



Lake Park Town Commission, Florida

Regular Commission Meeting

Wednesday, January 17, 2024 at 6:30 pm

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

33403

Roger Michaud	—	Mayor
Kimberly Glas-Castro	—	Vice-Mayor
Vacant	—	Commissioner
Mary Beth Taylor	—	Commissioner
Judith Thomas	—	Commissioner
John D'Agostino	—	Town Manager
Thomas J. Baird, Esq.	—	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 contact the Town Clerk's office by calling 881-3311 at least 48 hours in advance to request accommodations.

CALL TO ORDER/ROLL CALL

PLEDGE OF ALLEGIANCE

SPECIAL PRESENTATION/REPORT:

1. An Update Presentation on Accessory Dwelling Units (ADUs) and a Discussion Next Steps.

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.

- [2.](#) January 3, 2024 Regular Commission Meeting Minutes
- [3.](#) Resolution 08-01-24 Revising the Designation of Signatories for Town Bank Accounts.
- [4.](#) Resolution 07-01-24 Authorizing and Directing the Mayor to Execute an Agreement with D.S. EAKINS Construction Corporation for the Construction Project at Bert Bostrom Park.

PUBLIC HEARING(S) - ORDINANCE ON FIRST READING:

- [5.](#) Ordinance 01-2024 Modifying Chapter 68, Sections 68-2 and 68-3 related to Outdoor Storage.

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 68, SECTIONS 68-2 AND 68-3. PERTAINING TO TEMPORARY STORAGE CONTAINERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR THE REPEAL OF ALL LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

PUBLIC HEARING(S) - ORDINANCE ON SECOND READING:

OLD BUSINESS:

- [6.](#) Amendment to P3 Hotel Component Ground Lease requested by the Commission at its 1/3/2024 meeting to provide for a date when the tenant can start using the property for parking purposes (enter Town Manager language requested on 1/4/2023)

NEW BUSINESS:

- [7.](#) Legislative Talking Points for Commission Members for the Florida League of Cities
Legislative Actions Days from Monday January 29, 2024 through Wednesday January
31, 2024.

REQUEST FOR FUTURE AGENDA ITEMS:

ADJOURNMENT:

FUTURE MEETING DATE: Next Scheduled Regular Commission Meeting will be held on
February 7, 2024.



Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: January 17, 2024

Agenda Item No.

Agenda Title: Accessory Dwelling Unit Next Steps Presentation

- ☒ SPECIAL PRESENTATION/REPORTS ☐ CONSENT AGENDA
☐ BOARD APPOINTMENT ☐ OLD BUSINESS
☐ ORDINANCE ON 1st READING
☐ NEW BUSINESS
☐ OTHER

Approved by Town Manager 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: 2024.01.11 17:39:11 -05'00'

Date: _____

Anders Viane / Planner
Name/Title

D'Agostino

Originating Department: Community Development	Costs: Funding Source: Acct: N/A <input type="checkbox"/> Finance	Attachments: → 2024 ADU 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 AV Please initial one.

Summary Explanation/Background:

Staff is bringing forward this presentation item to resume the dialogue on accessory dwelling units started in prior years. This presentation will provide a status overview of where staff is with the ADU concept, our preferred ADU regulatory framework, and request from the Town Commission further instruction on next steps.

Recommended Motion:

For discussion only.

Accessory Dwelling Units 2024 Update

Item 1.



Anders Viane, Planner – Community Development Department

Introduction

Item 1.

- This presentation continues the dialogue on the topic of Accessory Dwelling Units begun at prior meetings and workshops held on November 20, 2019, February 19, 2020, December 16, 2020, and March 20, 2021.
- Following the last meeting, staff put this process on hold. We utilized this pause to address parking concerns and transient rental concerns related to ADUs and to research best practices nationwide and around the world. Since that time, in reviewing code complaints and observing our existing rental properties and ADUs, staff has not found ADUs to be the cause of disproportionate and excessive code enforcement issues.
- From our previous outreach efforts, staff has taken into account a range of opinions from the general public, private stakeholders, and Town Commission on ADU implementation. Recurring points of interest and concern include: **transient occupancy, vehicle parking, and aesthetic and use harmony with the surrounding neighborhood.**

Introduction (Cont.)

Item 1.

- Based on what we've learned from all stakeholder participants as well as our own research into how ADUs have been implemented elsewhere, staff has put together a set of draft ADU code recommendations we feel will allow for safe, orderly, harmonious, and compatible ADUs in the Town.
- These recommendations are intended to be the framework under which an ADU ordinance would be brought forward to the Commission.
- Tonight we'd like to provide an overview of our recommendations to receive direction on how to proceed.

Agenda

Item 1.

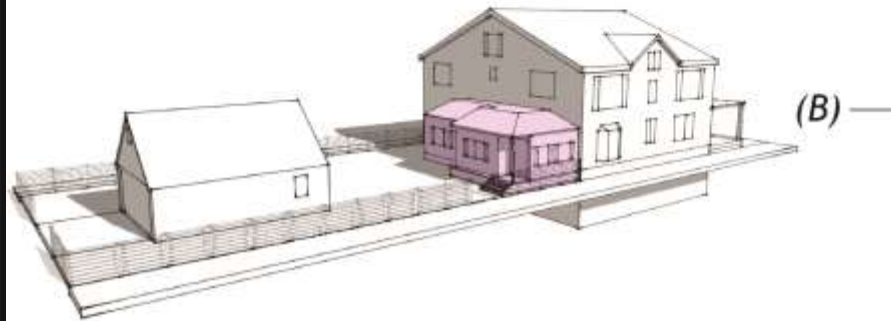
- What's an ADU and what's not?
- Why ADUs?
 - Affordability
 - Flexibility
 - Sustainability
- How would ADUs work?
 - Current zoning rules and staff's recommended regulations
- Q and A



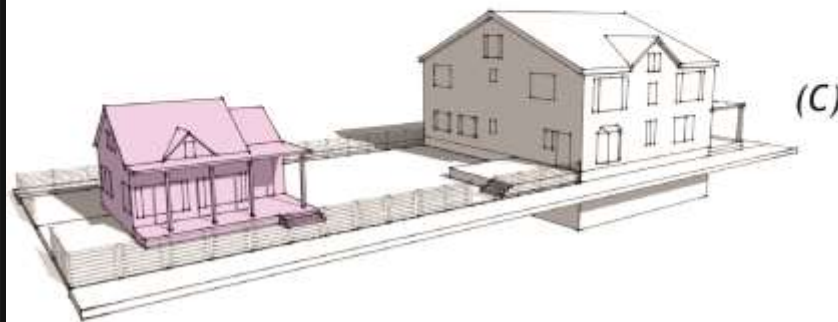
What's an ADU?

- Accessory dwelling units (ADUs) are secondary dwellings on single-family parcels
- Florida State Statute defines ADUs as “a secondary living unit that has a separate kitchen, bathroom, and sleeping area existing either within the same structure, or the same lot, as the primary dwelling unit.”
- ADUs can be either attached, internal to the primary dwelling or detached (standalone).

1. Attached Accessory Dwelling Unit (ADU)



2. Detached Accessory Dwelling Unit (ADU)



Typical ADU characteristics:

- Smaller massing than the primary home
- Backyard location
- Matching aesthetics with the primary home
- Average 1-2 person occupancy

Item 1.

What's an ADU?

Item 1.

415 Greenbriar Drive



Primary Home: 1925

ADU: 1925

500 Evergreen Drive



Primary Home: 1925

ADU: 1930

Existing ADU Locations in Lake Park



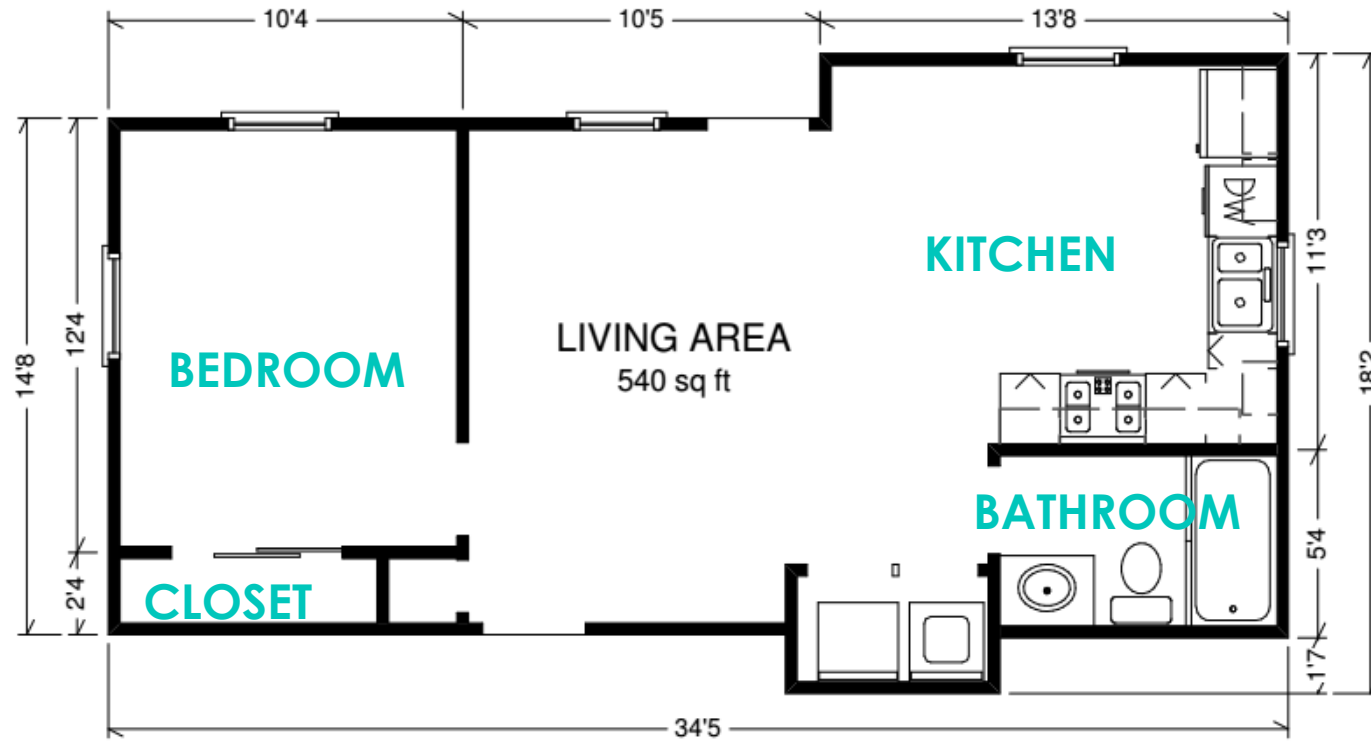
Legend

 ADU Locations

Source: Town of Lake Park Community Development (2020)

- ADUs have historically served as a natural outlet for growth in Lake Park and can again!

Inside an ADU



Item 1.



What's NOT an ADU?



Item 1.



Why ADUs in Lake Park?

Item 1.

○Affordability – for current owners, new buyers, and renters



○Flexibility – for multigenerational households, parents and young adults



○Sustainability – for community health and the environment

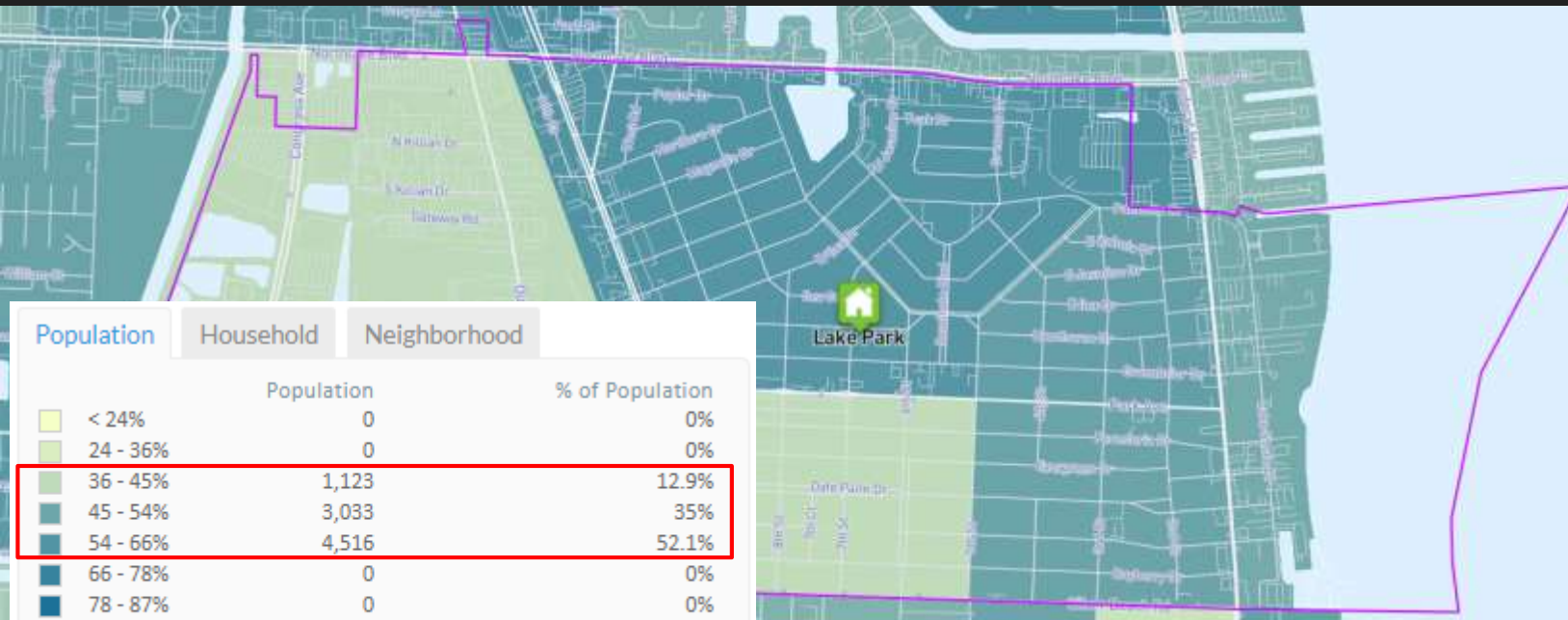


Affordability – Lake Park Overview (2024)

Item 1.

PBC 2010: 1,320,135 → 2024: 1,492,191

LP 2020: 8,556 → 2024: 9,047



Population	Household	Neighborhood
Population		
% of Population		
< 24%	0	0%
24 - 36%	0	0%
36 - 45%	1,123	12.9%
45 - 54%	3,033	35%
54 - 66%	4,516	52.1%
66 - 78%	0	0%
78 - 87%	0	0%
87% +	0	0%
Total	8,672	100%

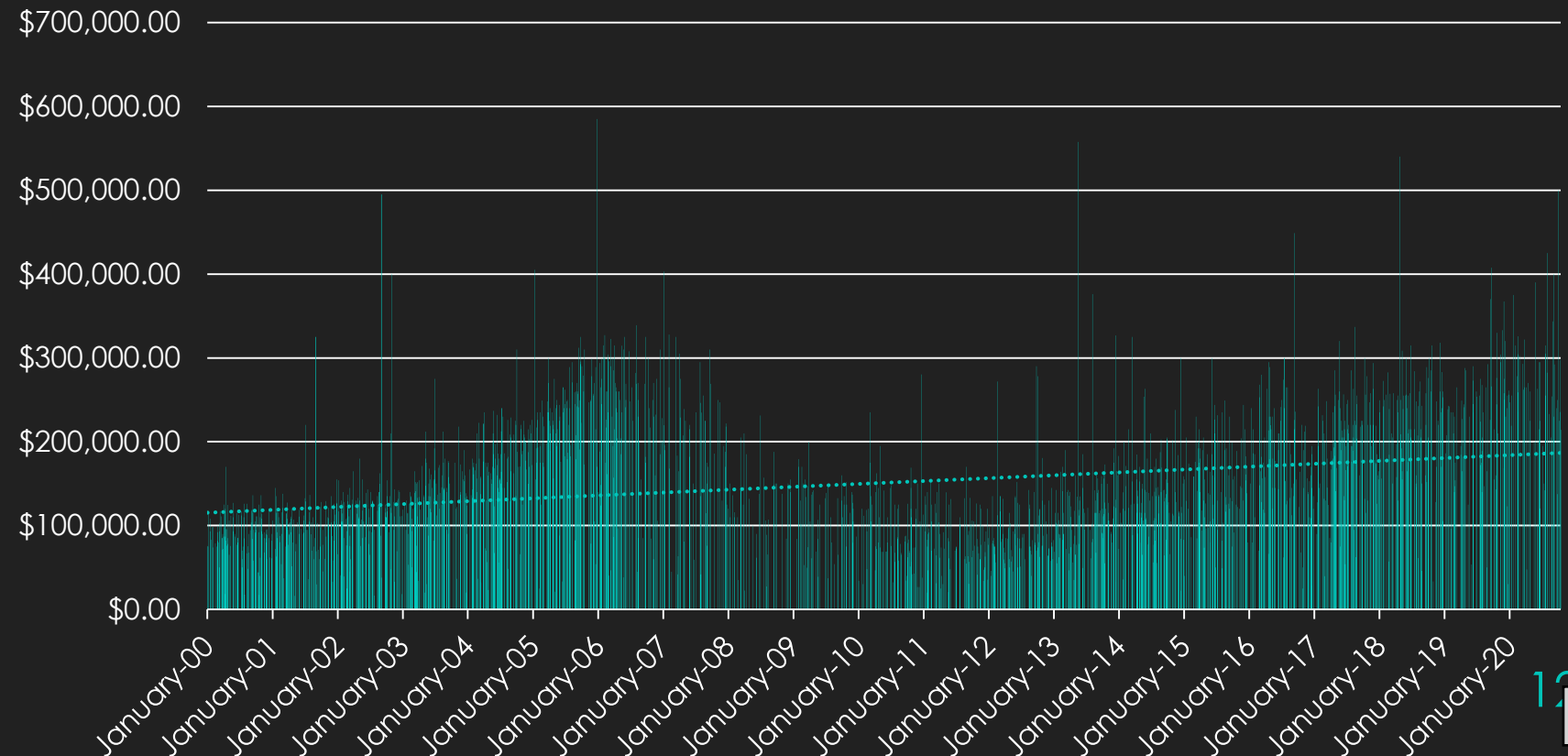
- Demographic change puts pressure on the supply-and-demand relationship of our housing market, impacting renters and owners.
- If you spend more than 30% of your income on housing, you are cost burdened.
- At the HUD standard, an owner making Lake Park's median income of \$56,775 (H + T Index) could mortgage \$255,487 over 15 years.

On Affordability (2024, partial update)

Item 1.

- Housing prices in Lake Park have risen and may rise further
- ADUs can help control rental costs by increasing supply
- Additionally, the rental income ADUs can generate could help facilitate purchases.
- It is worth noting, however, ADUs may also increase property value beyond what can be financed even with a rental agreement in some cases for new buyers.

Lake Park Single-Family Sales Prices



Source: Palm Beach County Property Appraiser (2020)

On Flexibility (2024)

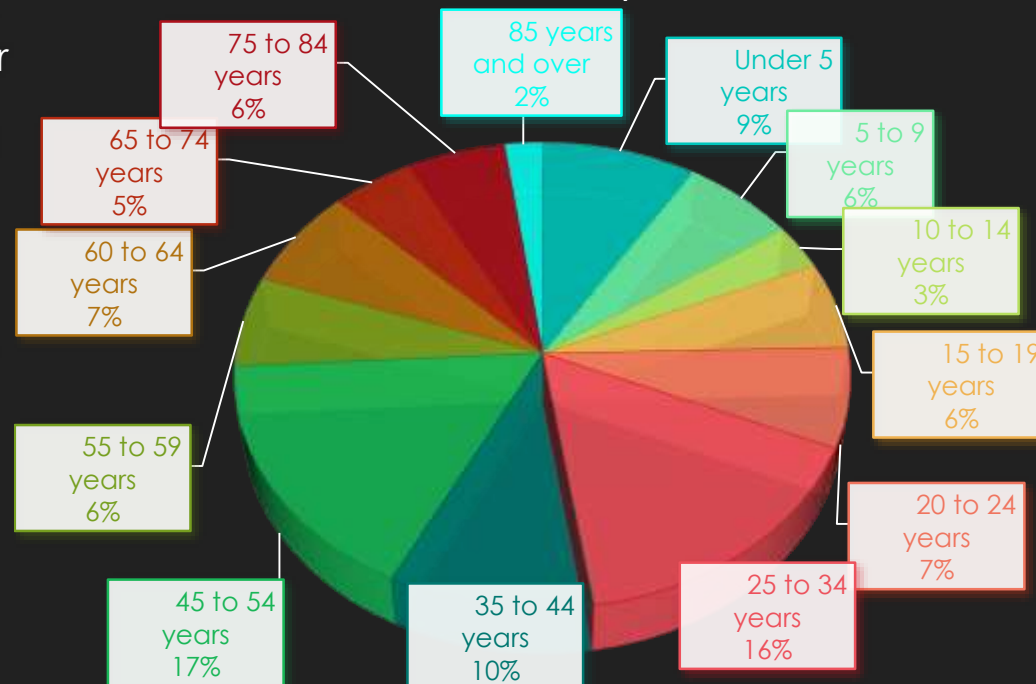
Source: American Community Survey(2022)

Palm Beach County Household Types 2018-2022		Lake Park Household Types 2014-2018	
Percentage		Percentage	
Persons per household	2.49	Persons per household	2.67

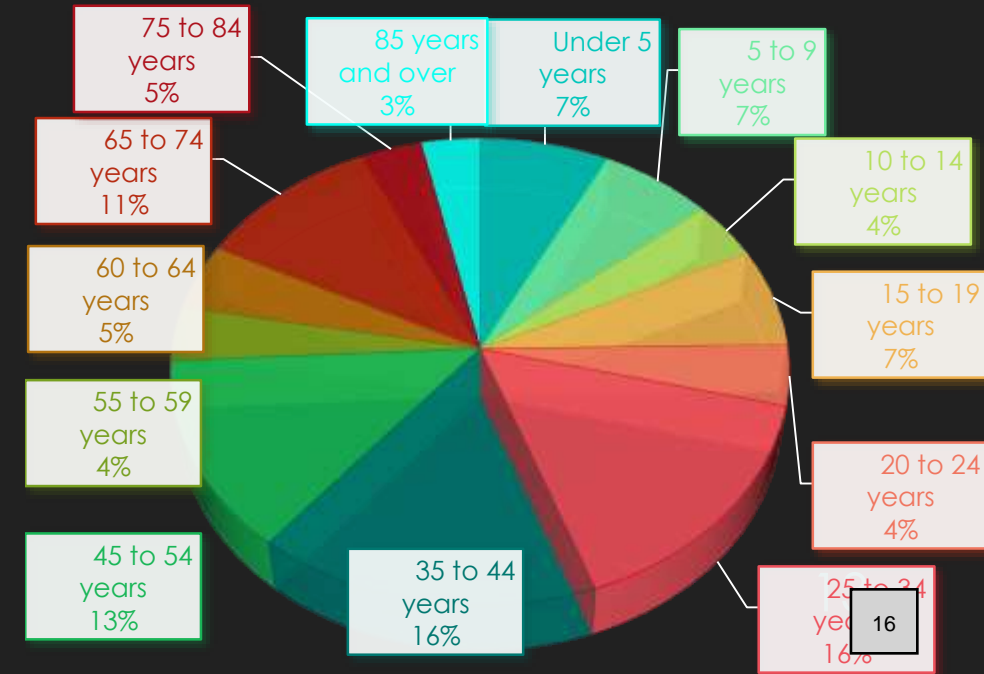
Item 1.

- Lake Park still has more extended families and persons per household than the PBC Average.
- ADUs facilitate flexible living arrangements for Lake Park's extended and multigenerational households.
- Case studies suggest ADUs are usually rented to close friends or the family of the owner. Rather than bringing strangers into the community, ADUs will most likely bring families closer together.

2018 Pop.



2022 Pop.



On Sustainability

Item 1.

- ADUs promote sustainability by refreshing the housing stock and consolidating new development on existing parcels rather than greenfields.
- The average age of a Lake Park house is 64! New ADUs, equipped with new technologies and built to today's standards reduce energy consumption and may "refresh" older homes, giving them a unique asset to boost resale value.
- Additionally, the rental income an ADU may generate could be reinvested into improvements in the main home. In this way, ADUs facilitate healthy community upkeep.
- ADUs are consistent with Comprehensive Plan objectives, which are detailed more in the Fact Sheet.

How to ADU (Best Practices)

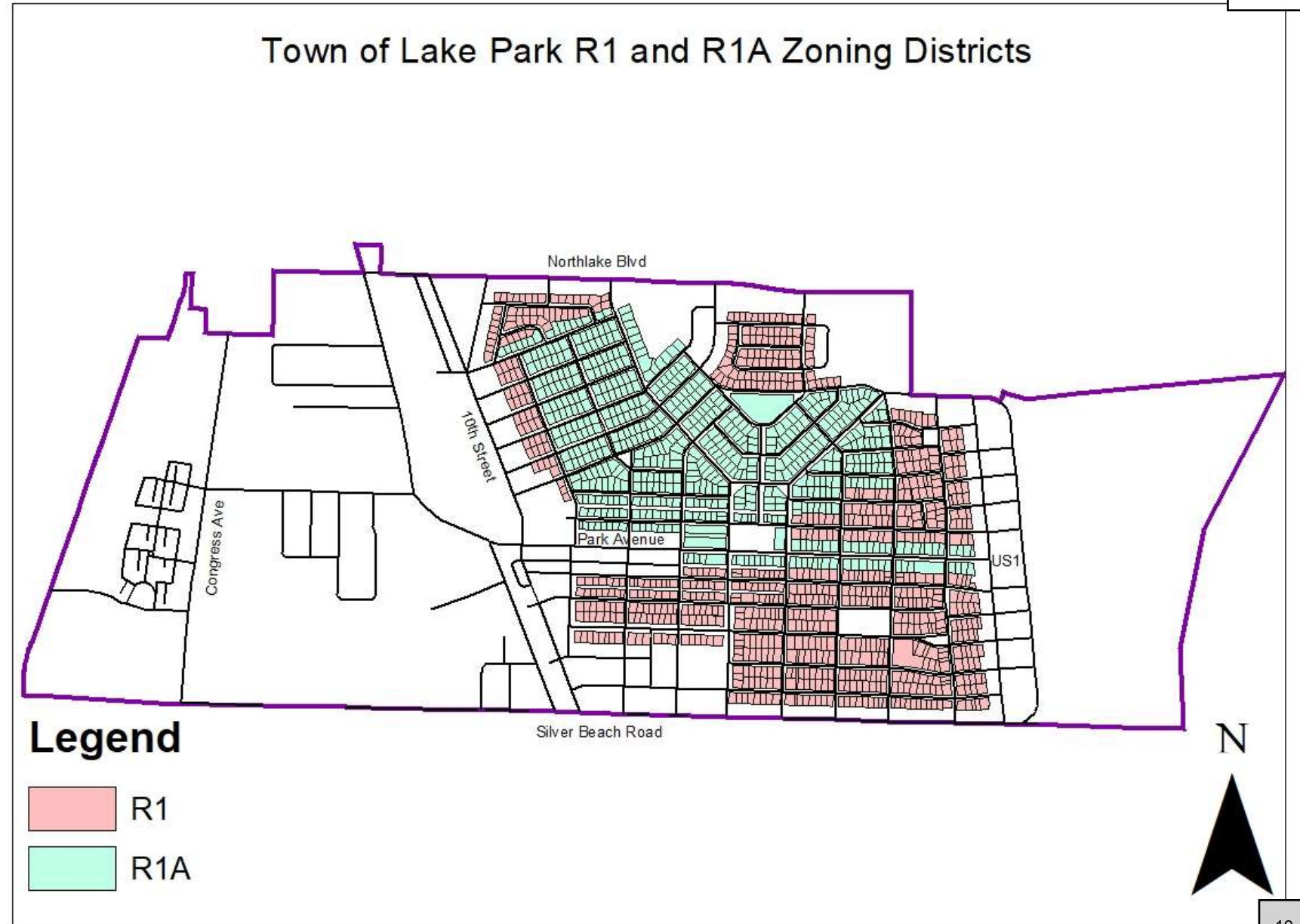
Item 1.

- ADU's exist throughout the US and around the world. They can be tailored to the unique needs of the communities that allow them.
- Since ADU's are widespread, there are a lot of best practices to learn from and staff has researched ADUs in a dozen municipalities from coast to coast and selected those standards we feel would fit best in Lake Park.
- Many of our existing rules and regulations will still apply to ADUs. In the following sections, existing rules that apply to ADUs will be orange. New regulations staff is proposing to regulate ADUs will be blue.

Districts

- The R-1 and R-1A zoning districts already allow for accessory structures.
- ★ Add ADUs to our accessory uses in the R1 and R1A.

Item 1.



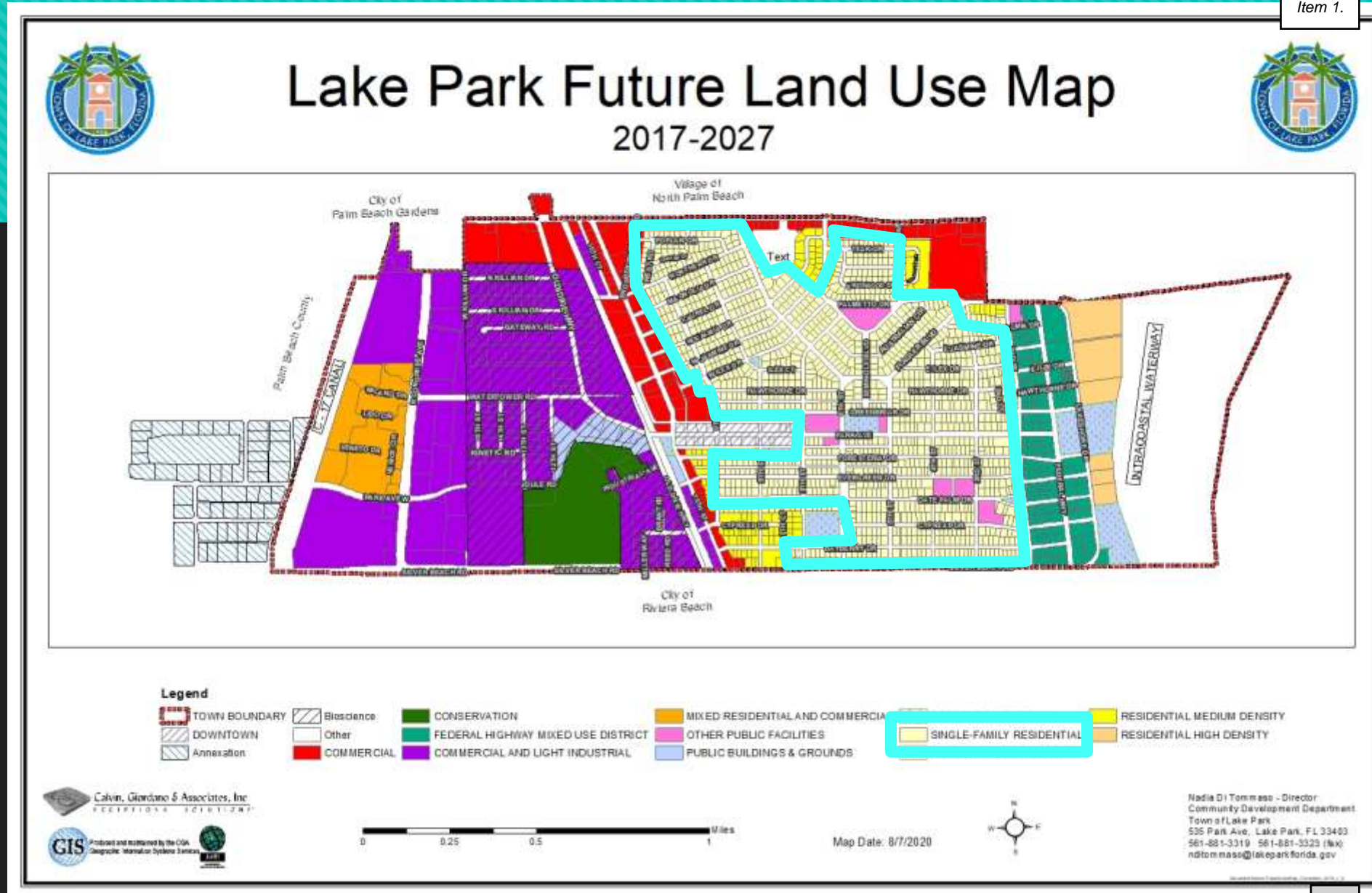
Density

Item 1.

3.4.3 Future Land Use:

Single family detached residences, with a maximum density not to exceed six (6) units per gross acre including permitted accessory uses.

★ Staff recommends amending the comprehensive plan to provide for an additional half-unit density entitlement for ADUs.



Minimum Lot Size

- In Lake Park, the smallest legally conforming lot is 7,500 SF for an interior parcel and 10,000 SF for a corner lot.
- The average lot size is 10,495 SF.
- Staff recommends making all parcels eligible for an accessory dwelling structure, provided they meet the maximum building coverage in their district.

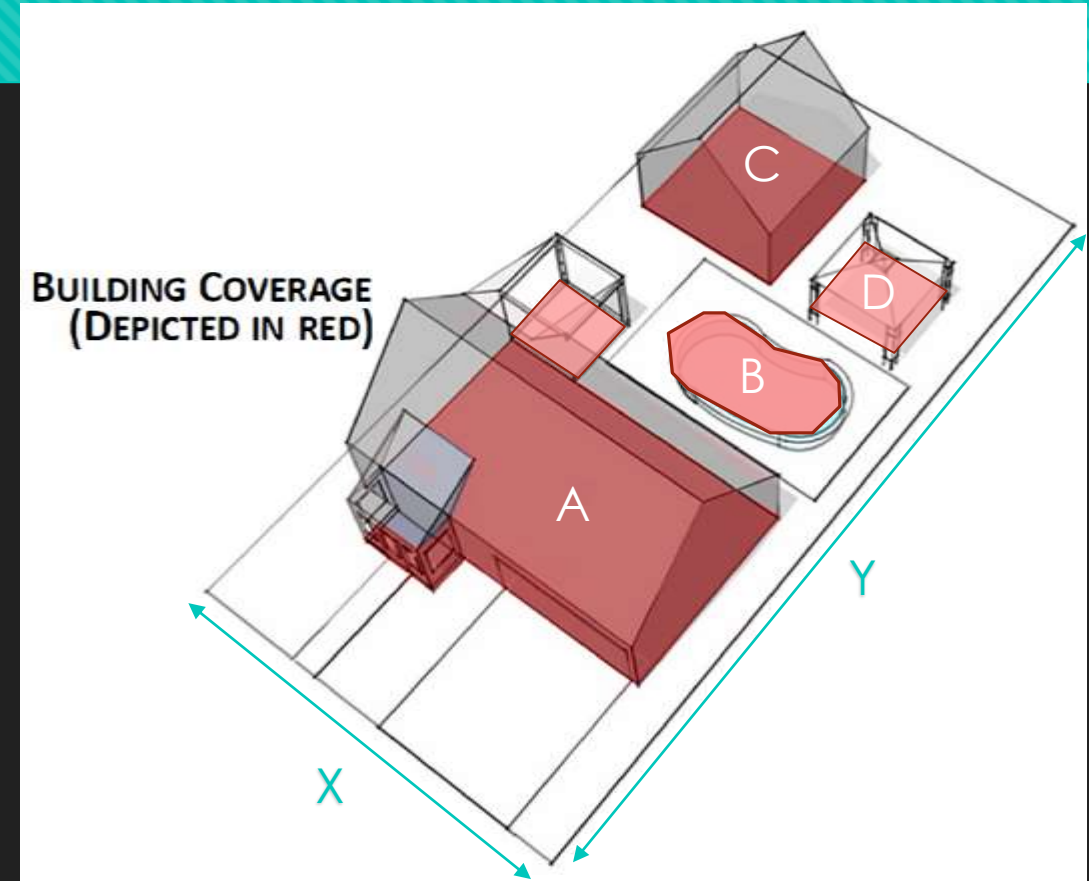


Item 1.

Building Coverage

Item 1.

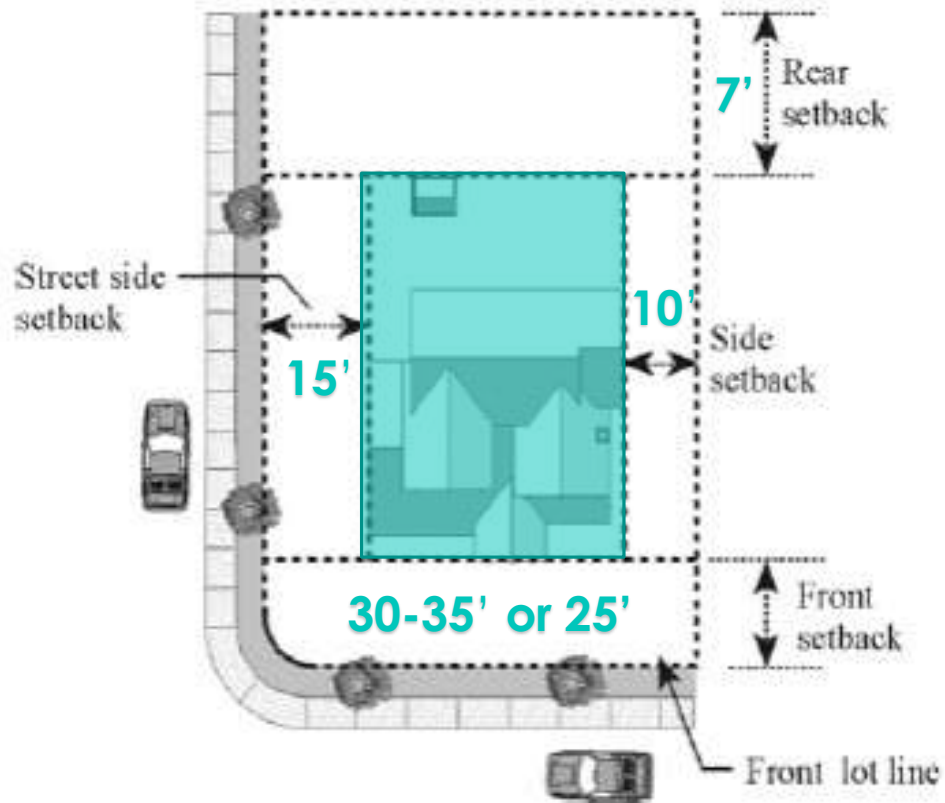
- Built coverage deals with “how much” structure you can build on your property.
- Buildable area is 50% in the R-1A and 60% in the R-1 District.
- Minimum 35% pervious area required.
- ADUs would be regulated under this same framework but could also be controlled with a maximum area.
- ★ Staff recommends a maximum ADU coverage of 1000 SF. So long as an ADU doesn't exceed the maximum ADU area and the maximum built coverage on the lot, it would be permitted.



$$\text{If } A + B + C + D \leq 50\% \text{ or } 60\% \text{ of } X * Y$$

Setbacks

Item 1.



- Setbacks promote harmony between structures and properties
- In the R-1 and R-1A, setbacks are as follows:
 - 30' Front in R-1 or 25' in blocks where established
 - 35' Front in R-1A or 25' in blocks where established
 - 15' Street Side
 - 10' Side
 - 7' Rear
- ★ Staff recommends applying the existing setback standards to accessory structures in the R1 and R1A districts. Additionally, staff proposes a new accessory dwelling structure be set back at least 10 feet from the primary structure, per the Florida Building Code.

Access

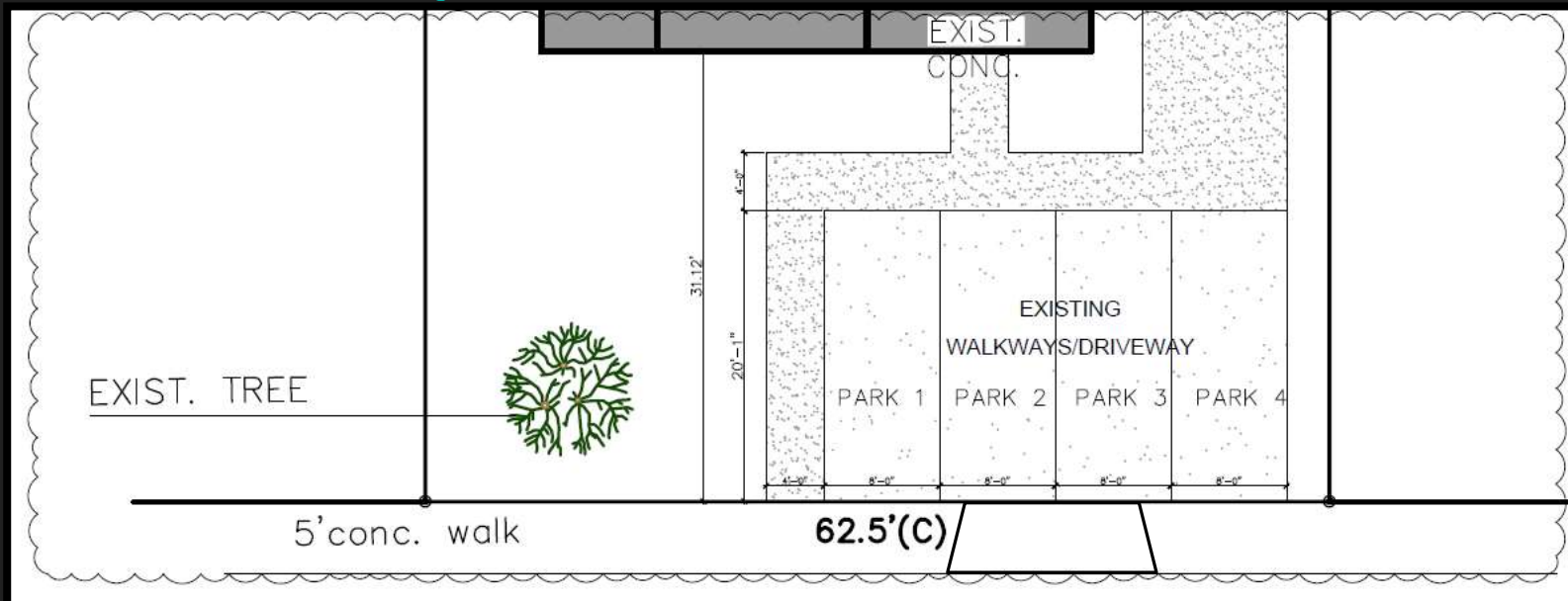
Item 1.

- Since ADUs are not currently allowed, there are no access standards for ADUs.
- Staff recommends that ADU owners be able to access their unit through the side yard of their property along a sidewalk that connects from the right-of-way to the ADU's front door, set back from the side property line by at least 4 feet.



Parking

Item 1.



- ★ Staff recommends that every accessory dwelling unit either demonstrate the ability to accommodate parking on site using existing driveway area or provide a new space per 78-142-1 (1) and 78-142 (c)(9)c.1. No grass parking and no exceptions!

- The Town Parking code requires at least two 8' X 20' spaces per dwelling unit.
- Staff believes ADUs will not generate significant additional traffic.
- Based on the Institute of Traffic Engineers' Trip Generation Manual, it is estimated that ADUs would generate no more than 10 trips per day per unit.

Architectural Standards

Item 1.



- Lake Park currently requires all accessory structures be “harmonious and compatible” with the primary dwelling in design.
- Maximum height would be 2 stories or 35'
- Architectural design standards are a commonsense inclusion for any ADU ordinance and shouldn't serve to hinder ADU development.

★ Staff recommends that accessory dwelling units conform to the preexisting standards for accessory structures generally, which requires they be harmonious and compatible with the primary dwelling in features such as color, height, and materials.

Landscaping

Item 1.

- Lake Park currently requires all residential parcels meet our minimum landscaping requirements.
- Additional landscaping restrictions can be put on ADUs to reduce visual impacts from the street.

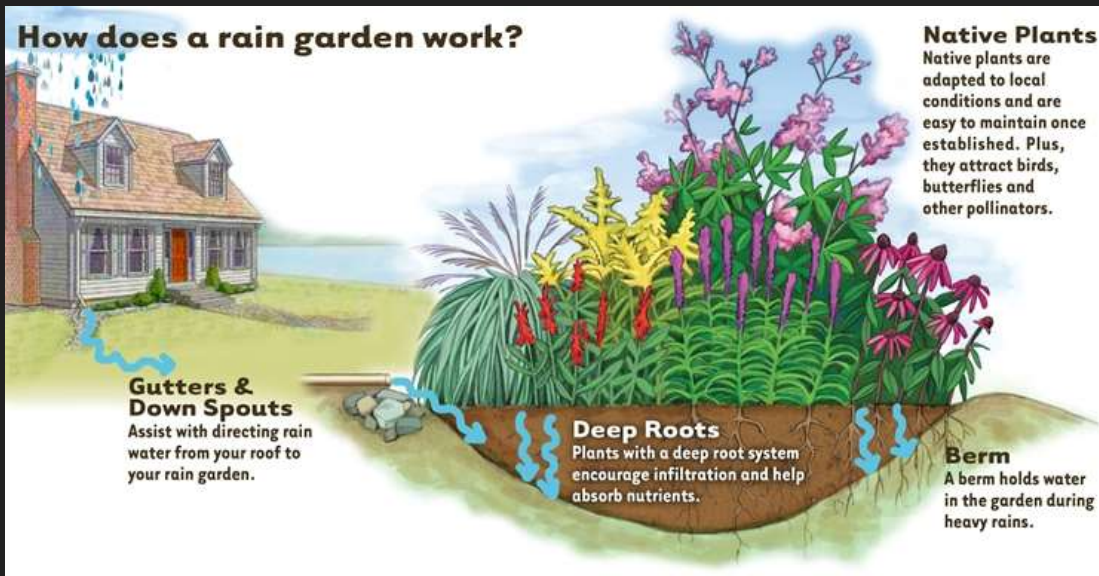


Staff recommends that every ADU provide for landscape screening if it is visible from the public right of way or if visible from a neighbor's property.

Storm Water Retention

Item 1.

- Lake Park currently requires all residential parcels meet the minimum 35% pervious area required.
- ADUs, like any structure, displace runoff, but this can be mitigated.



Staff recommends that every site approved for an ADU provide 1 of the following:

- Rain barrels and Raingardens to collect runoff from the new ADU roof impervious area.
 - Bioswales to trap any runoff before it gets to the road Right-of-Way
 - A vegetated buffer with water holding capacity for infiltration.
 - Any combination of the above
- Additionally, new ADUs should require plan review approval from Public Works/Stormwater Division

Approval Process

Item 1.

- New accessory structures like cabanas and garages and home additions are already administrative approval items that must meet many of the standards just overviewed.
- ★ Staff recommends ADUs be an administrative approval item. Additionally, staff recommends every ADU, prior to receiving a certificate of occupancy, fill out a sworn affidavit that affirms whether the owner intends to rent. If the owner does intend to rent, they would also be required to fill out a rental business tax receipt application prior to CO.

Occupancy Standards

Item 1.

- Lake Park currently defines *Family* as “one person or a group of two or more persons living together and interrelated by bonds of legal adoption, blood, or a licit marriage, or a group of not more than three people who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.”
- As one dwelling unit, ADUs would be limited to 1 family or no more than 3 unrelated people.
- Staff recommends allowing an ADU owner or their family to occupy either their main home or the ADU. Additionally, staff recommends allowing for families that meet our definition to occupy an ADU.

Rental Standards

Item 1.

- Who an ADU is rented to and for how much are at the discretion of the ADU owner, but here are the regulations that Lake Park currently applies to single-family rentals.
- Single-family rentals are currently allowed. All single-family rentals currently require a rental business tax receipt and a code enforcement health/safety inspection to operate.
- Transient rental, defined as “a dwelling that is operated or used in such a way that it has a turnover in occupancy of more than two times in any one year,” is prohibited in single-family zones.
- All ADUs would have to follow our existing rental standards. Additionally, pursuant to prior discussions, staff recommends additional conditions on ADU rentals if the current Commission is in agreement. These are: the owner or agent of the owner must reside on-site. Staff recommends applying these criteria to all rentals in Town going forward.
- If any of these conditions are violated, the property would be subject to code enforcement action.

Utility Considerations

Item 1.

- Applicants will need to provision for additional water and power utility connections to their ADU. These designs will vary on a case-by-case basis depending on the existing infrastructure of the home and will be subject to building permit approval and the standards of Seacoast and FPL, respectively.
- Both utility providers were previously contacted for comment on the ADU concept and reported no concerns.

Tax and Legal Considerations

Item 1.

- Lake Park ADUs provide significant taxable value to the Town. As of 2021, the Palm Beach County property appraiser acknowledges 50 ADUs in Lake Park, which collectively accounted for \$2,379,599 in taxable value out of a total of \$152,713,615 of taxable value on all single-family residential parcels.
- ADUs, or portions of property, that are rented would not be able to be Homesteaded.
- Historic properties applying for a new ADU would have to go through the special certificate of appropriateness process to determine compliance with the historic code.
- All existing ADUs throughout the Town would be legalized through this ordinance.
- Existing legalized ADUs would be subject to our new zoning standards, so legalizing ADUs will allow for nonconforming ADU properties to come into compliance on issues like parking and rental occupancy over time through the building permit and the business tax receipt processes.

Next Steps

Item 1.

- ADUs have long been discussed and the need for them has only become more pressing given housing cost trends in Florida.
- Tonight we're seeking Commission direction on next steps. Staff can either prepare an additional workshop to solicit further public input or we can begin drafting an ordinance based on the recommendations shown tonight.
- Thank you for your time and consideration!



253 Evergreen Dr



Item 1.

233 Park Ave

Thank you for your time!



754 Date Palm Dr



Please contact staff with further questions or comments at 561-881-3320 EXT 320.



Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: **January 17, 2024**

Agenda Item No.

Agenda Title: January 3, 2024 Regular Commission Meeting Minutes.

☐ SPECIAL PRESENTATION/REPORTS ☒ **CONSENT AGENDA**
☐ BOARD APPOINTMENT ☐ OLD BUSINESS
☐ PUBLIC HEARING ORDINANCE ON _____ READING
☐ 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: 2024.01.11 17:36:56 -05'00'

Date: _____

Laura Weidgans, Deputy Town Clerk

Name/Title

Originating Department: <p style="text-align: center;">Town Clerk</p>	Costs: \$ 0.00 Funding Source: Acct. # <input type="checkbox"/> Finance _____	Attachments: Minutes Exhibit A Public Comment Cards
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 LW. Please initial one.

Recommended Motion: I move to approve the January 3, 2024 Regular Commission Meeting Minutes.



Lake Park Town Commission, Florida
Regular Commission Meeting Minutes
Wednesday January 3, 2024 at 6:30 pm

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

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

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CALL TO ORDER/ROLL CALL

6:34 P.M.

PRESENT

Mayor Roger Michaud

Vice-Mayor Kimberly Glas-Castro

Commissioner Mary-Beth Taylor

Commissioner Judith Thomas

PLEDGE OF ALLEGIANCE

Led by Town Manager D'Agostino

SPECIAL PRESENTATION/REPORT: NONE

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.

-James Sullivan 348 Flagler Boulevard spoke about the phrase “Seomra Beatha” and gravel driveways (see attachment to comment card).

-Iris Sullivan 348 Flagler Boulevard spoke about street lights not working for two months on her street.

-Danny Ipes, new business owner of Churrasco Grill Cafe - 405 US Federal Highway 1, made an introduction to his new business with operating hours of 8:00 a.m. to 4:00 p.m. and wanted to thank staff for their assistance and to the Mayor for making him feel so welcome.

TOWN ATTORNEY, TOWN MANAGER, COMMISSIONER COMMENTS:

Town Attorney Baird wished everyone a Happy New Year and looked forward to working with the Town.

Town Manager D’Agostino provided comments (Exhibit A). He spoke about Assistant Town Manager/HR Director Bambi Turner’s accomplishment of a leadership program. Town Manager D’Agostino announced that Finance Director Jeffrey Duvall’s last day with the Town will be January 17. Mayor Michaud congratulated Assistant Town Manager/HR Director Turner and wished Finance Director Duvall luck in his new job.

Commissioner Taylor noticed that children are riding electric scooters and bikes along the center lines along Park Avenue. She wanted more information about the Town's mobility plan and would like to contribute to this cause.

Commissioner Thomas expressed concern with the property at 1100 2nd Court. She was disheartened by the Town's assistance in good faith to help residents to come into our community. She also spoke about the issue with street lighting and the need to fill vacant staff positions.

Vice-Mayor Glas-Castro asked if there could be a summary at the next meeting going over the legislative requests. Town Manager D'Agostino stated that this will be brought up at the next meeting. Vice-Mayor Glas-Castro suggested that we get input from some neighboring cities as to how they deal with electric scooters on the sidewalks and roadways. Commissioner Taylor suggested having a separate lane for bikes and scooters. Vice-Mayor Glas-Castro stated that she also has concerns about the property at 1100 2nd Court and thanked Commissioner Thomas for voicing that. Town Manager D'Agostino stated that they were hoping for a storage container re-write and he feels that we need to continue to cite them. He stated that staff will focus more directly on this issue moving forward and there will be a progress summary provided to the Commission by the end of the week.

Mayor Michaud mentioned areas where the street lights are out and how this creates unsafe conditions. Town Manager D'Agostino stated that the Town is working on an illumination study and a report is forthcoming. Mayor Michaud asked about the status on the moratorium on the live local act. Town Manager D'Agostino stated a status update would be provided.

CONSENT AGENDA:

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Motion made to approve the Consent Agenda by Vice-Mayor Glas-Castro, Seconded by Commissioner Taylor.

Voting Yea: Mayor Michaud, Vice-Mayor Glas-Castro, Commissioner Taylor, Commissioner Thomas.

1. December 20 2023 Regular Commission Meeting Minutes.
2. Resolution 06-01-24 Authorizing the Town Manager to Accept a Proposal from Water Resources Management Associates, Inc. for Post Design Support and Project Management Services related to the 2nd Street Resurfacing and Green Infrastructure Project.
3. Request for Authorization for the Town Manager to Execute a Work Authorization for Shenandoah General Construction, LLC, to Provide Stormwater Infrastructure Repair Services at 311 9th Street, per the Pricing, Terms, and Conditions of the Broward College/Shenandoah Contract No. RFP-2018-1687-EH (Cooperative Purchase).
4. Resolution 01-01-24 Authorizing and directing the Town Manager to spend budgeted funds from the IT budget and execute a purchase order with Dove Technologies to replace the security camera system at Town Hall and the Lake Park Public Library.
5. Resolution 02-01-24 Fiscal Year 2023-2024 First Budget Adjustments.

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

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

OLD BUSINESS:

6. Progress Report on Status of P3 Ground Leases Between the Town of Lake Park and Forest Development P3 LPM, LLC for the Remaining Three Components of the P3 Project for the Enhancement of the Lake Park Harbor Marina.
Town Manager D'Agostino explained the item. He stated that the project is behind schedule and staff will be working on bringing forward resolutions that would include all of the remaining leases.

NEW BUSINESS:

7. Resolution 03-01-24 Authorizing the Mayor to Execute the Ground Lease between the Town of Lake Park and FD P3 LP HOTEL, LLC for the Hotel Component of the P3 Project for the Enhancement of the Lake Park Harbor Marina.

Town Manager D'Agostino explained the item. Vice-Mayor Glas-Castro questioned “use of premises” in paragraph 5 and asked at what point we lose the area for overflow storage. Town Manager explained paragraph 5.

Marina Director Jason Tenney explained the overnight storage facility and believes we would still have access to use it for another year or so. Town Attorney Baird explained that upon execution of the lease, the Town will not have that area available for use.

Town Manager D'Agostino stated that we will need to alter paragraph 5 to allow the Town use of the lot for parking.

Forest Development representative stated that making that adjustment to the lease would be fine with them as they were not anticipating using the lot for at least 1 year.

Don Delaney requested that the language in paragraph 5 be clarified to have the 1 year period recognized and enforceable.

Motion made to approve Resolution 03-01-24 with paragraph 5 omitted for a subsequent amendment made by Vice-Mayor Glas-Castro, Seconded by Commissioner Taylor.

Voting Yea: Mayor Michaud, Vice-Mayor Glas-Castro, Commissioner Taylor, Commissioner Thomas.

8. Commission Discussion Regarding Filling The Vacant Commission Seat.

Town Manager D'Agostino explained that Commissioner John Linden had tendered his resignation from the Commission effective December 28, 2023 leaving a vacancy to be filled. According to the Charter, the vacancy should be filled by an appointment by the Commission and the appointed member shall serve until the next scheduled election.

Town Manager D'Agostino explained that the next Federal primary will be in March 2024 and stated that the Commission has the option of appointing someone until that time. Town Attorney Baird clarified that according to the Town Charter, the Commission had the option of appointing someone who would serve until the position expired in March 2025, or the Town could elect a new Commissioner in March 2024 who would serve until March 2025. Commissioner Taylor clarified the time-line and the options of appointing or electing.

-Public Comment: Michael O'Rourke 233 ½ Park Avenue stated he believes the process would be to appoint someone who would serve until the election in March 2024.

Town Attorney Baird expressed concerns with not having very much time to make the public aware of the qualifying period which would begin January 5, 2024. Vice-Mayor Glas-Castro asked if an announcement had already been sent out. Town Clerk Mendez advised that advertisements had already been placed in the newspapers, social media and the Town website in anticipation of this discussion.

Mr. O'Rourke stated that he would be available for appointment by the Commission if they desired to go that route.

Vice-Mayor Glas-Castro stated that she believed the appointment would only be until March 2024 and feels that the Town should reach out to residents and there be an interview process, but she does not believe anyone would be interested in attending only a few meetings and then having to complete Form 6 as a result. Commissioner Thomas asked about the requirement to notify the Palm Beach County Supervisor of Elections office (SOE) by January 2, 2024 that we will be holding an election. Town Clerk Mendez stated that we had notified the SOE's office on December 21, 2023 when the resignation was tendered and the Town has until January 12, 2024 to notify the SOE's office of the names of the individuals who qualify. Commissioner Thomas asked about the possibility of extending the qualifying period.

Town Attorney Baird stated that the SOE's office is not allowing for a longer qualifying period. He also clarified that the unexpired term for the seat will be until March 2025, whether the individual is elected or appointed. He stated there is also the option of appointing a temporary individual until the election in March 2024. Mayor Michaud asked if we could hold the election without an appointment. Town Attorney Baird stated yes. Commissioner Taylor stated that since it has already been advertised, we should proceed with the election and does not feel that another individual should be appointed to fill the gap from now until the election. Vice-Mayor Glas-Castro agreed with this. Commissioner Thomas also agreed to not appoint anyone and have the election in March 2024.

9. Resolution 04-01-24 Establishing the Qualifying Period for the March 19, 2024 Municipal Election.

Motion to approve Resolution 04-01-24 made by Vice-Mayor Glas-Castro, seconded by Commissioner Taylor.

Voting Aye: Mayor Michaud, Vice-Mayor Glas-Castro, Commission Thomas, Commissioner Taylor.

10. Resolution 05-01-24 Authorizing the Mayor to Sign the 2024 Municipal Election Vote Processing Equipment Use and Election Services Agreement with the Palm Beach County Supervisor of Election for the Municipal Election Scheduled for March 19, 2024 and Selecting the County Canvassing Board to Canvass the Town's Ballots.

Motion to approve Resolution 05-01-24 made by Vice-Mayor Glas-Castro, seconded by Commissioner Thomas.

Voting Aye: Mayor Michaud, Vice-Mayor Glas-Castro, Commission Thomas, Commissioner Taylor.

REQUEST FOR FUTURE AGENDA ITEMS: Commissioner Thomas asked if the Commission could receive an update regarding the Town lighting in February. Town Manager D’Agostino agreed to provide this.

Mayor Michaud asked who would be participating in the Martin Luther King Jr. Day Parade on January 13th. Mayor Michaud and Commissioner Thomas both confirmed attendance.

ADJOURNMENT:

Motion to Adjourn made by Vice-Mayor Glas-Castro, Seconded by Commissioner Thomas.

Voting Aye: Mayor Michaud, Vice-Mayor Glas-Castro, Commissioner Thomas, Commissioner Taylor.

Meeting adjourned at 8:08pm

FUTURE MEETING DATE: Next Scheduled Regular Commission Meeting will be held on January 17, 2024.

Mayor Roger D. Michaud

Town Seal

Vivian Mendez, Town Clerk

Laura Weidgans, Deputy Town Clerk

Approved on this _____ of _____, 2024



TOWN MANAGER COMMENTS

Item 2.

TOWN COMMISSION MEETING Wednesday, January 3, 2024

Exhibit A

HUMAN RESOURCES

Job Openings:

Dock Attendant - Hourly rate: \$18.91 to \$30.25

Groundskeeper - Hourly rate: \$16.51 to \$26.42

Lead Groundskeeper – Hourly rate \$18.91 to \$30.25

Library Assistant – Children's -- Hourly rate: \$15.43 to \$24.69

Maintenance Worker - Hourly rate: \$18.91 to \$30.25

Receptionist/Cashier – Hourly rate \$18.91 to \$30.25

Sanitation Truck Operator I - Hourly rate: \$18.91 to \$30.25

Sanitation Truck Operator II - Hourly rate: \$21.65 to \$34.63

Stormwater Technician II - Hourly rate: \$21.65 to \$34.63

Senior Accountant – Salary range: \$59,014.54 to \$94,423.27 per year

Public Works Director – Salary range: \$115,002.64 to \$184,004.23 per year

Recreation Supervisor - Salary range: \$ 51,545.59 to \$82,472.94 per year

For the CRA, Community Redevelopment Administrator – Salary rate \$90,000.00 per year

All of the above positions are open until filled.

To view the complete job posting for the above position or to download an employment application, please visit the Town's official website at www.lakeparkflorida.gov . For additional information please contact the Town's Human Resources Department at 561-881-3300 and choose Option 8.

SPECIAL EVENTS

CITY OF RIVIERA BEACH MLK PARADE

The Town Commission received an invitation to participate in the annual Martin Luther King, Jr. Parade hosted by the City of Riviera Beach on **Saturday, January 13** at 10:00 a.m. At this time, we would like to know if there are any Commissioners that would like to participate?

SUNSET CELEBRATION

Sunset Celebration will be held on **Friday, January 26** from 6:00 p.m. – 9:00 p.m. at the Lake Park Harbor Marina. This month's event will feature live entertainment from Krush Party Band! There will be a full bar, happy hour prices, and a variety of food and craft vendors. For more information, contact the Special Events Department at 561-840-0160.

UPCOMING HOLIDAY CLOSURES

- All Town departments will be closed on **Monday, January 15**, in observance of Martin Luther King Jr. Day.
- In addition to Monday, January 15, the Lake Park Public Library will also be closed on **Saturday, January 13**.

RESIDENTIAL SANITATION SCHEDULES

The residential sanitation schedule for the week of January 8 is as follows:

- **Monday, January 8:** Garbage cart and vegetation collection
- **Wednesday, January 10:** Recycling cart collection
- **Thursday, January 11:** Garbage cart and bulk trash collection

The residential sanitation schedule for the week of January 15 is as follows:

- **Monday, January 15:** No service in observance of Dr. Martin Luther King Jr. Day
- **Tuesday, January 16:** Garbage cart and vegetation collection
- **Wednesday, January 17:** Recycling cart collection
- **Thursday, January 18:** Garbage cart and bulk trash collection

THE CITY OF RIVIERA BEACH
presents

A CELEBRATION OF

The Dream!

DR. MARTIN
LUTHER KING, JR

Parade
2024

REGISTER YOUR BAND,
DANCE TEAM
OR GROUP!

NEW PARADE ROUTE: Will start at
Congress Avenue and MLK Blvd. Parade
route ends at MLK Blvd. and Avenue P.

*The Parade Viewing stand, Vendor Row and
Family Fun Area will be located at
Dan Calloway Recreation Complex.

PARADE, VOLUNTEER & REGISTRATION

INFO: 561.845.3412

1481 WEST 15TH STREET
RIVIERA BEACH, FL 33404

 CITYOFRIVIERABEACH  CITYOFRIVIERABEACH  RIVIERABCH  RIVIERA BEACH TV

SATURDAY
JAN.13 10 AM



SUNSET CELEBRATION

FREE MUSIC CONCERT

FEATURING



KRUSH
PARTY BAND

FOOD VENDORS * CASH BAR * ART & CRAFT VENDORS * HAPPY HOUR
FREE ADMISSION & PARKING * NO OUTSIDE FOOD OR DRINKS

FRIDAY, JANUARY 26
6:00 PM - 9:00 PM
LAKE PARK HARBOR MARINA
105 LAKE SHORE DRIVE
LAKE PARK, FL 33403

FOR MORE INFORMATION CALL 561-840-0160 OR
EMAIL SPECIALEVENTS@LAKEPARKFLORIDA.GOV





TOWN OF LAKE PARK
PUBLIC COMMENT CARD

Item 2.

MEETING DATE: 01/03/2024

Cards must be submitted before the item is discussed!!

*****Three (3) minute limitation on all comments**

Name: JAMES SULLIVAN

Address: 548 Flagler Blvd

If you are interested in receiving Town information through Email, please provide your E-mail address: _____

I would like to make comments on the following Agenda Item:

I would like to make comments on the following Non-Agenda Item(s):

EXPLANATION USE OMRA BETTER AND
HOW IT APPLIES TO LAKE PARK'S
DESIRE TO IMPROVE APPEARANCE OF TOWN ✓

Instructions: Please complete this card, including your name and address; once the card has been completed, give it to the Town Clerk. The Mayor will call your name when it is time for you to speak. Comments are limited to three (3) minutes per individual.



TOWN OF LAKE PARK
PUBLIC COMMENT CARD

MEETING DATE: 01/13/2024

Cards must be submitted before the item is discussed!!

*****Three (3) minute limitation on all comments**

Name: J. SULLIVAN

Address: 548 Flagler Blvd

If you are interested in receiving Town information through Email, please provide your E-mail address: _____

I would like to make comments on the following Agenda Item:

I would like to make comments on the following Non-Agenda Item(s):

GRAVEL DRIVEWAYS - RIGHT AND WRONG
CONSTRUCTED AND EFFECT ON TOWN
APPEARANCE

Instructions: Please complete this card, including your name and address; once the card has been completed, give it to the Town Clerk. The Mayor will call your name when it is time for you to speak. Comments are limited to three (3) minutes per individual.

① SEOMRA BETHA

Item 2.

ROOM WORK

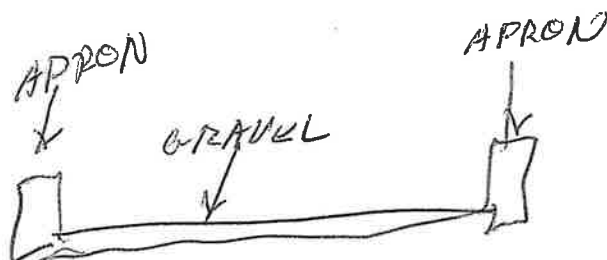
LIFE

CLAN
SCOTCH
GAELIC

SEPT
IRISH
GAELIC

THIS PHRASE DOES NOT TRANSLATE
WITH MEANING TO ENGLISH

② GRAVEL DRIVEWAYS



GRAVEL DRIVEWAYS CAN BE VERY GOOD
OR VERY BAD DEPENDING ON HOW THEY
ARE CORRECTLY CONSTRUCTED. SOME
LOOK GREAT AND ACTUALLY LOOK BETTER
THAN ASPHALT. FOR EXAMPLE GRAVEL
ROADWAYS LOOK TERRIBLE; HOWEVER GRAVEL
DRIVEWAYS IN SUBURBS EAST OF SAN
FRANCISCO LOOK GREAT.

THIRD

(3)



TOWN OF LAKE PARK
PUBLIC COMMENT CARD

Item 2.

MEETING DATE: 01/03/2023

Cards must be submitted before the item is discussed!!

***Three (3) minute limitation on all comments

Name: JAMES SULLIVAN

Address: 346 Flagler Blvd

If you are interested in receiving Town information through Email, please provide your E-mail address:

I would like to make comments on the following Agenda Item:

I would like to make comments on the following Non-Agenda Item(s):

BEER CANS AND BOTTLES TROWN FROM
CARS AND HOW IT AFFECTS OUT-OF-TOWNERS
VIEW ON LAKE PARK

Instructions: Please complete this card, including your name and address; once the card has been completed, give it to the Town Clerk. The Mayor will call your name when it is time for you to speak. Comments are limited to three (3) minutes per individual.



TOWN OF LAKE PARK
PUBLIC COMMENT CARD

MEETING DATE: 01/03/2024

Cards must be submitted before the item is discussed!!

***Three (3) minute limitation on all comments

Name: J. SULLIVAN

Address: 348 Flagler Blvd

If you are interested in receiving Town information through Email, please provide your E-mail address:

I would like to make comments on the following Agenda Item:

I would like to make comments on the following Non-Agenda Item(s):

NO SIDEWALK ON CORNER OF OLD
PIXIE HIGHWAY & RAILROAD ALONG OLD
PIXIE HWY.

Instructions: Please complete this card, including your name and address; once the card has been completed, give it to the Town Clerk. The Mayor will call your name when it is time for you to speak. Comments are limited to three (3) minutes per individual.

5



TOWN OF LAKE PARK
PUBLIC COMMENT CARD

Item 2.

MEETING DATE: _____

Cards must be submitted before the item is discussed!!

*****Three (3) minute limitation on all comments**

Name: JAMES SULLIVAN

Address: 348 S. Eagles Blvd

If you are interested in receiving Town information through Email, please provide your E-mail address: _____

I would like to make comments on the following Agenda Item:

I would like to make comments on the following Non-Agenda Item(s):

Recommend trees and bushes that need little or no care should be used. I recommend Beauty Bushes and Crap Myrtle Trees

Instructions: Please complete this card, including your name and address; once the card has been completed, give it to the Town Clerk. The Mayor will call your name when it is time for you to speak. Comments are limited to three (3) minutes per individual.



TOWN OF LAKE PARK
PUBLIC COMMENT CARD

MEETING DATE: 01/03/24

Cards must be submitted before the item is discussed!!

*****Three (3) minute limitation on all comments**

Name: IRIS SULLIVAN

Address: 348 S. Eagles Blvd

If you are interested in receiving Town information through Email, please provide your E-mail address: _____

I would like to make comments on the following Agenda Item:

I would like to make comments on the following Non-Agenda Item(s):

STREET LIGHTS NOT FUNCTIONING IN VARIOUS AREAS OF LAKE PARK AND EFFECT ON TOWN RESIDENTS & VISITORS

Instructions: Please complete this card, including your name and address; once the card has been completed, give it to the Town Clerk. The Mayor will call your name when it is time for you to speak. Comments are limited to three (3) minutes per individual.



TOWN OF LAKE PARK
PUBLIC COMMENT CARD

Item 2.

MEETING DATE: 1/3/24

Cards must be submitted before the item is discussed!!

*****Three (3) minute limitation on all comments**

Name: Danny Ipes - Churrasco Grill Cafe

Address: 405 Federal Hwy LP FL 33403

If you are interested in receiving Town information through Email, please provide your E-mail address: _____

I would like to make comments on the following Agenda Item:

I would like to make comments on the following Non-Agenda Item(s):

Introduce our new business

Instructions: Please complete this card, including your name and address; once the card has been completed, give it to the Town Clerk. The Mayor will call your name when it is time for you to speak. Comments are limited to three (3) minutes per individual.



TOWN OF LAKE PARK
PUBLIC COMMENT CARD

MEETING DATE: 1-3-24

Cards must be submitted before the item is discussed!!

*****Three (3) minute limitation on all comments**

Name: Michael O'Rourke

Address: _____

If you are interested in receiving Town information through Email, please provide your E-mail address: morster150@gmail.com

I would like to make comments on the following Agenda Item:

Item 8

I would like to make comments on the following Non-Agenda Item(s):

Instructions: Please complete this card, including your name and address; once the card has been completed, give it to the Town Clerk. The Mayor will call your name when it is time for you to speak. Comments are limited to three (3) minutes per individual.



Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: January 17, 2024

Originating Department: Finance Department

Agenda Title: Resolution Revising the Designation of Signatories for Town Bank Accounts

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: 2024.01.11 17:53:15 -05'00' **Date:** _____

Cost of Item: \$0.00 **Funding Source:** N/A

Account Number: N/A **Finance Signature:** _____

Advertised:

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

Attachments: Town Resolution, Attachment "A"; Bank Signature Cards, Attachment "B"
Bank Master Resolution and Authorization Attachment "C"

Please initial one:

____ Yes I have notified everyone

X Not applicable in this case

Summary Explanation/Background:

The Lake Park Code of Ordinances Sec. 2-222 requires three signatures on all Town checks. They are to be the Mayor, the Vice-Mayor, and the Finance Director, with an alternate in case of unavailability of the Mayor or Vice-Mayor for signatures. Due to the resignation of the Finance Director and one of the Commissioners, the designation of signatories must be temporally updated to remove previous Commissioner John Linden, Finance Director Jeffrey Duvall and include Interim Finance Director Barbra Gould. The Commissioners agreed to include Mayor Roger Michaud, Vice-Mayor Kimberly Glas-Castro and Interim Finance Director Barbra Gould as the designation of signatories for the Town of Lake Park bank accounts. This resolution codifies that decision.

Recommended Motion:

I move to adopt Resolution ____ -01-24.

RESOLUTION 08-01-24

A RESOLUTION OF THE TOWN OF COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, APPOINTING VICE MAYOR KIMBERLY GLAS-CASTRO, INTERIM FINANCE DIRECTOR BARBRA GOULD, AND MAYOR ROGER MICHAUD AS AUTHORIZED SIGNATORIES ON PNC BANK ACCOUNTS PAYABLE ACCOUNT #1201423864, PAYROLL ACCOUNT #1201624885; AND REVENUE ACCOUNT #1201634645, DIRECTING THAT ALL AUTHORIZED SIGNATORIES ON SAID ACCOUNTS COMPLETE AND EXECUTE SIGNATURE CARDS, FAXSIMILE SIGNATURE CARD, AND RESOLUTIONS AND/OR OTHER BANK DOCUMENTS NECESSARY TO EFFECT THE IMPLEMENTATION OF THIS RESOLUTION; DIRECTING THE TOWN CLERK TO PROVIDE A CERTIFIED COPY OF THIS RESOLUTION TO THE BANKING INSTUTION NAMED HEREIN; AND PROVIDING FOR AND EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AS FOLLOWS:

Section 1. The following persons are hereby appointed as an authorized signatories on the following PNC Bank Accounts: Payable Account #1201423864, Payroll Account #1201624885, and Revenue Account # 1201634645:

Interim Finance Director: Barbra Gould

Mayor: Roger Michaud

Vice-Mayor: Kimberly Glas-Castro

Section 2. All persons named herein or previously appointed as authorized signatories on said accounts are hereby directed to complete and execute signature cards, facsimile signature card, bank resolutions and/or other bank documents necessary to effect the implementation of this Resolution.

Section 3. The Town Clerk is hereby directed to provide a certified copy of this Resolution to the banking institution named herein.

Section 4. This Resolution shall become effective immediately upon adoption.



SIGNATURE CARD

PNC Bank, National Association

Date: _____

☐ Original ☐ Master ☐ Add ☒ Replacement ☐ Delete ☐ Depository Only

THE FOLLOWING SECTIONS TO BE COMPLETED BY CLIENT

ACCOUNT TITLE		SUBTITLE	
Town of Lake Park			
STREET ADDRESS	CITY	STATE / PROVINCE	ZIP CODE
535 Park Ave	Lake Park	Florida	33403

Check appropriate box for federal tax classification; check only one of the following seven boxes (required):

☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate
☐ Limited Liability Company. Enter the tax classification (C = C Corporation, S = S Corporation, P = partnership) _____

Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner

☒ Other (See IRS Publications fw9/iw9 for Instructions at www.irs.gov) Municipality _____

COMPLETE EACH SECTION FOR ALL SIGNERS, INCLUDING THOSE USING FACSIMILE SIGNATURES:

PRINTED NAME	TITLE	SIGNATURE (not required for a Deletion)
1) Kimberly Glas-Castro	Vice Mayor	
2) Barbara Gould	Interim Finance Director	
3) Roger Michaud	Mayor	
4)		
5)		
6)		

By signing below, the depositor (1) acknowledges receipt of the Account Agreement for this account and, if applicable to this account, the funds availability policy, and the USA PATRIOT Act Notice; (2) agrees that such documents are part of PNC's agreement with, and shall be legally binding on, the depositor; (3) agrees that PNC will not monitor specifications requiring multiple signatures or dollar limitations on checks drawn on depositor's accounts and that any such specifications are for depositor's internal purposes, only; (4) confirms that the information on this signature card is correct; and (5) confirms that the persons whose signatures appear on this signature card as signers on this account are authorized signers in accordance with the depositor's resolution and that the signatures appearing above are true specimens of the signatures of the persons listed above.

Certification of Owner:

Under penalties of perjury, I certify that: (1) The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and (2) I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and (3) I am a U.S. citizen or other U.S. person, and (4) The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

You must cross out item (2) above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return.

The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.

ACCOUNT NUMBER	TAX IDENTIFICATION NUMBER
1201423864, 1201624885, 1201634645	59-6000355

Printed Name: Roger Michaud

Printed Title: Mayor

Authorized Signature _____

Authorized representative per Part 3B of the PNC Master Resolution or as authorized by the Resolution on file with the Bank.

COLLECTIVE BANKING RESOLUTIONS: Master Resolutions**PART A: General****1. Client Information:**

- a. **Name of Client ("Client"):** Town of Lake Park
- b. **Trade name(s) / DBA if applicable:** _____
- c. **Type of Organization¹:** Client is a Government organized under the laws of Florida
("Jurisdiction of Formation").
- d. **Client Taxpayer ID (United States) / CA Business Number (Canada):** 59-6000355

2. **Execution and Delivery by a Common Signer on behalf of Multiple Entities:** A "Common Signer" is a signer that is appointed and authorized (in the same capacity), by multiple entities that share Common Ownership, to either: (i) be authorized to legally bind that entity to the representations in the subject document; or (ii) record and maintain the legally binding books and records of the entity. For the ease of doing business, in the event multiple entities have appointed the same Common Signer, that Common Signer may take the following actions: (i) insert the name of the lead Client or the Client Group and "See the Attached List of Clients" in line 1(a) of this Part A; (ii) attach a list of Entities for which the signer is a Common Signer ("**Client List**"), and including on such list all of the information required to complete Part A (1) under this Master Resolution; (iii) execute any one or more of this Master Resolution, Supplemental Resolutions, Schedules, and Attachments (collectively the "**Collective Banking Resolutions**"), whereby it shall be deemed that the document(s) shall have been executed by the Common Signer on behalf of each entity, as if such entity was the only entity listed in Section 1 of Part A above, and the representations therein shall be binding on such entity. The Common Signer shall ensure that the Collective Banking Resolutions and any related documents that it executes on behalf of any such entity shall be recorded in the business records of such entity. Entities listed on the Client List may enter into relationships with the PNC Group directly through separate agreements, or under collective agreements with the PNC Group.

3. **Representation of Signer(s):** The undersigned certifies, states, attests, and affirms that as to each entity listed as a Client:

- they are duly authorized and tasked by each entity to record and maintain the legally binding books and records of that entity, including but not limited to the contents of the Collective Banking Resolutions and can legally bind the entity to the same;
- that each statement herein has been made, ratified and adopted by each entity, for itself;
- the contents of this document are a true and correct statement of facts about each entity and each of the Resolutions below have been adopted by the governing body of each entity, in accordance with its own governing documents and applicable law; and
- The whole Collective Banking Resolutions, and each individual part thereof, are legally binding representations made by each entity listed as a Client to The PNC Financial Services Group, Inc, including all of its subsidiaries and affiliated entities (each being a "**PNC Entity**"), including but not limited to PNC Bank, National Association, and to PNC Bank Canada Branch², (collectively "**Bank**"), (all of the foregoing, collectively being referred to as the "**PNC Group**").
- the Collective Banking Resolutions may be electronically executed and delivered to PNC Group under the Client's governing documents and applicable law.

4. The definition of "**Common Ownership**" as used herein, with regard to any entities, shall mean the following: (i) an entity that, directly or indirectly, controls or owns fifty-one percent (51%) or more of the other entity; (ii) fifty-one percent (51%) or more of an entity is, directly or indirectly, controlled or owned by the other entity; or (iii) any entities where the same parties, directly or indirectly, control or own at least fifty-one percent (51%) of the voting interest in each entity.

PART B: RESOLUTIONS

The following Resolutions have been duly adopted, and entered upon the regular minute books of the Client, made in accordance with the governing documents of the Client, applicable and governing laws, and are now in full force and effect:

¹**Choose only one of the following:** (i) Corporation; (ii) Partnership; (iii) Unincorporated Association; (iv) Limited Liability Company; (v) Manager Managed LLC; (vi) Member Managed LLC; (vii) Single Member LLC; (viii) Sole Proprietorship; (ix) Public Entity or Government.
If the Client is a different entity type, please contact your PNC Entity Relationship Manager.

²PNC Bank Canada Branch is a branch of PNC Bank, N.A.

1. **Purpose:** These Resolutions are to provide the PNC Group with clarity regarding what has been authorized by the Client management of banking and financial activities the Client is undertaking with any member of the PNC Group, as set forth more particularly herein or in any schedule or attachment hereto, which may include banking, depository, treasury management, merchant services, obtaining extension of credit or loans, and investment activities (individually, a “Financial Activity” and collectively “Financial Activities”).
2. **Integration of Supplemental Resolutions, Schedules and Attachments.** The Client authorizes the expansion, reduction, or modification of what is authorized for any particular Financial Activities by providing the PNC Group with supplemental resolution schedules (each being a “Supplemental Resolution”). Supplemental Resolutions may be executed subsequently to the Master Resolutions and will be incorporated into the Collective Banking Resolutions in accordance with this section. Additional documentation in the form of attachments or schedules may be provided to the PNC Group, which provide more explicit detail regarding the general statements and authorities regarding Financial Activities set forth in the Collective Banking Resolutions (“Supplemental Documentation”). Client acknowledges and understands that Supplemental Documentation must be in a form acceptable to the Bank. Supplemental Documentation and signed Supplemental Resolutions shall be binding upon the Client, considered a part of the Collective Banking Resolutions, and will be effective after a reasonable amount of time to act on the same has elapsed, subsequent to delivery and actual acceptance of the documentation by the applicable PNC Entity. It is understood and agreed that the PNC Group may refuse or reject any Supplemental Documentation or Supplemental Resolution that it is unable or unwilling to comply with, or that is in a form that is not acceptable to the PNC Group or any applicable PNC Entity.
3. **Sharing of Master Resolutions and Information.** The Collective Banking Resolutions, or any part thereof, and any related information or documentation provided by the Client to a PNC Entity may be shared with other members of the PNC Group for the purpose of furthering the relationship with the Client and the PNC Group.
4. **Execution and Delivery of Collective Banking Resolutions and Related Documents.** The Collective Banking Resolutions and any related agreements or documentation may, at the option of the PNC Group, be electronically executed and delivered, or manually executed and delivered on paper. Each of the undersigned or individuals designated herein are authorized to use electronic records and electronic signatures to execute and deliver the Collective Banking Resolutions and any related agreements or documentation. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, manually signed Collective Banking Resolutions and any related agreements or documentation that have been converted into electronic form (such as scanned into PDF format) for transmission, delivery and/or retention by the PNC Group (any such signature method being referred to herein as a “Signature Method”).

In consideration of the PNC Group accepting documents with a Signature Method, to the extent legally permissible, the Client irrevocably indemnifies and holds the PNC Entities accepting documentation or instructions executed by Signature Method, and their respective agents, employees, officers and directors, harmless from and against any and all claims, damages, demands, judgments, liabilities, losses, costs and expenses (including attorneys' fees) arising out of or resulting from the reliance of that PNC Entity on the Signature Method or this Resolution regarding Signature Methods. For the avoidance of doubt, unless expressly stated otherwise, nothing in the Collective Banking Resolutions shall be construed or interpreted as a governmental or sovereign Client waiving sovereign immunity it may have, nor shall it be deemed to have waived or denied any remedy or defense available to it under the laws of its Jurisdiction of Formation.

5. **Requests Made by Telephone, E-mail, Automated Platform or Other Means.** Each PNC Entity is authorized, in its sole discretion, to take any action authorized hereunder, and to share information about the Client in the possession of the PNC Group, based upon any communication the PNC Entity has a commercially reasonable belief to be from an Authorized Individual, as defined below, or any other person reasonably believed to have been authorized to act by an Authorized Individual, including but not limited to communications made by telephone, facsimile, electronic mail, SWIFT message, secure on-line messenger, through any automated platform or electronic service provided by the PNC Group, including the Bank's PINACLE® system or Dealer Access System, in accordance with the applicable security procedures therefor, or via any other means of transmission or communication.
6. **Copies of Resolutions and Governing Documents.**
 - a. A copy of the Collective Banking Resolutions shall be delivered to the PNC Entity being engaged by the Client and the PNC Entity shall be entitled to rely on the authority vested in the persons specified in the Collective Banking Resolutions, which shall remain in full force and effect until a copy of a subsequent resolution revoking or modifying the Collective Banking Resolutions has been filed with a member of the PNC Group and the applicable PNC Entity has had a reasonable time to act on it. The Collective Banking Resolutions supersede any prior resolution of Client provided to the PNC Entity addressing the same subject matter.
 - b. Copies of any organizational or other documents, including but not limited to the articles or certificate of incorporation, the by-laws or regulations, the operating agreement, or other organizational documents of the Client, that the Client may deliver to a PNC Entity, shall be, true, complete and correct copies thereof with all amendments thereto as in effect on the date of such delivery, which any PNC Entity shall be entitled to rely on.

7. **Related Entities:** Now or in the future, an entity or entities that are under Common Ownership with the Client, but do not have a Common Signer with the Client (each being a “**Related Entity**” and collectively “**Related Entities**”), may appoint and empower the Client to manage their banking relationships and Financial Activities. To make such appointment, each Related Entity would execute and deliver to the PNC Group a specialized resolution joining and binding the Related Entity to the Collective Banking Resolutions (“**Joinder Resolution**”). Such appointment would permit individuals authorized to act on behalf of the Client to also act on behalf of the related entities and legally bind those related entities regarding Financial Activities. The relationship of the Related Entity(ies) with the PNC Group may be documented under agreements that are separate or joint with the Client. Before such appointment becomes binding, the Client must first accept the appointment and responsibility granted by the Related Entity under the Joinder Resolution by updating the Client list to include the Related Entities and clearly identify them as being added by Joinder Resolution. The Joinder Resolution(s) will become part of the Collective Banking Resolutions at such time as the Client updates the Client List to include the Related Entity(ies), which shall confirm the Client has accepted the appointment.

In consideration of the PNC Group accepting, in its discretion, the ability of the Client to act on behalf of a Related Entity, and accept Joinder Resolutions, if and when presented, and the related assertions that the Collective Banking Resolutions apply to the Related Entity(ies), the Client, to the extent legally permissible, irrevocably indemnifies, defends, and holds the PNC Group, PNC Entities, and their respective agents, employees, officers and directors, harmless from and against any and all claims, damages, demands, judgments, liabilities, losses, costs and expenses (including attorneys' fees) arising out of or resulting from (i) any claims or actions related to an assertion (or the reliance thereon by a PNC Entity) that the Client or a party authorized to act under the Collective Banking Resolutions was not authorized to act on behalf of, or legally bind, any Related Entity; and (ii) any representations made by the Client on behalf of any Related Entity. For the avoidance of doubt, unless expressly stated otherwise, nothing in the Collective Banking Resolutions shall be construed or interpreted as a governmental or sovereign Client waiving sovereign immunity it may have, nor shall it be deemed to have waived or denied any remedy or defense available to it under the laws of its Jurisdiction of Formation.

PART C: AUTHORIZATION OF INDIVIDUALS

1. Incumbency and Grant of Authorizations and Powers:

a. **Primary Authorized Individual(s):** The following individual(s) shall be authorized, without further approval of the Client, to: (i) undertake, modify and terminate any Financial Activity; (ii) execute, modify and terminate any Supplemental Resolutions; (iii) add and remove Related Entities participating in the Collective Banking Resolutions; (iv) accept, execute and/or deliver, any such agreements, instruments and documents as may be required to facilitate or restrict any Financial Activity and the relationship with the PNC Group. Any such Primary Authorized Individual shall be deemed an Authorized Individual able to execute any documentation for the entire relationship between the Client and the PNC Group. Any Primary Authorized Individuals shall also be deemed to be Authorized Individuals under any Supplemental Resolution regardless of whether they are listed on the Supplemental Resolution. The Primary Authorized Individual(s), their respective titles, and signature with the Client are as follows (The Client may at any time update, replace, or supplement the Primary Authorized Individuals or any Authorized Individuals by executing a Supplemental to Part C attachment that can be provided to the client).

	Printed Name	Printed Title	Signature
i)	Kimberly Glas-Castro	Vice Mayor	
ii)	Roger Michaud	Mayor	
iii)	Barbara Gould	Interim Finance Director	
iv)			
v)			
vi)			
vii)			
viii)			

b. Each Supplemental Resolution contains a list of individuals that hold the office, title or status with the Client listed next to each (each of the foregoing along with each of the Primary Authorized Individuals being an “**Authorized Individual**”). **With regard to the subject matter of the particular Supplemental Resolution only**, each Authorized Individual shall have the following authorities and powers: (i) any powers and authority granted generally to Authorized Individuals in the Master Resolutions; (ii) the ability to delegate and revoke any authority they have to others; (iii) add, remove, or update any signers or approvers for transaction; (iv) add or remove Authorized Individuals within the same Supplemental Resolution; and (v) accept, execute and/or deliver, any such agreements, instruments and documents as may be required by a PNC Entity, in its sole discretion, in connection with any transactions, including but not limited to the furnishing of any services for with the Authorized Individual in empowered collectively under the Collective Banking Resolutions. **The execution of a Supplemental Resolution by the Secretary of the Client, a Primary Authorized Individual, or an Authorized Individual under the previous version of the same Supplemental Resolution shall be conclusive proof that the Client has authorized the activities and appointments set forth in that Supplemental Resolution. A Supplemental Resolution may be executed simultaneously with the Master Resolution or at any time after execution of the Master Resolution.** A PNC Entity may require further documentation regarding the foregoing actions, which the Client shall supply upon request.

2. **SPECIAL OR COMPLEX SIGNER REQUIREMENTS ARE INTERNAL REQUIREMENTS OF THE CLIENT AND NOT ENFORCEABLE AGAINST THE PNC GROUP: CLIENT ACKNOWLEDGES, REPRESENTS AND AFFIRMS IT IS SOLELY RESPONSIBLE FOR, AND IT UNDERSTANDS THE BANK CANNOT AND WILL NOT ENFORCE, NOR SHALL BANK BE LIABLE OR RESPONSIBLE IN ANY WAY FOR ANY SPECIAL OR COMPLEX SIGNING INSTRUCTIONS OR REQUIREMENTS IMPOSED BY CLIENT IN ANY RESOLUTION ON PRIMARY AUTHORIZED INDIVIDUALS, INDIVIDUALS AUTHORIZED TO PERFORM ELECTRONIC TRANSACTIONS, AUTHORIZED SIGNERS, OR ANY OTHER INSTANCE, INCLUDING BUT NOT LIMITED TO INSTRUCTIONS REQUIRING DUAL SIGNING REQUIREMENTS OR MONETARY AMOUNT LIMITS ON THE SIGNING AUTHORITY OF AN INDIVIDUAL (WHICH AT ALL TIMES WILL ONLY BE CONSIDERED INTERNAL REQUIREMENTS OF THE CLIENT). IN ALL EVENTS ANY SINGLE PRIMARY AUTHORIZED INDIVIDUAL SHALL BE ABLE TO BIND THE CLIENT. NOTHING IN ANY SUPPLEMENTAL RESOLUTIONS OR SUPPLEMENTAL DOCUMENTATION SHALL OVERRIDE, REPEAL, REVOKE OR MODIFY TIDS LIMITATION AND AT ALL TIMES THE PNC GROUP SHALL BE ENTITLED TO RELY ON TIDS ACKNOWLEDGMENT AND REPRESENTATION.**

3. **Specimen Signatures:** A PNC Entity may at any time require specimen signatures of any Authorized Individual. Signature specimens may be supplied separately and after execution of the Master Resolutions and may be in any form acceptable to a PNC Entity, in its discretion, including but not limited to a Certificate of Incumbency. When a specimen signature is provided for an Authorized Individual (the name and title of the individual must also be clearly printed adjacent to or under the specimen signature), the Client authorizes any PNC Entity to attach those signatures to a PNC approved form on behalf of the Client and confirms the PNC Group may utilize the same as specimen signature for all purposes authorized by the Collective Banking Resolutions. **The Client acknowledges that a PNC Entity may determine, in its discretion, not to establish accounts or other services and may suspend some or all transactions until such time as that PNC Entity is in receipt of acceptable specimen signatures.** Upon Request by a PNC Entity, the Client shall promptly supply to the requesting PNC Entity specimen signatures of any Authorized Individual or person appointed under a Supplemental Resolution and authorizes the Bank to incorporate those specimens into a PNC approved form of the Collective Banking Resolutions. **If signature specimens are requested by a PNC Entity, that PNC Entity may suspend some or all activities until specimen signatures have been supplied.**

PART D: DEPOSITORY AND TREASURY MANAGEMENT SERVICES

1. **Authorization of Depository.** The Bank is designated a depository of the Client and is authorized to accept monies, wire and other electronic fund transfers, checks, drafts, notes, acceptances or other evidences of indebtedness for deposit, or for collection by the Bank and deposit upon receipt of payment therefore by the Bank, (including deposits and collections of payments in such foreign currencies as the Bank may accept from time to time), to the credit of the Client in such deposit account or accounts as the Client may have with the Bank (each an “**Account**”), without the endorsement of the Client appearing thereon, and Client promises to pay the Bank for any Items (defined below) that are returned for lack of endorsement. Authorized Individuals are authorized to open or close Accounts, and to instruct the Bank as to the disposition of funds in any Account to be closed, all by written instruction to the Bank, (electronically or otherwise), by any one such person. These resolutions and authorizations shall apply to all existing and future Accounts and may include Accounts denominated in one or more foreign currencies.

2. **Authorization to Open and Close Accounts, Obtain Treasury Management Services, and Delegate Authority.** In addition to the other authorities and powers granted in the Collective Banking Resolutions, each Primary Authorized Individual shall have the ability to: (i) open and close Accounts; (ii) obtain, change, modify or terminate treasury management services in the sole discretion of the Authorized Individual including, without limitation, services for the initiation or origination of transactions, transfers or withdrawals of funds from or to the Accounts, either in United States dollars or in such foreign currencies as Bank may make available from time to time; (iii) to designate, in writing, other persons who are authorized to obtain such treasury management services or to enter into such transactions or to give instructions to the Bank with respect to such services or transactions; and (iv) take any other actions authorized by the Master Resolutions. The Authorized Individuals will execute and provide such documentation as the Bank may require in furtherance of these activities.

3. **Signing Checks, Instruments and Withdrawal Orders, Performing Electronic Transactions and Delegating Authority.** Any Primary Authorized Individual is authorized to sign, execute, deliver and negotiate checks, drafts, bills of exchange, acceptances and other instruments or withdrawal orders or drawn on the Accounts of the Client with the Bank ("Items") and to delegate such authority to other persons. Any person authorized to sign, execute, deliver or negotiate Items by and through authority directly granted under the Collective Banking Resolutions, or by and through delegation of authority by a Primary Authorized Individual, (each being an "Authorized Signer"), must first provide a specimen signature acceptable to the PNC Group which shall first be affixed to and appear on the account signature card for Accounts. As confirmation of the authority of such persons, the account signature card shall be executed by a Primary Authorized Individual, or such other individual as may be acceptable to the PNC Group.

Any Primary Authorized Individual is authorized to perform electronic transactions related to Accounts and to delegate such authority to other persons. Client acknowledges it is solely responsible for establishing, overseeing and administering all entitlements and authorizations to perform electronic transactions.

ANY SPECIAL OR COMPLEX SIGNER REQUIREMENTS ARE NOT ENFORCEABLE WITH REGARD TO AUTHORIZED SIGNERS SIGNING, EXECUTING OR DELIVERING ITEMS.

4. **Authorization for Use of Facsimile Signature.** Use of facsimile signatures, including but not limited to facsimile signature made by computer, machine or other mechanical device, or rubber stamp is authorized for any signatures provided on account signature cards. The Bank is hereby requested, authorized and directed to honor any and all items bearing a facsimile signature of any person listed on a signature card given by Client to the Bank. The Client assumes full responsibility for all payments made by the Bank in good faith reliance upon such facsimile signature(s) and the Bank shall be entitled to pay and charge to the account of the Client any and all such Items, regardless of by whom or by what means such facsimile signature(s) thereon may have been affixed thereto. The Bank is authorized to make payments from Accounts, upon and according to such Items and other written instructions, whether given by manual or facsimile signature, in each case regardless of whether payment is requested to be made to the order of or for the benefit of, or whether payment is to be deposited to the individual credit of or tendered in payment of the obligation to the Bank of, the person making the withdrawal or transfer or any Authorized Individual.

[remainder of this page left intentionally blank]

Note:

For **Partnerships**, all general partners must sign unless the partnership agreement outlines other signing authorities

For **Limited Liability Companies**, all members must sign unless the operating agreement identifies one or more managers, in which case the managers must sign.

For **Corporations, Unincorporated Associations and Other Organizations**: The Secretary, must sign as attesting officer.

If the Secretary, as the attesting officer, is also granted authorization to act in Part C, then one other authorized representative must sign below.

☒ By checking this box, you are attesting that there is no Corporate Secretary.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned have hereunto set their hands and seals this

(Date).

(If field is left blank, the time stamp that is associated with the E-Signature will be the date the document was executed.)

ATTESTATION:

Client Name: Town of Lake Park

Signature

Signature

Printed Name

Printed Name

Title

Title

Signature

Signature

Printed Name

Printed Name

Title

Title



Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: January 17, 2024

Agenda Item No.

Agenda Title: **Agreement to Provide Construction Associated with Stormwater Improvements at Bert Bostrom Park**

[] SPECIAL PRESENTATION/REPORTS [X] CONSENT AGENDA
 [] BOARD APPOINTMENT [] OLD BUSINESS
 [] PUBLIC HEARING ORDINANCE ON _____ READING
 [] 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: 2024.01.11 17:55:38 -05'00'

Name/Title

Originating Department: Department of Public Works	Costs: \$ 5,621,838.74 Funding Source: Grant Acct. # [] Finance <u>Jeffrey P. Duvall</u> <small>Digitally signed by Jeffrey P. Duvall DN: cn=Jeffrey P. Duvall, o=, email=jduvall@lakeparkflorida.gov, c=US Date: 2024.01.11 16:27:46 -05'00'</small>	Attachments: 1) Resolution For execution of an agreement with DS Eakins Construction 2) Agreement Document Agreement Attachments are available for review at the Office of the Town Clerk
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 ____ Please initial one.

Summary Explanation/Background:

The Town of Lake Park was awarded a storm-water mitigation grant through Florida Commerce (previously referred to as Florida Department of Economic Opportunity (DEO)) in the amount of \$11,434,755.00.

As a pre-requisite to the issuance of the grant funding, the Town, as Recipient and Responsible Entity of the grant, must to complete the environmental requirements as directed under 24 Code of Federal Regulations, Part 58.

The required environmental assessment has been completed and the Town was issued a notice of clearance and given authority to use the allocated grant funding.

On October 08, 2023, Town's Public Works staff advertised and solicited bids from pre-qualified contractors for the Bert Bostrom Green Infrastructure Improvements Project via an Invitation to Bid No. 121-2023 (ITB); and

The Town received 3 bid responses and after evaluation and analysis a determination was made that D. S. Eakins Construction Corporation was qualified, able, and willing to satisfactorily provide the work and services for the Project as solicited in the ITB; and

The bid price provided by D.S. Eakins for the Project, including alternate bid pricing is \$5,621,838.74.

Upon approval and execution of this contractual agreement the Town will be ready to move forward with construction work on the Bert Bostrom Green Infrastructure Improvements project.



Recommended Motion: I move to authorize the Town Manager to accept the proposal provided by D. S. Eakins Construction, Inc., for the construction work associated with the Bert Bostrom Green Infrastructure Improvements Project.

RESOLUTION 07-01-24

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT WITH D.S. EAKINS CONSTRUCTION CORPORATION FOR THE CONSTRUCTION PROJECT AT BERT BOSTROM PARK; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town is a municipality with such powers and authority as is enumerated by Chapter 166 Florida Statutes and the Florida Constitution; and

WHEREAS, the Town desires to implement sustainable strategies that will improve the quality of life and safety of residents and visitors in the town; and

WHEREAS, the Town previously determined that its stormwater infrastructure lacks capacity and there is a need to implement drainage system improvements at Bert Bostrom Park (the Project); and

WHEREAS, on February 8, 2022, the Town was awarded a Rebuild Florida Mitigation General Infrastructure Program Grant by the State of Florida, Department of Economic Opportunity, in an amount of \$11,067,635.00 to retrofit storm sewer systems using low-impact green infrastructure; and

WHEREAS, on October 08, 2023, Town's Public Works staff advertised and solicited bids from pre-qualified contractors for the Bert Bostrom Green Infrastructure Improvements Project via an Invitation to Bid Number 121-2023 (ITB); and

WHEREAS, the Town received 3 bid responses and after evaluation and analysis a determination was made that D. S. Eakins Construction Corporation was qualified, able, and willing to satisfactorily provide the work and services for the Project as solicited in the ITB; and

WHEREAS, the bid price provided by D.S. Eakins for the Project, including alternate bid pricing is \$5,621,838.74.

WHEREAS, the Contractor's response to the ITB was determined by the Town Manager to be responsive and responsible to all requirements included in the ITB; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK:

Section 1. The foregoing recitals are incorporated herein.

Section 2. The Town Commission hereby authorizes and directs the mayor to execute an agreement with D.S. Eakins Construction Corporation to provide Construction Contracting Services, a copy of which is attached hereto and incorporated herein as Exhibit A.

Section 3. This resolution shall be effective upon its execution.

AGREEMENT TO PROVIDE SERVICES FOR CONSTRUCTION ASSOCIATED WITH STORMWATER IMPROVEMENTS AT BERT BOSTROM PARK

THIS AGREEMENT FOR THE PROVISION OF STORMWATER IMPROVEMENTS AT BERT BOSTROM PARK (Agreement) is made and entered into this ___ day of January 2024, by and between the Town of Lake Park, a municipal corporation of the state of Florida, having an address of 535 Park Avenue, Lake Park, Florida, 33403 ("Town") and D.S. Eakins Construction Corporation., 1481 Kinetic Road, Lake Park, Florida 33403 ("Contractor").

WITNESSETH THAT:

WHEREAS, the Town is a municipality with such powers and authority as is enumerated by Chapter 166 Florida Statutes and the Florida Constitution; and

WHEREAS, the Town desires to implement sustainable strategies that will improve the quality of life and safety of residents and visitors in the town; and

WHEREAS, the Town previously determined that its storm-water infrastructure lacks capacity and, among other things, there is a need to implement drainage system improvements at Bert Bostrom Park (the Project); and

WHEREAS, on February 8, 2022, the Town was awarded a Rebuild Florida Mitigation General Infrastructure Program Grant by the State of Florida, Department of Economic Opportunity, in an amount of \$11,067,635.00 to retrofit storm sewer systems using low-impact green infrastructure; and

WHEREAS, on October 8, 2023, the Town's Public Works Department staff advertised and solicited bids from pre-qualified contractors for the Bert Bostrom Green Infrastructure Improvements Project via an Invitation to Bid No. 121-2023 (the ITB); and

WHEREAS, the Town received three responses to its ITB, and after evaluation and analysis, the town staff determined that the Contractor represented itself to be a qualified, able, and willing to satisfactorily provide the work requirements and services solicited in the ITB; and

WHEREAS, the Contractor's response to the ITB was determined by the Town Manager to be responsive and responsible to all requirements included in the ITB; and

WHEREAS, the Town Manager has recommended to the Town Commission that the Town enter into this Agreement with the Contractor, for the Project; and

NOW, THEREFORE, the Town and the Contractor in consideration of the benefits flowing from each to the other do hereby agree as follows:

1. The above stated recitals are true and correct, and are incorporated herein.

2. CONTRACT PRICE

This term of the Agreement shall begin as of the date of the Town's issuance of a Notice to Proceed to the Contractor.

The contract price for the Project shall not exceed:

Base Bid Amount:	\$5,533,210.74
Plus, Alternate #1:	\$ 67,712.00
Plus, Alternate #2:	<u>\$ 20,916.00</u>
Total Bid Amount:	\$5,621,838.74

- Total Bid Amount pricing based on corrections made to bid submittal pricing.

3. COMPLIANCE WITH LAWS AND REGULATIONS

The Contractor shall comply with all laws, ordinances, building code requirements and regulations applicable to provide the goods or services specified in this solicitation. The Contractor shall comply with all federal, state, and local laws in the performance of this Agreement including but not limited to all provisions of Appendix II to Part 200 of the code of Federal Regulations.

4. LICENSES, PERMITS AND FEES

The Contractor shall hold and maintain all licenses and/or certifications necessary to perform the construction work and services for the Project. Any damages, penalties, and/or fines which may be incurred by or imposed on the Town or Contractor for the Contractor's failure to obtain and maintain any required licenses, certifications, permits, and/or inspections shall be solely the responsibility of the Contractor.

5. SUBCONTRACTORS

The Contractor shall provide to the Town a list of subcontractors the Contractor may be using to complete any work on the Project.

If subcontracts are to be let, then the contractor shall take the affirmative steps to ensure M/WBE's are used when possible.

6. ASSIGNMENT

The Contractor shall not assign or transfer the Agreement, including any rights, title, or interest therein, or its power to perform the construction and/or services of this Agreement to any person, company, or corporation without the prior written consent of the Town. The Town may terminate the Agreement in the event the Contractor has not obtained the Town's prior written consent.

7. RESPONSIBILITIES OF THE CONTRACTOR AS THE EMPLOYER

The employees of the Contractor shall be considered to be at all times its employees, and not an employees or agents of the Town. The Contractor shall provide physically competent employees capable of performing the work and licensed or certified as may be necessary to perform the construction and services associated with the Project. The Town may require the Contractor to remove any employee the Town deems to be unacceptable. All employees of the Contractor shall wear proper identification at all times while on Town properties.

The Contractor shall ensure that all its employees and any approved subcontractors comply with the employment regulations required by the United States Department of Homeland Security. The Town shall have no responsibility to check or verify the legal immigration status of any employee of the Contractor.

8. INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify and hold harmless the Town, and its elected and appointed officers, employees, and agents from any and all liability, losses, or damages, including attorney's fees and costs of defense, which the Town or its elected or appointed officers, employees, or agents may incur as a result of any claims, fees, demands suits, causes of actions, or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of the Agreement by the Contractor or its employees, agents, servants, partners, principals, or subcontractors. The Contractor shall be solely responsible for paying any and all claims and losses, or fees in connection therewith, and for the investigation and defense of all claims, suits, or actions of any kind or nature against the Town, for its negligence, act or omission, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be incurred thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit its responsibility to indemnify, keep and save harmless, and to defend the Town, its elected and appointed officers, employees, and agents.

The Contractor shall have and maintain during the term of the Agreement insurance coverage is to be issued by an insurance company authorized, licensed, and registered to do business in the state of Florida, with a minimum rating of B+ or better, in accordance with the latest edition of A.M. Best's Insurance Guide. This insurance shall be documented in certificates of insurance which provides that the Town shall be notified at least 30 days in advance of cancellation, non-renewal, or adverse change. The receipt of certificates of insurance, including if requested by the Town policies or copies of policies by the Town or by any of its representatives, which indicate less coverage than is required, does not constitute a waiver of the selected Contractor's obligation to fulfill the insurance requirements herein. Deductibles must be acceptable to the Town.

The Contractor shall submit a current Certificate of Insurance, naming the Town as an additional insured and listing the Town as such on the insurance certificate. New

certificates of insurance shall be provided to the Town upon the lapse, termination or expiration of any of the required insurance coverages listed below:

The selected Contractor shall provide insurance coverage as follows:

- a. WORKERS' COMPENSATION INSURANCE in accordance with statutory requirements and Employer's Liability Insurance with limits of not less than (\$100,000 for each accident, not less than \$100,000 for each disease, and not less than \$500,000 aggregate.
- b. GENERAL LIABILITY INSURANCE with each occurrence limits of not less than \$1,000,000.
- c. HIRED AND NON-HIRED VEHICLES with limits of not less than \$500,000 per claim.

9. TERM/TIME FOR PERFORMANCE

The number of days within which, or the date by which, the work is to be completed (the time for performance) shall be 360 calendar days from the date of the Town's issuance of a notice to proceed until the Town has determined that there has been substantial completion of the Project; and then an additional 45 days to be measured beginning upon the date the Town determines there has been substantial completion to final completion, for a total contract time of 405 calendar days.

10. LIQUIDATED DAMAGES

In the event the Contractor does not achieve substantial completion, or final completion of the Project within provisions of the times for performance set forth hereinabove, the parties agree that the Town may assess liquidated damages of \$150 per day until the Contractor achieves substantial completion or final completion, or if applicable, both.

11. CONSTRUCTION BOND

Contractor shall file with the Town a Public Construction Bond, both payment and performance bonds, for the full amount (100%) of the Contract Price in accordance with the requirements of Florida Statutes 255.05, as amended, as security for the faithful performance of the Agreement and the payment of all persons supplying labor and materials for the services and construction associated with the Project, and to cover all guarantees against defective workmanship or materials, or both, during the warranty period following the date of final acceptance of the Project by the Town.

The Surety furnishing this bond shall have a sound financial standing and a record of service satisfactory to the TOWN and shall be authorized to do business in the State of Florida. The Surety shall be an entity included in the most recent United States Department of Treasury list of acceptable sureties. The Surety shall use the bond form contained in the bid package.

12. MODIFICATION OF AGREEMENT

The Agreement may only be modified by the mutual consent, as evidenced by a written amendment to the Agreement.

13. TERMINATION FOR CONVENIENCE

The Town, at its sole discretion, reserves the right to terminate this Agreement for convenience and without cause upon providing 60 days' advance written notice to the Contractor. Upon receipt of such notice, the Contractor shall not continue with construction or provide the services unless the Town shall have provided a written re-authorization.

14. TERMINATION BY CONTRACTOR

The Contractor may terminate the Agreement before the expiration of the Term provided it gives a 90-day written notice of its intention to do so. In the event of termination by Contractor, the Town may procure the required goods and/or services from any source and use any method deemed in its best interest to provide construction and services to complete the Project. In the event of early termination, the Contractor agrees that it shall be responsible for the Town's re-procurement costs.

15. ACCESS AND AUDIT OF RECORDS

The Town reserves the right to require the Contractor to submit to an audit by an auditor of the Town's choosing at the Contractor's expense of its records, which relate directly or indirectly to this Agreement, at its place of business during regular business hours, or at such other places as mutually agreed to by the Town and Contractor.

The Contractor shall retain all records pertaining to this Agreement, and upon request, make them available to the Town for six (6) years following expiration of the Agreement. The Contractor agrees to provide such assistance as may be necessary to facilitate the review or audit by the Town to ensure compliance with applicable accounting and financial standards.

16. OFFICE OF THE INSPECTOR GENERAL

Palm Beach County has established the Office of the Inspector General (OIG), which is authorized and empowered to review past, present, and proposed Town programs, contracts, transactions, accounts, and records. The OIG has the power to subpoena witnesses, administer oaths, require the production of records, and monitor existing projects and programs. The OIG may, on a random basis, perform audits on all Town contracts.

17. BINDING EFFECT

All of the terms and provisions of this Agreement, whether so expressed or not, shall be binding upon, inure to the benefit of, and be enforceable by the parties and their respective legal representatives, successors, and authorized assigns.

18. SEVERABILITY

If any part of this Agreement is contrary to, prohibited by, or deemed invalid under applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited, or invalid, but the remainder hereof shall not be invalidated thereby and shall be given full force and effect so far as possible.

19. GOVERNING LAW AND VENUE

The Agreement shall be governed by the laws of the State of Florida. Venue of all proceedings in connection with the Agreement shall lie exclusively in Palm Beach County, Florida.

20. ATTORNEY'S FEES

If either party is required to initiate a legal action, including appeals, to enforce this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

21. EQUAL OPPORTUNITY AND ANTI-DISCRIMINATION

The Town complies with all laws of prohibiting discrimination on the basis of age, race, gender, religion, creed, political affiliation, sexual orientation, physical or mental disability, color or national origin, and therefore is committed to assuring equal opportunity in the award of contracts and encourages small, local, minority and female-owned businesses to participate.

During the performance of this Agreement, Contractor shall not discriminate or permit discrimination in its hiring practices or in its performance of the Agreement. The Contractor shall strictly adhere to the equal employment opportunity requirements and any applicable requirements established by the Town, the state of Florida, Palm Beach County and the federal government.

Contractor shall make effort to implement Section 3 employment as per requirements of 24CFR Part 75.27.

The Contractor further acknowledges and agrees to provide the Town with any and all information and documentation that may be requested by the Town from time to time regarding the solicitation, selection, treatment, and payment of approved subcontractors, suppliers, and vendors in connection with this Agreement.

22. NO DISCRIMINATION CLAUSE

The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin age pregnancy, handicap or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, up-grading, demotion, or transfer, recruitment or recruitment advertising; layout or termination; rates of pay or other forms of compensation, and selection of training, including apprenticeship. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

23. MINIMUM WAGE REQUIREMENTS

The Contractor shall comply with all minimum wage requirements, such as Living Wage requirements, minimum wages based on federal law, minimum wages based on the Davis-Bacon Act, and the provisions of any other employment laws, as may be applicable to this Agreement.

Contractor, and its approved subcontractors shall provide weekly certified payrolls with a signed statement of compliance in the proper format and on the proper forms.

The wage decision applicable to this Project as of the date of the Agreement's execution by the parties is:

General Decision Number: **FL20220130 09/30/2022**
 Superseded General Decision Number FL20210130
 State: **Florida**
 Construction Type: **Heavy**
 County: **Palm Beach County in Florida**

24. JOBSITE POSTING REQUIREMENTS

As required covered by the standards of the Davis Bacon Act and any related laws, the Contractor shall post wage compliant notification posters at the site of the Project in a prominent and accessible place where it may be easily seen by employees.

The notification poster shall include, but is not limited to: WH-1312 Poster; / a copy of the applicable Wage Decision; / Workers Rights Poster / Contractors Contact information.

25. CODE OF FEDERAL REGULATIONS

Contractor shall comply with 29 CFR 5.5 (see Attachment 3 of this Agreement)
 Title 29 – Labor Subtitle A – Office of the Secretary of Labor
 Part 5 – Labor Standards Provisions Applicable to Contracts Covering Federally
 Financed and Assisted Construction.
 5.5 – Contract Provisions and related matters.

26. PUBLIC RECORDS

The Contractor shall comply with Florida's Public Records Law. Specifically, the Contractor shall:

- a. Keep and maintain public records required by the Town to perform the service for a period of six (6) years.
- b. Upon the request of the Town's custodian of public records, provided the Town with such public records within a reasonable time at a cost that does not exceed the costs provided for in Chapter 119, Florida Statutes.
- c. Ensure that any public records that are exempt or confidential from public records disclosure are not disclosed except as authorized by law for the duration of the term of this Agreement, and following completion of this Agreement if the Contractor does not transfer the records which are part of this Agreement to the Town.
- d. Upon the completion of the term of the Agreement, transfer, at no cost, to the Town all public records in possession of the Contractor; or keep and maintain the public records associated with the services provided for in the Agreement. If the Contractor transfers all public records to the Town upon completion of the term of the Agreement, the Contractor shall destroy any duplicate public records that are exempt of confidential from public records disclosure. If the Contractor keeps and maintains public records upon completion of the term of the Agreement, the Contractor shall meet all applicable requirements pertaining to the retention of public records. All records stored electronically shall be provided to the Town, upon request from the Towns custodian of public records, in a format that is compatible with the information technology systems of the Town.
- e. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTACTOR SHOULD CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: TOWN CLERK, 535 Park Avenue, Lake Park, Florida 33403, 561-881-3311, Townclerk@lakeparkflorida.gov.

27. SCOPE OF WORK

The Bert Bostrom Green Infrastructure project is an underground storm-water piping project designed to reconfigure, modify, add to and improve the existing storm-water network in the Bert Bostrom Park and surrounding area.

The contractor shall furnish all labor, materials, tools and equipment required to construct and install the storm-water improvements as per the engineered design drawings as prepared by Water Resources Management Associates, Inc. (WRMA), including supporting documents.

In addition to the new storm-water piping system improvements and storm chamber installation, the project includes pavement resurfacing of disturbed areas, a reconstruction of the athletic sports fields including irrigation and sodding of the sports field and surrounding disturbed areas; and finally, the project includes ground landscape work at various side-street locations of the project.

The scope of work requires the contractor to submit to the owner material submittals, and a project schedule for approval before construction commencement.

Additionally, the contractor shall provide on-site management of day-to-day operations and coordination with project related agencies. Finally, the contractor shall submit final close-out project documents as required by the Town and by Florida Commerce, the projects grant agency; these close-out documents shall include, but not limited to project as, permit closeout documents, project testing reports, as-built survey construction documents, and project warranty information.

The below listed attachments are relevant documents to be included as part of this Agreement:

- | | |
|---------------|--|
| Attachment 1: | Invitation to Bid (ITB) No. 121-2023
<i>Bert Bostrom Green Infrastructure Improvements</i>
<i>Including Exhibit A thru H and Addendum #1 thru #8 associated with this ITB.</i> |
| Attachment 2: | D. S Eakins Construction Corp. Bid Response Proposal to ITB No. 121-2023
as submitted on Friday, December 01, 2023 at 2:00 pm. |
| Attachment 3: | Code of Federal Regulations (CFR) - 29 CFR 5.5 |
| Attachment 4: | Davis Bacon Wage Decision Number: FL20220130 09/30/2022 |

IN WITNESS WHEREOF, the parties hereto have made and execute this Agreement as of the day and year last execute below.

ATTEST:

TOWN OF LAKE PARK

By: _____
Vivian Mendez, TOWN Clerk

By: _____
Roger D. Michaud, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____
Thomas J. Baird, Town Attorney

D.S. Eakins Construction Corporation
1481 Kinetic Road
Lake Park, Florida 33403

By: 
Signature

Its: Vice President
Title

D. Steven Eakins, Jr.
Printed Name

P:\DOCS\26508\00001\DOC\2980082.DOCX



Town of Lake Park Town Commission

Item 5.

Agenda Request Form

Meeting Date: January 17, 2024

Agenda Item No.

Agenda Title: Amendment to Town Code Sections 68-2 and 68-3 of Chapter 68 to Provide for Regulations Associated with Temporary Storage Containers.

[] SPECIAL PRESENTATION/REPORTS [] CONSENT AGENDA
[] BOARD APPOINTMENT [] OLD BUSINESS
[X] **ORDINANCE on 1st Reading**
[] 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: 2024.01.11 17:50:05 -05'00' Date: _____

Nadia Di Tommaso, Community Development Director

Name/Title

Originating Department:

Costs: \$ **Legal Review**

Attachments:

Community Development	Funding Source: Legal Acct. 108 [] Finance _____	→ Ordinance __-2024
Advertised: Date: N/A this agenda item must be notified Paper: of meeting date and time. The [] Not Required	All parties that have an interest in 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:

This item is fairly simple. Pursuant to certain code enforcement issues experienced recently, Community Development staff and the Town Manager agree that regulations associated with temporary storage containers are needed. Temporary storage containers such as metal containers or PODs are sometimes necessitated by residents to store personal property during temporary work (or moving) that is being performed on their private property. Such work may include tenting for termites, interior bathroom or kitchen renovations, or a more substantial renovation of private property, just to name a few examples. These temporary containers are also often needed when moving in or out of a property. In such circumstances, it is reasonable to assume that up to 90 days may be required to store personal property, or other items.

The intent of the temporary storage containers is **not** to provide permanent storage facilities on private property (as this need can be satisfied through an off-site storage facility), **nor** is the intent of the temporary container to satisfy ongoing construction material needs (this need is satisfied through an approved roll-off container for the duration of the construction work that is permitted through the Town). Consequently, allowing for temporary containers, but providing for a time limitation and placement

provisions, will provide property owners with the flexibility they need, yet preserve the aesthetic appearance of the Town's residential areas by ensuring they are not placed on private property unnecessarily or for a long duration.

Item 5.

Recommended Motion: I move to "**APPROVE**" Ordinance __-2023.

ORDINANCE NO. 01-2024

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 68, SECTIONS 68-2 AND 68-3. PERTAINING TO TEMPORARY STORAGE CONTAINERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR THE REPEAL OF ALL LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park, Florida is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town Code established regulations pertaining to outdoor storage in residential districts and has codified these regulations in Chapter 68 of the Town's Code of Ordinances; and

WHEREAS, the Community Development Department recommends that the Town Commission amend Chapter 68 to provide for regulations associated with temporary storage containers;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:

Section 1. The whereas clauses are incorporated herein as the legislative findings of the Town Commission.

Section 2. Chapter 68, Sec. 68-2, is hereby amended to include the term temporary storage containers within the definition of "outdoor storage" as follows:

Sec. 68-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Boat means any vessel, with or without motor propulsion, designed for travel over water and for which a trailer is required for transportation over land.

Construction equipment/materials means lumber, concrete blocks, pipe and other building materials, tractors, bulldozers, graders, portable cement mixers, tools and other similar equipment and/or materials.

Element-sensitive means not designed and/or manufactured to withstand exposure to the elements without damage, i.e., outdoor storage.

Light van means any motor vehicle having a generally rectangular bulk which has a carrying capacity of one ton or less with or without an interior designed and used as temporary living quarters.

Motor home and/or RV means a motorized vehicle designed and used as temporary living quarters, other than a light van.

Outdoor storage means intentional placement of vehicles, trailers, temporary containers, or PODs on a property to be used for the temporary outdoor storage of debris, materials, equipment and/or other personal property, outside an enclosed of a residential or non-residential building for purposes other than decoration, ornamentation and/or proper disposal. Storage of materials, debris, garbage, or junk within an open carport whether or not it is and/or storage beneath a tarpaulin or similar cover outside an enclosed building shall be considered outdoor storage.

Pickup truck means any motor vehicle designed primarily for the transportation of property with a permanently attached open cargo or utility box not extending above the vehicle roofline and having a carrying capacity of one ton or less.

Project/special-purpose vehicle means a vehicle having greater than nominal salvage value and/or which has been constructed for purposes other than regular transportation including, but not limited to, racing vehicles or vessels, dune buggies, swamp buggies, show vehicles, active restoration or repair projects, etc.

Trailer means any assembly designed to be towed or hauled by a motor vehicle, including, but not limited to, open or enclosed cargo trailers with or without cargo, boat trailers and campers designed to be hauled within the cargo box of a pickup truck.

(Ord. No. 8-1992, § I, 9-16-1992; Code 1978, § 30-2)

Section 3. Chapter 68, Sec. 68-3, is hereby amended to add subsection (11), as follows:

Sec. 68-3. Prohibited outdoor storage in residential zoning districts.

Outdoor storage on a site zoned for single-family or duplex residences is subject to the following conditions and restrictions:

- (1) Automobiles, pickup trucks, light vans and/or motorcycles used for regular transportation shall be stored within an open carport, within an approved driveway and/or within a swale area adjacent to the site provided, however, the storage of any vehicles within the swale area shall be prohibited from dawn to dusk. All such vehicles, at all times, shall have affixed a valid license plate.
- (2) A motor home or RV, travel or camping trailer, boat/trailer combination, open or enclosed cargo trailer with or without cargo, project/special-purpose vehicle shall be stored to the rear of the front building line closest to the street and, if possible, set back from the side property lines a distance at least equivalent to the required side yard setback for the principal building. Provided, however, no such equipment shall be stored between any building and an adjacent street, except as provided in

subsection (2)c of this section. All such vehicles/trailers shall have affixed a current license plate and all boats shall have affixed a valid registration decal.

- a. Not more than one each of any two types of equipment set forth in this subsection shall be stored on such site. For purposes of this subsection, a boat/trailer or vehicle/trailer in combination shall be considered one type.
 - b. A boat may not be stored outdoors, unless the boat is on a boat trailer.
 - c. Such equipment shall be screened from adjacent properties on the side property line nearest the equipment by an obscuring fence or landscaping, which such screening shall be a minimum of six feet in height. On corner lots, when such equipment is stored between a building and an adjacent street, such equipment shall be screened on all sides visible from either adjacent street by an obscuring fence or landscaping, which such screening shall be six feet in height. Provided, however, no such equipment shall be stored within a required side yard setback between a building and an adjacent street.
 - d. When stored on the site, such equipment shall not be used for living or sleeping quarters nor for any purpose other than that for which it has been constructed. Such equipment shall not have attached thereto any utility service connection lines, except as may periodically be required to maintain the equipment and its appliances, if any.
- (3) Outdoor storage of element-sensitive equipment/materials is prohibited.
- (4) Outdoor storage of construction equipment/materials, not required for on-site construction pursuant to a valid construction permit or for normal property maintenance, loose vehicle parts and other similar accumulations is prohibited.
- (5) Outdoor storage within a utility easement, drainage easement, alley right-of-way, street right-of-way or front yard area, except as provided herein, is prohibited. Notwithstanding the foregoing, outdoor storage of project/special purpose vehicles, cargo trailers (enclosed or open), boats and motor homes and/or RVs ("vehicles") shall be permitted in utility and drainage easements, subject to the following restrictions:
- a. Any such vehicle shall not have a gross vehicle weight in excess of 30,000 pounds.
 - b. Any such vehicle must be placed at least seven feet from the rear property line.
 - c. Such storage must not interfere with the rights of the easement holder to access and utilize the easement for the purposes intended by the easement.
 - d. No structures may be erected within such easement.
 - e. No vehicle may be stored directly over a culvert or other drainage infrastructure.

- f. Any such vehicle must be relocated at the request of the easement holder or the town's director of public works or the director's designee.
- (6) Outdoor storage shall be limited to personal property owned or leased by the occupant-owner or occupant-lessee of the site.
- (7) Outdoor storage and the area of storage shall be maintained in a clean, neat and presentable manner.
- (8) Outdoor storage of play-sets, gyms, slides, swing sets and similar equipment is prohibited in the front yard in any residential zoning district.
 - a. In the rear or side yards, play-sets, gyms, slides, swing sets and similar equipment shall be screened from abutting properties and adjacent streets by an obscuring fence, wall or hedge, wherever possible.
 - b. Freestanding basketball backboards are exempt from this restriction as long as they are placed in the driveway.
- (9) Appliances and household furniture that are not designated for exterior use are prohibited in front yards, open front porches, and open carports.
- (10) Private swimming pools, to include in-ground or above-ground swimming pools, shall be prohibited in front yards.

(11) Outdoor temporary storage containers or PODs or any similar type of container are prohibited unless a permit for the placement of such container has been received from the Town's Community Development Department. Outdoor temporary storage containers shall only be permitted on residential properties or construction sites where they are located in an appropriate area and on a surface approved by the town pursuant to a building permit. Outdoor temporary storage containers shall only remain on the property at the approved location for the duration of the time when moving activities, or other active work on a residential property or construction site, is being pursued pursuant to the building permit, not to exceed 90 days.

Section 4. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 5. Codification.

The Sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "Ordinance" may be changed to "section", "article", or any other appropriate word.

Section 6. Repeal of Laws in Conflict.

All Ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 7. Effective Date.

This Ordinance shall take effect immediately upon adoption by the Town Commission.

Agenda Request Form

Agenda Item No.

[]	SPECIAL /REPORTS	[]	CONSENT AGENDA
[]	BOARD APPOINTMENT	[X]	OLD BUSINESS
[]	PUBLIC HEARING ORDINANCE ON 1 st READING		
[]	NEW BUSINESS		
[]	OTHER: WORKSHOP_____		

John O. D'Agostino, Town Manager
Name/Title

Originating Department: Town Manager	Costs:\$ 0 Funding Source: General Fund Acct. # [] Finance _____	Attachments: <ul style="list-style-type: none"> P3 Hotel Component Ground Lease Amended Language Paragraph 5 Use of Premises.
Advertised: Date: _____ Paper: _____ [X] Not Required JOD	All parties with interest in this agenda item are t notified of the meeting date and time.	____Yes, I Notified everyone OR ____Not applicable in this case Please initial one.

The attached document provides alternative language for consideration by the Town Commission. The proposed new language is underlined after the preceding language has been deleted and initialed by the Mayor and the developer. If the Commission after deliberation is satisfied with the suggested language, a vote of approval is recommended below.

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Recommended Motion: Motion to approve the amended language as suggested.

GROUND LEASE
(Hotel Component)

THIS GROUND LEASE (this “**Lease**”), dated as of _____, 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 means and location to park boat trailers and towing vehicles specifically for marina users 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.

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 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 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 personally 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 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, 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:

Title:

Date: _____

LANDLORD:

TOWN OF LAKE PARK, FLORIDA

_____, **Attest;**
a Florida municipal corporation

By: _____
Mayor

By: _____
Town Clerk

Date: _____

Approved as to form and legal sufficiency

By: _____
Town Attorney

Exhibit A

Site Plan

Exhibit B

Legal Description of the Premises

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

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.

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

_____, **Attest;**
a Florida municipal corporation

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**”).

W I T N E S S E T H :

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

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

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

_____ By: _____
 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:

LENDER:

Date:

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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: January 17, 2024

Agenda Item No.

Agenda Title:

- | | | | |
|-------------------------------------|---|--------------------------|----------------|
| <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 **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: 2024.01.11 17:31:51 -05'00'

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"> • Legislative Action Day Talking Points • Legislative Action Days FAQ
Advertised: Date: _____ Paper: _____ <input type="checkbox"/> Not Required	All parties with interest in this agenda item are notified of the meeting date and time.	___ Yes, Notified everyone or _X_ Not applicable in this case Please initial one.

Summary Explanation/Background: At the January 3, 2024 meeting the Commission requested an update on the talking points in preparation for the Florida League of Cities Legislative Action days. The Legislative Actions Days will start on Monday January 29, 2024 through Wednesday January 31, 2024.

The information provided is a summary of the talking points for Commission advocacy for the Mobility Plan amendments as well as the talking points for the dredging project. The dredging project sponsor in the Senate will be Senator Gayle Harrell and on the House side, the sponsor will be Representative Michael Caruso. Both sponsors are Republican Legislators. Senator Harrell's district includes the northern part of Palm Beach County.

The dredging project will significantly benefit constituents in the northern part of Palm Beach County.

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Recommended Motion: No motion is necessary



PALM BEACH SHORES/LAKE PARK SINGER ISLAND CHANNEL DREDGING PROJECT

The Singer Island Channel is a naturally occurring channel. When the Lake Worth Inlet was cut in the early 1900s, the natural Lake Worth currents were disrupted and the Channel began a shoaling process; the shoaling has now increased to the point that it impedes navigation and creates a safety hazard, and causes localized flooding within Palm Beach Shores. On weekends and holidays, boats breach the sandbar, impeding the navigation channel and creating unsafe conditions. The sand is also blocking Palm Beach Shores' stormwater outfall pipes.

This project is designed to provide a mutual benefit for Palm Beach Shores and the Town of Lake Park, as Palm Beach Shores does not have the staff to undertake the scope of this project. Lake Park will provide the project management and oversight, and will benefit from the receipt of the majority of the dredged material. In order to complete this vital project, the Lake Park and Palm Beach Shores will enter into an inter-municipal agreement, the result of which will permit Lake Park to store and use the material for necessary sea level mitigation measures (outlined below).

The completion of this project will:

- Protect the general public from harm through the resulting decrease in boating accidents
- Improve transportation conditions by creating demonstrably safer and more enjoyable boating conditions in the Channel
- Reduce the stress and workload on police, security and first responder organizations
- Improve economic activity through the direct, positive impact on the business of local marinas
- Increase tourism by improving the experience accessing Peanut Island, a tourist destination located immediately adjacent to the Channel and shoal
- Create dredging-related job opportunities and will indirectly solidify existing marine industry jobs; additional marine industry jobs may also be created (this project is supported by the marine industry)
- Improve wastewater management by reducing the opportunity for passengers of boats beached on the shoal to deposit human excrement in the water
- Improve stormwater management for Palm Beach Shores by removing the sand currently impeding the outflow pipe
- Enable Lake Park to raise its sea wall, marina and park lands (as indicated in its [Vulnerability Assessment](#)), which would otherwise remain a financially unattainable goal



MOBILITY LEGISLATION (ALTERNATE MOBILITY FUNDING SYSTEMS)

HB479/SB688

- The bills revise and provide additional guidance concerning the use of mobility plans and the collection of mobility fees, including the provision of definitions for the terms “mobility fee” and “mobility plan.”
- The bills prohibit local governments from charging transportation impacts if they are not the local government that is issuing a building permit
- The bills require local governments to collect for extra jurisdictional impacts if they are issuing building permits and prohibit local governments from assessing multiple charges for the same transportation impact
- The bills provide that local governments adopting and collecting impact fees by ordinance or resolution must use localized data available within the previous 12 months of adoption for the calculation of such fees
- The bills limit manner and timeframe within which local governments can increase impact fees
- The bills provide direction to address the provision of “mobility options, such as automobile, bicycle, pedestrian, or mass transit, that minimize environmental impacts, expand transportation options and increase connectivity.”
- The bill defines which local government charges development fees and their responsibilities for mitigation and stops local governments from subsidizing sprawl by not strictly requiring additional road capacity
- The bills do not require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of State tax shared with counties or municipalities
- Adoption by local governments is voluntary, but is predicated on the local government establishing a mobility plan and mobility fee