulations, this would result in serious land use conflicts, impacts on and the cost of providing public services, and general welfare of residents and businesses.

Without regulation the implementation of the LLA would be inconsistent with existing objective and policies of the Town's Comprehensive Plan, including specifically Future Land Use Element Policy 5.4 that requires that the Town "utilize such techniques as distance requirements, buffering, landscaping, lower- intensity development, and scale-down requirements to provide appropriate transitions between high density uses and zoning districts having different intensities, densities, and functions."

This session, the legislature clarified some of its sections, most notably that the "highest density" is the density not including any bonus density. However there were no other substantial changes that would alleviate any concerns of the Town.

C. Proposed Town Regulations to Address the LLA

The primary goal of the new chapter is to insure that the Town has in place regulations that would be utilized should any developer propose housing under Florida Statute 166.04151 (7) of the LLA. The proposed regulations would insure the health and safety of any occupants and help to mitigate any impacts due to being located in commercial and industrial use districts. The proposed Chapter 65 establishes a framework under which the Town can consider and process any applications under this statute.

The ordinance has also been drafted such that the regulations would apply to any proposed workforce housing project as well.

Major provisions proposed for Chapter 65

(Reference to applicable proposed chapter section provided in parenthesis.)

- Provides definitions and income ranges of the various categories, typically used when considering who is eligible for "affordable housing", which follow those used by HUD. The Town's definition of "workforce housing" includes the same categories used by the Palm Beach County Workforce Housing Program. (sec. 65-2)

- Specifies which income levels will be used by the Town to address the “affordable housing” requirements set by the LLA to insure that a developer doesn’t only use the highest income level in the affordable category. The Town’s ordinance provides that all four income level ranges in workforce housing must be used. (sec.65-6)
- Requires submittal of a Workforce Housing Opportunity Plan (HOP) that provides specific detail regarding the program being utilized, financing and details of the workforce units, including rental ranges, location, etc. (sec.65-4)
- Provides requirements to ensure the affordable units are substantially similar to market units. (sec. 65-6)
- Sets out requirements to help mitigate the impact of any adjacent incompatible uses and provide for the health and safety of residents living in a LLA project. Some of these include an impact review of adjacent uses, protections such as buffering and setbacks. Open space for recreation is also required. (sec.5-7)
- Sets out process for the mandated administrative review for the LLA projects. Under the Town Code projects would normally follow a Public Hearing Process. However as this does not occur for administrative review, staff has included a requirement for the project to be the subject of a workshop meeting with notice to all properties within 300 feet. (sec.65-9)
- Requires a monitoring plan, annual monitoring reports for duration of affordable units. (sec.65-13)

D. Non LLA Affordable Housing Projects

Requirements of Town Chapter 65 would also apply to ANY project that is proposing “affordable” housing under any federal, state or local developer funding/financial assistance program.

E. Should the Commission desire to include other programs at this time.

As stated earlier, the purpose of the Zoning in Progress was to provide time to establish regulations for affordable housing proposed under the LLA or any other funding program, which will be accomplished through Chapter 65.

However staff also examined two other issues related to the provision of affordable housing for which particular concerns exist- 1) the loss of affordable units through redevelopment and 2) the continuing rental-ownership imbalance. Mechanisms to begin to address these issues are included in the proposed Chapter and summarized below.

Should the Commission wish to pursue these in depth at a later date, they will be removed from the proposed Chapter.

1. Town requirements to mitigate loss of affordable units:

Displaced Affordable Units and the Preserved Affordable Unit program

As existing affordable housing sites are re-developed, there is a concern that the Town will lose a significant portion of its affordable rental units. For example, in the area around 10th Street alone there are approximately 235 affordable units in major apartment complexes (15 + units) with Humani Courts being the largest at 63 units. Please see map in **Attachment C**. There are many smaller apartment buildings or single-family rentals that are not contained in this count.

While some of the properties are in need of redevelopment this poses a dilemma, potentially reducing the opportunity for those that are employed in low wage businesses in Lake Park to live in the Town. It is with this in mind that staff is proposing a mechanism to retain some of the number of units (not the actual units) lost through redevelopment, known as Preserved Affordable Units” (PAUs).

Proposed Section 65-11 mandates that any new project which would result in the removal of ten or more affordable units must include workforce units at an equal number to replace those lost (PAUs) of the projects total number of units. **In return the developer is afforded higher density as a public benefit.** (See below)

Affordable units as a Public Benefit

A major difficulty in establishing a density based incentive program is that the PADD, C-3, and FHMUDO already have a high base density of 48 dwelling units per acre (48 du/acre) and then allow greater density for “public benefits”. For the most part, these public benefits are not defined, leading developers to significantly exceed the base. For example, two PADD projects in review have proposed densities that are 203 units/acre and 335 units/acre.

Most affordable rental units are currently located in the downtown area, within either the PADD, C-1, C-2 or R-2 zoning districts. With the future PADD expansion, most of these units will be in the PADD.

As there are no new incentives to offer in the PADD, staff is proposing that for redevelopment projects within the PADD, creation of affordable units within the new project be categorized as a public benefit. For developments desiring to exceed the base density of 48 du/acre, the replacement of lost units would be required to be the first of any public benefits proposed for the increased density. For rental projects, bonus density units would be provided at a ratio of 3 bonus units for each new affordable unit created. For condominiums or other types of unit ownership projects, bonus density units would be provided at a ratio of 4 bonus units for each new affordable unit created.

Two examples

address	acres	# Units density	Units at PADD 48 du/ac base	Bonus units	Density with PAU bonus
Humani Courts PADD	3.0637	60 (19.60 du/ac)	147 units	60 x 3 = 180 bonus units	327 units = 107 du/acre
938 Northern C-1	.7916	28 (35.37 du/ac)	38 units	28 x 3 = 84 bonus units	122 units = 96.5 du/acre

Monitoring requirements would be the same as other workforce housing programs as set out in the Chapter. This would include both rental and unit ownership projects.

Town Incentive for Workforce Housing Creation

Incentives for Workforce Housing for First-time Home Owners

As part of its effort, Staff reviewed various incentives to encourage the production of workforce housing, particularly homeownership units, in appropriate districts such as multi-family.

Staff reviewed whether any incentives might be possible in the R-2 multi-family districts. At this time, in order to have regulations expeditiously in place, staff is NOT proposing changes such as a bonus density that would require a Comprehensive Plan amendment, therefore single-family districts were not included.

However, staff has proposed four incentives for the creation of workforce homeownership units in the R-2 multi-family district, contained in section 65-12 (c). These incentives would be:

1. Height increase bonus for projects that include workforce housing units for home ownership, increasing height from 2 to 4 stories for those projects. This creates the opportunity for more creative designs, larger units, or even townhomes with first floor garages.
2. Reduction in front yard setback from the 30 feet requirement.
3. Calculation of the existing maximum 19 du/acre (per Comprehensive Plan) for any size lot size at/over the minimum 7500 sq. ft., rather than the manner as set out in the zoning district. This would benefit smaller infill lots such as those ½

acre or less as this would permit 1 to 2 more units than would otherwise be permitted.

4. Waiver from the Town's mobility fee for the workforce units only. (\$0.43/ sq. ft. of unit)
5. Pro-rata reduction in Town's building permit fee, based on the number of workforce housing units created.

(It is noted that the Town may have to "reimburse" the two accounts for any monies lost through the incentives)

Conclusion

Following the Town Commission discussion and directions for any changes, the ordinance will be revised by staff and reviewed by the Town attorney. We are anticipating a July Planning and Zoning Board hearing and August Town Commission hearings. The ordinance would then be adopted in August, in advance of the September 30 expiration of the Zoning in Progress.

Recommendation

For discussion and desired Commission revisions .

ATTACHMENT A



Workforce Housing Program (WHP)
2023 Rents and Incomes
Effective July 1, 2023

WHP prices are set annually, based on the provisions of
Article 5.G.1.A.3.c.2 of the Unified Land Development Code reflected below, and the following:

2023 PBC Median Family Income: \$98,300 (per HUD)

WHP Income Category			Studio	1 BR	2 BR	3BR	4BR
Low	60-80% of MFI	\$58,980 - \$78,640	\$1,023 - 1,364	\$1,096 - 1,462	\$1,315 - 1,754	\$1,519 - 2,026	\$1,695 - 2,260
Moderate 1	>80-100% of MFI	>\$78,640 - \$98,300	\$1,364 - 1,705	\$1,462 - 1,828	\$1,754 - 2,193	\$2,026 - 2,533	\$2,260 - 2,825
Moderate 2	>100-120% of MFI	>\$98,300 - \$117,960	\$1,705 - 2,046	\$1,828 - 2,193	\$2,193 - 2,631	\$2,533 - 3,039	\$2,825 - 3,390
Middle	>120-140% of MFI	>\$117,960 - \$137,620	\$2,046 - 2,387	\$2,193 - 2,558	\$2,631 - 3,069	\$3,039 - 3,545	\$3,390 - 3,955

Rental Prices for projects approved under the Workforce Housing code adopted August 22, 2019

WHP Income Category			Studio	1 BR	2 BR	3BR	4BR
Low	60-70% of MFI	\$58,980 - \$68,810	\$1,023 - \$1,193	\$1,096 - \$1,279	\$1,315 - \$1,534	\$1,519 - \$1,772	\$1,695 - \$1,977
	>70-80% of MFI	>\$68,810 - \$78,640	\$1,193 - \$1,364	\$1,279 - \$1,462	\$1,534 - \$1,754	\$1,772 - \$2,026	\$1,977 - \$2,260
Moderate 1	>80-90% of MFI	>\$78,640 - \$88,470	\$1,364 - \$1,535	\$1,462 - \$1,645	\$1,754 - \$1,974	\$2,026 - \$2,280	\$2,260 - \$2,543
	>90-100% of MFI	>\$88,470 - \$98,300	\$1,535 - \$1,705	\$1,645 - \$1,828	\$1,974 - \$2,193	\$2,280 - \$2,533	\$2,543 - \$2,825
Moderate 2	>100-110% of MFI	>\$98,300 - \$108,130	\$1,705 - \$1,876	\$1,828 - \$2,011	\$2,193 - \$2,412	\$2,533 - \$2,786	\$2,825 - \$3,108
	>110-120% of MFI	>\$108,130 - \$117,960	\$1,876 - \$2,046	\$2,011 - \$2,193	\$2,412 - \$2,631	\$2,786 - \$3,039	\$3,108 - \$3,390
Middle	>120-130% of MFI	>\$117,960 - \$127,790	\$2,046 - \$2,217	\$2,193 - \$2,376	\$2,631 - \$2,850	\$3,039 - \$3,292	\$3,390 - \$3,673
	>130-140% of MFI	>\$127,790 - \$137,620	\$2,217 - \$2,387	\$2,376 - \$2,558	\$2,850 - \$3,069	\$3,292 - \$3,545	\$3,673 - \$3,955

For information on WHP rents, contact: Michael Howe, Planning Division, at mhowe@pbcgov.org or 561-233-5361

ATTACHMENT B – SECTION 166.04151 OF THE LIVE LOCAL ACT –

B1 =2023 ACT

B2= SUMMARY OF 2024 AMENDMENTS

B-1

166.04151 Affordable housing.—

(1) Notwithstanding any other provision of law, a municipality may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing or linkage fee ordinances.

(2) An inclusionary housing ordinance may require a developer to provide a specified number or percentage of affordable housing units to be included in a development or allow a developer to contribute to a housing fund or other alternatives in lieu of building the affordable housing units.

(3) An affordable housing linkage fee ordinance may require the payment of a flat or percentage-based fee, whether calculated on the basis of the number of approved dwelling units, the amount of approved square footage, or otherwise.

(4) In exchange for a developer fulfilling the requirements of subsection (2) or, for residential or mixed-use residential development, the requirements of subsection (3), a municipality must provide incentives to fully offset all costs to the developer of its affordable housing contribution or linkage fee. Such incentives may include, but are not limited to:

- (a) Allowing the developer density or intensity bonus incentives or more floor space than allowed under the current or proposed future land use designation or zoning;
- (b) Reducing or waiving fees, such as impact fees or water and sewer charges; or
- (c) Granting other incentives.

1(5) Subsection (4) does not apply in an area of critical state concern, as designated by s. 380.0552 or chapter 28-36, Florida Administrative Code.

1(6) Notwithstanding any other law or local ordinance or regulation to the contrary, the governing body of a municipality may approve the development of housing that is affordable, as defined in s. 420.0004, including, but not limited to, a mixed-use residential development, on any parcel zoned for commercial or industrial use, so long as at least 10 percent of the units included in the project are for housing that is affordable. The provisions of this subsection are self-executing and do not require the governing body to adopt an ordinance or a regulation before using the approval process in this subsection.

1(7)(a) A municipality must authorize multifamily and mixed-use residential as allowable uses in any area zoned for commercial, industrial, or mixed use if at least 40 percent of the residential units in a proposed multifamily rental development are, for a period of at least 30 years, affordable as defined in s. 420.0004. Notwithstanding any other law, local ordinance, or

regulation to the contrary, a municipality may not require a proposed multifamily development to obtain a zoning or land use change, special exception, conditional use approval, variance, or comprehensive plan amendment for the building height, zoning, and densities authorized under this subsection. For mixed-use residential projects, at least 65 percent of the total square footage must be used for residential purposes.

(b) A municipality may not restrict the density of a proposed development authorized under this subsection below the highest allowed density on any land in the municipality where residential development is allowed.

(c) A municipality may not restrict the height of a proposed development authorized under this subsection below the highest currently allowed height for a commercial or residential development located in its jurisdiction within 1 mile of the proposed development or 3 stories, whichever is higher.

(d) A proposed development authorized under this subsection must be administratively approved and no further action by the governing body of the municipality is required if the development satisfies the municipality's land development regulations for multifamily developments in areas zoned for such use and is otherwise consistent with the comprehensive plan, with the exception of provisions establishing allowable densities, height, and land use. Such land development regulations include, but are not limited to, regulations relating to setbacks and parking requirements.

(e) A municipality must consider reducing parking requirements for a proposed development authorized under this subsection if the development is located within one-half mile of a major transit stop, as defined in the municipality's land development code, and the major transit stop is accessible from the development.

(f) A municipality that designates less than 20 percent of the land area within its jurisdiction for commercial or industrial use must authorize a proposed multifamily development as provided in this subsection in areas zoned for commercial or industrial use only if the proposed multifamily development is mixed-use residential.

(g) Except as otherwise provided in this subsection, a development authorized under this subsection must comply with all applicable state and local laws and regulations.

(h) This subsection does not apply to property defined as recreational and commercial working waterfront in s. 342.201(2)(b) in any area zoned as industrial.

(i) This subsection expires October 1, 2033.

ATTACHMENT B-2

SUMMARY OF 2024 AMENDMENTS TO LLA SECTION 166.04151

SB 328 - Amendments to the Live Local Act's Land Use Preemption

SB 328 makes several amendments to s. 125.01055(7) and s. 166.04151(7) of the Florida Statutes which govern the Live Local Act's land use preemption. This land use preemption was designed to facilitate eligible affordable housing developments on parcels zoned for commercial, industrial, and mixed-use by providing favorable use, density, height, and administrative approval standards.

Eligible Zoningg & Applicability

- Amends the phrase “if at least 40 percent of the residential units in a proposed multifamily **rental** development are, for a period of at least 30 years, affordable as defined in s. 420.0004” to “if at least 40 percent of the residential units in a proposed multifamily development are **rental units that**, for a period of at least 30 years, affordable as defined in s. 420.0004.” This amended phrase opens the possibility for a split multifamily ownership and rental development as long as least 40% of the total units are rental *and* affordable.
- Provides that proposed multifamily developments that are located in a transit-oriented development or area, as defined by the local government, must be mixed-use residential to receive approval with the tool and “otherwise complies with requirements of the county’s regulations applicable to the transit-oriented development or area except for use, height, density, and floor area ratio as provided in this section or as otherwise agreed to by the county and the applicant for the development.”

Heightt and Density Allowances

- Newly provides that local governments cannot limit the floor area ratio of a proposed development below 150% of the highest currently allowed floor area ratio on any land where residential development is allowed in the jurisdiction under the jurisdiction’s land development regulations.
- Clarifies that the maximum density and height allowances do not include any “bonuses, variances, or other special exceptions” provided in the jurisdiction’s land development regulations as incentives for development.
- Allows local governments to limit the maximum height allowance if the proposed development is adjacent to, on two more sides, a parcel zoned for single-family residential use that is within a single-family residential development with at least 25 contiguous single-family homes to 150 percent of the tallest building on property within one-quarter mile of the proposed development or 3 stories, whichever is higher.

Additional Provisions

- Provides that each local government must maintain a policy on its website containing the expectations for administrative approval under the tool.
- Reduces the buffer for local governments to “consider” reducing parking requirements from ½ mile of a “major transit stop” to ¼ mile of a “transit stop.” This will establish a lower buffer and encourage reducing parking requirements for projects near any transit stop, not just a “major” transit stop.
- Requires local government to reduce parking requirements by 20% for proposed developments within ½ mile of a “major transportation hub” that have available parking within 600 feet of the proposed development and eliminates parking requirements for a proposed mixed-use residential development within an area recognized as a transit-oriented development or area.
- Provides that proposed developments located within ¼ mile of a military installation may not be administratively approved.
- Provides that the land use preemption does not apply to “airport-impact areas as provided in s. 333.03” and removes the exception for recreational and commercial working waterfront.
- Creates clear criteria for when the preemption does not apply in close proximity to an

airport.

- Clarifies that developments authorized with the preemption are treated as a conforming use even after the sunset of the preemption statute (2033) and the development's affordability period unless the development violates the affordability term. If a development violates the affordability term, the development will be treated as a nonconforming use.
- Provides that an applicant who submitted an application, written request, or notice of intent to utilize the mandate before the effective date of the bill may notify the local government by July 1, 2024, of its intent to proceed under the prior provisions of the mandate.

SOURCE: Florida Housing Coalition

ATTACHMENT C



10TH STREET AREA

233 "Affordable" Rental Units

Buildings with greater than 15 units

ORDINANCE NO. _____-24

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF LAKE PARK, FLORIDA BY CREATING CHAPTER 65 TO BE ENTITLED “AFFORDABLE AND WORKFORCE HOUSING”; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park, Florida (“Town”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, on October 4, 2023 the Town adopted Resolution 84-10--23 declaring Zoning in Progress to allow for the development of regulations for affordable or workforce housing to implement the Fla. Stat. § 166.04151(7), known as the “Live Local Act”; and

WHEREAS, given the adoption of the Live Local Act, Town Commission directed the Community Development Department (Department) in consultation with the Town Attorney to consider, study and prepare regulations addressing affordable and workforce housing in the Town; and

WHEREAS, the Live Local Act authorizes the location of residential housing without regard to its compatibility with existing non-residential land use designations and the land use designations of surrounding properties; and

WHEREAS, the Live Local Act authorizes the location of residential housing in non-residential land use designations without regard to its compatibility with the height, density or intensity on adjacent existing properties, which is anticipated to create serious land use conflicts, impacts on public facilities and the cost of providing public services; and

WHEREAS, the Live Local Act permits local governments to take into consideration their comprehensive plans; and

WHEREAS, the Live Local Act allows affordable and workforce housing units to be constructed in existing commercial, industrial, and mixed use zoning districts of the Town, which is not consistent with existing policies of the Town’s Comprehensive

Plan, including, Future Land Use Element **Policy 5.4** that directs the Town to utilize techniques such as distance requirements, buffering, landscaping, lower-intensity development, and scale-down requirements to provide appropriate transitions between high density residential uses and the uses in adjacent zoning districts having different intensities, densities, and functions; and

WHEREAS, the Live Local Act must be reconciled with Policy 1.1 of the Comprehensive Plan Future Land Use Element which requires that the Town's Land Development Regulations be amended as necessary to regulate the use and intensity of land development consistent with this element to ensure the compatibility of adjacent land uses and "to encourage redevelopment, renewal or renovation, to maintain or improve existing neighborhoods and commercial areas;" and

WHEREAS, the Town Attorney and Community Development Department, after careful review have prepared regulations which are intended to establish an affordable and workforce housing program that is consistent with the Comprehensive Plan; and

WHEREAS, the Town's Planning and Zoning Board has conducted a public hearing to review the proposed amendments to the Code and has provided a recommendation to the Town Commission; and

WHEREAS, the Town Commission, after its review of the recommendations from the Planning and Zoning Board, and after due notice and public hearings finds that it is appropriate and necessary to adopt the new chapter 65 entitled "Affordable and Workforce Housing".

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:

Section 1. The whereas clauses are hereby incorporated as the legislative findings of the Town Commission.

Section 2. Chapter 65 of the Lake Park Code of Ordinances, entitled "Affordable and Workforce Housing" is hereby created to read as follows:

CHAPTER 65 - AFFORDABLE AND WORKFORCE HOUSING

Sec. 65-1. Purpose and Intent.

The purpose of this chapter is to provide for an affordable and workforce housing program in the Town.

The intent of the implementation of this program is to:

- (1) Ensure an adequate inventories of owner-occupied and rental housing throughout the Town that is available to low, moderate, moderate-high and middle income households to meet the specific housing needs of the Town as reflected in the Affordable Housing Needs Assessment by the Shimberg Center of Affordable Housing.
- (2) Encourage a diversity of housing options to allow for new residents to move into Town and existing residents to remain in the Town as they age and to provide for multi-generational housing opportunities.
- (3) Establish regulations to encourage the production of both rental and for-sale units to meet the Town's need for housing to serve various income levels.
- (4) Encourage and prioritize the construction of units for purchase to correct the rental-homeownership imbalance in the Town.
- (5) Identify locations for workforce and affordable housing in residential or mixed use districts, areas with transit opportunities and provide incentives for construction in these targeted areas.
- (6) Improve the quality of housing stock by incentivizing redevelopment of older, declining apartment buildings.
- (7) Provide for affordable and workforce housing in concert with federal, state, and county programs.
- (8) Provide regulations to ensure the health, safety, and welfare of occupants of affordable and workforce housing.
- (9) Provide regulations to ensure the compatible integration of affordable and workforce housing into existing neighborhoods.
- (10) To provide regulations to mitigate any conflicts with adjacent incompatible land uses for those projects developed under FS 166.04151 (6) and (7) which are located in commercial or industrial districts.

Sec. 65-2. - Definitions.

"Affordable unit" shall mean that monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual household income level for the households as indicated in the definitions below, consistent with FS section 420.0004.

“AMI” shall mean area median income, as established for Palm Beach County.

“Highest allowable density” shall mean the highest allowable density by right in a zoning district. Additional or “bonus density” that is only granted at the discretion of the Town Commission shall not be used in determining the highest allowable density.

“Low Income household level” shall mean the annual gross household income is between 50.1% to 80% of the median annual adjusted gross income for households within Palm Beach County, as determined by HUD and updated annually.

“Major transit stop” shall mean a terminal or station designed to move a substantial volume of daily workforce commuters, via a mobility service such as a bus or train or other type of service, on a routine basis. It shall not mean a bus-stop.

“Moderate Income household level” shall mean the annual gross household income is between 80.1% to 100% of the median annual adjusted gross income for households within Palm Beach County., as determined by HUD and updated annually.

“Preserved Affordable Unit (PAU)” shall mean new affordable units that replace existing housing units at the same number and affordability range of affordable units lost through redevelopment of a site.

“Middle Income household level” shall mean the annual gross household income is between 120.1% to 140% of the median annual adjusted gross income for households within Palm Beach County, as determined by HUD and updated annually.

“Upper Moderate Income household level” shall mean the annual gross household income is between 100.1% of 120 % the median annual adjusted gross income for households within Palm Beach County., as determined by HUD and updated annually.

“Very Low Income household level” shall mean the annual gross household income is between 25% to 50% of the median annual adjust gross income for households within Palm Beach County as determined by HUD and updated annually.

“Workforce housing” shall mean dwelling units that are affordable to those households which fall into the low, moderate, upper moderate, or middle income categories and meet the definition of affordable as defined above.

Sec. 65-3. Reserved.

Section 65-4. - Application Requirements for Workforce Housing.

(a) In addition to the site plan application which addresses requirements contained in Town Code sections 67-38 and 67-38.1, any workforce housing project shall submit:

(1) A Workforce Housing Opportunity Program (HOP)

a. Any applicant who proposes a development project which intends to use the provisions of FS 166.04151 (6) or 166.04151 (7), or any County, State or Federal program for the production of affordable workforce housing, shall submit a workforce housing program (WHOP) per section (2) below.

(2) Workforce Housing Opportunity Program (HOP) shall include:

- a. Description of specific requirements of the particular assistance program being used and documentation demonstrating that the proposed project complies with the requirements of the program(s).
- b. Funding source or sources to be used shall include all financial relief including, but not limited to, construction grants or loans, tax credits, or relief from property taxes..
- c. Amount of funding requested and documentation of the funding's approval status.
- d. Anticipated fiscal impact to the Town, including any loss of revenue.
- e. Anticipated dates to begin and complete construction.
- f. Details on the workforce units as follows:
 - 1. Units for sale: The type, size and sales price for proposed market-rate for-sale housing dwelling units and the workforce housing dwelling units;
 - 2. Rental Units: The type, size and corresponding estimated rents of the proposed market-rate units and the proposed workforce housing dwelling units;
 - 3. A floor plan or site plan for the project which specifically identifies the location of the proposed workforce dwelling units and which demonstrates that these dwelling units have been integrated within the development and are of comparable quality with its market-rate units;
 - 4. An inventory of the workforce units by income household level;
 - 5. The anticipated timing of the completion and delivery of the workforce housing dwelling units;

- g. If an application would result in the demolition of existing affordable or workforce housing dwelling units, provide documentation as to how these units will be replaced or their loss will be mitigated by Preserved Affordable Units (PAU).
 - h. For projects with for sale units that will be in a condominium, the estimated initial annual condo fees per unit. The developer shall be responsible for the payment of the first year of condo fees for the workforce units.
 - h. Monitoring and Compliance Plan in accordance with section 65-12.
 - i. Any additional information reasonably requested by the Town, or by the entity that has been delegated by the Town Commission the responsibility of implementing the Town's workforce housing program.
- (b) The Housing Opportunity Program shall be incorporated into the development order of an approved site plan.

Section 65-5. - Location of Workforce Housing

- (a) Workforce housing may be located in the Town's residential districts (R-1, R-1A, R-2, R-2, and R-1B) or its mixed use districts (PADD, C-3 Twin Cities Mall, and FHMUDO) and shall meet the regulations of those districts and the regulations contained herein.
- (b) Projects with affordable units applied for under 166.04151: Affordable housing which meets the statutory provisions of 166.04151 section and falls within the workforce housing categories set forth in this chapter may be located within the Town's commercial districts (C-1, C-1B or C-2) and are developed in accordance with the land development regulations for multi-family development as set out in the PADD or C-3 Districts, and observe all the regulations contained therein.
- (c) Projects with affordable units applied for under 166.04151: Affordable housing which meets the statutory provisions of 166.04151 and falls within the workforce housing categories set forth in this chapter may be located within the Town's Industrial zoned districts (C-4 and CLIC-1) and are developed in accordance with the land development regulations for multi-family development as set out in the PADD or C-3 Districts, and observe all the regulations contained therein.

Sec. 65-6. - Required elements for projects that Include Workforce Housing units.

- (1) Rental workforce housing units shall be equally allocated sequentially among the following three eligible household level income tiers beginning with low, adjusted

for family size: 50.1% to 80% (low), 80.1% to 100% (moderate), and 100.1% to 120% (upper moderate).

- (2) For sale workforce housing dwelling units shall be equally allocated sequentially among the following eligible household income tiers, adjusted for family size: moderate, upper moderate, and middle income households.
- (3) Workforce housing units must be reasonably integrated throughout a project and shall not be clustered together or segregated in any way from the market-rate units.
- (4) The number of studio, one, two, and three or more-bedroom affordable housing units shall be proportional to the number of studio, one, two and three bedroom market rate units. The project must include 3 bedroom units.
- (5) Workforce housing units shall be developed simultaneously with or prior to the development of the other market-rate units. If a project is phased, the phasing plan shall provide for the construction of workforce units proportionately and concurrently with the market-rate units
- (6) The exterior appearance of workforce housing units shall be substantially similar to the market-rate units and shall provide exterior building materials and finishes of a similar type and quality, with allowances for demonstrable value-engineering deviations.

The interior building materials and finishes of the workforce units shall be of a substantially similar type and quality as market-rate, with allowances for demonstrable value-engineering deviations.
- (7) Usable open space and common areas for both children and adults shall be provided. This may include, but is not limited to, tot lots, passive, landscaped sitting areas, open play field.
- (8) Workforce units shall be located in proximity to existing transit routes, recreation and shopping opportunities whenever possible.
- (9) Any project that displaces existing affordable units, shall at a minimum replace the same number of units based upon the same income category as the units that previously existed.

Section 65-7. - Protection from incompatible land uses

- (a) In order to ensure the health, safety, and welfare of occupants of a workforce housing project which is to be located in a commercial or industrial zoning districts pursuant to the provisions of FS 166.04151, the following regulations shall apply to protect the occupants of the units from the impacts of incompatible land uses.

All proposed projects shall meet all the criteria below to be eligible for processing of an application that relies upon FS 166.04151 for the development of affordable or workforce housing units.

- (1) Environmental Assessment and mitigation plan: Applicants for projects that rely upon FS 166.04151, shall submit an environmental assessment of businesses within 300 feet of a project's property, assessing noise, odor, truck traffic impacts, and proposal to mitigate impacts.
- (2) Buffer: A minimum 40 ft. landscaped buffer and wall shall be provided on all sides that abut industrial- zoned land, in addition to setbacks of the regulating district.
- (3) Open space: Due to distance from residential parks, a project shall provide usable outdoor area for purposes of a playground and other activities, based on 100 sq. ft. per unit, based on the total units in the building. However in no instance shall less than 5,000 square feet be provided. The area may be split, and may be located within building footprint.
- (4) Parking: Parking shall meet the standards established under the Town's general parking code under Sec. 78-142.

Sec. 65-8. - Review and Approval of Projects.

1. For those projects not developed under FS 166.04151, review and approval procedure for affordable or workforce housing shall follow the public hearing procedures as set out in the Town Code for special exception and site plan approvals.

Sec. 65-9. - Administrative Approval Process for Projects developed under FS 166.04151 (7).

Projects qualifying for administrative approval shall:

- (a) Pay the fee for the administrative review of site plans in accordance with the fee schedule for site plan review and escrow.
- (b) Comply with the requirements set out in Sec. 65-4 above.
- (c) Submit two sets of mailing labels for the owner's addresses of all properties within 300 feet of a project's property line on each side of the project boundaries. The Town will rely upon the mailing labels submitted to notify the property owners of the proposed project. The notice shall state the time/place where an owner or resident can meet with staff of the Department of Community Development to

review and provide oral or written comments on a project no later than 60 days after an application is deemed by the Town to be complete.

- (d) Plan review shall be subject to all Town, state and federal regulations, with the exception of those explicitly exempted by the Statute.
- (e) Administrative review shall be coordinated by the Community Development Department.
- (f) "Highest allowable density" shall be defined as the highest allowable density by right in a zoning district.
- (g) Administrative review is only available to those projects which comply with the Town's Code of Ordinances and has been deemed to be consistent with the Town's Comprehensive Plan.
- (h) An administrative development order shall be issued by the Town Manager, with copy supplied to the Town Commission, Town Clerk and Community Development Department.

Sec. 65-10.
Reserved.

Sec. 65-11. - Displacement of Existing Affordable Housing Units.

- (a) Preserved Affordable Units (PAU): Any project which displaces existing units in the low income to very low income, moderate income or upper moderate income categories shall be required to provide an equivalent amount of units within the project (Preserved Affordable Units- PAU). This shall apply to those projects which displace ten or more affordable units, in addition to any other workforce units that may be required within the project.
- (b) The incorporation of PAUs shall be considered a Public Benefit, qualifying the project for density bonuses if available in that district. When proposing to utilize Public Benefits bonuses, PAUs shall be the first benefit.
- (c) For Rental projects, bonus density units will be granted at the ratio of 3 bonus units for each workforce or affordable unit created.
- (d) For ownership projects, the bonus density will be granted at the ratio of 4 bonus units for each workforce unit created.
- (e) Applicability
 - 1. The Director of Community Development shall determine the applicability of the PAU requirement on any proposal. Determination shall be made following a pre-application conference.

2. The determination will identify whether PAUs will be required by comparing the rents charged at the property with rents affordable to the applicable Area Median Income (AMI) level under each definition. The Director will utilize average rents for each unit size at each property as compiled by staff or, if such information is not available, rent information provided by the property owner. Existing rents to be calculated may not include utilities and other fees that are added on to rents for other purposes.
- g. The project shall submit a Workforce Housing Opportunity Plan per section 65-4 therein.
- h. Duration and monitoring shall follow sections 65-12 and 65-13 therein.

Sec. 65-12. – Incentives.

(a) Expedited Review and Permitting for Projects in any Location

- (1) The community development director shall assign one individual staff member to be the single point of contact who shall have the responsibility of assisting applicants throughout the town's development application review and permitting process.
- (2) The community development department shall establish the necessary steps required for permitting qualified projects in a pre-application meeting and shall prepare a permitting timetable within five business days for the project's completion of an application to the town for review. A plans review timeline shall be developed and agreed upon by both parties which include submittal deadlines and review for all development related issues.
- (3) The project shall receive priority at every phase of the development application review and permitting process by town staff, including "face-to-face" or "stand-up" meetings to conduct reviews with the applicant present to have an efficient interaction during the review, to get answers immediately to questions, and/or to make expectations clear on how issues will be addressed. Public hearing scheduling shall be expedited if applicable to an application.
- (4) The Town and the applicant shall review comments and plans or revisions thereto in a thorough and timely manner.
- (5) Should any issues arise during the development application review and permitting process, a "face-to-face" or "zoom" meeting between the town staff and applicant's representatives shall be conducted within three business days of the applicant's written notification of the issues.

- (b) Parking reduction: The Town will consider a parking reduction if the development is located within one-half mile of an existing major transit stop, as defined herein, and the major transit stop is accessible from the development.

The provision of affordable and/or workforce ownership housing units in mixed use districts , shall be considered a public benefit, entitling the project to receive bonus units above the base density as set forth in section 65-11 therein.

- (c) Town Incentives for construction of workforce home-ownership units for first time buyers: R-2 Zoning District.

- (1) Incentives shall apply to projects that propose for sale units for first-time home buyers in the R-2 Zoning District. This may include single-family, duplex, townhomes and condominiums.

- a. Projects proposing a minimum of 10 % of the units as workforce housing may:

1. Increase the building height by two stories, resulting in a four story or 55 ft. high maximum.
2. Apply the 19 du/acre to any lot size over 5,000 square feet.

3. Apply for a waiver of the Town's mobility fees for the workforce units.
4. Apply for a reduction in the Town's building permit fee in a pro-rata based on the number of workforce units.
5. Apply for a front setback waiver of up to 10 feet.

- (d) Duration of Affordability under this section

- a. Rental Projects receiving bonus density under this section shall be required to maintain the affordability of the units for a period of no less than 25 years.
- b. Owner-occupied units shall remain maintain their affordability designation as a workforce unit for a minimum of 15 years. Units must remain owner-occupied, including any re-sale, for fifty years. The developer shall record a deed restriction to run with the property. Should the owner sell within the first ten years, the unit must be sold within the range of workforce housing as defined by this chapter.
- c. Workforce owner-occupied units in a condominium: The developer shall pay year one of any required condominium fees for each qualifying unit.
- d. The workforce and/or affordable housing restriction shall be set forth as a deed restriction on the property, project and/or units and the content of such deed restriction shall be approved by the town attorney or designee. The restriction period shall commence upon the issuance of the first affordable workforce unit in the project.

Sec. 65-13. –Recordation and Monitoring.**(a) Recordation**

- (1) Recordation. Upon the approval of a site plan for a residential development or mixed use development, which includes affordable or workforce housing dwelling units, a deed restriction in the form approved by the town attorney shall be recorded in the public records of the county for those dwelling units which have been designated for affordable or workforce housing.

(b) Monitoring

- (1) Approved rental workforce housing monitoring requirements.

- a) Approved workforce and/or affordable housing rental projects shall submit an annual report to the Town, completed by a qualified third-party reporting firm which has been previously approved by the Town.
- b) The required annual report shall be accompanied by a notarized affidavit attesting to the truth and veracity of the subject certification, taken under oath and signed by an authorized representative of the property owner.
- c) The report shall be submitted to the Town on an annual basis for the duration of the restriction period.
- d) The report shall:
 1. Demonstrate that the workforce housing units are occupied by households that have an annual gross income that is less than the established income category for the restricted units, adjusted for actual household size (per natural persons), and that the monthly rents for the restricted units do not exceed the established rent limit per number of bedrooms, as published and updated annually by the Florida Housing Finance Corporation (FHFC).
 2. Provide a narrative of the standard operating procedures used by the project to administer workforce housing program within the project, along with applications received, approved, and denied, along with inquiries received.
 3. Include a statement explaining the qualifications of the income certification reviewers.
 4. Include a statement explaining the qualifications and background of

the third party reviewer.

- e) The Town may hire a third party such as a housing trust at the applicant's expense, to review the proposal and to annually assist with monitoring. This requirement may be waived for projects monitored by Palm Beach County.
- f) Failure to comply with the above shall result in the suspension of any rental business tax receipt that has been issued by the Town for the property and the property shall be subject to code-enforcement proceedings until coming into compliance.

2. Approved ownership units monitoring requirements

- a) The developer of for-sale workforce housing units, prior to closing on any unit shall submit to the Town for review and approval:
 - 1. Draft sales agreement that sets forth all the information relating to the purchaser's responsibilities, including but not limited to, the sale and re-sale restrictions.
 - 2. Resale restriction that shall be recorded with the deed upon closing.
 - 3. Documentation that the proposed purchaser falls within the workforce income levels set out in section 65-6 (2)
- b) Obligations of the purchaser of the workforce unit.
 - 1. Execution of notarized document provided by the Town acknowledging their understanding of the program and its restrictions and responsibilities, including requirements if the purchaser should choose to sell the home prior to the ten-year expiration of the workforce housing commitment
 - 2. Annual income disclosure provided to the Town
 - 3. Notification to the Town, should the owner elect to sell the home within the first ten years following purchase.

Section 3. Codification. The provisions of this ordinance shall become and be

made a part of the Code of Ordinances of the Town of Lake Park. The sections of the ordinance may be re-numbered or re-lettered to accomplish such.

Section 4. Severability. If any section, paragraph, sentence, clause, phrase or word of this ordinance is for any reason held by a court to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this ordinance

Section 5. Effective date. This ordinance shall take effect immediately upon execution.

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Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: June 12, 2024

Originating Department: Communications and Grants

Agenda Title: Designation Of A “Marina District” In The Town Of Lake Park

Approved by Town Manager: John D'Agostino Digitally signed by John D'Agostino
DN: cn=John D'Agostino, o=Town of Lake
Park, ou=Town Manager,
email=jdagostino@lakeparkflorida.gov, c=US
Date: 2024.06.07 17:15:08 -0400 **Date:** _____

Cost of Item: \$0.00 **Funding Source:** _____

Account Number: _____ **Finance Signature:** _____

Advertised: _____

Date: N/A **Newspaper:** _____

Attachments: N/A

Please initial one:

MA

Yes I have notified everyone

Not applicable in this case

Summary Explanation/Background:

While Lake Park has many appealing features – historic buildings, a variety of dining options, parks of all sizes, a dedication to diversity and inclusivity – one of the most appealing for residents and visitors alike is the Intracoastal Waterway, which serves as our eastern border. It attracts individuals and families who enjoy boating and fishing, as well as those who simply appreciate the magnificent view of this cherished waterway and the peace that often comes with sitting by the water. The Town Manager and Staff recently discussed this naturally occurring benefit that the Town enjoys and are in favor of branding a designated section of the Town adjacent to the waterfront as a “district” for identification and marketing activities. Doing so will create recognition and definition, as well as foster additional pride of place. This endeavor will provide the Town with additional wayfinding tools to help it stand out, and will provide residents and business owners in the area with a unique opportunity to indicate that they are located in the “**Name TBD District.**”

The Town will brand the area by creating themed messaging and signage to designate the portion of Lake Park that comprises the newly named district, and will include “**Name TBD District**” language related to that segment of Lake Park when discussing or promoting the area to potential residents, business owners or developers who are interested in the area. A new logo will be designed and incorporated, as well.

The newly identified district would run from Palmetto Drive south to Silver Beach Road, and from Second Street east to and into the water. A map delineating the proposed district is attached. Suggested names for this section of the Town are (but are not limited to) “Marina District” and “Marina Waterfront District,” however it is ultimately up to the Commission to decide if the district should be created and, if so, what it should be called.

Recommended Motion: Discussion item only, no action is required.



Map Of Proposed District



Legend

- KELSEY PARK
- LAKE PARK MARINA
- LOTTIE MAE MILLER PARK

- S.J. BLAKLEY PARK
- Lake Park Marina District

