



# AGENDA

Lake Park Town Commission  
Town of Lake Park, Florida  
Regular Commission Meeting  
Wednesday, December 7, 2011,  
Immediately Following the  
CRA Board Meeting,  
Lake Park Town Hall  
535 Park Avenue

<b>James DuBois</b>	—	<b>Mayor</b>
<b>Kendall Rumsey</b>	—	<b>Vice-Mayor</b>
<b>Steven Hockman</b>	—	<b>Commissioner</b>
<b>Jeanine Longtin</b>	—	<b>Commissioner</b>
<b>Tim Stevens</b>	—	<b>Commissioner</b>
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<b>Maria V. Davis</b>	—	<b>Town Manager</b>
<b>Thomas J. Baird, Esq.</b>	—	<b>Town Attorney</b>
<b>Vivian M. Lemley, CMC</b>	—	<b>Town Clerk</b>

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.*

- A. CALL TO ORDER
- B. INVOCATION
- C. PLEDGE OF ALLEGIANCE
- D. ROLL CALL
- E. ADDITIONS/DELETIONS - APPROVAL OF AGENDA

F. PUBLIC and OTHER COMMENT:

This time is provided for audience members to address 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.

- G. **REPORT:**  
 1. **Bridges at Lake Park Report on Trunk or Treat Event** **Tab 1**
- H. **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.

**Recommended For Approval:**

2. **Regular Commission Meeting Minutes November 16, 2011** **Tab 2**  
 3. **Flagler Boulevard Irrigation Palm Beach County Grant Agreement** **Tab 3**  
 4. **Resolution No. 46-12-11 Tennis Pro Contract** **Tab 4**
- I. **DISCUSSION AND POSSIBLE ACTION:**  
 5. **Desca DuBois Memorial Tree Planting Ceremony in Kelsey Park on Saturday, January 7, 2012** **Tab 5**  
 6. **Cost Savings Incentive Program** **Tab 6**
- J. **COMMISSIONER COMMENTS, TOWN ATTORNEY, TOWN MANAGER:**
- K. **ADJOURNMENT:**

# REPORT

# TAB 1



**Town of Lake Park Town Commission**

**Agenda Request Form**

**Meeting Date: December 7, 2011**

**Agenda Item No.**

*Tab 1*

- |   |   |
|---|---|
| <input type="checkbox"/> PUBLIC HEARING                       | <input type="checkbox"/> RESOLUTION                 |
| <input type="checkbox"/> ORDINANCE ON FIRST READING           | <input type="checkbox"/> DISCUSSION/POSSIBLE ACTION |
| <input type="checkbox"/> ORDINANCE ON SECOND READING          | <input type="checkbox"/> BID/RFP AWARD              |
| <input checked="" type="checkbox"/> PRESENTATION/PROCLAMATION | <input type="checkbox"/> CONSENT AGENDA             |
| <input type="checkbox"/> Other:                               |   |

**SUBJECT: 2011 Trunk or Treat Event Report**

**RECOMMENDED MOTION/ACTION: Accept report into the record**

**Approved by Town Manager**

*Virginia Martin*

**Date:** *11/30/11*

**Virginia Martin, Grants Writer**  
Name/Title

**Nov 29, 2011**  
Date of Actual Submittal

<b>Originating Department:</b>  <b>Mayor</b>	Costs:  Funding Source:  Acct. #	<b>Attachments:</b>  <b>None</b>
<b>Department Review:</b> <input type="checkbox"/> Attorney _____ <input type="checkbox"/> Community Development _____ <input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____	<input type="checkbox"/> Grants _____ <input type="checkbox"/> Human Resources _____ <input type="checkbox"/> Information Technology _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____	<input type="checkbox"/> PBSO _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Recreation _____ <input type="checkbox"/> Town Clerk _____ <input checked="" type="checkbox"/> <b>Town Manager</b> _____
<b>Advertised:</b> Date: _____ Paper: _____ <input checked="" type="checkbox"/> <b>Not Required</b>	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 <b>Not applicable in this case</b> <i>GM</i> Please initial one.

**Summary Explanation/Background: For Halloween this year, the Bridges of Lake Park conducted a "Trunk or Treat" event at Kelsey Park. The Mayor requested a report on the event. The presentation is being made by Betty Ann Rowlett, Site Coordinator for the Bridges of Lake Park.**

# Consent Agenda

# TAB 2



**Town of Lake Park Town Commission  
Agenda Request Form**

**Meeting Date:** December 7, 2011

**Agenda Item No.** *Tab 2*

- |  |   |
|--|---|
| <input type="checkbox"/> PUBLIC HEARING              | <input type="checkbox"/> RESOLUTION                       |
| <input type="checkbox"/> ORDINANCE ON FIRST READING  | <input type="checkbox"/> DISCUSSION/POSSIBLE ACTION       |
| <input type="checkbox"/> ORDINANCE ON SECOND READING | <input type="checkbox"/> BID/RFP AWARD                    |
| <input type="checkbox"/> PRESENTATION/PROCLAMATION   | <input checked="" type="checkbox"/> <b>CONSENT AGENDA</b> |
| <input type="checkbox"/> Other:                      |   |

**SUBJECT:** Regular Commission Meeting Minutes of November 16, 2011

**RECOMMENDED MOTION/ACTION:** To Approve the Regular Commission Meeting Minutes of November 16, 2011

**Approved by Town Manager** *W. P. Davis* **Date:** *11/30/11*

*Vinny Kelly*  
Name/Title

*Nov. 30, 2011*  
Date of Actual Submittal

<b>Originating Department</b>  Town Clerk	Costs: \$0  Funding Source: 0  Acct. # 0	<b>Attachments:</b> Agenda Meeting Minutes Exhibit A
<b>Department Review:</b> <input type="checkbox"/> Attorney _____ <input type="checkbox"/> Community Development _____ <input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____	<input type="checkbox"/> Grants _____ <input type="checkbox"/> Human Resources _____ <input type="checkbox"/> Information Technology _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____	<input type="checkbox"/> PBSO _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Recreation _____ <input checked="" type="checkbox"/> Town Clerk <i>YML</i> <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> 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 <i>YML</i> <b>Please initial one.</b>

**Summary Explanation/Background:**





# AGENDA

Lake Park Town Commission  
Town of Lake Park, Florida  
Regular Commission Meeting  
Wednesday, November 16, 2011, 7:00 p.m.  
Lake Park Town Hall  
535 Park Avenue

<b>James DuBois</b>	—	<b>Mayor</b>
<b>Kendall Rumsey</b>	—	<b>Vice-Mayor</b>
<b>Steven Hockman</b>	—	<b>Commissioner</b>
<b>Jeanine Longtin</b>	—	<b>Commissioner</b>
<b>Tim Stevens</b>	—	<b>Commissioner</b>
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<b>Maria V. Davis</b>	—	<b>Town Manager</b>
<b>Thomas J. Baird, Esq.</b>	—	<b>Town Attorney</b>
<b>Vivian M. Lemley, CMC</b>	—	<b>Town Clerk</b>

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A. **CALL TO ORDER**

B. **INVOCATION**

C. **PLEDGE OF ALLEGIANCE**

D. **ROLL CALL**

E. **ADDITIONS/DELETIONS - APPROVAL OF AGENDA**

F. **PUBLIC and OTHER COMMENT:**

This time is provided for audience members to address 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.

G. **BOARD MEMBERSHIP APPLICATION:**

1. CRA Board Membership

Tab 1

H. **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.

**Recommended For Approval:**

2. Regular Commission Meeting Minutes November 2, 2011 Tab 2
  3. Resolution No. 43-11-11 Florida Department of Law Enforcement (FDLE) Grant Tab 3
  4. Resolution No. 44-11-11 Fund Balance Policy Tab 4
  5. Resolution No. 45-11-11 Palm Beach County Fuel Management System Tab 5
  6. 2012 Relay for Life at Lake Shore Park Tab 6
- I. **DISCUSSION AND POSSIBLE ACTION:**
7. Appointment of a Regular Bioscience Land Development Advisory Board Member Tab 7
  8. Employee Cost Savings Incentive Program Tab 8
- J. **COMMISSIONER COMMENTS, TOWN ATTORNEY, TOWN MANAGER:**
- K. **ADJOURNMENT:**



**Minutes**  
**Town of Lake Park, Florida**  
**Regular Commission Meeting**  
**Wednesday, November 16, 2011, 7:00 p.m.**  
**Town Commission Chamber, 535 Park Avenue**

The Town Commission met for the purpose of a Regular Commission Meeting on Wednesday, November 16, 2011 at 7:00 p.m. Present were Mayor James DuBois, Vice-Mayor Kendall Rumsey, Commissioners Steven Hockman, Jeanine Longtin and Tim Stevens, Town Manager Maria Davis, Town Attorney Thomas Baird, and Town Clerk Vivian Lemley.

Vice-Mayor Rumsey led the Invocation and Mayor DuBois led the Pledge of Allegiance. Town Clerk Vivian Lemley performed the Roll Call.

**PUBLIC AND OTHER COMMENTS:**

1. *Cynthia Grey, 503 Sabal Palm Drive*, commented on a statement made by Vice-Mayor Rumsey at the last meeting in which he stated that Lake Park residents should be more positive about the Town. She stated that he should apologize to the residents that have been supportive through the many difficult decisions that the Commission has made. She stated that during this summer's campaigns, Commissioner Stevens and Mayor DuBois said that in order for the Town to move forward, they had to work together. She also asked that for the Marina project, have everyone park for free.

2. *John Lineweaver, 836 Evergreen Drive*, stated that the Commission has been very negative towards one another and have not been jiving well. He asked each of them to do a self assessment and ask themselves what have they accomplished in the last year and a half. He asked them to treat each other with respect and as though they were family. He told the Commission to either get on board with the Town Manager or ask her to leave because they are consistently verbally hitting her. He again asked the Commission to put aside its differences and work together. He thanked the Commission for their efforts.

3. *Jim Lloyd, 220 Lake Shore Drive*, echoed the previous sentiments. He also stated that the Planning and Zoning Board meeting was an embarrassment and it should have been canceled. He wished everyone a Happy Thanksgiving and asked that they read the blog [www.thestreetwhereyoulive.wordpress.com](http://www.thestreetwhereyoulive.wordpress.com).

4. *Susan Lloyd 220 Lake Shore Drive*, stated that the Lake Park Library is one of the most wonderful assets in the Town. She stated that Library Director Karen Mahnk remained focused and optimistic during the budget process even though she was concerned whether the needs of the citizens could be met. She stated that many wonderful activities take place at the Library and spoke of how professional the staff are. She stated that she has been inquiring about the Community Development Corporation (CDC) since Commissioner Longtin's questions went unanswered. She provided the history of the CDC and spoke of all the ways it is connected to the Town, although it has nothing to do

with the Town. She encouraged everyone to visit the blog, [www.thestreetwhereyoulive.wordpress.com](http://www.thestreetwhereyoulive.wordpress.com).

5. *David Lange, 1230 Gateway Road*, explained that in 2008 he had a yard sale and was charged \$5.00. When he recently went in for another yard sale permit he was told that it was considered a special events permit and would have to pay \$75.00. He wanted to know why it was so costly and asked for a reduction in cost.

Mayor DuBois verified that the address of the property was Gateway Road.

Mr. Lange stated that the address was on Gateway Road and that he was clearing out 10 by 10 storage units.

Mayor DuBois stated that it may be because the sale is in a commercial area of Town.

Mr. Lange questioned being charged one amount several years ago and another amount over the past few days.

Community Development Director Nadia DiTommaso stated that she would meet with Mr. Lange and research the difference in cost. She stated that \$5.00 is charged in residential areas and that the sale he is having is in the industrial area, and that therefore what he is attempting to do was considered a special event.

#### **ADDITIONS/DELETIONS/APPROVAL OF AGENDA:**

Commissioner Hockman requested a discussion regarding requesting that building plans be provided in PDF format, so that they can be uploaded to the website.

Mayor DuBois requested that the Recreation Director position be added as a discussion item to discuss how much we need this position this year in view of our budgetary constraints.

**Motion: A motion was made by Commissioner Longtin to approve the Agenda as amended; Commissioner Hockman made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman	X		
Commissioner Longtin	X		
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 5-0

**BOARD MEMBER APPLICATION:**

**1. CRA Board Membership**

The Commission appointed Sue-Ellen Mosler as a regular member of the CRA Board.

**CONSENT AGENDA ITEMS:**

- 2. Regular Commission Meeting Minutes November 2, 2011**
- 3. Resolution No. 43-11-11 Florida Department of Law Enforcement (FDLE) Grant**
- 4. Resolution No. 44-11-11 Fund Balance Policy**
- 5. Resolution No. 45-11-11 Palm Beach County Fuel Management System**
- 6. 2012 Relay for Life at Lake Shore Park**

Commissioner Longtin requested that each item be discussed separately.

**2. Regular Commission Meeting Minutes of November 2, 2011**

Commissioner Longtin thanked staff for including the agendas with the minutes. She stated that at the last meeting the Commission, as a whole, stated they were not concerned with accuracy in the minutes, so she would be voting nay on this item.

Commissioner Hockman stated that since the Commission is not concerned with the accuracy of the minutes, he asked if we can place in PDF format the meeting videos on the website as a backup.

Mayor DuBois stated that he would like to have the meeting on the website, but was not sure if the website could handle it or what the cost involved would be.

Town Manager Davis stated that Commissioner Longtin had requested staff to look into it and was not sure what the charge would be, but that it would be a couple a hundred dollars for this service with our current web host. She stated that if it was something that the Commission wanted that she would review the budget.

Commissioner Hockman explained what he was referring to was downloading a PDF and not playing a video. He asked if there was a charge for every document that is uploaded to the website.

Town Manager Davis stated "no" and offered to bring this item back.

Mayor DuBois requested consensus from the Commission to bring this item back, which he received.

**Motion: A motion was made by Vice-Mayor Rumsey to approve items 2 on the Consent Agenda; Commissioner Stevens made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman		X	
Commissioner Longtin		X	
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 3-2

**3. Resolution No. 43-11-11 Florida Department of Law Enforcement (FDLE) Grant**

Town Manager Davis explained that this is a companion grant to the “Eyes on Park” project, which allowed for 11 cameras to be installed. She explained that the cameras were installed at the Art on Park Studio Gallery and that they now need to be moved. She stated that this grant would allow the cameras to be moved to the Emergency Operations Center (EOC), which is at Public Works. She stated that there is no cash match, only an in-kind match, which will be provided by in-house staff labor.

Commissioner Hockman stated that when the cameras were installed last year, the Commission was told that IP addresses needed to be purchased for about \$300. He stated that the hardware for the cameras could be moved anywhere and questioned why they were being charged to move the equipment.

Town Manager Davis stated that she was aware that it would be cheaper to move the equipment than keeping it where it was currently placed.

Chief Information Technology Officer Hoa Hoang explained that by moving the cameras to Public Works the Town would save the monthly charge by Comcast to the Art on Park Gallery building, because Public Works has an extra line that they could use.

Commissioner Hockman asked if there was an IP address at the CRA office.

Chief Information Technology Officer Hoang stated that the CRA office only has one and that the camera equipment is at Art on Park, which is a separate building.

Commissioner Hockman asked if all the cameras were wireless.

Chief Information Technology Officer Hoang stated “yes”.

Commissioner Hockman asked if the base station was the IP.

Chief Information Technology Officer Hoang stated “yes”.

Vice-Mayor Rumsey asked why it was not placed at the EOC to begin with.

Grant Writer Virginia Martin explained that the original grant was not sufficient enough to install at the EOC because we would have needed a line of sight antenna.

Commissioner Stevens asked what the monthly charge of maintaining the IP address was at Art on Park.

Chief Information Technology Officer Hoang stated that the savings is about \$200 a month.

Mayor DuBois remembered that the original motion made by Commissioner Stevens was "not to exceed \$300 a month".

Commissioner Longtin asked why the Chief Information Technology Officer could not move this equipment.

Chief Information Technology Officer Hoang stated that the contractor needs to move the antenna, he would be able to move the rest.

Commissioner Longtin stated that she finds this embarrassing because in order to get this grant it must state that the commercial district is a high crime area. She stated that for \$5000 it is an embarrassment.

Grant Writer Martin explained that Lake Park was compared to the County and the State for its crime rate statistics and it shows that Lake Park's rates are higher than either the County or the State pursuant to the Florida Department of Law Enforcement (FDLE) website.

Commissioner Longtin stated that for \$5000 this document is now out there and yet we are trying to bring businesses into Town.

Grant Writer Martin stated that the crime rate has dropped by 25 percent with the measures that have been taken.

Commissioner Hockman asked if the Town is stating that the crime is bad, why was a deputy eliminated in the CRA. He asked how many of the numbers that were on the FDLE website are crimes committed in the CRA versus other areas of the Town. He questioned why the cameras were not placed in the EOC originally, which would still be in the line of sight.

Town Manager Davis explained that we do not make up the statistics, we just use them as a benefit to obtain grants when possible. She stated that she did not want to lose a deputy in the CRA, but the funds were not available. She stated that this is a grant and if the Commission does not want the grant they do not have to approve the Resolution.

**Motion: A motion was made by Vice-Mayor Rumsey to approve item 3 on the Consent Agenda; Commissioner Stevens made the second.**

Mayor DuBois stated that he would be happy to accept the grant as it helps law enforcement.

Commissioner Hockman stated that in the report it states that we have to report quarterly, if that is not done, would the Town have to pay back the \$5000.

Town Manager Davis stated "no".

Commissioner Hockman asked then why would the Town have to submit the reports.

Town Manager Davis stated that it was standard operating procedure of all grants.

Mayor DuBois stated that it is the statistical data collection of the grant that would improve the database being used.

Grant Writer Martin stated that the Sheriff's department reports those numbers quarterly and they recently went to quarterly reports from annual reporting.

Commissioner Longtin stated that the information is available to business and citizens making decisions to move into the Town that has the third highest crime rate in the County.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman		X	
Commissioner Longtin		X	
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 3-2

#### **4. Resolution No. 44-11-11 Fund Balance Policy**

Town Manager Davis stated that this is a new requirement for governmental accounting standards, where a fund balance policy has to be created by all municipalities. She stated that it is a new standard with Governmental Accounting Standards Board (GASB)

Commissioner Longtin asked if this could be established without Commission approval.

Town Manager Davis stated that a formal Resolution has to be adopted



**Motion: A motion was made by Commissioner Longtin to approve item 4 on the Consent Agenda; Commissioner Stevens made the second.**

Mayor DuBois stated that the backup information for this item was very informative and helped him understand what is the process of the government system.

Commissioner Stevens suggest that the Town establish a formal policy on the level of unrestricted fund balance. He stated that we have to establish the minimum recommended within the documentation regarding reserves, how much we need to have in the general fund and the best practice recommendation of two months.

Commissioner Longtin asked if what Commissioner Stevens had stated would appear in the minutes.

Mayor DuBois stated that as part of the best practices of finance management it was recommended that two months of net operating funds be held in reserves in the general fund minimum. He stated that he had questions regarding this and asked the Town Manager to get back to him on it and was not sure if she had time to do the research so far.

Town Manager Davis stated that the Town does not have two months of fund balance because of the legal fees the Town has had to expend for the Marina. She stated that the Town is in good financial shape with the fund balance, but the legal fees caused a hit.

Commissioner Stevens stated that his suggestion was to create a formal policy which would keep at least two months of unrestricted fund balance to cover the general fund operating expenditures.

Town Manager Davis stated that a general policy like that would dictate that if you do not have that level (at least two months of reserves) that you must take measures to increase it to that level. She assured the Commission that staff would bring the policy back.

Commissioner Stevens stated that it should be part of the austerity measures that are being planned for the future budget and that two months in unrestricted funds to cover the general fund should there in case of an emergency, and it is also recommended in the documentation.

Commissioner Longtin asked for more explanation as to what he was talking about.

Commissioner Stevens stated that a lot of what he is referring to is in the documentation that was provided. He explained that in order to cover the general operating expenditures it is recommended to have two months in unrestricted reserves as a backup plan to cover the day-to-day operating expenses.

Commissioner Longtin asked why would it not be restricted funds that are used for day-to-day.

Commissioner Stevens explained that it is recommended to keep two months of funds in the unrestricted fund balance to cover general funds operating expenses.

Commissioner Longtin asked why would it not be restricted for use of general funds operating only.

Commissioner Stevens did not understand Commissioner Longtin's question.

Mayor DuBois stated that it is because the nature of general fund is unrestricted.

Commissioner Longtin clarified as "undefined to a point".

Mayor DuBois stated that it is the purpose of having those funds available for contingency, emergency operation or whatever needs come up.

Commissioner Longtin questioned that this would be brought back to them again.

Town Manager Davis stated that the policy would be brought back.

Mayor DuBois stated that it was not part of the original motion, but it can be considered or just continued to another meeting.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman	X		
Commissioner Longtin	X		
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 5-0

Motion passed with Commissioner Stevens recommendation to establish a formal policy on the level of unrestricted fund balance.

Mayor DuBois explained that he had a comment card from Susan Lloyd regarding the Board Appointment that was made earlier and that he had forgotten to call her up. He asked for consensus from the Commission to allow Mrs. Lloyd to speak after they finished the consent agenda.

Mayor DuBois received consensus.

##### **5. Resolution No. 45-11-11 Palm Beach County Fuel Management System**

Public Works Director Dave Hunt explained that about five years ago the Town entered into an Interlocal Agreement with Palm Beach County to share its fuel services. He stated that fuel management equipment was installed as a result of the agreement and it gave the County the ability to monitor how much fuel was being used by each vehicle. He stated that the information was used to keep track of usage, ordering, maintenance mileage and ordering requirements. He recommended extending the agreement for another five years.

Commissioner Longtin stated that in the summary of the item it states that if the Town does not renew the agreement, we would have to purchase a computer and proprietary software, and she asked if the Town already owned that equipment.

Public Works Director Hunt explained that the Town does not own that equipment, the Town owns the fuel dispensing equipment and the security gate operators and the card reader itself, but not the computer or software.

Commissioner Hockman stated that in the agreement it states that the Town is liable, but yet the County is maintaining the equipment, what happens if the equipment is not maintained properly and someone gets injured.

Attorney Baird stated that he does not read the agreement to state that if the County is negligent that the Town has to pay the damages of the negligence. He stated that it would fall back on the County, not the Town.

Commissioner Hockman stated that in section 7.01 it states that the Town shall be held harmless and will pay all legal fees.

Mayor DuBois asked if the equipment had been in operations for the past five years and this was a renewal of the monitoring system.

Public Works Director Hunt stated "yes".

**Motion: A motion was made by Commissioner Hockman to approve item 5 on the Consent Agenda; Vice-Mayor Rumsey made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman	X		
Commissioner Longtin	X		
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 5-0

## 6. 2012 Relay for Life at Lake Shore Park

Lauren Mestrovich of the American Cancer Society addressed the Commission and expressed appreciation for the Town's support last year and gave a brief explanation of what the society does. She stated that last year's event raised more than \$32,000 and that the new goal is \$35,000. She explained that she is officially requesting approval to hold it again at Lake Shore Park on April 27 and 28, 2012 beginning at 6:00 p.m. Friday night and finishing Saturday at noon. She invited everyone to a leadership luncheon in January, 2012.

Commissioner Hockman asked to have the parking fees waived for the event. Town Manager Davis stated that it was up to the Commission.

**Motion: A motion was made by Commissioner Hockman to approve item 6 on the Consent Agenda with the parking fees waived; Vice-Mayor Rumsey made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman	X		
Commissioner Longtin	X		
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 5-0

### **Public Comment:**

*Susan Lloyd, 220 Lake Shore Drive*, wanted to know why an opening on a board is not posted or advertised on the website. She questioned why an applicant applied for an opening on the CRA Board when it was not advertised. She asked that the policy for applying for a position on the CRA Board be explained. She wished everyone a Happy Thanksgiving.

Mayor DuBois explained that the Commission is always encouraging residents and business owners to apply as a board member on any of the Town boards. He explained that applications are kept on file until an opening occurs on a board.

Susan Lloyd asked if an opening occurs, are only those applications on file are chosen to be on a board and how do residents know that there is an opening.

Mayor DuBois explained that generally openings are placed on the website. He stated that the CRA Board opening happened a week ago and that the applicant already had an application on file that had been updated. He encouraged everyone to fill out an application so that it was on file.

Vice-Mayor Rumsey stated that to serve on the CRA Board an applicant must live or be a business owner in the CRA.

Town Manager Davis verified his statement.

Commissioner Stevens stated that board openings are also posted on E-blast, which is the Town's newsletter.

Commissioner Longtin asked if this opening was advertised in the newsletter.

Town Manager Davis stated that it was not.

### **DISCUSSION AND POSSIBLE ACTION:**

#### **7. Appointment of a Regular Bioscience Land Development Advisory Board Member**

Vice-Mayor Rumsey stated that in the past the Mayor has always served as a member, and felt that he would be an excellent addition to the Board.

Mayor DuBois stated that he would be happy to serve.

Commissioner Longtin asked if anyone else was interested in it.

Commissioner Stevens stated that he was interested in it, but was comfortable with the Mayor serving.

Vice-Mayor Rumsey stated that if Commissioner Stevens wanted to serve on the Board as an alternate member that he would resign as the alternate member and let Commissioner Stevens serve.

Commissioner Longtin asked if the meetings can be attended by others, whether they are alternate members or not.

Vice-Mayor Rumsey stated that the meetings are open to the public, but only the members can hold discussion. He explained that they do have public comment for anyone wishing to speak.

Commissioner Hockman stated that he had no problem serving on the board, but stated that Commissioner Stevens could serve.

Commissioner Longtin asked if the alternate member could be brought back at another meeting if Commissioner Stevens felt cornered to be appointed to the board.

Commissioner Stevens stated that he wanted to serve because Bioscience is key to economic development in the Town. He stated that the Town needed more presence of Bioscience in Town.

**Motion: A motion was made by Vice-Mayor Rumsey to appoint Mayor DuBois as the regular member and Commissioner Stevens as the alternate member of the Bioscience Land Development Advisory Board; Commissioner Stevens made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman	X		
Commissioner Longtin	X		
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 5-0

### **8. Employee Cost Savings Incentive Program**

Town Manager Davis explained that Human Resources Director Bambi Turner will explain the item, which was first suggested by Vice-Mayor Rumsey.

Human Resource Director Turner explained the history of this item and that it stemmed from the fact that employees had not received raises in several years. She explained that this program would provide incentives for cost saving ideas. She stated that an outline of the program was provided to the Commission at a meeting held in the Spring of 2011 and staff was directed to bring back a more structured program for the Commission's review. She stated that staff is proposing to have a review committee, which would be comprised of three employees, two Department Heads, (one of whom will be the Finance Director) and one non-supervisory employee. She explained that criteria was developed that is included with the back-up. She explained that at the end of each fiscal quarter, the employees' suggestions will be reviewed and if approved, depending on the quantifiable nature of the cost savings, the employee would receive up to 24 hours of vacation time, which will be added to the employee's vacation leave bank. She explained that at the end of the fiscal year, the employee with the cost savings suggestion that saved the Town the most amount of money or resulted in the most significant efficiency in operation, would receive a proclamation presented by the Commission.

Vice-Mayor Rumsey stated that this is the program that he requested, but his only frustration has been the amount of time it took to create. He asked that in the future he would like staff to move faster on a program like this, since this one took a year and a

half. He stated that had an employee come up with an idea, it could have been implemented and helped during the budget process.

Human Resources Director Turner explained that the delay was attributed to being directed to bring the item back during the budget process, which occurred in the Spring of 2011 and then staff was directed to bring this item back at this meeting.

Commissioner Hockman stated that the program is great, but was concerned that it was not broken down further to establish how much time an employee would get for the type of cost savings they bring to the Town. He stated that not everyone should receive 24 hours for their idea of cost savings. He suggested that Department Head not be included in the program.

Town Manager Davis stated that it was never intended for Department Heads.

Commissioner Hockman wanted to make sure that it was recorded.

Human Resource Director Turner confirmed that the program as presented to the Commission in the Spring of 2011 stated that it was open to all employees.

Mayor DuBois suggested that if a director made a suggestion that it be then raffled off to one of their staff members. He agreed that it is up to the Department Head to give suggestions without participating in the program.

Vice-Mayor Rumsey clarified what Mayor DuBois stated that a director can still make a suggestion but that if they are awarded the time that it be given to one of their staff members.

Mayor DuBois stated "correct". He stated that it would be a reward that a director can pass on to his or her staff.

Commissioner Stevens asked had financial incentives been considered. He gave an example if an employee is able to save the Town \$10,000 then something like 5 percent of that would go back to the employee. He stated that the employees are in the front line and may be more inclined to participate in the program if there were financial incentive.

Vice-Mayor Rumsey stated that when he first brought this idea forward it included a financial incentive, and there was a reason why the Town could not do that.

Town Manager Davis stated that there was opposition, which is why it was changed.

Mayor DuBois stated that he would continue to oppose it because although a financial incentive is nice, having the Town recognize the person for their efforts is greater.

Commissioner Stevens stated that time is money, either by awarding time or money they are equally incentives. He stated that with the budget the way it is we need to incentivize the employees in any way possible.

Vice-Mayor Rumsey stated that if the mood of the Commission has changed since this was first introduced, and the financial incentive is available, it would be his first choice. He agreed that employees like being recognized, but they may prefer a financial incentive.

Human Resource Director Turner responded that it would be more like a gainsharing program.

Human Resource Director Turner explained the process and stated that she discussed the financial incentives with the Finance Director who had explained to her the reason it would not be possible to determine actual cash savings and translate that into a financial incentive on a quarterly basis.

Commissioner Stevens stated that he was referring to actual savings.

Mayor DuBois suggested that the program be reviewed in a year to determine what has been gained and then assess if a cash value can be determined. He stated that the plan is well balanced, but it can be adjusted in a year.

Commissioner Stevens asked if Commissioner Hockman's suggestion of a staggered breakdown of hours could be included depending on the savings.

Town Manager Davis stated that it can be done.

Commissioner Hockman stated that a value is needed because it is not currently broken down and that not everyone should be rewarded 24 hours.

Mayor DuBois stated that it is something that staff can work on for the remaining of the year.

Vice-Mayor Rumsey asked for clarification if it was the rest of the calendar year or fiscal year.

Mayor DuBois stated fiscal year.

Commissioner Longtin stated that many residents do not have jobs and that the incentive to employees is that they have jobs. She stated that the Town is begging for \$5000 and yet now we are stating that there is enough money to give 4 to 24 hours of leave time. She stated that she agreed with Commissioner Hockman that Department Heads should not be able to participate. She stated that review boxes cost money and that the review committee should be the Commission. She stated that although she appreciates the employees, she will vote against the item.

Mayor DuBois stated that direction has been given to staff and that this will be reviewed in a year. He stated that a motion can be made that would incorporate Commissioner Hockman's suggestions and that they will continue to review this in the future.



**Motion: A motion was made by Vice-Mayor Rumsey to create a cost savings incentive program with the inclusion of the hours break down that Commissioner Hockman requested also the elimination of the directors participation; Commissioner Stevens made the second.**

Mayor DuBois stated that he has been a supervisor in his career and that he is anxious to see how this program will work. He stated that it was a great idea by Vice-Mayor Rumsey.

Commissioner Hockman asked if the Commission would be reviewing the program before it was implemented.

Town Manager Davis asked if the Commission would like it in the form of a memo or an agenda item.

Commissioner Hockman wanted to see the full program before it was implemented.

Town Manager Davis stated they would bring it back.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman	X		
Commissioner Longtin		X	
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 4-1

**9. PDF Versions of Plans to be Included in New Business Plans for the Town's Website.**

Commissioner Hockman explained that he is suggesting that as a Town policy that PDF versions of building plans be provided, so that they can be uploaded to the website. He gave an example of the Marina Village project plans could be uploaded to the website.

Town Manager Davis stated that staff does not have a problem with that. She explained that they conducted a survey and not many municipalities upload their plans to their websites. Out of 18 municipalities that were surveyed, only three upload plans to their website. She agreed with Commissioner Hockman that the plans should be provided in PDF.

Commissioner Hockman stated that he would also like 11 by 17 size plans rather than the 24 by 36 size plans.

Mayor DuBois asked if this step needs to be added to the procedure.

Community Development Director Nadia DiTommaso explained that they do have a checklist that they can modify to include PDF formatted plans for new development.

Town Manager Davis asked if the fee schedule would have to be redone.

Community Development Director DiTommaso stated "no".

Commissioner Hockman clarified that the plans would be on a disc.

Mayor DuBois stated that the step would need to be communicated to developers.

Community Development Director DiTommaso explained that it is an internal checklist, to which this process can be added.

**Motion: A motion was made by Commissioner Hockman to include requesting a PDF file for new development plans; Vice-Mayor Rumsey made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman	X		
Commissioner Longtin	X		
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 5-0

#### **10. Recreation Director Position**

Mayor DuBois explained that he is not certain that this position should be filled and that existing staff may be able to fill the responsibilities. He asked if that salary can be saved and a meaningful recreation program be developed.

Commissioner Hockman stated that he asked several weeks ago if a Recreation Director was necessary, especially during this time of year. He stated that he felt this position should be part-time. He suggested making some changes like changing the hours.

Vice-Mayor Rumsey stated that his understanding is that one of the reasons the Recreation Director was let go was due to the lack of recreation programs that had been established. He stated that the main focus would be for the new person to create programs for the Town. He stated that a recreation program are not only for the children of the Town but for the seniors of the Town. He stated that he would hate to lose the recreation program after closing the Art on Park Gallery and asked what's next.

Commissioner Stevens stated that he agreed with Vice-Mayor Rumsey in that a Recreation Director is important to the Town and that 50 percent of the salary is also in the CRA; therefore the person would assist with the events of the Town. He listed the events the Town has on an annual basis and stated that he would like to see a recreational calendar developed for the children and seniors of the Town.

Commissioner Longtin stated that this Town has not offered recreation activities to the children in more than a decade. She stated that residents have done more for the Town recreation than the director had done. She stated that she has nothing against the Recreation Director, but that he was only doing what he was told to do. She had suggested many times to have someone hired that has recently come out of school for a lower salary that can prove that a recreation program can be developed for the Town. She questioned where the equipment the department once had has gone. She stated that if the person is not expected to play with the children then a part-time person would work.

Mayor DuBois recapped that everyone is in favor of hiring a Recreation Director.

Commissioner Longtin stated that the salary should be cut.

Mayor DuBois stated that there is a range of salary and as the applications are reviewed salary will be taken into account.

Commissioner Hockman stated that he is in favor of a Recreation Director, but reminded the Commission that the person was spending 50 percent of their time in the CRA.

Mayor DuBois stated that he sees that it is a high priority to have a director hired.

Commissioner Longtin asked if salary would be discussed.

Vice-Mayor Rumsey stated that at the last meeting it was made clear to the Town Manager that the Commission wanted the new person hired at the lower end of the salary range.

Town Manager Davis stated that the Commission made it clear.

#### **COMMENTS BY COMMISSION, TOWN MANAGER, TOWN ATTORNEY**

**Commissioner Longtin** stated that with regards to applications to boards, and there are only a few boards left, if a person is interested that they should fill out an application and provide it to the Clerk. She stated that the Clerk will hold the application until an opening occurs on the board. She stated that the Tree Board is still looking for members and that

the board has not been operational in way too long. She reiterated that the Town needs legal counsel with the Marina development. She stated that she has been asked if she is the writer for the Citizens Requiring Accountability from Politicians, [www.thestreetwhereyoulive.wordpress.com](http://www.thestreetwhereyoulive.wordpress.com) website, and she is not. She stated that it is a great balanced website and she wished she could write like that. She gave them kiddos. She stated that she still does not know what Virginia Martin has done with the money that has been donated to the community garden. She stated that the November Planning and Zoning Board meeting was an embarrassment and added more confusion to what is going on and feels that the Town needs legal counsel for this project. She stated that the project needs to be done well and open. She wished everyone a Happy Thanksgiving and asked everyone to be thankful for what they have.

**Commissioner Stevens** thanked the public for commenting today. He stated that he agrees with Ms. Grey and Mr. Lineweaver that the Commission needs to be more respectful and positive to one another. He stated that he agreed with Mr. Lloyd that the Planning and Zoning Board meeting was ill-timed, however he learned some things and hopes the next meeting is more productive. He stated that he agreed with Ms. Lloyd regarding the Library and it is great and hopes to expand the hours and other services in the Town. He agreed that board openings should be on the website and on E-news. He congratulated Sue-Ellen Mosler for being appointed to the CRA Board. He stated that he agrees that more services are needed in the Town and maybe even a dog park. He stated that he is looking forward to the green market, that the Seafood Festival was a great success, and that the Sunset Celebrations are great. He stated that he knows that Vice-Mayor Rumsey is working on getting sponsorship for the Fire Works Festival. He stated that earlier he mentioned that Bioscience is a great way to increase jobs in the area. He stated that some improvements are being made in the CRA and that the budget has areas that we can reduce. He gave examples of the \$2.5 million on police and \$1.5 million on fire and possibly reducing staff salaries. He stated that the Town Manager will be providing the Florida League of Cities salary survey that has been completed, which compares the salaries of other cities. He stated that he is concerned with the use of the Attorney because the Town has budgeted \$120,000 for the year and in October alone we used \$20,000. He stated that he feels that we need to limit the use of the Attorney's time. He explained that the Town has cut some phone lines and cell phones, which will save some money. He stated that we need to work on the debt and increasing funds. He wished everyone a Happy Thanksgiving.

**Vice-Mayor Rumsey** congratulated staff on the Seafood Festival and thanked all the other employees that volunteered their time to the event. He agreed with Commissioner Longtin regarding the Planning and Zoning Board meeting and stated that he expressed his feelings on the topic in an email. He asked when would the green market start.

Community Development Director DiTommaso stated that he is not ready yet and would be communicating with her regarding when he can begin.

Vice-Mayor Rumsey asked that as soon as the decision is made that the start date be posted on the website and on E-blast be so that the public is made aware. He wished everyone a Happy Thanksgiving.

**Commissioner Hockman** congratulated staff for the Seafood Festival. He believed the signs on I-95 made a difference. He asked for more seafood vendors because there were only a few and they were running out of food early. He stated that he would like to see a business plan for the Marina and has requested it from the Town Manager and Marina Director. He stated that Saturday morning Boy Scout Troop 132 is having a pancake breakfast and pulled pork sandwiches at Trinity Church on Military Trail, which begins at 8:00 a.m. and goes through 1:00 p.m. He wished everyone a Happy Thanksgiving and a great weekend.

**Mayor DuBois** stated that on Saturday, November 12, 2011, he attended the Wreath Laying Ceremony at the Veterans Memorial Stone in Kelsey Park and was honored that they asked him to speak. He requested consensus from the Commission to enter the program from the event as an exhibit to the minutes. See exhibit "A". He stated that the Seafood Festival was a great event. He stated that he attended the Business Development Board (BDB) meeting with Commissioners Hockman and Stevens, which had 420 people in attendance, and that he was glad they attended. He thanked John Lineweaver for his comments earlier and stated that sometimes families have some push-back, but that this meeting was congenial and that they are learning to set those boundaries. He was exhilarated by the comments made by the Planning and Zoning Board members and was glad it was a workshop and not a regular meeting. He stated that he was glad staff made it a workshop, and in the five years he served on the board he was always grateful when they had workshops. He stated that Mr. Mede's comments during that meeting were good and the meeting was beneficial.

**Attorney Baird** no comment.

**Town Manager Davis** stated that all Town offices, with the exception of the Marina and Commercial Sanitation, will be closed on Wednesday, November 23, 2011 as a furlough day and will be off for Thanksgiving. She provided the sanitation schedule. She stated that it is Toys for Tots time and donations can be delivered to the Marina, Library and Town Hall. She stated that anyone who would like to send a letter to Santa can drop it off in his special mailbox, which is at Town Hall. She stated that the Tree Lighting Ceremony will be held on December 2, 2011 beginning at 6:00 p.m. and the Tree Lighting will be at 7:00 p.m., She stated that the Lake Park Elementary Choirs will sing, and they will have snow and Santa.

Commissioner Longtin asked if the Tree will be on Park Avenue and not at the Park.

Town Manager Davis stated "correct".

Commissioner Longtin asked if this is the first year that we are doing that.

Town Manager Davis stated that it was the third year.

Mayor DuBois asked if the announcement of Santa's mailbox can be included on the marquee out front.

Town Manager Davis stated that it can be placed on the marquee.

**ADJOURNMENT**

There being no further business to come before the Commission and after a motion to adjourn by Commissioner Stevens and seconded by Commissioner Hockman, and by unanimous vote, the meeting adjourned at 8:50 p.m.

\_\_\_\_\_  
Mayor James DuBois

\_\_\_\_\_  
Town Clerk, Vivian Lemley, CMC

Town Seal

Approved on this \_\_\_\_\_ of \_\_\_\_\_, 2011

Wreath Laying Ceremony at  
Veterans Memorial Stone  
Kelsey Park  
Lake Park, Florida

November 11, 2011  
11:00 AM

**PROGRAM**

Americanism Chairman: On behalf of the VFW Post and Ladies Auxiliary, we welcome you to this Veterans' Day program. Post Chaplain Vince Zummo will offer us a Veterans' Day prayer.

Post Chaplain Zummo: Almighty God, Father of us all! We, Thy servants turn to Thee for continuance of Thy blessings upon us. Thou, who hath spared us Veterans from the grasp of our enemies, grant us the full under-standings of Thy precious comfort.

We thank Thee for the privileges of life and the blessings we enjoy through Thy graciousness in our country, the land in which we are given the freedom of speech, religion and the pursuit of happiness. Assist us to know Thee better and that Thou are the God of the universe and our ideal.

In Thy mercy, may we, the living, find our peace. Grant us from above, this day, the challenge of high endeavor, the beauty of a humble spirit, the strong courage and will, without exertion, to continue to glorify Thee, praise Thee and love Thee to the end of time.

Amen.

Americanism Chairman: We will now all salute and give pledge to the Flag.  
All join in singing the National Anthem. SALUTE!

Americanism Chairman: Our VFW Commander Tom Cullen will speak.

VFW Commander  
Tom Cullen:

Veterans' Day is a special day for VFW members. Unlike Memorial Day, it is a time to remember all veterans – both living and dead – and their sacrifices. It should not be a day of sadness, but a time of pride and reflection on what veterans have accomplished and the freedoms they have protected.

As most veterans know, Veterans' Day was originally known as Armistice Day, an observance and anniversary of the end of World War I. Following the Korean War, President Eisenhower signed a bill expanding Armistice Day to honor all veterans. Congress passed a law in 1968 that changed the date to the fourth Monday in October.

Appropriately, though, the American people rejected that idea, perhaps fearing that the meaning of the day would become clouded in the haze of yet another excuse for a three-day weekend. In 1978, Congress returned Veterans Day to its traditional November 11<sup>th</sup> observance.

While it captures the essence of Veterans' Day, honoring the dead by helping the living is fulfilled every day by VFW members throughout the nation.



The VFW hopes that through its members' actions, all U.S. citizens will take time to ponder how veterans have contributed to the nation.

When one looks at rows and rows of white crosses in a military cemetery, it's obvious.

But the nation is full of veterans who are still with us. They continue to actively serve their communities in an effort to improve the country they love.

**REMEMBER THEM TODAY!!!**

Americanism Chairman: Bernard Korkowski, President of the VFW Men's Auxiliary (or a Men's Auxiliary Member) will say a few words.

Men's Auxiliary President  
Bernard Korkowski: Today is a special day, and if you know a veteran, make it a point to thank him for serving his country.

Then watch his expression! Chances are he will react in surprise – because most likely he's never been thanked in that way before. Not that most veterans ever expected praise for carrying out their duty in the armed forces. Most were satisfied to receive a few ribbons or medals denoting the nature and location of their military services, along with the knowledge that they were entitled to low-interest mortgages and college educational aid.

But now, years after most of them completed their service, it will blow their minds to think someone still remembers and appreciates the risks they took and the time they sacrificed to defend the interests and freedoms of this country.

So, don't deny your friend, the Veteran, of that little thrill.  
TODAY IS VETERANS' DAY, THE PERFECT TIME TO  
DO IT! --- SAY THANK YOU!!!

Auxiliary President:

We have come here today to pay tribute to a roll of honor naming the men of this community who went forth as the living strength of our Flag. They were the United States Armed Forces on land, sea and in the air. Some of them did not return . . .

These American defenders left our schools, our shops and our farms to take up weapons against the foes. They left their peacetime pursuits with confidence in their hearts and assurances upon their lips. They were aware of the dangers before them, yet they responded without hesitation to the call of duty. These are the men in whom we entrusted all our faith.

They are the ones for whom we toiled and prayed here at home – to help make their effort victorious, so they might return and live with us in lasting peace and security.

Now, on behalf of the Ladies Auxiliary to the Donald A. Ross Post 9610, Veterans of Foreign Wars, I place this wreath to honor them and extend to them our deepest respect.

Americanism Chairman:

Chaplain will now give the closing prayer.

Auxiliary Chaplain  
Rena Nunn:

O, Thou Almighty God, guide these men and women we honor through every day and night. Give them unbounded strength and courage to continue their efforts for lasting peace. Make their victory a true service to all humanity. Give them growing faith in Thy teachings. Make them Thy chosen servants, to carry on forever a victorious crusade against all evil forces seeking to destroy that which is just and good in the hearts of men. Help them to bring brotherly love to all lands. And, finally, O God, help us to increase our spiritual unity and our love for all. In reverent humility, we ask these blessings.  
Amen.

Americanism Chairman:

This ends our ceremony. Thank you for coming. Please join us now in singing God Bless America.

On behalf of our Ladies Auxiliary, I would like to thank the Honor Guard provided today by the Boy Scout Troop and Cub Scout Pack 132 of Palm Beach Gardens, Florida.

Also, a special thanks to our audience and scouting families.

# TAB 3



**Town of Lake Park Town Commission**

**Agenda Request Form**

**Meeting Date: December 7, 2011**

**Agenda Item No.**

*Tab 3*

- |  |   |
|--|---|
| <input type="checkbox"/> PUBLIC HEARING              | <input checked="" type="checkbox"/> RESOLUTION      |
| <input type="checkbox"/> ORDINANCE ON FIRST READING  | <input type="checkbox"/> DISCUSSION/POSSIBLE ACTION |
| <input type="checkbox"/> ORDINANCE ON SECOND READING | <input type="checkbox"/> BID/RFP AWARD              |
| <input type="checkbox"/> PRESENTATION/PROCLAMATION   | <input checked="" type="checkbox"/> CONSENT AGENDA  |
| <input type="checkbox"/> Other:                      |   |

**SUBJECT: Funding for the Flagler Blvd. irrigation system;**

**RECOMMENDED MOTION/ACTION: Approve grant agreement with Palm Beach County**

**Approved by Town Manager** *W. Davis* **Date:** *12/2/11*

Virginia Martin, Grants Writer  
Name/Title

December 1, 2011  
Date of Actual Submittal

<b>Originating Department:</b>  Grants	<b>Costs:</b> \$ 52,200  <b>Funding Source:</b> Community Development Block Grant  Acct. #	<b>Attachments:</b> 1. Grant Agreement 2. Resolution 3. Minutes from 6/1/11 – <i>see</i> pages 15-18
<b>Department Review:</b> <input checked="" type="checkbox"/> Attorney <i>PLEASE SEE ATTACHED EMAIL</i> <input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Fire Dept	<input checked="" type="checkbox"/> Grants <i>GM</i> <input type="checkbox"/> Human Resources <input type="checkbox"/> Information Technology <input type="checkbox"/> Library <input type="checkbox"/> Marina	<input type="checkbox"/> PBSO <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Recreation <input type="checkbox"/> Town Clerk <input checked="" type="checkbox"/> Town Manager
<b>Advertised:</b> 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 <i>GM</i> Please initial one.

**Summary Explanation/Background:** At its June 1, 2011 meeting, the Town Commission authorized submission of the Flagler Boulevard Irrigation System for funding under the County's Community Development Block Grant program. We were awarded \$52,200 following review and subsequently this grant was approved by the Board of County Commissioners. Attached is the grant agreement with the County for that funding. The purpose of this item is to authorize the Mayor to execute this Grant Agreement.

**Virginia Martin**

---

**From:** Baird, Thomas J. [tbaird@jones-foster.com]  
**Sent:** Thursday, December 01, 2011 11:06 AM  
**To:** Virginia Martin  
**Cc:** Maria Davis; Vivian Lemley  
**Subject:** Re: Flagler Blvd Irrigation System

I reviewed the contract for the above referenced agenda item and revised it to address your concerns. It is good to go.

Sent from my iPhone

On Nov 30, 2011, at 6:49 PM, "Virginia Martin" <[vmartin@lakeparkflorida.gov](mailto:vmartin@lakeparkflorida.gov)> wrote:

I did not receive a response on this.

*Virginia Martin*

Grants Writer  
Town of Lake Park  
535 Park Avenue  
Lake Park, Florida 33403  
Telephone: 561-840-0160  
Fax: 561-881-3314  
Email: [vmartin@lakeparkflorida.gov](mailto:vmartin@lakeparkflorida.gov)

**Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office directly by phone or in writing.**

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**From:** Baird, Thomas J. [mailto:[tbaird@jones-foster.com](mailto:tbaird@jones-foster.com)]  
**Sent:** Wednesday, November 30, 2011 4:52 PM  
**To:** Virginia Martin  
**Subject:** RE: Flagler Blvd Irrigation System

I am pretty sure I responded to this, but would you please confirm that so I can take it off my pending list. Thanks.

**Thomas J. Baird**

**Attorney**

Direct: 561-650-8232  
Fax: 561-746-6933  
[tbaird@jones-foster.com](mailto:tbaird@jones-foster.com)

**Jones, Foster, Johnston & Stubbs, P.A.**

**Attorneys & Counselors**

801 Maplewood Drive, Suite 22-A, Jupiter, FL 33458  
Telephone: 561-659-3000  
[Website](#)

12/1/2011

U.S. Treasury Regulation Circular 230 requires us to advise you that written communications issued by us are not intended to be and cannot be relied upon to avoid penalties that may be imposed by the Internal Revenue Service.

Incoming emails are filtered which may delay receipt. This email is personal to the named recipient(s) and may be privileged and confidential. If you are not the intended recipient, you received this in error. If so, any review, dissemination, or copying of this email is prohibited. Please immediately notify us by email and delete the original message.

---

**From:** Virginia Martin [mailto:vmartin@lakeparkflorida.gov]  
**Sent:** Monday, November 21, 2011 11:10 AM  
**To:** Baird, Thomas J.; 'Journey Beard'; Maria Davis; David Hunt; Richard Pittman  
**Subject:** Flagler Blvd Irrigation System

Highlighted in green on pages 1 and 8 are two areas of concern. When we submitted the original grant application, it was for \$53,000 that included the project medians following installation of the irrigation system. We were awarded \$44,606, and there is no certainty that we will be able to accomplish both with the allotted funding. Our crews will already be doing the excavation as an in-kind service.

- (1) We need to have this agreement worded in such a way that the resodding will be paid only to the extent that funding is available in the grant awarded;
- (2) The Bid process will take place as two separate and distinct projects;
  - a. The irrigation system will be bid according to the attached schedule;
  - b. The resodding will be bid as a separate project if funding is available following the award of the irrigation system project.
  - c. If funding is not available for the resodding project, the Town will be responsible for arranging this project at a later date, but it will not be considered as a requirement to close out its responsibilities as they relate to this agreement with HCD.

Obviously, I am not an attorney, so I will leave it to the Attorneys to wrestle with the wording. Below is the appropriate contact information:

**Journey Beard, J.D.**

Director of Contract Development and Quality Control  
PBC Housing and Community Development  
100 Australian Avenue, 5th Floor  
West Palm Beach, FL 33406  
Tele.: (561) 233-3612  
Fax.: (561) 656-7560

**Thomas J. Baird**

**Attorney**

Direct: 561-650-8232

Fax: 561-746-6933  
[tbaird@jones-foster.com](mailto:tbaird@jones-foster.com)

**Jones, Foster, Johnston & Stubbs, P.A.**  
Attorneys & Counselors  
801 Maplewood Drive, Suite 22-A, Jupiter, FL 33458  
Telephone: 561-659-3000  
Website

*Virginia Martin*

Grants Writer  
Town of Lake Park  
535 Park Avenue  
Lake Park, Florida 33403  
Telephone: 561-840-0160  
Fax: 561-881-3314  
Email: [vmartin@lakeparkflorida.gov](mailto:vmartin@lakeparkflorida.gov)

**Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office directly by phone or in writing.**



AGREEMENT BETWEEN PALM BEACH COUNTY

AND

TOWN OF LAKE PARK

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between Palm Beach County, a political subdivision of the State of Florida, for the use and benefit of its Community Development Block Grant Program, and the Town of Lake Park, a Municipality duly organized and existing by virtue of the laws of the State of Florida, having its principal office at 535 Park Avenue, Lake Park, Fl 33403.

WHEREAS, Palm Beach County has entered into an agreement with the United States Department of Housing and Urban Development for a grant for the execution and implementation of a Community Development Block Grant Program in certain areas of Palm Beach County, pursuant to Title I of the Housing and Community Development Act of 1974 (as amended); and

WHEREAS, Palm Beach County, in accord with the annual Action Plan, and the Town of Lake Park, desire to provide the activities specified in Part II of this Agreement; and

WHEREAS, Palm Beach County desires to engage the Town of Lake Park to implement such undertakings of the Community Development Block Grant Program.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, it is agreed as follows:

PART I

DEFINITION AND PURPOSE

1. DEFINITIONS

- (1) "County" means Palm Beach County.
- (2) "CDBG" means the Community Development Block Grant Program of Palm Beach County.
- (3) "HCD" means Palm Beach County Housing and Community Development.
- (4) "Municipality" means the Town of Lake Park.
- (5) "HCD Approval" means the written approval of the HCD Director or his designee.
- (6) "U.S. HUD" means the Secretary of Housing and Urban Development or a person authorized to act on its behalf.
- (7) "Low and moderate income persons" means the definition set by U.S. HUD.

2. PURPOSE

The purpose of this Agreement is to state the covenants and conditions under which the Municipality will implement the Scope of Services set forth in Part II of this Agreement.

## PART II

CDBG ELIGIBLE ACTIVITIES AND NATIONAL OBJECTIVE

The Municipality has proposed to install an irrigation system and replace the sod in the median of Flagler Blvd, between Palmetto Drive and W. Jasmine Drive, activities determined to be Public Facilities and Improvements, CFR 570.201(c). The Municipality certifies that the eligible activities carried out under this Agreement will benefit low- and moderate income persons on an area-wide basis as described in the scope of work in Attachment "A", and as defined in 24 CFR 570.208(a)(1)(i).

SCOPE OF SERVICES

The Municipality shall, in a satisfactory and proper manner as determined by HCD, perform the tasks necessary to conduct the program outlined in Exhibit "A" as attached hereto and made a part hereof.

## PART III

COMPENSATION, TIME OF PERFORMANCE, METHOD, AND CONDITIONS OF PAYMENT1. MAXIMUM COMPENSATION

The Municipality agrees to accept as full payment for services rendered pursuant to this Agreement the actual amount of budgeted, eligible, and HCD Director or designee-approved expenditures and encumbrances made by the Municipality under this Agreement, which shall not be unreasonably withheld. Said services shall be performed in a manner satisfactory to HCD. In no event shall the total compensation or reimbursement to be paid hereunder exceed the maximum and total authorized sum of \$52,200 for the period of January 24, 2012, through and including July 31, 2013. Any funds not obligated by the expiration date of this Agreement shall automatically revert to the County.

2. TIME OF PERFORMANCE

The effective date of this Agreement and all rights and duties designated hereunder are contingent upon the timely release of funds for this project by U. S. HUD under Grant No. B-11-UC-12-0004. The effective date shall be the date of execution of this Agreement, and the services of the Municipality shall be undertaken and completed in light of the purposes of this Agreement. In any event, all services required hereunder shall be completed by the Municipality prior to July 31, 2013.

3. METHOD OF PAYMENT

The County agrees to make payments and to reimburse the Municipality for all budgeted costs permitted by Federal, State, and County guidelines. The Municipality shall not request reimbursement for payments made by the Municipality before the effective date of this Agreement, nor shall it request reimbursement for payments made after the expiration date of this Agreement, and in no event shall the County provide advance funding to the Municipality or any subcontractors hereunder. The Municipality shall request payments or reimbursements from the County by submitting to HCD proper documentation of expenditures consisting of originals of invoices, receipts, or other evidence of indebtedness, and when original documents cannot be presented, the Municipality may furnish copies if deemed acceptable by HCD. Each request for payment or reimbursement submitted by the Municipality shall be accompanied by a letter from the Municipality, provided on the Municipality's letterhead, referencing the name of the project funded herein, the date of this Agreement and/or its document number, and containing a statement requesting the payment or reimbursement and its amount, as well as the name and signature of the person making the request. Payment shall be made by the Palm Beach County Finance Department upon presentation of the aforesaid proper documentation of expenditures as approved by HCD. The Municipality may at any time after the expiration of this agreement request from the County reimbursement for payments made by the Municipality during the term of this

Agreement by submitting to HCD the aforesaid proper documentation of expenditures, and the Palm Beach County Finance Department shall make payment as stated above, provided that HCD has determined that the funds allocated to the Municipality through this agreement are still available for payment, and provided that HCD approves such payment.

4. CONDITIONS ON WHICH PAYMENT IS CONTINGENT

(1) IMPLEMENTATION OF PROJECT ACCORDING TO REQUIRED PROCEDURES

The Municipality shall implement this Agreement in accordance with applicable Federal, State, County, and local laws, ordinances and codes. The Federal, State, and County laws, ordinances and codes are minimal regulations supplemented by more restrictive guidelines set forth by HCD. No payments for projects funded by more than one funding source will be made until a cost allocation plan has been approved by the HCD Director or designee. Should a project receive additional funding after the commencement of this Agreement, the Agency shall notify HCD in writing within thirty (30) days of receiving notification from the funding source and submit a cost allocation plan for approval by the HCD Director or designee within forty-five (45) days of said official notification.

(2) FINANCIAL ACCOUNTABILITY

The County may have a financial systems analysis and/or an audit of the Municipality, or of any of its subcontractors, by an independent auditing firm employed by the County or by the County Internal Audit Department at any time the County deems necessary to determine if the project is being managed in accordance with Federal, State, and County requirements.

(3) SUBCONTRACTS

Any work or services subcontracted hereunder shall be specifically by written contract, written agreement, or purchase order. All subcontracts shall be submitted by the Municipality to HCD and approved by HCD prior to execution of any subcontract hereunder. All subcontracts shall be subject to Federal, State and County laws and regulations. This includes ensuring that all consultant contracts and fee schedules meet the minimum standards as established by the Palm Beach County Engineering Department and HUD. Contracts for architecture, engineering, survey, and planning shall be fixed fee contracts. All additional services shall have prior written approval with support documentation detailing categories of persons performing work plus hourly rates including benefits, number of drawings required, and all items that justify the "Fixed Fee Contract." Reimbursables will be at cost. None of the work or services covered by this Agreement, including, but not limited to, consultant work or services, shall be subcontracted or reimbursed without prior written approval of the HCD Director or his designee.

(4) PURCHASING

All purchasing for services and goods, including capital equipment, shall be made by purchase order or by a written contract and in conformity with the procedures prescribed by the Palm Beach County Purchasing Code, as well as Federal Management Circulars A-87, A-102, A-128, and 24 CFR Part 85 (also known as the Common Rule), which are incorporated herein by reference.

(5) REPORTS, AUDITS, AND EVALUATIONS

Payment will be contingent on the timely receipt of complete and accurate reports required by this Agreement, and on the resolution of monitoring or audit findings identified pursuant to this Agreement.

(6) ADDITIONAL HCD, COUNTY, AND U.S. HUD REQUIREMENTS

HCD shall have the right under this Agreement to suspend or terminate payments if after fifteen (15) days written notice the Municipality has not complied with any additional conditions that may be imposed, at any time, by HCD, the County, or U.S. HUD.

(7) PRIOR WRITTEN APPROVALS - SUMMARY

The following activities among others require the prior written approval of the HCD Director or designee to be eligible for reimbursement or payment:

- (a) All subcontracts and agreements pursuant to this Agreement;
- (b) All capital equipment expenditures of \$1,000 or more;
- (c) All out-of-county travel; (travel shall be reimbursed in accordance with Florida Statutes, Chapter 112.061);
- (d) All change orders;
- (e) All requests to utilize uncommitted funds after the expiration of this Agreement for programs described in Exhibit A; and
- (f) All rates of pay and pay increases paid out of CDBG funds, whether for merit or cost of living.

(8) PROGRAM - GENERATED INCOME

All income earned by the Agency from activities financed, in whole or in part, by funds provided hereunder must be reported and returned annually to HCD. Such income shall only be used to undertake the activities authorized by this Agreement. HCD must verify and approve the eligibility and reasonableness of all expenses which the Agency requests to be deducted. Accounting and disbursement of such income shall comply with OMB Circular A-110 and other applicable regulations incorporated herein by reference. For properties acquired by the Agency for rental, the program income must be reported and returned to the County annually.

The Agency may request that said program income be used to fund other eligible uses, subject to HCD approval, and provided that the Agency is in compliance with its obligations as contained within this Agreement (including the attached Exhibits herein). The Agency shall only use such program income to fund "basic eligible activities" as defined by Federal Community Development Block Grant Regulations (24 CFR Part 570). The Agency hereby agrees that the provisions of this Agreement shall also apply to these "basic eligible activities" as funded with the Agency's program income.

The requirements of this section shall survive the expiration of this Agreement.

## PART IV

GENERAL CONDITIONS1. OPPORTUNITIES FOR RESIDENTS AND CIVIL RIGHTS COMPLIANCE

The Municipality agrees that no person shall on the ground of race, color, disability, ancestry, national origin, religion, age, financial status, familial status, marital status, sex, sexual orientation, gender, or gender identity or expression, be excluded from the benefits of, or be subjected to discrimination under any activity carried out by the performance of this Agreement. Upon receipt of evidence of such discrimination, the County shall have the right to terminate this Agreement. To the greatest extent feasible, lower-income residents of the project areas shall be given opportunities for training and employment; and to the greatest feasible extent eligible business concerns located in or owned in substantial part by persons residing in the project areas shall be awarded contracts in connection with the project. The Municipality shall comply with the Section 3 Clause of the Housing and Community Development Act of 1968.

2. OPPORTUNITIES FOR SMALL AND MINORITY/WOMEN-OWNED BUSINESS ENTERPRISES

In the procurement of supplies, equipment, construction, or services to implement this Agreement, the Municipality shall make a positive effort to utilize small business and minority/women-owned business enterprises of supplies and services, and provide these sources the maximum feasible opportunity to compete for contracts to be performed pursuant to this Agreement. To the maximum extent feasible these small business and

minority/women- owned business enterprises shall be located in or owned by residents of the CDBG areas designated by Palm Beach County in the CDBG Annual Consolidated Plan approved by U.S. HUD.

3. PROGRAM BENEFICIARIES

At least fifty-one percent (51%) of the beneficiaries of a project funded through this Agreement must be low- and moderate- income persons. If the project is located in an entitlement city, as defined by U.S. HUD, or serves beneficiaries countywide, at least fifty-one percent (51%) of the beneficiaries directly assisted through the use of funds under this Agreement must reside in unincorporated Palm Beach County or in municipalities participating in the County's Urban County Qualification Program. The project funded under this Agreement shall assist beneficiaries as defined above for the time period designated in this Agreement. The Municipality shall provide written verification of compliance to HCD upon HCD's request.

4. EVALUATION AND MONITORING

The Municipality agrees that HCD will carry out periodic monitoring and evaluation activities as determined necessary by HCD or the County and that payment, reimbursement, or the continuation of this Agreement is dependent upon satisfactory evaluation conclusions based on the terms of this Agreement. The Municipality agrees to furnish upon request to HCD, the County, or the County's designees copies of transcriptions of such records and information as is determined necessary by HCD or the County. The Municipality shall submit status reports required under this Agreement on forms approved by HCD to enable HCD to evaluate progress. The Municipality shall provide information as requested by HCD to enable HCD to complete reports required by the County or HUD. The Municipality shall allow HCD, the County, or HUD to monitor the Municipality on site. Such visits may be scheduled or unscheduled as determined by HCD or HUD.

5. AUDITS AND INSPECTIONS

At any time during normal business hours and as often as HCD, the County, U.S. HUD, or the Comptroller General of the United States may deem necessary, there shall be made available by the Municipality to HCD, the County, U.S. HUD, or the Comptroller General for examination all its records with respect to all matters covered by this Agreement. If during the year, the Municipality expends over \$500,000 of Federal awards, the Municipality shall comply with the provisions of OMB Circular A-133. The Municipality shall submit a single audit, including any management letter, made in accordance with the general program requirements of OMB Circulars A-110, A-122, A-133, and other applicable regulations within the earlier of, 30 days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period in which HCD-administered funds are expended. Said audit shall be made by a Certified Public Accountant of the Municipality's choosing, subject to the County's approval. In the event the Municipality anticipates a delay in producing such audit, the Municipality shall request an extension in advance of the deadline. The cost of said audit shall be borne by the Municipality. In the event the Municipality is exempt from having an audit conducted under A-133, the Municipality shall submit audited financial statements and/or the County reserves the right to conduct a "limited scope audit" of the Municipality as defined by A-133. The County will be responsible for providing technical assistance to the Municipality, as deemed necessary by the County.

6. UNIFORM ADMINISTRATIVE REQUIREMENTS

The Municipality agrees to comply with the applicable uniform administrative requirements as described in Federal Community Development Block Grant Regulations 24 CFR 570.502.

7. REVERSION OF ASSETS

Upon expiration of this Agreement, the Municipality shall transfer to the County any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Any real property under the Municipality's control upon expiration of this Agreement which was acquired or improved in whole or part with CDBG in the excess of \$25,000 must either be used to meet one of the national objectives in Federal Community Development Block Grant Regulations 24 CFR 570.508 for a period of five years after expiration of this Agreement (unless a longer period is specified elsewhere in this

Agreement), or, the Municipality shall pay the County an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property.

8. DATA BECOMES COUNTY PROPERTY

All reports, plans, surveys, information, documents, maps, and other data procedures developed, prepared, assembled, or completed by the Municipality for the purpose of this Agreement shall be made available to the County by the Municipality at any time upon request by the County or HCD. Upon completion of all work contemplated under this Agreement copies of all documents and records relating to this Agreement shall be surrendered to HCD if requested. In any event, the Municipality shall keep all documents and records for five (5) years after expiration of this Agreement.

9. PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL

Pursuant to Palm Beach County Code Sections 2-412 to 2-440, Palm Beach County has established the Office of the Inspector General, which is authorized and empowered to review past, present and proposed County agreements, contracts, transactions, accounts and records. All parties doing business with the County and receiving County funds, including the Municipality, shall fully cooperate with the Inspector General. The Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and to audit, investigate, monitor, and inspect the activities of the Municipality, its officers, agents, employees, and lobbyists in order to ensure compliance with this Agreement and to detect waste, corruption and fraud.

10. INDEMNIFICATION

Each party to this Agreement shall be liable for its own actions and negligence and, to the extent permitted by law, the County shall indemnify, defend, and hold harmless the Municipality against any actions, claims, or damages arising out of the County's negligence in connection with this Agreement, and the Municipality shall indemnify, defend, and hold harmless the County against any actions, claims, or damages arising out of the Municipality's negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statute, section 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions. The Municipality shall hold the County harmless and shall indemnify the County for funds which the County is obligated to refund the Federal Government arising out of the conduct of activities and administration of the Municipality. The provisions of this indemnification clause shall survive the termination of this Agreement.

11. INSURANCE BY MUNICIPALITY:

Without waiving the right to sovereign immunity as provided by S. 768.28 F.S., the Municipality acknowledges to be self-insured for General Liability and Automobile Liability under Florida sovereign immunity statutes with coverage limits of \$200,000 Per Person and \$300,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature.

In the event the Municipality maintains third-party Commercial General Liability and Business Auto Liability in lieu of exclusive reliance of self-insurance under s.768.28 F.S., the Municipality shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage

The Municipality agrees to maintain or to be self-insured for Workers' Compensation & Employer's Liability insurance in accordance with Florida Statute 440.

When requested, the Municipality shall agree to provide an affidavit or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which County agrees to recognize as acceptable for the above mentioned coverages.

Compliance with the foregoing requirements shall not relieve the Municipality of its liability

and obligations under this Agreement.

ASBESTOS LEGAL LIABILITY, OR SIMILAR THIRD PARTY POLLUTION LIABILITY

In the event the Municipality must procure a Contractor to perform asbestos services, the Municipality shall ensure that the contractor shall agree to maintain Pollution Liability, or similar Asbestos Legal Liability, at a minimum limit not less than \$1,000,000 per occurrence/\$2,000,000 annual aggregate providing coverage for damages, including but not limited to, third-party liability, clean up, corrective action including assessment, remediation and defense costs. The coverage may be provided on a stand-alone policy or by way of endorsement to the Commercial General Liability policy. When a self-insured retention or deductible exceeds \$10,000, the County reserves the right, but not the obligation, to review and request a copy of the Contractor's most recent annual report or audited financial statements to evaluating the acceptability of a higher self-insured retention or deductible in relationship to the Contractor's financial condition. Coverage shall be endorsed to include "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents" as an Additional Insured.

12. MAINTENANCE OF EFFORT

The intent and purpose of this Agreement is to increase the availability of the Municipality's services. This Agreement is not to substitute for or replace existing or planned projects or activities of the Municipality. The Municipality agrees to maintain a level of activities and expenditures, planned or existing, for projects similar to those being assisted under this Agreement which is not less than that level existing prior to this Agreement.

13. CONFLICT OF INTEREST

The Municipality covenants that no person who presently exercises any functions or responsibilities in connection with the Project, has any personal financial interest, direct or indirect, in the target areas or any parcels therein, which would conflict in any manner or degree with the performance of this Agreement and that no person having any conflict of interest shall be employed by or subcontracted by the Municipality. Any possible conflict of interest on the part of the Municipality or its employees shall be disclosed in writing to HCD provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the statutory requirement that maximum opportunity be provided for employment of and participation of low and moderate-income residents of the project area.

14. CITIZEN PARTICIPATION

The Municipality shall cooperate with HCD in the implementation of the Citizen Participation Plan by establishing a citizen participation process to keep residents informed of the activities the Municipality is undertaking in carrying out the provisions of this Agreement. Representatives of the Municipality shall attend meetings and assist HCD in the implementation of the Citizen Participation Plan, as requested by HCD.

15. RECOGNITION

All facilities purchased or constructed pursuant to this Agreement shall be clearly identified as to funding source. The Municipality will include a reference to the financial support herein provided by HCD in all publications and publicity. In addition, the Municipality will make a good faith effort to recognize HCD's support for all activities made possible with funds made available under this Agreement.

16. AGREEMENT DOCUMENTS

The following documents are herein incorporated by reference and made a part hereof, and shall constitute and be referred to as the Agreement; and all of said documents taken as a whole constitute the Agreement between the parties hereto and are as fully a part of the Agreement as if they were set forth verbatim and at length herein:

- (1) This Agreement, including its Exhibits, which the County may revise from time to time, as required, and to be provided for use by the Municipality;
- (2) Office of Management and Budget Circulars A-87, A-102, A-133, and 24CFR

- Part 85;
- (3) Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Title II of the Americans with Disabilities Act of 1990;
  - (4) Executive Orders 11246, 11478, 11625, 12432, the Davis-Bacon Act, and Section 3 of the Housing and Community Development Act of 1968, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended;
  - (5) Executive Orders 11063, 12259, 12892, the Fair Housing Act of 1988, and Section 109 of the Housing and Community Development Act of 1974, as amended;
  - (6) Florida Statutes, Chapter 112;
  - (7) Palm Beach County Purchasing Code;
  - (8) Federal Community Development Block Grant Regulations (24 CFR Part 570), and Federal Consolidated Plan Regulations (24 CFR Part 91), as amended;
  - (9) The Municipality's personnel policies and job descriptions; and
  - (10) The Municipality's Certificate of Insurance.

The Municipality shall keep an original of this Agreement, including its Exhibits, and all Amendments thereto, on file at its principal office.

17. TERMINATION

In event of termination for any of the following reasons, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports prepared, and capital equipment secured by the Municipality with funds under this Agreement shall be returned to HCD or the County.

In the event of termination, the Municipality shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Agreement by the Municipality, and the County may withhold any payment to the Municipality for set-off purposes until such time as the exact amount of damages due to the County from the Municipality is determined.

(1) TERMINATION FOR CAUSE

If through any cause either party shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if either party shall violate any of the covenants, agreements, or stipulations of this Agreement, either party shall thereupon have the right to terminate this Agreement in whole or part by giving a fifteen (15) working day written notice of such termination to the other party and specifying therein the effective date of termination.

(2) TERMINATION FOR CONVENIENCE

At any time during the term of this Agreement, either party may, at its option and for any reason, terminate this Agreement upon ten (10) working days written notice to the other party. Upon termination, the County shall pay the Municipality for services rendered pursuant to this Agreement through and including the date of termination.

(3) TERMINATION DUE TO CESSATION

In the event the grant to the County under Title I of the Housing and Community Development Act of 1974 (as amended) is suspended or terminated, this Agreement shall be suspended or terminated effective on the date the U.S. HUD specifies.

18. SEVERABILITY OF PROVISIONS

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

19. AMENDMENTS

The County may, at its discretion, amend this Agreement to conform with changes required by Federal, State, County, or U.S. HUD guidelines, directives, and objectives. Such amendments shall be incorporated by written amendment as a part of this Agreement and



shall be subject to approval of the Palm Beach County Board of County Commissioners. Except as otherwise provided herein, no amendment to this Agreement shall be binding on either party unless in writing, approved by the Board of County Commissioners and the governing body of the Municipality, and signed by both parties.

20. NOTICES

All notices required to be given under this Agreement shall be sufficient when delivered to HCD at its office at 100 Australian Avenue, Suite 500, West Palm Beach, Florida 33406, and to the Municipality when delivered to its address on page one (1) of this Agreement.

21. INDEPENDENT AGENT AND EMPLOYEES

The Municipality agrees that, in all matters relating to this Agreement, it will be acting as an independent agent and that its employees are not Palm Beach County employees and are not subject to the County provisions of the law applicable to County employees relative to employment, hours of work, rates of compensation, leave, unemployment compensation and employee benefits.

22. NO FORFEITURE

The rights of the County under this Agreement shall be cumulative and failure on the part of the County to exercise promptly any rights given hereunder shall not operate to forfeit or waive any of the said rights.

23. PUBLIC ENTITY CRIMES

As provided in F.S. 287.133 by entering into this Agreement or performing any work in furtherance hereof, the Municipality certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3)(a).

24. COUNTERPARTS OF THE AGREEMENT

This Agreement, consisting of twenty (20) enumerated pages which include the Exhibits referenced herein, shall be executed in three (3) counterparts, each of which shall be deemed to be an original, and such counterparts will constitute one and the same instrument. A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

25. ENTIRE UNDERSTANDING

This Agreement and its provisions merge any prior Agreements, if any, between the parties hereto and constitutes the entire understanding. The parties hereby acknowledge that there have been and are no representations, warranties, covenants, or undertakings other than those expressly set forth herein.

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WITNESS our Hands and Seals on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(MUNICIPALITY SEAL BELOW)

**TOWN OF LAKE PARK**

By: \_\_\_\_\_  
James DuBois, Mayor

By: \_\_\_\_\_  
Vivian Mendez Lemley, Town Clerk

(COUNTY SEAL BELOW)

**PALM BEACH COUNTY, FLORIDA, a  
Political Subdivision of the State of Florida**

**BOARD OF COUNTY COMMISSIONERS**

ATTEST: Sharon R. Bock,  
Clerk & Comptroller

By: \_\_\_\_\_  
Shelley Vana, Chair  
Board of County Commissioners

By: \_\_\_\_\_  
Deputy Clerk

Document No.: \_\_\_\_\_

Approved as to Form and Legal Sufficiency

Approved as to Terms and Conditions  
Dept. of Housing and Community Development

By: \_\_\_\_\_  
Tammy K. Fields  
Senior Assistant County Attorney

By: \_\_\_\_\_  
Journey Beard, Director  
Contract Development and Quality Control

**EXHIBIT "A"**  
**WORK PROGRAM NARRATIVE**

**I. THE MUNICIPALITY AGREES TO:**

- A. **PROFESSIONAL SERVICES:** The Municipality, using its own resources, shall retain a consultant (a Florida professional engineer) to provide design services to create plans and specifications for the below described street improvements in the median of Flagler Boulevard between Palmetto Drive and West Jasmine Drive in the Town of Lake Park. The consultant shall provide design services and create plans and specifications for the below described scope of work. The Municipality and consultant shall also prepare, obtain and review bids, prepare contract documents, inspect work in progress, recommend payment to contractors, and provide other professional services customarily provided by similar professionals for this type of project.

**Alternatively, the Municipality shall have the option of performing any portion of the consultant's services described above by its own staff provided such staff possesses the necessary competency to do so.**

- B. **PROJECT SCOPE:** The scope of this project, subject to funding availability, shall include but is not limited to the following improvements: the installation of an irrigation system and replacement of sod in the median of Flagler Boulevard between Palmetto Drive and West Jasmine Drive in the Town of Lake Park.

**NOTE 1:** Should the Municipality use brand names in the bid package/drawings/specifications for this project, then these documents shall:

- (a) Clearly note that the specified brand name is used for descriptive purposes only,
- (b) State that "equal" equipment or materials will be accepted, and
- (c) Identify the minimum requirements to establish equality.

The Municipality agrees that the use of more than one brand name shall not be regarded as having met the above requirements.

**NOTE 2:** The Municipality shall submit its bid package/drawings/specifications, and an itemized opinion of probable construction cost prepared by its consultant, to HCD and obtain a letter of approval prior to bidding the construction work. In submitting the bid package and drawings/specifications to HCD, the Municipality shall also demonstrate that it has submitted its drawings/specifications to the Town of Lake Park building department for plan review, and that these drawings/specifications comply with all applicable building and zoning codes. Furthermore, the Municipality shall obtain HCD approval prior to issuing any addenda to its bid documents for this project.

**NOTE 3:** The Municipality shall prioritize the work in the project, and shall bid such work in a manner that would allow the receipt of itemized costs from bidders which would then allow the award of items that can be funded by the budget provided that the extent of work awarded will result in a functioning facility in the opinion of HCD.

**NOTE 4:** The Municipality shall assure that neither the prime contractor nor any subcontractor shall be allowed to perform one hundred percent (100%) of their work on this project on nights, weekends, or County recognized holidays, and shall assure that the prime contractor and all subcontractors shall, at a minimum, perform work on this project for the duration of one regular working day. The Municipality may request HCD for a waiver to the above requirement should the nature of the project so necessitate, and in such instance, HCD may, at its discretion, grant the Municipality such waiver.

**NOTE 5:** The Municipality shall not award the construction contract for the project until sufficient funding is available to complete the established project scope of work. All construction work shall be included in one contract. The Municipality shall obtain HCD approval prior to awarding the construction contract to be funded through this Agreement.

After awarding such contract, the Municipality shall obtain HCD approval prior to executing any change orders to such contract.

NOTE 6: Should the construction contract amount for this project exceed the amount to be funded by the County for construction costs through this Agreement, then the Municipality shall fund all amounts in excess of the amount to be funded by the County. The Municipality may request the County to participate with a portion of the County's funding for construction costs first prior to participating with its funds. Under such a scenario, the Municipality would disburse an amount up to 75% of the County's funding amount made available for the project through this Agreement for construction costs and request reimbursement from the County for such amount, then disburse its portion of funding for the project (without being reimbursed by the County for such amount), and finally, the Municipality would disburse an amount equivalent to the County's remaining funding amount made available for the project through this Agreement for construction costs and request reimbursement from the County for such amount. The Municipality shall expend 100% of its funds prior to usage of any County funds.

NOTE 7: The Municipality shall not request reimbursement from HCD for materials or equipment received and stored on the project site or elsewhere. The Municipality shall only request reimbursement for materials and equipment that have been installed.

NOTE 8: The Municipality shall inform HCD of any environmental findings or conditions discovered during activity implementation. Applicable mitigation measures must be incorporated in order to proceed with the project. Such mitigation measures may affect the total project cost.

The Municipality further agrees that HCD, in consultation with any parties it deems necessary, shall be the final arbiter on the Municipality's compliance with the above.

- C. ASBESTOS REQUIREMENTS: The Municipality shall comply with all applicable requirements contained in Exhibit "C", attached hereto, for construction work in connection with the project funded through this Agreement.
- D. DAVIS-BACON ACT: The Municipality shall request the County to obtain a Davis-Bacon wage decision for the project prior to advertising the construction work. The Municipality shall incorporate a copy of the Davis-Bacon wage decision and disclose the requirements of the Davis-Bacon Act in its construction bid solicitation and contract.
- E. BONDING REQUIREMENTS: The Municipality shall comply with the requirements of 24 CFR Part 85 in regard to bid guarantees, performance bonds, and payment bonds. For contracts exceeding \$100,000, the Municipality shall require a bid guarantee from each bidder equivalent to five percent (5%) of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified. In addition, for contracts exceeding \$100,000, the Municipality shall also require a performance bond on the part of the contractor for 100 percent (100%) of the contract price and a payment bond on the part of the contractor for 100 percent (100%) of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract. All bonds shall be executed by a corporate surety company of recognized standing, authorized to do business in the State of Florida. The Municipality may follow its own requirements relating to bid guarantees, performance bonds, and payment bonds for contracts of \$100,000, or less.
- F. CONSTRUCTION PAYMENT RETAINAGE: The Municipality shall apply a retainage of at least 10% on all construction draws, which retainages shall be released in conjunction with the final draw upon satisfactory completion of the project. The Municipality agrees not to release such retainages until it has obtained approval from the County that the

contractor and subcontractors have complied with the requirements of the Davis-Bacon Act.

- G. **FORMER PROJECTS:** The Municipality shall maintain all previously completed CDBG funded projects. Failure to do so will result in forfeiture of future CDBG funds and will delay funding for ongoing activities.
- H. **MONTHLY PERFORMANCE REQUIREMENTS:** The time frame for completion of the outlined activities shall be July 31, 2013. The Municipality shall meet these monthly requirements by the timely performance, documentation, and completion of the following tasks:
 

(1) Complete Design & Bid Documents	April 15, 2012
(2) Advertise & Receive / Accept Bids	July 15, 2012
(3) Award Contract by	September 1, 2012
(4) Start Construction by	October 31, 2012
(5) Complete Construction by	March 31, 2013
(6) Submit Final Reimbursement Request by	May 31, 2013

- I. **REPORTS:** The Municipality shall submit to HCD a detailed Monthly Performance Report in the form provided as Exhibit "B" to this Agreement. Each Report must account for the total activity for which the Municipality is funded under this Agreement, and a Municipality representative must certify that all of the Municipality's Monthly Performance Requirements have been met during the reporting period as referenced within this Agreement. These Monthly Performance Reports shall be used by HCD to assess the Municipality's progress in implementing the project.

This Agreement may be amended to decrease and/or recapture funds from the Municipality depending upon the timely completion of the monthly performance requirement deadlines and/or the rate of expenditure of funds, as determined by HCD.

**The Municipality may be subject to decrease and/or recapture of project funds by the County if the above Monthly Performance Requirements are not met. Failure by the Municipality to comply with these requirements may negatively impact ability to receive future grant awards.**

- J. **USE OF THE PROJECT FACILITY:** The Municipality agrees in regard to the use of the facility/property whose acquisition or improvements are being funded in part or in whole by CDBG funds as provided by this Agreement, that for a period of ten (10) years after the expiration date of this Agreement (as may be amended from time to time):
  - (a) The Municipality may not change the use or planned use, or discontinue use, of the facility/property (including the beneficiaries of such use) from that for which the acquisition or improvements are made, unless the Municipality provides affected citizens with reasonable notice of, and opportunity to comment on, any such proposed change and either:
    - 1. The new use of the facility/property qualifies as meeting one of the national objectives defined in the regulations governing the CDBG program, and is not a building for the general conduct of government; or
    - 2. The requirements of paragraph (b) of this section are met.
  - (b) If the Municipality determines, after consultation with affected citizens, that it is appropriate to change the use of the facility/property to a use which does not qualify under paragraph (a) (1) of this section or discontinue the use of the facility/property, it may retain or dispose of the facility for such use if the County is reimbursed in the amount of the current fair market value of the facility/property less any portion thereof attributable to expenditures of non-CDBG funds for acquisition of, or improvements to the facility/property. The final determination of the amount of any such reimbursement to the County under this paragraph shall be made by the County.
  - (c) Following the reimbursement of CDBG funds by the Municipality to the County

pursuant to paragraph (b) above, the facility/property will then no longer be subject to any CDBG requirements.

**The provisions of this clause shall survive the expiration of this Agreement.**

- K. **SECTION 3 REQUIREMENTS:** The Municipality agrees to comply with all Section 3 requirements applicable to contracts funded through this Agreement. Information on Section 3 is available at HCD upon request. The Municipality shall include the following, referred to as the Section 3 Clause, in every solicitation and every contract for every Section 3 covered project:

**Section 3 Clause**

- (a) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
  - (b) The parties to this contract agree to comply with HUD's requirements in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
  - (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers representative of the contractor's commitment under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
  - (d) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
  - (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
  - (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- L. **ENVIRONMENTAL CONDITIONS:** The Municipality shall immediately inform HCD of any environmental findings or conditions discovered during activity implementation, and agrees that applicable mitigation measures, subject to HCD approval, shall be incorporated in order to proceed with the project. The Municipality agrees that such mitigation measures may affect the total project cost, as determined by HCD.

**II. THE COUNTY AGREES TO:**

- A. Provide funding for the above specified improvements as described above in "Project Scope", during the term of this Agreement, in the amount of \$52,200. However, the County shall not provide any funding for the construction work until the Municipality provides

documentation showing that sufficient funds are available to complete the project.

- B. Provide project administration and inspection to the Municipality to ensure compliance with U.S. HUD and the Department of Labor, and applicable State, Federal and County laws and regulations.
- C. Monitor the Municipality at any time during the term of this Agreement. Visits may be announced or unannounced, as determined by HCD, and will serve to ensure compliance with U.S. Department of HUD regulations that planned activities are conducted in a timely manner, and to verify the accuracy of reporting to HCD on program activities.
- D. The County shall perform an environmental review of the project, and review and approve project design and bids submitted for the work. The County shall also perform Davis Bacon Act Labor Standards monitoring and enforcement. Environmental review costs incurred by the County may be charged to the project budget identified above.
- E. Allowable costs that may be paid by the County under this Agreement in addition to those stated in II.A above:
  - (a) Costs of asbestos surveys, asbestos abatement, and abatement monitoring.
  - (b) Costs of any other services customarily associated with projects of the nature of the project contemplated by this Agreement.

The County shall review requests by the Municipality for expenditures on the above items prior to undertaking the services associated with them, and approve any such expenditure it deems appropriate for this project.

**THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK**

**EXHIBIT "B"**

**PALM BEACH COUNTY HOUSING & COMMUNITY DEVELOPMENT**

**MONTHLY PERFORMANCE REPORT**

<b>Report For:</b>	Month: _____ Year: _____
<b>Subrecipient Name:</b>	Town of Lake Park
<b>Project Name:</b>	Irrigation Improvements on Flagler Drive
<b>Report Prepared By:</b>	_____
	Name _____ Signature _____ Date _____

**BUDGETING AND EXPENDITURES**

Amounts Expended this Reporting Period: CDBG Funds:\$ \_\_\_\_\_ Other Funds:\$ \_\_\_\_\_

Amounts Expended to Date:

////////////////////////////////////	BUDGETED	EXPENDED	PERCENTAGE
CDBG Funds:	\$ _____	\$ _____	% _____
Other Funds: _____	\$ _____	\$ _____	% _____
Other Funds: _____	\$ _____	\$ _____	% _____
<b>TOTAL:</b>	\$ _____	\$ _____	% _____

Describe any changes in budgeted amounts during this reporting period and the source of funds:

\_\_\_\_\_

Describe your efforts to obtain any additional funds for the project during this reporting period (if your project is underfunded): \_\_\_\_\_

\_\_\_\_\_

**PROJECT ACTIVITIES**

Describe your accomplishments during the reporting period: \_\_\_\_\_

\_\_\_\_\_

Describe any problems encountered during this reporting period: \_\_\_\_\_

\_\_\_\_\_

Other comments: \_\_\_\_\_

\_\_\_\_\_

I, \_\_\_\_\_, do hereby certify that the Town of Lake Park has met all of its Monthly Performance Requirements (Exhibit A, Paragraph H) referenced in the Agreement during this reporting period.

\_\_\_\_\_  
Name & Title of Certifying Representative

Send Monthly Performance Report to: Bud Cheney, Manager of CREIS  
Department of Housing and Community Development  
100 Australian Avenue, Suite 500  
West Palm Beach, FL 33406



**EXHIBIT "C"****ASBESTOS REQUIREMENTS**  
**SPECIAL CONDITIONS FOR DEMOLITION AND RENOVATION OF BUILDINGS**

The provisions of this part apply to all demolition and renovation work contemplated in this Agreement and described in Exhibit "A" of this Agreement.

**I. DEFINITIONS**

ACBM:	Asbestos Containing Building Materials
AHERA:	Asbestos Hazard Emergency Response Act
EPA:	Environmental Protection Agency
FLAC:	Florida Licensed Asbestos Consultant
HCD:	Palm Beach County Department of Housing and Community Development
NESHAP:	National Emission Standards for Hazardous Air Pollutants
NRCA:	National Roofing Contractors Association
NVLAP:	National Voluntary Laboratory Accreditation Program
OSHA:	Occupational Health and Safety Administration
PBCAC:	Palm Beach County Asbestos Coordinator (in Risk Management)
TEM:	Transmission Electron Microscopy

**II. ASBESTOS SURVEYS**

All properties scheduled for renovation or demolition are required to have a comprehensive asbestos survey conducted by a Florida Licensed Asbestos Consultant, (FLAC). The survey shall be conducted in accordance with AHERA guidelines. Analysis must be performed by a NVLAP accredited laboratory.

For Renovation Projects (projects which will be reoccupied):

- Point counting must be done for all asbestos containing building materials (ACBM) indicating less than 1% asbestos (to determine if any asbestos is present).
- Samples of vinyl floor tile indicating asbestos not detected must be confirmed by transmission electron microscopy (TEM).
- Joint compound shall be analyzed as a separate layer.
- Roofing material shall be sampled only if a renovation requires the roof to be disturbed (in lieu of sampling the roof, it may be presumed to contain asbestos).

For Demolition Projects:

- Point counting must be done for all "friable" asbestos containing building materials (ACBM), indicating less than 1% asbestos. This includes joint compounds (to be analyzed as a separate layer), and vinyl asbestos tile.
- Roof materials shall be presumed to be asbestos containing.

If the Municipality has a recent asbestos survey report prepared by a licensed asbestos consultant, a copy may be provided to HCD and PBCAC for review to determine if the survey is adequate to proceed with renovation/demolition work. If no survey is available, a survey may be initiated by the Municipality or requested by HCD. A copy of the completed survey will be forwarded to the Municipality. All asbestos surveys shall be forwarded to the PBCAC.

**III. ASBESTOS ABATEMENT****A. RENOVATION**

- (a) Prior to a renovation, all asbestos containing materials that will be disturbed during the renovation, must be removed by a Florida Licensed Asbestos Contractor under the direction of a FLAC. Exceptions may be granted by HCD prior to the removal, (such as asbestos containing roofs, transite pipe). The Municipality must obtain approval for all exceptions from HCD. HCD will request the PBCAC to review and approve all exceptions.
- (b) Asbestos Abatement work may be contracted by the Municipality or by HCD upon request.

- (c) If the Municipality contracts the asbestos abatement, the following documents are required to be provided to the HCD and the PBCAC.
  1. An Asbestos Abatement Specification (Work Plan), sealed by an FLAC.
  2. Pre and Post Job submittals, reviewed and signed by the FLAC.
- (d) If the Municipality requests HCD to contract the asbestos abatement, HCD will initiate the request through the PBCAC who will contract the asbestos abatement. HCD will provide a copy of all contractor and consultant documents to the Municipality.
- (e) Materials containing <1% asbestos are not regulated by EPA/NESHAPS. However, OSHA compliance is mandatory. OSHA requirements including training, wet methods, prompt cleanup in leak tight containers, etc. The renovation contractor must comply with US Dept of Labor, Standard Interpretation (OSHA), Compliance requirements for renovation work involving material containing <1% asbestos, 11/24/2003. The renovation contractor must submit a work plan to HCD and the PBCAC prior to removal of the materials.

B. DEMOLITION

All "friable" ACM must be removed by a Florida Licensed Asbestos Contractor under the direction of a FLAC prior to demolition. Friable materials include: resilient asbestos tile and mastic which is not intact, linoleum, asbestos containing joint compound, asbestos containing cement panels (e.g. transite), etc.

Intact resilient tile and asbestos roof materials may be demolished with adequate controls (e.g. wet method) by a demolition contractor provided the contractor is aware of the asbestos containing materials present and exercises adequate control techniques (wet methods, etc.). In all cases, demolition work should be monitored by a FLAC to insure proper control measures and waste disposal. Any exceptions to these guidelines may be requested through HCD prior to the removal, (such as asbestos containing roofs, transite pipe). Exceptions may be granted by HCD prior to the removal, (i.e. asbestos containing roofs, transite pipe). The Municipality must obtain approval for all exceptions from HCD and the PBCAC.

- (a) Asbestos Abatement work may be contracted by the Municipality or by HCD upon request.
- (b) If the Municipality contracts the asbestos abatement, the following documents must be provided to the PBC/HCD and reviewed by the PBCAC.
  1. An Asbestos Abatement Specification (Work Plan), sealed by an FLAC.
  2. Pre and Post Job submittals, reviewed and signed by the FLAC.
- (c) If the Municipality requests HCD to contract the asbestos abatement, HCD will initiate the request through the PBCAC who will contract the asbestos abatement. HCD will provide a copy of all contractor and consultant documents to the Municipality.
- (d) Recycling, salvage or compacting of any asbestos containing materials or the substrate is strictly prohibited.
- (e) In all cases, compliance with OSHA "Requirements for demolition operations involving material containing <1% asbestos is mandatory.
- (f) For all demolitions involving asbestos containing floor tile, asbestos containing roofing material and materials containing <1%, the Demolition Contractor shall submit the following documents to HCD. HCD will provide a copy of these documents to PBCAC.

1. Signed statement that the demolition contractor has read and understood the requirements for complying with EPA, OSHA and the State of Florida Licensing regulations for demolition of structures with asbestos materials.
  2. Submit a plan for the demolition of asbestos containing roofing and floor tile. State if these materials are likely to remain intact. Include in the plan what shall occur if materials become "not intact".
  3. Submit a plan for compliance with OSHA requirements such as but not limited to: competent person, establishing a regulated area, asbestos training of workers, respiratory protection, use of disposable suits, air monitoring, segregation of waste, containerizing asbestos waste, waste disposal.
- (g) If materials are discovered that are suspect asbestos materials that were not previously sampled, stop all work that will disturb these materials and immediately notify HCD.

#### IV. NESHAPS NOTIFICATION

##### A. RENOVATION

A NESHAP form must be received by the Palm Beach County Health Department at least ten working days prior to an asbestos renovation that includes regulated asbestos containing material greater than 160 square feet or 260 linear feet or 35 cubic feet. For lesser quantities, the Municipality (or its contractor) shall provide a courtesy notification to the Palm Beach County Health Department at least ten working days prior to an asbestos renovation. The removal of vinyl asbestos floor tile and linoleum shall be considered regulated. Asbestos roof removal requires a notification at least 3 working days prior to the removal.

##### B. DEMOLITION

A NESHAP form must be received by the Palm Beach County Health Department at least ten working days prior to the demolition. The NESHAP notification shall be sent return receipt requested to the address shown below with a copy to HCD. HCD shall provide a copy to the PBCAC. All fees shall be paid by the Municipality.

Palm Beach County Department of Health  
Asbestos Coordinator  
800 Clematis Street  
Post Office Box 29  
West Palm Beach, Florida 33402

#### V. APPLICABLE ASBESTOS REGULATIONS/GUIDELINES

The Municipality, through its demolition or renovation contractor, shall comply with the following asbestos regulations/guidelines. This list is *not* all inclusive:

- (a) Environmental Protection Agency (EPA) NESHAP, 40 CFR Parts 61 Subpart M – National Emission standard for Asbestos, revised July 1991
- (b) Occupational Health and Safety Administration (OSHA) Construction Industry Standard, 29 CFR 1926.1101
- (c) EPA: A Guide to Normal Demolition Practices under the Asbestos NESHAP, September 1992
- (d) Demolition practices under the Asbestos NESHAP, EPA Region IV
- (e) Asbestos NESHAP Adequately Wet Guidance
- (f) Florida State Licensing and Asbestos Laws
  1. Title XVIII, Chapter 255, Public property and publicly owned buildings.
  2. Department of Business and Professional Regulations, Chapter 469 Florida Statute, Licensure of Asbestos Consultants and Contractors

- (g) Resilient Floor Covering Institute, NRCI, Updated Recommended Work Practices and Asbestos Regulatory Requirements, September 1998.
- (h) Florida Roofing Sheet Metal and Air Conditioning Contractors Association, NRCA, June 1995
- (i) US Dept of Labor, Standard Interpretation (OSHA)
  - 1. Application of the asbestos standard to demolition of buildings with ACM in Place, 8/26/2002.
  - 2. Requirements for demolition operations involving material containing <1% asbestos, 8/13/1999.
  - 3. Compliance requirements for renovation work involving material containing <1% asbestos, 11/24/2003.



PALM BEACH COUNTY  
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

DOCUMENT TRANSMITTAL

TO: Virginia Martin SUBRECIPIENT: Town of Lake Park

PROJECT NAME: Flagler Blvd Irrigation Project (CDBG) DATE SENT: December 2, 2011

TYPE OF DOCUMENT TRANSMITTED:  Agreement  Amendment No.     

**RE: SUBRECIPIENT AGREEMENTS  
AND AMENDMENTS TO AGREEMENTS**

PLEASE ASSURE THE FOLLOWING WHEN RETURNING THESE DOCUMENTS TO HCD:

1. FOR AGREEMENTS AND AMENDMENTS:

**SIGN ALL THREE DOCUMENTS IN BLUE INK**

2. FOR AGREEMENTS AND AMENDMENTS:

**INCLUDE COMPANY SEAL ON ALL THREE DOCUMENTS**

IF YOU DO NOT HAVE A SEAL, YOU MUST PROVIDE A LETTER ON YOUR LETTERHEAD STATING THAT YOU DO NOT HAVE OR USE A SEAL FOR YOUR ORGANIZATION.

3. FOR AGREEMENTS AND AMENDMENTS:

**DO NOT PUT A DATE ON THE DOCUMENTS.**

THE DATE WILL BE PLACED ON THE DOCUMENTS BY THE CLERK OF THE COURT WHEN THEY ARE COUNTERSIGNED BY PALM BEACH COUNTY.

4. FOR AGREEMENTS AND AMENDMENTS

**WHEN RETURNING AN AGREEMENT, ATTACH AN UP-TO-DATE CERTIFICATE OF INSURANCE.**

THE INSURANCE COVERAGE MUST MEET THE INSURANCE AMOUNT REQUIREMENTS IN THE AGREEMENT SHOWN IN THE "INSURANCE CLAUSE". THE CERTIFICATE MUST ALSO SHOW THE ADDITIONAL INSURED AS REQUIRED IN THE "INSURANCE CLAUSE".

5. FOR ALL DOCUMENTS:

PLEASE RETURN ALL DOCUMENTS TO:

Journey Beard  
Director of Contract Development & Quality Control  
Dept. of Housing and Community Development  
100 Australian Avenue, Suite 500  
West Palm Beach, FL 33406

**RESOLUTION NO.**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA APPROVING THE AGREEMENT BETWEEN PALM BEACH COUNTY AND THE TOWN FOR FY 2011 - 2012 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS TO INSTALL A NEW IRRIGATION SYSTEM ON FLAGLER BOULEVARD, AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Lake Park ("Town") is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, the Town has determined that it is in the best interest of the community to undertake the Flagler Boulevard. Irrigation System between Palmetto Drive and West Jasmine Drive in the Town of Lake Park ("Project"); and

**WHEREAS**, the Town is an eligible entitlement community for the Community Development Block Grant pursuant to a signed Interlocal Agreement with Palm Beach County; and

**WHEREAS**, the Project falls within two of the three categories of eligible activities as defined by U.S. Department of Housing and Urban Development, in as much as the Project:

- (1) will benefit low and moderate income persons; and
- (2) it is a public facility in need of improvement; and

**WHEREAS**, the Project lies entirely within a public area that is used by and available to the entire community and the general public.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Commission of the

Town of Lake Park, Florida:

**SECTION 1.** The “whereas” clauses are incorporated herein as true and correct and are hereby made a specific part of this Resolution.

**SECTION 2.** The Town Commission hereby authorizes and directs the Mayor to execute the Agreement to submit it to the Palm Beach County Housing and Community Development in the amount of \$44,606 for the Fiscal Year 2011-2012 Community Development Block Grant to undertake the Project.

**SECTION 3.** All funds derived from this grant will be used toward completion of the Flagler Boulevard Irrigation System.

**SECTION 4.** This Resolution shall take effect immediately upon its adoption.



**Minutes**  
**Town of Lake Park, Florida**  
**Regular Commission Meeting**  
**Wednesday, June 1, 2011, 7:00 p.m.**  
**Town Commission Chamber, 535 Park Avenue**

The Town Commission met for the purpose of a Regular Commission Meeting on Wednesday, June, 1 2011 at 7:04 p.m. Present were Vice-Mayor Kendall Rumsey, Commissioners Steven Hockman, Jeanine Longtin, Patricia Osterman, Town Manager Maria Davis, Town Attorney Thomas Baird, and Town Clerk Vivian Lemley.

Vice-Mayor Rumsey led the Invocation and the Pledge of Allegiance.  
Town Clerk Vivian Lemley performed the Roll Call.

**ADDITIONS/DELETIONS/APPROVAL OF AGENDA:**

Town Manager Maria Davis requested that item number 6, Town Manager Goals be deferred until the July 13, 2011 meeting. She explained that she had originally placed it on the agenda because she is a little late with this item and did not want to be in violation of her contract. She stated that since we do not have a full Commission, she felt it would better serve the Town to wait until a full Commission is present in order to go through her goals for the future.

Vice-Mayor Rumsey asked if there were any objections; hearing no objections he stated that the item would be deferred until the first meeting in July.

Commissioner Longtin requested item number 4, Seventh Addendum to the Law Enforcement Service Agreement be deferred until there was a full and valid Commission. She stated that it was a contract that does not take effect until October 2011 so she felt it could wait.

Vice-Mayor Rumsey repeated that it was the Seventh Addendum to the Law Enforcement Service Agreement and asked for any objection.

Commissioner Longtin requested the item be deferred until the meeting in July.

Vice-Mayor Rumsey recapped that item numbers 4 and 6 would be deferred until the first meeting in July. He asked if there was anything else.

Commissioner Hockman requested addition of the Palm Beach County agenda item for discussion. He referred to an email received by the Commission.

Commissioner Longtin stated that she had not read her emails for the past few days.

Town Manager Davis explained that the Town Attorney was going to address the issue during his comments and recommend that an agenda item be added. She explained that the Commission will have 90 days from the date that it goes before the Palm Beach



County Board of Commission to decide on how to proceed on the Marina project. She stated that the Town Attorney was going to suggest that it be deferred to a meeting sometime in July or August.

Vice-Mayor Rumsey asked Commissioner Hockman if he was fine with it being brought forward during the Attorney's comments.

Commissioner Hockman said that it was fine.

Commissioner Osterman stated that the general public does not have any idea as to what is being discussed and ask the Town Manager to explain.

Vice-Mayor Rumsey stated that the Town Attorney would address the issue during his comments and would explain the item then.

**Motion: A motion was made by Commissioner Longtin to approve the Agenda as amended; Commissioner Hockman made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Longtin	X		
Commissioner Hockman	X		
Commissioner Rumsey	X		
Vice-Mayor Osterman	X		
Mayor			

Motion passed 4-0

**PROCLAMATION(S):**

**Honoring Deborah "Desca" DuBois**

Vice-Mayor Rumsey explained that Dan Liftman of Congressman Alcee Hastings' office was present to present a plaque to the family of Mayor Desca DuBois.

Mr. Liftman invited Mr. James DuBois and family to the podium to present them with the plaque. He stated: "in recognition of the loss of our good friend and our highly valued public servant Mayor Desca DuBois recently, the Congressman chose to recognize her importance to his District and to our nation with a statement inserted into the Congressional Record that will be visible 100 years from now where people can read it. I won't read the entire statement, most of it was cropped from the obituary in the Palm Beach Post, but I'll read the last paragraph. Mister Speaker, Deborah Duncan DuBois was a truly remarkable lady who represented everything that is great about America. She was a credit to her Town, my District, and our nation. Her absence will be felt by

everyone who appreciates good government, the arts, and devotion to making our world a better place". He handed the plaque to the family. He stated that we have all been very proud of her and we miss her.

Vice-Mayor Rumsey thanked Mr. Liftman. He asked the family to remain at the podium. He introduced James DuBois, Desca's husband, and Claudette Towne, Desca's sister. Vice-Mayor Rumsey read the Town proclamation Honoring Deborah "Desca" DuBois.

Mrs. Claudette Towne stated that she remembered the wildfire donation drive cited in the proclamation because she went out and purchased every Chap Stick she could find in Barnwell, South Carolina to ship to her for that donation drive.

Mr. DuBois thanked the Commission and smiled as he recalled that half of the tractor trailer truck was filled with talcum powder. He thanked everyone and stated that Deborah loved the Town and everything about it. He inquired about a discussion among some neighbors about planting of a memorial tree in Kelsey Park and asked the Commission's permission to allow them to source a tree and dedicate it to her, if it was something that was within their scope of realm of things to do.

Vice-Mayor Rumsey stated that it was his understanding that the Town Manager will be bringing it forward tonight as part of her comments. He stated that he hoped that they would all see that done. He thanked Mr. DuBois and Mrs. Towne.

#### **PUBLIC AND OTHER COMMENTS:**

*Jim Lloyd 220 Lake Shore Drive* stated: (Verbatim) "As a person who loves Lake Park there are a few things that I would like to see happen. Lake Park use to be a fun place. Remember the fireworks displays, the Irish fest that use to fill Kelsey Park from sidewalk to sidewalk? Vendors wanted to come and participate then and we can afford to bring the fun back, we merely must stop the excess spending. There are rumors that Jim Lloyd is opposed to waterfront development, that is not true. What I am opposed to are closed-door meetings to write agreements that help private developers who help write the agreements. As far as we know no member of the public or of this Commission helped write the Interlocal Agreement affecting Lake Shore Drive. And finally during these meetings members of the public are given three minutes to speak. The current policy is that no one on the dais may comment or answer. In my opinion, that needs to change. If someone comes here to speak they deserve answers. And finally I would like to invite the other Mayoral candidate, he's left, to discuss the current issues in a public forum. I have approached several organizations and while we have no firm answers yet, stay tuned. Thank you."

#### **CONSENT AGENDA:**

1. Resolution No. 21-06-11 Interlocal Agreement with Palm Beach County Urban County Program for Fiscal Year 2012, 2013, 2014
2. Replacement of Damaged Sidewalks at Various Locations Throughout Town
3. Replacement of Damaged Commercial Driveway Turnouts at Various Locations Throughout the Town

4. Seventh Addendum to the Law Enforcement Service Agreement

Vice-Mayor Rumsey stated that he was going to pull item number 1 from the consent agenda because there was a public comment card for that item. He explained that item number 4 has already been pulled and he asked for any comments.

Commissioner Longtin requested item number 3, Replacement of Damaged Commercial Driveway Turnouts at Various Locations throughout the Town, be pulled.

**Motion: A motion was made by Commissioner Hockman to approve item number 2 Replacement of Damaged Sidewalks at Various Locations Throughout Town on the Consent Agenda; Commissioner Osterman made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Longtin	X		
Commissioner Hockman	X		
Commissioner Rumsey	X		
Vice-Mayor Osterman	X		
Mayor			

Motion passed 4-0

Vice-Mayor Rumsey stated that item number 1 Resolution No. 21-06-11 Interlocal Agreement with Palm Beach County Urban County Program for Fiscal Year 2012, 2013, and 2014 had one public comment card.

**Public Comment Open:**

The following section is verbatim:

*Steven Hall 302 Lake Shore Drive* "Good evening everyone. Maybe this is putting the cart before the horse, but has the Resolution been approved yet or are you going to vote on that?"

Vice-Mayor Rumsey: "Sorry?"

Steven Hall: "Have you approved the Resolution on the agenda or are you waiting to vote on that?"

Vice-Mayor Rumsey: "Town Attorney."

Steven Hall: "It hasn't been approved?"

Attorney Baird: "Item number 1 the Commission has not taken action on that item yet because you have a comment and they are waiting to hear your comment on it."

Steven Hall: "Okay, very good, I appreciate that. Well at the meeting before last I was here and to my surprise I had to correct myself because I commented to the Town Council and Mayor, Attorney, everyone that Lake Park Harbor Marina had no waterfront property to develop. I stand corrected. We are going to actually plan to turn a public street into developmental waterfront property. I didn't have a clue that was your goal, or plan, or scheme, or design. Secondly, it looks to me like."

Vice-Mayor Rumsey: "Mr. Hall this is not pertaining to the item that is on the agenda. Item number 1 is Resolution 21-06-11 Interlocal Agreement with Palm Beach County Urban County Program for Fiscal Year 2012, 2013, 2014."

Steven Hall: "Right, which is by my reading is the boat trailer parking lot. Right?"

Vice-Mayor Rumsey: "No."

Steven Hall: "Okay, I stand corrected. What Resolution is that may I ask, or do I need to go back and do homework?"

Vice-Mayor Rumsey: "I don't mean to be rude, but I think you need to do a little homework because that item is not on the agenda for this evening."

Steven Hall: "I stand corrected."

Commissioner Longtin: "Vice-Mayor may we allow him to make his comment if he so chooses even though..."

Vice-Mayor Rumsey: "I have no problem with the comments being made I just want you to be aware that it is not this particular agenda item."

Steven Hall: "Okay then I came, I saw it on the agenda. It is kind of hard to see your agenda and read some of your Resolutions and your Interlocal Agreements if you have working, to know exactly what you're planning to do, until... We ask a question before you decide to do anything, or after the fact and we don't get any answers. We don't have a clue what's going on until after it's already done. That seems like a backwards way to do business. I mean, I'm not opposed to the Marina being enhanced and improved, and to the Town of Lake Park going into some sort of agreement with the County to create more public access to the waterways. But when, it kind of strikes me as odd, when you don't have waterfront developable property and you're just going to take a street and close it; extend the parking, the boat parking, which I'm confused about that, whether you're going to add more boat parking or are you going to move the existing boat parking and your plans are to down the road develop the boat parking facilities that you now have for marketable, developable, waterfront properties. I mean, I know it takes one thing to happen for you all to get to the next phase, but can't you put out there what the possibilities are if this happens and this happens? Instead, it looks bad because we hear about it after you enter into some sort of agreement. Personally when I look at the

agreements that I'm talking about where you are: you have already bought the property to extend the boat parking. Correct? Okay I'm seeing a lot of nodding heads."

Vice-Mayor Rumsey: "Yes sir, we have."

Steven Hall: "And you have 24 months from which when you entered into the Interlocal or three months from after closing date. So, what is the closing date of that property may I ask? Because the meeting before last I came here I had a conversation with Desca DuBois and she assured me that nothing had been done. I showed up at the meeting and the Town has already bought the property. That can't be. I can't talk to her an hour before the meeting and then come here and the Town has already purchased the property. Where do you get this local information at, when you talk to the Mayor that day and then show up at a meeting and are blindsided by the what the Town has opposed has already done?"

Vice-Mayor Rumsey: "Mr. Hall thank you."

Steven Hall: "Thank you."

**Public Comment Closed:**  
**Verbatim continued:**

Vice-Mayor Rumsey: "Have a good evening. At this time we will vote on item 1."

Commissioner Hockman: "I actually have a couple questions with regards to it."

Vice-Mayor Rumsey: "Go ahead."

Commissioner Hockman: "I guess my first question is why did it take so long for this to get to the Commission. The Town received it on May 12, 2011 and we are now just getting it."

Town Manager Davis: "Mrs. Martin can answer your question."

Virginia Martin: "Virginia Martin, Grants Writer for the Town. There was a change to one page, I believe it was page 4 on the item. The County made the change and we had to wait for that and have our attorney review it before it could be presented to you."

Commissioner Hockman: "And it took a month for the County to get it to us, basically? I mean my whole thing is we are given this and we have, based on this, we have to give them notice Friday, we really don't have a lot of time to discuss. And if they took that long and we couldn't get it say last Commission meeting, then they should extend the timeframe accordingly."

Grant Writer Martin: "They can't do that because they have this paperwork that has to be in at the Housing and Urban Development in order for them to qualify for the funding at County level."

Commissioner Hockman: "My next question then will be what is our limit on this per year with the County, is it \$40,000 or \$50,000 or do we go multiple?"

Grant Writer Martin: "There is ratio by the Department of Housing and Urban Development and they assign a value to us each year that is a portion of the County allotment."

Town Manager Davis: "To answer your question I've seen us get \$60,000, \$70,000."

Grant Writer Martin: "Yes, One year we got \$70,000."

Town Manager Davis: "Yes."

Commissioner Hockman: "My question would be then would we not then be better off to go straight to the State and go for the \$600,000 up to \$700,000?"

Grant Writer Martin: "Our projects are small in nature for the most part and we would not be competitive on either the State or the Federal level for this type of grant."

Commissioner Hockman "Because I spoke with Tallahassee today on it and under the Small Cities, we would actually qualify. We would qualify, we would get an extra 100 points just because we have not been with them on the scoring. According to this contract we are still limited, we basically, couple of places it says we can't go for any other grants state-wide. It really limits us on what the County wants to give us."

Grant Writer Martin: "Only for the Housing and Community Development and the Community Facilities."

Commissioner Hockman: "Correct. I mean that is three major grants out there that we could not go after if we do this. Are we able to do this for one year increments?"

Grant Writer Martin: " No."

Commissioner Hockman: "So, if we approve this we are going to be stuck with the \$50,000, we don't have the chance to go for the big numbers."

Grant Writer Martin: " No."

Commissioner Hockman: "I guess that's my questions at this time."

Vice-Mayor Rumsey: "Mrs. Martin may I asked you a couple of questions please? How long have you been with the Town?"

Grant Writer Martin: "Four years now."

Vice-Mayor Rumsey: " And what is your position?"

Grant Writer Martin: "Grants Writer."

Vice-Mayor Rumsey: "How many years have you been in the Grants Writer business?"

Grant Writer Martin: "Roughly 30."

Vice-Mayor Rumsey: "And how much money have you brought into the Town in the last four years since as our Grants Writer approximately?"

Grant Writer Martin: "Somewhere between \$3 and \$4 million."

Vice-Mayor Rumsey: "\$3 or \$4 million. Thank you, that's all I have."

Commissioner Longtin: "It states on here, and I do have the same concerns as Mr. Hockman especially the timeline, it seems like staff should have been the ones to speed up their efforts and give us more time to review this. But it says 'Whereas the County and municipality wish to, cooperate in implementation of the goals and objectives in the county consolidated plan'. What is the County's consolidated plan?"

Grant Writer Martin: "The County develops for Housing and Urban Development a comprehensive plan for the unincorporated areas and for all of the communities in Palm Beach County that participate with them in these Interlocal Agreements."

Commissioner Longtin: "I'm sorry, could you repeat that I guess I didn't understand what you said?"

Grant Writer Martin: "The County goes through a planning process, a strategic planning process, that involves the communities that are involved with the Interlocal Agreement. They sit down with the County and they say, these are our priorities and that is incorporated into a broader plan that the County provides to Housing and Community Development the Urban Development at the Federal level. We have target areas in the Town. We have a number of projects that are on the priority list. So if there is extra money that comes down through, we would get an opportunity to get a portion of that money."

Commissioner Longtin: "Well why could we not get a list of those priorities, those projects that we're wanting to work on."

Grant Writer Martin: "Palm Beach County is an entitlement, an Urban Entitlement County, so they have a designated amount of money that they get every year. When you go into a grant process at the Federal level in particular, you are competing against every other county and every other municipality and every other project that goes in is submitted for that grant. Most of the projects, even our larger projects, are not of a significant level that would qualify for funding at the Federal level."

Commissioner Longtin: "But what are some of the things that we are looking to do and again what is the County's consolidated plan. I mean I know they have one, but we have not been given a copy of that and I don't know what it is."

Grant Writer Martin: "I can provide you with the plan, it is good bedtime reading, it is very thick. We have one section that has our target area, a map."

Commissioner Longtin: "What is our target area?"

Grant Writer Martin: "I don't have the exact parameters, I certainly can provide them."

Commissioner Longtin: "Can you give me approximate parameters?"

Grant Writer Martin: "Well, our CRA is included in the target area but it extends into our industrial areas, farther into the industrial areas of Northern to Northern Drive, I specifically remember that because that is one of the perimeters."

Commissioner Longtin "And lest I forget, if anyone up here perhaps is going to make reference that we are not appreciative of your efforts, I will say very much so are we appreciative of your efforts. In fact you are the only person that I hear about when I go to other places. You are very well highly regarded. Now it says, back to what Commissioner Hockman said, 'the municipality by executing this agreement understands that it may not apply for grants under the Small Cities or State Community Development Block Grant (CDBG) programs from appropriations for Fiscal Years 2012, 2013, 2014 and may not participate in Home Consortium except through the County and may not receive Emergency Shelter Grant Program (ESGP) funding from any other entity except the County.' So to take this, we are forbidding ourselves to take others grants. Something else I have..."

Grant Writer Martin: "But..."

Commissioner Longtin: "Go ahead I'm sorry."

Grant Writer Martin: "Excuse me. We are not guaranteed of getting funding every year."

Commissioner Longtin: "Right."

Town Manager Davis: "And we are not guaranteed with those other grants."

Commissioner Longtin: "And it says 'the municipality has adopted and is enforcing a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations',...what constitutes excessive force?"

Town Manager Davis: "I think that would have to be Lieutenant Palenzuela to answer."

Grant Writer Martin: "I think that would have to be the Attorney to answer."

Vice-Mayor Rumsey: "Lieutenant, if you could state your name please and Commissioner Longtin if you would repeat the question please."



Commissioner Longtin: "In applying for this grant we are signing off, of course agreeing to this. One of the items states, says 'the municipality has adopted and is enforcing a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations and a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.' I apologize I read the entire thing to you, but my question is what constitutes excessive force?"

Lieutenant Pete Palenzuela District Commander for District 10: "I am not familiar with the facility. Is it stipulating what the grant is for what facility? Is it barring a facility?"

Town Attorney Thomas Baird: "It is for, maybe I can address it. It's a housing, primarily grant housing funding and excessive force is a term that is defined basically on a case-by-case. One would have to examine the circumstances of that case and determine whether law enforcement used excessive force or not given the circumstances and facts surrounding the case. There is no way to provide a definite definition of the term because it depends on the circumstances in that case."

Lieutenant Palenzuela: "I can assure you that the Palm Beach County Sheriff's Office has standard operating procedures in place regarding proper use of force by our deputies regarding those situations depending on whether we are effecting an arrest or crowd control. We do escalation in the use of force and the control of force. Our deputies receive training on this every year and are properly trained."

Commissioner Longtin: "And I have no doubt sir, I have all the, I know you guys are going to do okay. But here we are signing off that you will not be using excessive force and there is no definition of excessive force. So that ultimately is my question, and no you cannot answer it."

Lieutenant Palenzuela: "Yes, it is a vague and general question, so..."

Commissioner Longtin: "Yes, and I thank you for your time."

Lieutenant Palenzuela: "You're welcome."

Commissioner Longtin: "This is, I know we have gotten grants under this and we have done good things with it, but that it disqualifies us for going for other grants. And I am not sure what these grants are going to be used for. I haven't been given the information and that concerns me."

Town Manager Davis: "Actually you have been given the information as far as this year's grant. There is an item on the agenda tonight that is for an irrigation system. You have been given that information."

Commissioner Longtin: "Okay, then what other grants have we gotten?"

Town Manager Davis: "We received..."

Vice-Mayor Rumsey: "Mrs. Martin, just have a seat and we will bring the microphone to you."

Commissioner Longtin: "Let me ask a question if I may to help. This is for fiscal year 2012 through 2014, the last time we sign up for this was 2010 to 2012 right, was it three years?"

Town Manager Davis: "I don't know I would have to ask Gini."

Commissioner Longtin: "Okay."

Grant Writer Martin: "Okay, we had Bayberry Drainage Phase I and II, we had the Ball Fields Fence Project, Ilex Park was a Community Development Block Grant (CDBG) project."

Town Manager Davis: "Did we do lighting at the ball fields?"

Grant Writer Martin: "Yes."

Town Manager Davis: "Was it CDBG?"

Grant Writer Martin: "No, that was done with the Department of Justice (DOJ) grant. The fencing was done with the CDBG funds. And this year we applied for the tennis courts, but it wasn't allowed because it was considered a maintenance project, so we changed the project to the Flagler irrigation system."

Commissioner Longtin: "Mr. Vice-Mayor may I ask Commissioner Hockman a question?"

Vice-Mayor Rumsey: "Absolutely."

Commissioner Longtin: "Commissioner Hockman, after hearing what we have accomplished with our last grants how do you feel about this?"

Commissioner Hockman: "Well basically, and again for the record, I was not trying to put Mrs. Martin down. I think you've done a wonderful job. Again I have talked to many cities out there and your name comes up highly recognized out there. The only reason I questioned it, Vice-Mayor is trying to find out the research behind it. This was just given to me and this thing has to basically be approved and we have to notify the one department by Friday, if we are going to decline on it. I had to quickly do the research. I called up to Tallahassee and spoke to the person in charge, Susan Fleming. I don't know if you know who Susan Fleming is? I had a very long conversation with her today about this. She sent me the email, she sent me the information and she explained to me that we are not listed in there to get the grants at this time because we are underneath the County. We have the option to opt out, we can do that. She did explain to me that we have not gone for the grant through them that we get automatically 100 extra points because we are newbie. Basically, 98 percent of the time all new people do get the grants as long as paperwork is filled out. As I did assure her, and you are more than welcome to call, I said

we have a very good grant writer and she said yes she knows. She has heard of you. But she did explain to me that this grant basically would entitle us up to, you can get up to quite a hefty number, which can be used for resurfacing road, water treatment, drainage and so forth. Whether it's Town-wide or Flagler irrigation, that is why I questioned it. Whether or not it would be worth for one year to try it and see if we can go for \$600,000 or \$700,000 to fix Lake Shore for example. We have a drainage problem there. We have drainage problems in other parts of the Town and we have roads that need repairing. And from my understanding from what has been told to me, we are kind of limited on the amount each year from the County. That is why I questioned it. If Mrs. Martin is telling me we have no chance to go through the State and get it and we are guaranteed from Palm Beach County I guess that's a no-brainer. I just want to make sure that we actually do look and not just go for the easy way out. Because I do have confidence in Mrs. Martin to being able to put this stuff together and get the stuff through that needs to get through. That's my opinion I means it's, if we're going to do grants \$50,000 on irrigation to me is a lot. I would rather put it on landscaping things that are better seen in the Town, yes irrigation is needed. But that's my opinion."

Grant Writer Martin: "Excuse me, Commissioner Hockman, one of the problems with our going directly to the State or the Federal for this money is that we would have to develop one every three years we would have to develop a comprehensive plan for different areas of Town. And we have not got the resources to be able to do that. The County develops a plan with our input, so we have the comprehensive plan that has been developed with our needs in mind. We haven't got the abilities at this point in time with our resources and with our staffing the way it is to be able to develop one of these plans for ourselves."

Vice-Mayor Rumsey: "Thank you Mrs. Martin."

Commissioner Osterman: "I just want to make a comment in regards to the timing of this. If this came in on May 12, 2011, is that correct? That was a Thursday. The next Commission meeting was the 18<sup>th</sup> and the agenda has to be ready by the Friday before, so staff would have had one day to get this on the last Commission meeting. So I think it is unfair to say they dragged their heels."

Vice-Mayor Rumsey: "Thank you Commissioner. Commissioner Longtin were you finished with your questions?"

Commissioner Longtin: "I don't recall Virginia, Mrs. Martin, stating that we're not going to get a State grant, she simply said we were not guaranteed, so are we guaranteed these County grants?"

Grant Writer Martin: "Yes we are."

Commissioner Longtin: "I thank you sir for your indulgences."

Vice-Mayor Rumsey: "Does that complete your questions?"

Commissioner Longtin: "Yes it does, thank you."

Vice-Mayor Rumsey: "Thank you, Commissioner Hockman do you have any other questions?"

Commissioner Hockman: "No."

Vice-Mayor Rumsey: "I want to ask Commissioner Hockman, your concern is primarily that we didn't have enough time to review this?"

Commissioner Hockman: "That's my biggest concern. It's just the fact that we didn't, that's all"

Vice-Mayor Rumsey: "Okay, that you didn't have time to review. Town Clerk can I ask you when did you pass our packets to us with this information?"

Town Clerk Vivian Lemley: "On Friday 5:00 p.m."

Vice-Mayor Rumsey: "Last Friday?"

Town Clerk Lemley: "Last Friday."

Vice-Mayor Rumsey: "I'd like to ask the Town Manager has any person on this dais called you or ask any questions on Resolution 21-06-11?"

Town Manager Davis: "No sir."

Vice-Mayor Rumsey: "Attorney Baird, has anyone called you and asked you any questions on this item?"

Attorney Baird: "No."

Vice-Mayor Rumsey: "Mrs. Martin has anyone called you to ask you any questions on this item from this dais?"

Grant Writer Martin: "No."

Vice-Mayor Rumsey: "I think most of the department heads are in our audience tonight. If any person from this dais has called any of you to ask you a question regarding item number 1 on the Consent Agenda, Resolution No. 21-06-11, would you please stand at this time? I do not see any directors standing. At this time we will entertain a motion for item number 1 on the Consent Agenda."

**Motion: A motion was made by Commissioner Osterman to approve item number 1 Resolution No. 21-06-11 on the Consent Agenda; Vice-Mayor Rumsey passed the gavel to Commissioner Hockman and made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
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Commissioner Longtin	X		
Commissioner Hockman	X		
Commissioner Rumsey	X		
Vice-Mayor Osterman	X		
Mayor			

Motion passed 4-0

Vice-Mayor Rumsey: "The next item on our agenda, Commissioner Longtin you pulled item number 3 is that correct?"

Commissioner Longtin: "Yes."

Vice-Mayor Rumsey: "And that is the Replacement of Damaged Commercial Driveway Turnouts at Various Locations Throughout the Town."

Commissioner Longtin: "Yes, my question on this is it appears as though we are going to be going to business areas in Town. Let me ask it this way, these items, or these areas that are going to be fixed, is it Town-owned property?"

Town Manager Davis: "I don't have the list in front of me, but the approaches, commercial driveway approaches, I know one of them for instance I reported, is not Town owned property. However our garbage truck damaged it, and it is our responsibility to repair it."

Commissioner Longtin: "And all of these have been, all of these are our responsibility?"

Town Manager Davis: "Correct."

Commissioner Longtin: "Okay, thank you and that's it sir."

Vice-Mayor Rumsey: "Thank you ma'am. Any other questions? Do I have a motion to approve?"

**Motion: A motion was made by Commissioner Longtin to approve item number 3 Replacement of Damaged Commercial Driveway Turnouts at Various Locations Throughout the Town on the Consent Agenda; Commissioner Hockman made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Longtin	X		

Commissioner Hockman	X		
Commissioner Rumsey	X		
Vice-Mayor Osterman	X		
Mayor			

Motion passed 4-0

**BOARD MEMBERSHIP APPOINTMENTS:**

Vice-Mayor Rumsey: "The next item on the agenda is the appointment of a Library Board member and we have one name that is before us tonight, Mr. Roger Michaud. I understand that Mr. Michaud is not able to be with us this evening. We all do have his background and his biography as part of our information packet. And if you all would like to fill out your ballot and turn it in, we will go ahead and turn that in to the Clerk. Madam Clerk if you'll interrupt me when you get that finished."

Vice-Mayor Rumsey: "The next item on our agenda is item number 7 the Flagler Boulevard Irrigation system. Madam Manager."

**DISCUSSION AND POSSIBLE ACTION:**

**Flagler Boulevard Irrigation System**

Town Manager Davis: "Yes, Vice-Mayor what you have before you this evening, at the last Commission meeting, we discussed installing, we discussed the irrigation system on Flagler Boulevard. And right before that meeting we received word from the County that our original application to repair the tennis court with Community Development Block Grant (CDBG) funds was denied and we had to come up with an alternative project. So we submitted the Flagler Boulevard irrigation system and if there are any funds left over, then we would include sodding. We have learned that in fact our application was approved in the amount of \$44,606 and you have an option this evening. This is contingent upon county approval on June 19, 2011, but if they do approve the grant what we need from the Commission is direction as to whether you want to accept the grant, whether you want to reject the grant and repair the irrigation system, the existing irrigation system or do nothing. We just request direction from the Commission."

Vice-Mayor Rumsey: "Does anyone have any comments?"

Commissioner Longtin: "Yes sir."

Vice-Mayor Rumsey: "Go ahead Ms. Longtin."

Commissioner Longtin: "I would just like us to, my vote will be no on this because I think it is foolish that we are taking grant money for something that will cost \$5,000 max to fit. That will be over, way over what is needed. I would like to see us simply do what

should have been done the past year, or the year before that, or the year before that. And simply during budget time, budget for general maintenance items.”

Vice-Mayor Rumsey: “Thank you Commissioner Longtin. Anyone else? Commissioner Hockman”

Commissioner Hockman: “If we don’t take the grant does that mean we don’t have a change to go for any other money this year from them?”

Town Manager Davis: “That is correct.”

Commissioner Hockman: “Again as I said earlier, I would rather see us the money be used better, more useful in the sense of landscaping, fixing, replacing trees, because the irrigation system itself does function. Yes it is a little bit on the older type system, but it does function. I think it is foolish, and I have had several people talk to me in the last day or two about it as well who also said the same thing so.”

Vice-Mayor Rumsey: “Anything else?”

Commissioner Hockman: “That’s it.”

Vice-Mayor Rumsey: “We received an email today, all the Commission, from Mr. Jeff Blakely, who is a registered landscape architect and a resident of the Town of Lake Park. Mr. Blakely has served with distinction in our community. He has served on the Planning and Zoning, he has chaired the Planning and Zoning Board. He is a very well respected landscape architect throughout the state and I’m just going to reference a couple of the comments that he made in his letter to us sent today June 1, 2011. This was sent to Commissioner Hockman and was carbon copied to Patricia Osterman, Kendall Rumsey, Jeanine Longtin and the Town Manager.

‘Dear Commissioner Hockman,

I attended the Commission meeting on May 18th, at which a discussion of the irrigation system along Flagler Boulevard took place.

I am a landscape architect familiar with systems similar to the one along Flagler Boulevard and design irrigation systems as part of my practice. I have designed irrigation systems for 30 years.

In my opinion the only practical solution to the existing irrigation method is to replace it with a fully functional contemporary electric solenoid system which will provide the Public Works Department with a greater range of flexibility.

As you know the existing system is hydraulic. This type of system, largely manufactured and promoted by the Toro Company, is being rapidly phased out and currently parts are difficult to obtain for this type of valve and shortly they will not be produced at all. It is (still) possible to replace the diaphragms within the hydraulic valves. Hydraulic tubing gets brittle the older it is (and this is VERY old).”

Vice-Mayor Rumsey: "Mr. Blakely goes on to reference his opinion as a 30 year expert in the field that we should go ahead and go with the newer system. We have the opportunity this evening to finally bring this debate to a close. We have now discussed this irrigation system for almost a year. We have looked for the opportunity to pay for this irrigation system now for almost a year. We do not have the money in our budget. Two meetings ago I made the comments that if this was brought forward again I would try to step across the line with my fellow Commissioners and repair this system. At the last meeting I had some contingencies as to me stepping across that line. One of them would be Commissioner Hockman would return the key that he has to operate the system. At that time Commissioner Hockman said he would gladly return the key. To date have you returned it?"

Commissioner Hockman: "No but I will be tomorrow."

Vice-Mayor Rumsey: "Yes or No that is all I need."

Commissioner Hockman: "I said NO, but I will tomorrow."

Vice-Mayor Rumsey: "So,"

Commissioner Hockman: "Would you like to be..."

Vice-Mayor Rumsey: "Mr. Hockman has not returned that key. The other comments that I made were that I would support this if we did not have our Town employees put on the line and make them repair this. And there would be a \$15,000 cap. Now at the last meeting it came to us that there is a grant available to replace this system that Mr. Blakely, who is a 30 year expert in the field is telling us needs to be replaced. I support replacing the system with the grant. Because quite frankly I would rather the Town of Lake Park get this grant money than Mangonia Park, or North Palm Beach, or Rivera Beach, or Jupiter. or Juno or any other community in our area. I think the Town of Lake Park deserves the money as well. Are there any other comments?"

Commissioner Osterman: "Motion to approve."

Vice-Mayor Rumsey: "Which option?"

Commissioner Osterman: "Accepting the grant so that we can put in a system that works and beautify our Town."

**Motion: A motion was made by Commissioner Osterman to accept the grant for the Flagler Boulevard Irrigation System; Commissioner Hockman made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Longtin		X	



Commissioner Hockman	X		
Commissioner Rumsey	X		
Vice-Mayor Osterman	X		
Mayor			

Motion passed 3-1

Vice-Mayor Rumsey: "The next item on our agenda is Commissioner comment, Town Attorney and Town Manager, we will start this evening with Commissioner Hockman."

**BOARD MEMBERSHIP APPOINTMENTS:**

Town Clerk Lemley: "Vice-Mayor."

Vice-Mayor Rumsey: "Yes madam"

Town Clerk Lemley: "I'm sorry."

Vice-Mayor Rumsey: "Oh I'm sorry, thank you very much Madam Clerk, we have a ballot decision I assume."

Town Clerk Lemley: "Yes, Roger Michaud has been selected for the Library Board."

Vice-Mayor Rumsey: "Thank you Madam Clerk and congratulations Mr. Michaud. Okay, Commissioner Hockman"

**COMMENTS BY COMMISSION, TOWN MANAGER, TOWN ATTORNEY**

**Commissioner Hockman:** "I guess I want to start off, there has been a lot of different things flying around. I've had a lot of people approach me at different functions and so forth that I just want to get a few things out on the table, I guess you can say. I guess first, a fellow Commissioner made a statement at the last meeting that nothing has been able to get done by this Commission over the past 15 months because of personal agendas of two Commissioners. In my opinion, that she failed to state that those two Commissioner had no power to stop anything that came before this Commission for the past 15 months. There has been five people of this Commission voting up until the last month. Anything that has gone through has always had the opportunity to go through so there has been no holding back on anything that gets done in this Town. It was also mentioned that a spin is put on the comments that this fellow Commissioner makes. Well I believe that the fellow Commissioner should go back and review the meeting and comments that she has made. The comments made at the meeting is what has upset the residents of the Town. It was also mentioned at the last meeting that the two of us have no vision for the Town, just a personal agenda. Well I myself know I have stated many times my vision of this Town. Part of it was to be, actually was on this agenda tonight for the managers goals for the year. Most of what I had said over the past year and the past several months have been what is on the manager's goals."

Commissioner Hockman: "As far as the Marina project the promenade project, I am personally for making things better within the Town. However, I will not ignore the resident that is most affected by the item. It is what the Town residents need to hear. We are here for the Town residents not just for one person or the developer."

Commissioner Hockman: "As far as comment about misinformation, maybe if I was treated the same as the others up on this Commission, things along this Commission would go smoother. I'm only assuming that Commissioner Longtin is probably treated the same way. Over the past 15 months there has been a lot of questions asked of the Town Manager by both myself and Commissioner Longtin. The replies are answered by the Town Manager and they are sent to the entire Commission. However, over the past 15 months there has not been two Commissioners, not counting the Mayor, that have asked no questions. I have not seen one email coming from either of the Commission asking a question in 15 months. However at these meetings those Commissioners are always well informed and seem to have everything in hand, such as the information when I brought up on the sprinkler system a few months back, they seemed to be well informed. If I ask the Town Manager a question verbally somehow the answer gets back to fellow Commissioners. Over the past several weeks I have had a lot of people ask me why the State Attorney will let Commissioner Osterman remain on the Commission with living outside of the Town for the past several months. She stated that she lives in Town, State Attorney came back and actually commented. State Attorney did call me today and they have gotten several calls from residents. They are hoping this could be put to rest. As of today the State Attorney is satisfied with the resignation that Mrs. Osterman did send them. So at this time they are basically putting the prosecution end of it on hold, because they are happy; they are done with it. The Ethics Department, they said is a whole different department. But the State Attorney is, and they are content with your resignation. So I'm hoping that the residents out there understand that and let things go."

Commissioner Hockman: "It's time for the Town to move on and get down to Town business. You can't change the past, but we can run for the future. I hope from now on no matter who sits on this Commission that they work together. Put the personal feelings about each other to the side and look for the big picture. The Town, the residents, and the businesses those are the key."

Commissioner Hockman: "Furthermore if you missed the Sunset Celebration this past Friday, you missed a great time. The weather was great, lots of new faces. I hope that next month we even have more new people. Tell your friends, family, neighbors. I'm hoping Town Manager that maybe we can suspend the meters that night from six at least until eight, so the people do not have to pay for the parking. I still hear a lot from people and a lot of people say that more people would come if they know they didn't have to pay for that parking."

Commissioner Hockman: "Last night the Bridges of Lake Park held a coupon meeting at the Library. It was a great turn out, lots of people, if you missed it mark your calendars for next month. The people that were there and I know a lot of people from the garden club, actually showed up and actually signed up because they actually enjoyed it, learned a lot. For the rest of the Town, just to let you know there is a Library Board meeting. I

recommend that everybody come out, start listening, get involved in the Town Library. There are wonderful things that are happening over there. And there is a lot of changes, I know that they would like to do in the future, such as a teen room in the children's portion. Fantastic! Looks great and I know the kids are loving that. I can't wait to see what the teen room is going to end up looking like."

Commissioner Hockman: "On another note I have been approached by several people, and I am not sure next Wednesday is Community Watch meeting. I hope that everybody in the Town actively will come out and come to the Community Watch and get involved, get to know what they can do for you and help the community. It is for the community. Now I'm not sure if the Community Watch actually has come through or not. I have been told that, there have been a few emails, they want to have a debate of all the candidates running for both the Commission and the Mayor. Hopefully they actually have been able to tie it down. I do highly recommend for those out there watching on TV, get to know all the candidates running. Ask them questions, what they stand for-what they see this Town becoming. This is your time to let everybody know that you, as a resident, do care about this Town. As the old saying goes, 'let your voice be heard.' If you don't come out and vote at the end of the month, as said in the past, you can't complain. This is your chance to make a difference in this Town. That's it."

Commissioner Osterman: "Thank you Vice-Mayor. I was down at the park with my son and struck up a conversation with a gentleman from the condos. And he was asking me various questions, and he was saying that he pretty much, through the condos, only gets one sided information and that only one candidate is brought in. So I'm very glad that everybody is going to have a chance to have their ideas put out. He asked me something's about what is going on specifically with a boat and seizure down at the Marina. I wanted to address that for a moment and give my opinion on the situation. We had a boat down at the Marina who was very much, thousands of dollars in the arrears and I think this is a classic example of why this doesn't work. I don't think there is anything that the Town Manager could have done, or that staff could have done that would have been acceptable. They had two choices either go after the boat and the owner and try to ensure that payment was made or let it go. There were other things, but I will not go into great details, but there were reasons to believe that the boat would be leaving. So the Town Manager made that choice to try to secure funds for the Town and has been crucified for it. But I think that that is just an example, one example, of, it's my belief that if she hadn't gone after them she would have been raked over the coals for not. And now she did try to get the money for the Town and she's been raked over the coals for that. The bottom line, and I appreciate that Mr. Lloyd was shaking his head at the last meeting in agreeing, this is about the Town Manager. That's really what this election is really about, about where this Town is going to go for the future. So, let's have the conversation. It is impossible for this Commission to function because there is no communication that takes place between two of the Commissioners and the Town Manager. The question that you saw happening today and the reason, I believe that Commissioner, Vice-Mayor Rumsey pointedly asked about whether or not there were phone calls made, is because the Commissioner will not ask the questions to staff because there is no trust. And if you don't have trust you can't have work getting done. The reason that I say we haven't been able to get anything done for 15 months is that staff is running around in circles doing copies of requests of all different kinds of information. I mean it's very, it's amazing the

number of things that staff are tasked with in order to answer records request from years back. If the public knew the amount of requests that were made it's astounding. So let's talk about the Town and where the future is going to be, because it's easy to criticize, there that it's easy to find fault. There's that expression everybody is a critic, and it's true. But a real leader is somebody who comes up with solutions and has a vision to be able to move things forward. And that is what I keep asking of anybody that I speak with. Please ask questions, ask what the vision is, ask how they intend to solve the problems. Because it's about solving the problems and there are big ones headed our way. I want to ask you to think back to what this Town looked like five years ago. Do you remember? Do you remember what the alleyways looked like? Do you remember what Lake Shore Park looked like? Do you remember what 10<sup>th</sup> or Park Avenue looked like? Five years ago, Lake Park had the most money in their budget, six years ago. That was when cities were there flushest, and we looked terrible. And in the last five years our Town has gained all sorts of positive press for the changes, we have the Chamber of Commerce has shown to other communities a model development. That is a picture of the work that has been happening on an extremely lean budget. I said at the last budget meeting a year ago that I was terrified for what would happen for this budget. And the Town heads into the budget in July. We are going to have the greatest cut back and the least amount of money to work with. I just cannot imagine how staff is going to try to balance the budget, because property values run a year behind as far as taxation is concerned. And the lag time on community properties is going to really hurt us for this year. So I really do hope that the Town will ask questions and figure out who can lead us forward. I am very, very happy that James DuBois has stepped up to run. I think, I don't know how he, you know, I give him a lot of credit for his servant's heart to do that during this time. And I very much hope that things will be done in such a ways that, something happens, I mean whatever happens from this election it has, this Commission has to be able to work with a Town Manager. It has to be able to work with a Town Manager. So if the Commission can't, then fire her and hire somebody you can work with. And Commissioner, Vice-Mayor Rumsey I hope you'll be the fourth vote if that happens. I hope you will do it. Because it has to happen to move this Town forward. We can't, we can't stay in this lockdown position. Because staying in a lockdown in these economic times is like moving backward five years at a time. You can't have the foreclosure rate, rental rate that we have and not work every second to do economic development and positive marketing of the Town. In the words of our Mayor thank you Lake Park."

**Commissioner Longtin:** "Technically I was going to say one thing, hey come to the Community Watch Meeting its at the Lake Park Fire Station, 6:30 p.m. next Wednesday, June 8, 2011. However, now I gotta say a couple more things. We are elected officials but we are also Lake Park employees because we do take money from the Town technically employees are not to campaign. So, but one broken rule, two broken rules what the hay, people aren't held accountable. A lot of fear mongering just happened here. And regarding the boat that was seized, as it's too often the case, you were given very little information. The gentleman was making payments as agreed upon, there is way more to that story, I don't want to get into it. I've told Ms. Davis, I believe she's in over her head and she's going to bring the Town into hot water as far as that. And I've asked that she consult with the Commission before going any further regarding the seizure of that gentleman's boat. Destroying his, the attempt of destroying his life and his business. And I hope she goes no further before she communicates with us. Yes, a lot of nice stuff has

been done to the Town, but most of it's grant money. I don't know where the money is going. I've had people ask, I don't know. Yes, the Town looks pretty and the Town Manager has been heard to say all you have to do is mesmerize them with flowers, and she's so true. She's, that's a true statement, she's accurate. You know you look and things are pretty but businesses aren't really coming in like they should."

Commissioner Longtin: "Communication, I wasn't going to talk about communication from this, I am so glad I was on the Commission from 2001-2004 because I got to work with Town Managers and another Commission and I got to see how it's suppose to be done. Communication from Maria Davis is selective. What Commissioner Hockman said is true. I've never seen an email from our former Mayor, I've never seen an email from Patricia Plasket-Osterman. I've seen a couple of emails from Vice-Mayor Rumsey but they are never really pertaining to agendas. And yet they do come to the meetings with all the information they need. And often their votes are the same. Even my verbal questions in the past to Ms. Davis have been copied, her responses to my verbal questions and my written questions are copied to everyone on the Commission, so that everyone knows where I'm coming from. But I have no idea where everyone else is coming from, well maybe Commissioner Hockman. No Town Manager has ever done that before. Now she will tell you that she treats us all the same, but she doesn't. She has made it very apparent that she will not work with me. She doesn't call me, in the past other Town Managers would call me if something is going on. And no I don't call her because often I'm not given the truth, I'm not told the true facts, you know and then I came here to misinformation. So there is a lot more unfortunately going on here, going on up here and I know what is going on up here is not right because I have dealt with it in the past. And when Ms. Davis interviewed for this job I stood back there and I thought thank you Lord, what a breath of fresh air, I was so happy. She mesmerized me like the flowers on Park Avenue do most everybody else, and loved her. I was so happy that Patricia Plasket-Osterman left the hospital to make the vote to get her in here. Believe me it is hard admitting that, maybe change does need to happen. I don't see where the emotions and the attitudes are going to change and get any better, and it makes me sad. I will try to work with her; I will work around it, whatever I will do the best I can do. But given the misinformation that I have been given, I need to do research on some of this stuff is very timely, it really is. And to know that my questions are again copied to everybody. A simple records request will prove all that out. So, I mean yes, Commissioner Hockman is correct and, you know when the employer doesn't reprimand the employee, when the parent doesn't reprimand the child, it tends to get kind of out of control. No more public comment. And I fear that is what has happened. It's almost a repeat of what, approximately ten years ago or so, and the child has been spoiled."

Commissioner Longtin: "Anyway regarding that boat seizure, there's a lot more to the story and again I have asked the Town Manager to talk to the Commission and let us know what steps she plans to take before she takes them."

Commissioner Longtin: "And again Community Watch Meeting, 6:30 p.m., next Wednesday, June 08, 2011 at the Lake Park Fire Station. Thank you Mr. Vice-Mayor."

**Vice-Mayor Rumsey:** "Thank you Commissioner Longtin. Mr. Palenzuela may I ask you a question please. Can you come to the podium, so that I can get it on the record. We

received an email today that you are going to be at a training session for a couple of months."

Lieutenant Palenzuela: "Yes sir."

Vice-Mayor Rumsey: "And that Lieutenant Hill will be assigned to your precinct, to this district."

Lieutenant Palenzuela: "Yes he will, he will take my post."

Vice-Mayor Rumsey: "My only question is, first of all I would really prefer that you didn't go anywhere."

Lieutenant Palenzuela: "Thanks."

Vice-Mayor Rumsey: "But we understand the situation. Is Lieutenant Hill going to be assigned only to this district or is he going to split district?"

Lieutenant Palenzuela: "No, he is going to be assigned to this district and he will sit in my chair and answer to the Town Manager."

Vice-Mayor Rumsey: "Only to this district, he will not be going to any other?"

Lieutenant Palenzuela: "Correct. Currently he is assigned as a Watch Commander, but he is going to be taken out of the Watch Commander pool and he will be here acting as the District Commander in my place."

Vice-Mayor Rumsey: "Okay, thank you, sir."

Lieutenant Palenzuela: "You're welcome, sir."

Vice-Mayor Rumsey: "Commissioner Hockman. I personally agree with you on the meters for Sunset. And what I would like to do, however, I think we need to look at the numbers before we make a sweeping decision like that. So what I would like to do is ask the staff to bring something back. Listen, we got to get through budget and all that, so let's bring it back in August if we can, but let's get through those meetings. But sometime in August if we can come back and just bring us some facts on that, let's look at it and see if it is an opportunity that we can capitalize on. Unfortunately I have not been able to attend the Sunset as much as I would like to recently, but it is a great event and I think if we can get the entire community there it is worthwhile, I would love to see that."

Vice-Mayor Rumsey: "Speaking of the Marina, congratulations to the Marina director and his staff for \$15,000 in revenue over Memorial Day weekend. So I really want to thank you for all your hard work and dedication out there and we really appreciate it very much."

Vice-Mayor Rumsey: "Folks you've all see the fact put out on the table tonight. This election has one thing that we are voting on. This election is about the future of this Town

and who the Town Manager is going to be. It's either going to be Maria Davis or Maria Davis will be resigning, or fired from her duties. That's what this election is about and anybody who says differently, they'll need to go back and check their facts, okay. But one more fact you need to think about before you start going and making this big change you want to make. To get rid of that lady over there it's going to cost this Town approximately \$130,000. Where that money is coming from I have no idea. She gets nine months worth of salary if she is fired tomorrow. Nine months. Then on top of that we are going to have to go out and we are going to have to hire somebody, investigate somebody, advertise for the position, which is going to be approximately another \$20,000 or \$30,000. We are looking at about \$130,000 to get rid of her. I'm sorry madam, I have the floor now. So if you want it that bad, you know where to vote. If I were the voting public of this community I would be asking a lot of questions about where people stand on it, because quite frankly that's the issue. That's been the issue now for 15 months and if you don't believe it go back and listen and review all the records that have gone on in this Commission."

Vice-Mayor Rumsey: "And in that vein don't forget election day is June 28, 2011, that is a Tuesday. If you are not going to be in Town to vote on June 28, 2011 you can get an absentee ballot from Palm Beach County Board of Elections, Supervisor of Elections. Make sure you get that. Madam Clerk what is the last day they can get an absentee ballot, and I apologize for putting you on the spot like that because you just looked at me."

Commissioner Longtin: "May I give you their phone number?"

Vice-Mayor Rumsey: "That would be great too."

Commissioner Longtin: "Palm Beach County Supervisor of Elections is 561-624-6555."

Town Clerk Lemley: "The Supervisor of Elections phone number?"

Vice-Mayor Rumsey: "Is 561-624-..."

Town Clerk Lemley: "656-6200."

Vice-Mayor Rumsey: "561-656-6200, they will be able to get you information on absentee ballot if you need it. I understand that I put you on the spot and I apologize for that."

Vice-Mayor Rumsey: "Last thing I want to do tonight is I want to talk directly to the staff of our Town. Because you all have been getting it lately. At the last meeting I think about four or five of you were called out and said 'shame on you-shame on you.' Tonight we have had comments that there is one employee that people hear about, what a great job they are. I just want to say this loud and clear, I think every employee in this Town is doing amazing work for this Town and I want to thank you for your hard work, okay. These are the people who day in and day out come out here and sweat and give us their blood, sweat, and tears every day. They haven't had a raise in about four years and they're not going to get one this year, quite frankly. I mean I could be wrong. God could come down and grant us a big pot of money, but it doesn't look like it's going to happy

right now. They've taken five days off without pay for the last several years, but guess what every single time we have an event in this Town they are here volunteering for it. Couple of weeks ago I had the honor and privilege of kicking off the Relay for Life down at the park. The majority of the team that represented the Town of Lake Park, they weren't residents of Lake Park they were the staff of Lake Park, okay. So don't you dare listen to anybody making comments about "shame on you." You guys are doing a phenomenal job and we appreciate it and I think the majority of our Town appreciates your hard work as well. And with that I'd like to pass it on to Attorney Baird."

**Attorney Baird:** "Thanks a lot. The, what I have received and what you all have received via email is an executive brief from the staff at Palm Beach County. Which was placed on the County Commission June 7, 2011 agenda, an item concerning the \$2.4 million grant that the Town received to expand the Marina parking and create a promenade, pursuant to the Interlocal Agreement that the Town executed with the County in exchange for receiving that money. In a discussion I had with Commissioner Marcus the board, that is the Board of County Commission concern is that when they enter into these grants they have an expectation that the conditions in which they grant monies to towns and cities that it will be fulfilled. Based on some of the discussion and dialogue she has been hearing there is some uncertainty as to what the Town position is with respect to the grant and the conditions and whether the Town will fulfill the conditions of that grant. So this agenda item is intended to provide the Town Commission with 90 days to affirm or not its agreement to the previous agreement that it entered into. Ninety days take you roughly to the end of August. So you will need to agenda an item and vote on that item either affirming the terms of that grant or not sometime between now and I guess your second meeting in August. And that position will then have to be communicated to the County. If the vote is affirmative, then obviously you go ahead and you perform accordance with the Interlocal Agreement that was previously executed between the parties. If you don't vote affirmatively, then the County will exercise its right under the agreement to compel the return of the \$2.4 million that was granted to the Town. And obviously if you feel that's an unfair position for the County then you have the opportunity to challenge that and there are processes that you have to go through before you can go through that."

**Commissioner Osterman:** "Vice-Mayor I have one question."

**Vice-Mayor Rumsey:** "Okay. Let's let him finish and then we will come back for your question."

**Attorney Baird:** "That's pretty much it."

**Vice-Mayor Rumsey:** "You know, you're a piece of work."

**Attorney Baird:** "I'm your piece of work."

**Vice-Mayor Rumsey:** "Commissioner Osterman"

**Commissioner Osterman:** "Under the Interlocal Agreement that we all said 'yes' to, we have five years to do the promenade and if not to pay back. under this."



Attorney Baird: "Well there..."

Commissioner Osterman: "How long would we have to come up with the \$2.4 million to pay the County back? Does it have a timeframe of payment if the answer is 'no'?"

Attorney Baird: "Let me address your first question first. There is five years to complete the promenade, the project, but there are two phases to this project. So, the second question is, there is no specific provision in the agreement that says when it has to be paid back. That, I would expect, as in the case of any litigation, the party who is requesting their money back would demand that it be paid back immediately. And from that point it would be a negotiation if the Town was not in a position to do that, to reach some terms to pay it back. As is the case in most cases where money is loaned, which essentially this is in some ways a loan to, under certain conditions then you would expect for example a bank you would expect, they would want interest on the return of the money that you've held for whatever period of time you hold it. Without speculating I don't really know what the County Commission's position will be."

Commissioner Osterman: "Can I just ask one more question? Sorry I, Is there a legal, legality for that, we can take out a bond to pay it back cause we don't have that kind of money, so is it, is that how we would have to do it, through a bond? Ad Valorem taxes?"

Attorney Baird: "There are revenue bonds, and there are other types of bonds, and then there are loans, that would be up to the Commission on how they decided to repay the money."

Commissioner Osterman: "Thank you."

Vice-Mayor Rumsey: "Commissioner Longtin."

Commissioner Longtin: "Mr. Attorney, you said the Palm Beach County Commission will be discussing this on June 7, 2011."

Attorney Baird: "That's correct."

Commissioner Longtin: "What time and where?"

Attorney Baird: "The County Commission meetings begin at 9:30 a.m. and they are in the six floor of the Palm Beach County Administration Center, which is at 301 North Olive Avenue."

Commissioner Longtin: "Thank you."

Vice-Mayor Rumsey: "Commissioner Longtin though, check their agendas because a lot of times those meetings go all day long, so you probably wouldn't want to sit there all day long. Madam Manager."

**Town Manager Davis:** "Yes, good evening Vice-Mayor and Commissioners. I wasn't planning on making any comments, any personal comments tonight, I was just going to do some announcements, but I seem to be the center of attention this evening, and I do need to just address a couple of the comments that were made. Commissioners Hockman, and Longtin, from the moment you were elected, you came in here not wanting to give me an opportunity. Commissioner Longtin, I remember talking to you over the phone the very first time after your election and I said 'how do you want me to communicate with you, tell me how you want to receive information', and you said to me, categorically 'email, I'd prefer email over talking on the phone'. And as far as the two of you thinking that the other three are receiving information that you are not, the other three call me regularly and ask what is going on and there are times that, I think there was one time that I remember in particular that I forgot, I forgot to tell the two of you an issue that came up that the other three knew because they do talk to me regularly to discuss Town business. And to discuss what is going on and what the plans are. I don't receive calls from either of you two and I do call you when there are urgent issues or issues that you need to be aware of immediately. So I really, your comments about I am not giving you information is factually inaccurate. Factually inaccurate. The other two Commissioners were on before the two of you, a lot of their questions came long before the two of you came on this dais, and I answered all of their questions. Also the boat seizure, it is sad that we are dragging this through the mud with a tenant. This is a Marina tenant and Commissioner Longtin you are accurate, people do not know the real story and staff has been attacked mercilessly and very unfairly for doing what was in the best interest of the Town. I'm going to switch gears now and get off the drama."

**Town Manger Davis:** "James DuBois mentioned at the beginning of the meeting this evening. There is a gentleman that is interested in donating a tree in the Mayor's honor at Kelsey Park. And I told Mr. DuBois that it is customary to request permission from the Commission to put a tree, dedicate a tree in a park. And I am asking whether this Commission wishes to allow a tree of sizable, four inch caliber, trunk, probably 12 to 14 feet in height, somewhere in Kelsey Park. I'm going to."

**Vice-Mayor Rumsey:** "Are you asking for consensus?"

**Town Manager Davis:** "Yes I am."

**Vice-Mayor Rumsey:** "Commissioner Hockman?"

**Commissioner Hockman:** "Yes."

**Vice-Mayor Rumsey:** "Commissioner Osterman?"

**Commissioner Osterman:** "Yes."

**Vice-Mayor Rumsey:** "Commissioner Longtin?"

**Commissioner Longtin:** "Yes, of course."

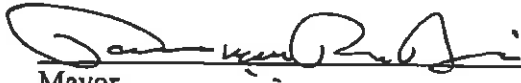
**Vice-Mayor Rumsey:** "And I do as well."

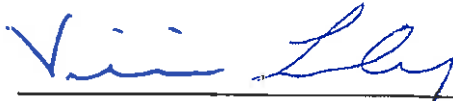
Town Manager Davis: "Thank you very much. Library news, on Thursday, June 2, 2011 we have Preschool Story Time at 10:00 a.m. in the Schuyler Room. Saturday June 4, 2011 we have Get Healthy Get Fit at the Library from 11:00 a.m. to noon in the Schuyler Room. Tuesday, June 7, 2011, meet Israeli artist Ari Levi and view his unique sculpture at a reception from 6:00 p.m. to 8:00 p.m. in the Schuyler Room. Light refreshments are going to be served by the Friends of the Library. Monday, June 13, 2011 Family Game Night, sponsored by Bridges at Lake Park at 5:30 p.m. in the Children's Library. Also at 6:00 p.m., Monthly Monday Movie will be Momma Mia, the movie Meryl Streep in the Schuyler Room. And on Tuesday, June 14, 2011, Toddler Tails sponsored by Bridges at Lake Park at 5:30 p.m. in the Children's Room. We have our Summer Camp beginning June 13, 2011 and ending August 5, 2011. Registration fee is paid one-time and is due at the time of registration. The one-time fee for residents per child is \$70, \$45 per additional child. A one-time fee for non-residents is \$110, and \$65 per additional child. There will be a weekly fee of \$55 per week for Town residents and \$65 for non-residents. Contact our Recreation Center at 561-881-3338. And that's all I have this evening."

Vice-Mayor Rumsey: "Thank you madam. There was one other thing that I was suppose to mention and I apologized. On June 11, 2011 the Teen Advisory Board, Teen Advisory Group will be having a car wash from 10:00 a.m. until noon at the Lake Park Library. I apologize for forgetting that. With that I will entertain a motion to adjourn."

**ADJOURNMENT**

There being no further business to come before the Commission and after a motion to adjourn by Commissioner Osterman and seconded by Commissioner Hockman, and by unanimous vote, the meeting adjourned at 8:40 p.m.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Town Clerk, Vivian Lemley, CMC



Approved on this 13 of July, 2011

# TAB 4



Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: December 7, 2011 Agenda Item No. Tab 4

- PUBLIC HEARING
- RESOLUTION
- ORDINANCE ON FIRST READING
- DISCUSSION/POSSIBLE ACTION
- ORDINANCE ON SECOND READING
- BID/RFP AWARD
- PRESENTATION/PROCLAMATION
- CONSENT AGENDA
- Other:

**SUBJECT:** Second Amendment to Tennis Pro Contract

**RECOMMENDED MOTION/ACTION:** Approve

Approved by Town Manager *W. Davis* Date: 11/30/11  
*Anne M. Costello* 11/29/11  
 Anne M. Costello/Finance Director Date of Actual Submittal

<b>Originating Department:</b> <b>Finance</b>	<b>Costs: \$ -0-</b>  <b>Funding Source:</b>  <b>Acct. #</b>	<b>Attachments:</b> <b>Resolution and Exhibits A          Orig. Contract, B First          Amendment &amp; C Second          Amendment</b>
<b>Department Review:</b> <input checked="" type="checkbox"/> Attorney <u><i>[Signature]</i></u> <input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Fire Dept	<input type="checkbox"/> Grants <input type="checkbox"/> Human Resources <input type="checkbox"/> Information Technology <input type="checkbox"/> Library <input type="checkbox"/> Marina	<input type="checkbox"/> PBSO <input type="checkbox"/> Public Works <input type="checkbox"/> Recreation <input type="checkbox"/> Town Clerk <input type="checkbox"/> Town Manager
<b>Advertised:</b> Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ or Not applicable in this case <u>n/a</u> <b>Please Initial one.</b>

**Summary Explanation/Background:**

The Town entered into a contract with Itamar Macedo for tennis pro services on September 3, 2009 for a one year period with the option to renew for up to three additional one year periods with a 4% increase in the Facility User Fee each year. The Town exercised this option and renewed the

contract, by amendment, for a one year period beginning September 1, 2010 through August 31, 2011. The Town and Itamar Macedo have agreed to exercise the second option to renew for the period of September 1, 2011 through August 31, 2012. The monthly rent has been increased from \$1,136 to \$1,181 per month. Additionally, a utility fee in the amount of \$75.00 per month has been added to cover the cost of electric, garbage, water and sewer for the Pro Shop. For tennis court lighting, a separate electrical meter has been installed and Mr. Macedo will be billed for the electrical usage beginning November 1, 2011.

The purpose of this item is to authorize the Mayor to execute the second amendment to the contract to renew it for the period of September 1, 2011 through August 31, 2012.

**RESOLUTION NO. 46-12-11**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A SECOND AMENDMENT TO THE CONTRACT BETWEEN THE TOWN OF LAKE PARK AND ITAMAR MACEDO; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Lake Park (“Town”) is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, the Town is empowered to enter into contractual arrangements with public agencies, private corporations or other persons, pursuant to Florida Statutes; and

**WHEREAS**, the Town of Lake Park (Town) has executed a Contract for the provisions of Professional Tennis Lessons and Instruction (the Contract) with Itamar Macedo (Macedo) effective September 3, 2009, a copy of which is attached hereto and incorporated herein as **Exhibit “A”**; and

**WHEREAS**, paragraph 2.1 of the Contract provided for up to 2 one year renewals of the Contract; and

**WHEREAS**, the Town and Macedo agreed to a 1<sup>st</sup> Amendment to the Contract to renew the Contract for one year from September 1, 2010 to August 31, 2011 a copy of which is attached hereto and incorporated herein as **Exhibit “B”**; and

**WHEREAS**, the Town and Macedo have agreed to renew the Contract for a second one year term from September 1, 2011 to August 31, 2012.

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



**Section 1.** The whereas clauses are hereby incorporated herein as true and correct.

**Section 2.** The Town and Macedo have agreed to exercise the right to renew the Contract. This second renewal shall be retroactively effective as of September 1, 2011, with the term expiring on August 31, 2012. The Contract shall be based upon the terms and conditions as outlined in the Contract, as amended by the Second Amendment, a copy of which is attached hereto and incorporated herein as **Exhibit "C"**.

**Section 3.** The Mayor is authorized and directed to execute the Second Amendment to the Contract between the Town of Lake Park and Macedo.

**Section 4.**

This Resolution shall take effect immediately upon its adoption.

**CONTRACT  
BETWEEN THE TOWN OF LAKE PARK, FL  
AND  
ITAMAR MACEDO**

**THIS CONTRACT**, made this 3 day of September, 2009 by and between the Town of Lake Park, a municipal corporation of the State of Florida, hereinafter designated as "the TOWN", and ITAMAR MACEDO, 1087 Raintree Drive, Palm Beach Gardens, FL 33410, hereinafter designated as "the CONSULTANT".

**WITNESSETH THAT:**

**WHEREAS**, the TOWN is a municipality and given those powers and responsibilities enumerated by Chapter 166 Florida Statutes and the Florida Constitution; and

**WHEREAS**, the TOWN is empowered to enter into contractual arrangements with public agencies, private corporations or other persons, pursuant to Florida Statutes; and

**WHEREAS**, the TOWN requires the services of a tennis professional as an independent contractor and not an employee of the TOWN to provide tennis instruction for individuals interested in taking tennis lessons at the Lake Park Tennis Center; and

**WHEREAS**, the TOWN has interviewed persons interested in providing such services to the TOWN and has determined that the CONSULTANT is the most qualified individual to serve as the tennis professional instructor for the TOWN under the terms and conditions of this CONTRACT; and

**WHEREAS**, the TOWN has budgeted funds in its current fiscal year budget which are available for the funding of this CONTRACT;

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

**1. STATEMENT OF WORK**

1.1 The CONSULTANT shall, to the satisfaction of the TOWN, fully and timely provide tennis lessons, instruction and related services as described herein. The CONSULTANT shall organize and operate a range of quality tennis activities and programs for all ages and experience levels of tennis players, which shall include youth and adult players and beginner, intermediate, and advanced levels of play. The CONSULTANT shall, at the CONSULTANT's sole expense, hire and retain and employ any and all assistants necessary to operate a quality tennis program for the TOWN (including but not limited to the provision to such individuals all benefits of employment required by state and federal law, including but not limited to, worker's compensation insurance, health insurance, disability insurance, life insurance,

retirement benefits, and all other insurances and benefits of employment; and the CONSULTANT shall be solely responsible for paying such costs. The CONSULTANT shall submit a fee schedule for the costs to be charged for tennis lessons and other related services to the Town Manager, which shall be subject to Town Manager's review and approval before CONSULTANT commences any services under this CONTRACT. The fee schedule for tennis lessons and instruction shall be comparable with fees charged at similar tennis facilities in municipalities of comparable demographics in Palm Beach County. The CONSULTANT shall provide all equipment including but not limited to tennis rackets, tennis balls, ball practice hitting equipment (tennis ball machines), water coolers, water removers/squeegees, ball pickup and ball baskets, score keepers/trackers, audio and video teaching materials, classroom instruction, seminars, individual and group instruction, tournaments, and all other normally accepted methods of instruction and coaching in the sport of tennis and means of teaching as well as practice machinery and equipment necessary to provide tennis instruction and lessons.

- 1.1 The CONSULTANT after consultation with, and approval of the Town Manager, shall establish a method for qualifying under-privileged individuals with low incomes or who are from low income households, for free tennis lessons and instruction and coaching in tennis by the CONSULTANT. The CONSULTANT shall be responsible for preparing all application forms, registration forms, ledgers, account records, incident reports, appointment and scheduling books and records, and other written documentation made or received by the CONSULTANT in the operation of the tennis instruction program. Annually, the CONSULTANT shall conduct a minimum of 25 hours of free lessons and shall hold periodic teaching seminars for individuals who qualify for free lessons and instruction. In addition, the CONSULTANT shall provided not less than 25 hours of free tennis lessons to students of Lake Park Elementary School, Lake Park Baptist School and the Lake Park Summer Camp who qualify for free lessons under the criteria established by the Town Manager and the CONSULTANT. The CONSULTANT shall keep accurate and up to date written records and appointment books located in the Pro Shop at the Tennis Center. The appointment book shall be available to the Town Manager or his/her designee at any time.
- 1.3 The CONSULTANT shall have the priority use of two tennis courts (courts 3 and 4) for the purpose of delivering instruction or services. The CONSULTANT may, depending upon the circumstances, have the exclusive use of two courts during the times other organizations are present at the Tennis Center. The CONSULTANT's use and maintenance of the Tennis Center shall not in anyway, or at any time, interfere with or obstruct the use of the Tennis Center by the TOWN, its agents, employees, patrons or assigns.

- 1.4 Any and all advertising, signage, marketing and promotional materials, forms, releases, authorization forms, legal documents, and any other written materials and publications prepared or created by or for the CONSULTANT for use in connection with the services to be provided pursuant to this CONTRACT or relating to the Town of Lake Park, the Lake Park Tennis Center, the Lake Park tennis program, or other written or electronic materials relating to the TOWN must be reviewed and approved in advance by the Town Manager. The CONSULTANT shall be required to utilize the medical authorization and release of liability forms prepared by the Town Attorney for all activities conducted by the CONSULTANT on TOWN property.

## **2. TERM AND PERIOD OF PERFORMANCE**

- 2.1 The term of this CONTRACT shall commence on the date this CONTRACT is executed by the TOWN ("Commencement Date") and shall continue for a term of .one (1) year unless terminated prior to the expiration of the one-year term. The CONTRACT may be renewed by the TOWN for up to three additional one year periods on the same terms and conditions and an increase in the Facility User Fee for the Pro Shop as provided herein.
- 2.2 The parties agree that time is of the essence in the performance of each any every obligation under this CONTRACT.

## **3. CONSIDERATION AND FACILITY USER FEES**

- 3.1 The TOWN shall provide office space for the CONSULTANT in the Pro Shop building at Lake Shore Park at monthly Facility User Fees ("Fee") of One Thousand Ninety Two Dollars (\$1,092.00) per month. Facility User Fee shall be paid by the CONSULTANT by the 10<sup>th</sup> day of each month by cashier's check or money order made payable to "The Town of Lake Park, Florida" and delivered to the Town of Lake Park Finance Department located at 535 Park Ave, Lake Park Florida 33403. After the expiration of the initial one year term, Facility User Fee shall increase by four percent (4%) for each one year renewal term. If CONSULTANT fails to make any payment of Facility User Fee within fifteen (15) days after receipt of written notice from TOWN of such failure, then CONSULTANT shall pay a late charge in an amount equal to five percent (5%) of the amount of Facility User Fee then due. The late charge shall be paid to TOWN within thirty (30) days after demand by TOWN. In addition, interest at the rate of one and one-half percent (1.5%) per month shall accrue against the delinquent payment(s) from the date due until the date the payment is received by TOWN. CONSULTANT and TOWN agree that the late charge is a reasonable estimate of the extra administrative expenses incurred by TOWN in handling the delinquency. Any and all sums of money or charges required to be paid by CONSULTANT under this CONTRACT other than the Facility User Fee

shall be considered "Additional Fee" whether or not the same is so specifically designated and TOWN shall have the same rights to enforce due and timely payment by CONSULTANT of all Additional Facility User Fee as are available to TOWN relating to Facility Usage Fees.

- 3.2 In the event the CONSULTANT pays an amount than is less than the amount stipulated to be paid under this CONTRACT, such payment shall be considered to be made only on account of the stipulated amount. No endorsement or statement on any check or letter shall be deemed to be an accord and satisfaction. The TOWN may accept any check or payment without prejudice to the TOWN's right to recover the balance due or to pursue any other remedy available to the TOWN pursuant to this CONTRACT or under the law.

#### **4. EQUAL OPPORTUNITY/MBE PARTICIPATION**

- 4.1 The CONSULTANT hereby assures that no person shall be discriminated against on the grounds of race, color, creed, national origin, handicap, age, or sex, in any activity under this CONTRACT. The CONSULTANT shall take all measures necessary to effectuate these assurances.

#### **5. INVOICING AND PAYMENT**

- 5.1 The CONSULTANT'S invoices shall be sent to the following address:

Town of Lake Park  
Town Manager  
545 Park Avenue  
Lake Park, FL 33403

- 5.2 The CONSULTANT shall be paid on a monthly basis or as otherwise agreed to in writing by the TOWN, provided the CONSULTANT has performed the work according to the terms and conditions of this CONTRACT to the satisfaction of the TOWN.

#### **6. INDEMNIFICATION AND INSURANCE**

- 6.1 The CONSULTANT hereby agrees to indemnify, defend and hold harmless TOWN from and against any and all liability for any and all losses, claims, expenses, damages, bodily injury or property damage, including without limitation, damage to the Property or to TOWN's Property, consequential damages, all costs, expenses, court costs and reasonable attorneys' fees imposed on TOWN by any person whomsoever that occurs ARISING FROM (1) THE ACTS, OMISSIONS, NEGLIGENCE, WILFUL MISCONDUCT OR STRICT LIABILITY OF THE CONSULTANT, ITS EMPLOYEES, AGENTS OR CONTRACTORS OR (2) ANY BREACH OF ANY PROVISION OF THIS

**CONTRACT** The commercial liability insurance that the **CONSULTANT** is required to carry pursuant to Section 6 of this **CONTRACT** shall include coverage of the foregoing contractual indemnity. **CONSULTANT's** inability to evaluate liability or its evaluation of liability, shall not excuse the **CONSULTANT's** duty to defend and indemnify within fifteen (15) days after such notice is given by the **TOWN** by registered mail. Only an adjudication or judgment after the highest appeal is exhausted, specifically finding the **TOWN** solely negligent, shall excuse performance of this provision by enforcement by the **CONSULTANT**. The **CONSULTANT** shall pay all costs and fees related to this obligation and its enforcement by the **TOWN**. The **TOWN's** failure to notify the **CONSULTANT** of a claim shall not release the **CONSULTANT** of the above duty to defend and indemnify. The provisions of this Section shall survive the expiration or any termination of this **CONTRACT**.

- 6.2 The **CONSULTANT** shall maintain, or cause to be maintained, the following specified insurance coverages in the amounts set forth hereafter during the full period of the **CONTRACT**, which must include the following coverages and minimum limits of liability:
- a. **WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE** for all employees of the **CONSULTANT** for Statutory Limits in compliance with the applicable state and federal laws. Notwithstanding the number of employees or any other statutory provisions to the contrary, coverage shall extend to all employees of the **CONSULTANT** and all subcontractors.
  - b. **COMPREHENSIVE GENERAL LIABILITY** with the minimum limits of \$1,000,000.00, Per Occurrence, Combined Single Limit for Bodily Injury Liability, Property Damage Liability, Premises and Operations, Independent contractors, Products and Completed Operations, Broad Form Property / Personal Injury, XCU coverage, and a contractual Liability Endorsement.
  - c. **BUSINESS AUTO LIABILITY** with minimum limits of \$1,000,000.00, Per Occurrence, Combined Single Limit for Bodily Injury and Property Damage Liability. This shall be an "any-auto" policy including Owned, Hired, Non-Owned, and Employee Non-Ownership Coverage.
  - d. **PROFESSIONAL LIABILITY** (malpractice and professional negligence) coverage with minimum limits of \$1,000,000.00 for all agents and employees of **CONSULTANT**.
- 6.3 The **TOWN** shall be included as an Additional Named Insured under the General Liability and Automobile Liability policies. Current valid insurance policies meeting the requirements herein identified shall be maintained during the duration of the **CONSULTANT**. There shall be a thirty (30) day

notification to the TOWN, in the event of cancellation or modification of any stipulated insurance policy. It shall be the responsibility of the CONSULTANT to ensure that any subcontractors are adequately insured or covered under their policies.

- 6.4 All Certificates of Insurance shall be kept on file with the TOWN, and approved by the TOWN prior to the commencement of any work activities. The TOWN may at its discretion, require the CONSULTANT to provide a complete certified copy of the insurance policy(s). If this CONTRACT includes the installation of machinery and/or equipment into an existing structure, the Comprehensive General Liability policy must include an endorsement covering same, including installation and transit.
- 6.5 The required insurance coverage shall be issued by an insurance company duly authorized and licensed to do business in the State of Florida with the following minimum qualifications in accordance with the latest edition of A.M. Best's Insurance Guide: Financial Stability: B+ to A+.
- 6.6 All required insurance shall preclude any underwriter's rights of recovery or subrogation against the TOWN with the express intention of the parties being that the required coverages protect both parties as the primary insurance for any and all losses covered by the above described insurance.
- 6.7 The clauses "Other Insurance Provisions" and "Insured Duties in the Event of an Occurrence, Claim or Suit" as they appear in any policy of insurance in which the TOWN is named as an additional named insured shall not apply to TOWN.
- 6.8 Violation of the terms of this Paragraph 6 and its sub-parts shall constitute a material breach of the CONTRACT by the CONSULTANT and the TOWN, at its sole discretion, may cancel the CONTRACT and all rights, title and interest of the CONSULTANT shall thereupon cease and terminate.

## **7. TERMINATION/REMEDIES**

- 7.1 If either party fails to fulfill its obligations under this CONTRACT in a timely and proper manner, the other party shall have the right to terminate this CONTRACT by giving written notice of any deficiency. The party in default shall then have seven (7) calendar days from receipt of notice to correct the deficiency. If the defaulting party fails to correct the deficiency within this time, this CONTRACT shall terminate at the expiration of the seven (7) day time period.

- 7.2 The TOWN may terminate this CONTRACT at any time for convenience upon thirty (30) calendar day's prior written notice to the CONSULTANT. The performance of work under this CONTRACT may be terminated by the TOWN in accordance with this clause in whole, or from time to time in part, whenever the TOWN shall determine that such termination is in the best interest of the TOWN. Any such termination shall be effected by delivery to the CONSULTANT of a Notice of Termination specifying the extent to which performance of work under the CONTRACT is terminated, and the date upon which such termination becomes effective. In the event of termination, the TOWN shall compensate the CONSULTANT for all authorized and accepted work performed through the termination date. The TOWN shall be relieved of any and all future obligations hereunder, including but not limited to lost profits and consequential damages, under this CONTRACT. The TOWN may withhold all payments to the CONSULTANT for such work until such time as the TOWN determines the exact amount due to the CONSULTANT.
- 7.3 If either party initiates legal action, including appeals, to enforce this CONTRACT, the prevailing party shall be entitled to recover a reasonable attorney's fee.

## **8. STANDARDS OF COMPLIANCE**

- 8.1 The CONSULTANT, its employees, subcontractors or assigns, shall comply with all applicable federal, state, and local laws and regulation relating to the performance of this CONTRACT. The TOWN undertakes no duty to ensure such compliance, but will attempt to advise the CONSULTANT, upon request, as to any such laws of which it has present knowledge.
- 8.2 The CONSULTANT, by its execution of this CONTRACT, acknowledges and attests that, neither he nor any of his employees and subcontractors or affiliates who shall perform work which is intended to benefit the TOWN, has been convicted of any public entity crime pursuant to Section 287.133, Florida Statutes, or, if any such person, entity or affiliate was convicted of a public entity crime, a period longer than thirty-six (36) months has passed since any such person, entity or affiliate was placed on a convicted vendor list. The CONSULTANT further understands and acknowledges by its execution of this CONTRACT, that this CONTRACT shall be null and void, and/or that this CONTRACT is subject to immediate termination by the TOWN, for any misstatement or lack of compliance with the mandates of said statute. The TOWN, in the event of such termination, shall not incur any liability to the CONSULTANT for any work or materials furnished.
- 8.3 The CONSULTANT shall not be exempted from paying Florida Sales and Use taxes to the appropriate governmental agencies or for payment by the



CONSULTANT to suppliers for taxes on materials used to fulfill its contractual obligations with the TOWN. The CONSULTANT shall be responsible and liable for the payment of all of its FICA/Social Security and other taxes resulting from this CONTRACT.

- 8.4 Pursuant to Section 287.055(6), Florida Statutes, the CONSULTANT warrants that it has not employed or retained any person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this CONTRACT. Further, the CONSULTANT warrants that he has not paid or agreed to pay any person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the awarding or making of this CONTRACT. For breach of this provision, the TOWN may terminate this CONTRACT without liability and, at its discretion, deduct or otherwise recover the full amount of such fee, commission, percentage, gift, or other consideration.

## **9. RELATIONSHIP BETWEEN THE PARTIES**

- 9.1 The CONSULTANT is an independent contractor and is not an employee or agent of the TOWN. Nothing in this CONTRACT shall be interpreted to establish any relationship other than that of an independent contractor, between the TOWN and the CONSULTANT, its employees, agents, subcontractors, or assigns, during or after the performance of this CONTRACT. The CONSULTANT is free to provide similar services for others.
- 9.2 The CONSULTANT shall not assign, delegate, or otherwise transfer its rights and obligations as set forth in this CONTRACT without the prior written consent of the TOWN. Any attempted assignment in violation of this provision shall be void, and notwithstanding the termination provisions of Paragraph 7 herein, the TOWN may immediately terminate this CONTRACT.
- 9.3 The CONSULTANT shall not pledge the TOWN'S credit or make the TOWN a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness.

## **10. RECORDS RETENTION/OWNERSHIP/AUDIT**

- 10.1 The CONSULTANT understands that all documents produced by CONSULTANT pursuant to this CONTRACT are public records and CONSULTANT must permit the inspection and copying of all public records and must maintain all public records pursuant to Chapter 119, Florida Statutes. The CONSULTANT shall indemnify and hold the TOWN harmless from any demands, claims, actions or lawsuits of any kind regarding the CONSULTANT's failure to comply with Chapter 119, F.S. related to public

records. The CONSULTANT shall permit the TOWN or its designated agent to inspect all records maintained by CONSULTANT, which are associated with this CONTRACT at the location where they are kept upon reasonable notice.

- 10.2 The TOWN has not performed a pre-audit of the CONSULTANT'S financial and/or accounting records to verify actual or average direct labor payroll rates or verify the general overhead factor and profit margin. However, the CONSULTANT shall permit the TOWN or its designated agent to inspect such records at the location where they are kept upon reasonable notice. Furthermore, the TOWN shall have the right to audit the CONSULTANT's financial and accounting records, in accordance with generally accepted governmental auditing standards, within a period of one (1) year after completion of this CONTRACT. This audit may be performed by the TOWN or a designated agency.

## **11. USE OF PRO SHOP**

- 11.1 All personal property placed or moved into or upon the Premises shall be at the sole risk of the CONSULTANT and the TOWN shall not be liable for any damage caused to said personal property, by the CONSULTANT, its officers, agents, or employees, or by a willful, wanton, or negligent act of any occupant of the Pro Shop whatsoever. The Pro Shop Building, sidewalks, entrances, passages, elevators and staircases and other common areas on the Premises shall not be obstructed or used other than for ingress and egress. No person shall be permitted to loiter upon the Pro Shop Premises. The CONSULTANT shall keep all glass, locks, trim and other property of the TOWN in good order and repair. If any of the same are damaged by the CONSULTANT or any of the tenant's agents, the same shall be repaired at CONSULTANT's expense. No additional lock or bolt shall be placed on any door or window of the CONSULTANT's premises and the CONSULTANT shall not permit any lock mechanism to be changed. If more than two keys for any door are desired, the additional number must be procured from the TOWN. At the end of the CONSULTANT's tenancy, the CONSULTANT shall surrender to the TOWN all keys received by the CONSULTANT. The installation of security systems is permitted however upon installation, the CONSULTANT must provide the TOWN with the security code for admission by the Town or Town Officials.
- 11.2 CONSULTANT certifies that CONSULTANT has inspected the Pro Shop, and accepts the same "AS IS" in its existing condition, as of the Effective Date of this CONTRACT, together with all defects, latent and patent, if any, and subject to all easements, encumbrances, and restrictions and matters of record. CONSULTANT further acknowledges that the TOWN has made no warranties or representations of any nature whatsoever regarding the Pro

Shop Premises, including without limitation, any relating to the physical condition or structural integrity of any improvements located thereon, or the suitability thereof for the CONSULTANT's intended use.

- 11.3 The CONSULTANT shall service, keep and maintain the interior of the Pro Shop, including all plumbing, air conditioning and heating and cooling equipment, fixtures, sprinkler systems, electrical systems, doors, interior partitions, equipment and appurtenances, the air conditioning fixtures and equipment on the exterior of the Premises, and any other installations in good condition and repair during the entire term of this CONTRACT. The CONSULTANT agrees to make repairs to the Pro Shop, which are required by, or arise out of, the CONSULTANT'S own acts or negligence, or that of the CONSULTANT'S members, employees, agents, guests, invitees, licensees, patrons or customers and immediately upon demand by the TOWN shall remedy and repair any damage to any water apparatus, electric lights, or any fixture, appliances or appurtenances of the Pro Shop, caused by any act of neglect by the CONSULTANT or of any person(s) in the employ or under the control of the CONSULTANT.
- 11.4 Throughout the term of this CONTRACT, the CONSULTANT at its sole expense, shall maintain the Pro Shop, which includes both internal and external, in a clean, orderly and presentable condition, free of rubbish and trash. No dumping of any unwanted materials and no outside storage of any personal property shall be permitted. The CONSULTANT, including its members, employees, agents, guests, invitees, licensees, patrons or customers, shall not cause any litter or debris to be cast upon the grounds, exterior portions or common areas of the Pro Shop. Any garbage and trash generated from the CONSULTANT's use of the Pro Shop shall be promptly removed and deposited in the containers intended to be used for such purposes.
- 11.5 If the CONSULTANT's presence or activities in and upon the Premises of the Pro Shop causes the TOWN to incur costs for cleaning, trash removal, inspections, or like expenses, CONSULTANT agrees to pay such costs to the TOWN on the TOWN's written demand including copies of the paid invoices for such work. Notwithstanding the foregoing, the CONSULTANT will pay on written demand the greater of the actual inspection of costs or Five Hundred Dollars (\$500.00) for any inspection conducted by the TOWN or its agents on the Pro Shop the results of which show, in the TOWN's reasonable determination a, violation of this CONTRACT or a violations of any federal, state or municipal laws or regulations. CONSULTANT shall also pay on demand, the greater of the actual inspection costs or Five Hundred Dollars (\$500.00) for any follow-up inspections related to the violation.

- 11.6 The CONSULTANT shall pay the Florida Sales and Use Taxes levied under Chapter 212.02(6) F.S., as amended, or other applicable statutes, and shall pay all personal property taxes that may be levied or assessed against the personal property of the CONSULTANT, and any other applicable taxes, fees, or governmental assessments against any equipment, personal property, and/or improvements owned, leased, or operated by the CONSULTANT or directly associated with the CONSULTANT's use of the Pro Shop Property.
- 11.7 The CONSULTANT releases the TOWN from any loss, claim or damage which the CONSULTANT may sustain arising directly or indirectly by reason of either existing or future zoning or other regulations promulgated by any governmental agency which may adversely affect use by the CONSULTANT of the Pro Shop. CONSULTANT shall assume all responsibility for procuring or complying with any ordinance, resolution, order, permit, consent or other such regulations, promulgated by any governmental agency whatsoever, for building or otherwise, required for the use of the Property or for the construction of any facilities upon the Pro Shop, and shall indemnify and hold harmless the TOWN from any loss, claim or damage suffered by the TOWN for the CONSULTANT's failure to properly and completely perform this responsibility. CONSULTANT shall at all times comply with all applicable laws and ordinances and all rules and regulations of municipal, state and federal governmental authorities relating to the use of the Pro Shop.
- 11.8 The CONSULTANT shall not place any signs on the Pro Shop, except in compliance with the Town Code, or if not applicable with the prior written consent of the TOWN, including consent as to location and design, which consent shall not be unreasonably withheld, conditioned or delayed. Any and all such approved signs shall be installed and shall be maintained by the CONSULTANT, at its sole cost and expense and shall be in compliance with all applicable laws. The CONSULTANT shall be responsible to TOWN for the installation, use or maintenance of said signs and any damage caused thereby. The CONSULTANT agrees to remove any signs prior to termination of this CONTRACT and upon such removal to repair all damage incident to such removal.
- 11.9 In addition to and not limiting any other rights or remedies which the TOWN may have on account of the CONSULTANT holding over without consent of TOWN, the CONSULTANT shall pay to the TOWN any and all direct and consequential damages incurred by the TOWN on account of such unapproved holding over.

- 11.10 During the term of this CONTRACT, the CONSULTANT shall use the Tennis Center and the Pro Shop in compliance with all applicable governmental laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating hazardous substances) (collectively "Laws"). The CONSULTANT shall comply with (a) all Laws relating solely to CONSULTANT's specific and unique nature of use of the Pro Shop and the Tennis Center; and (b) all building codes requiring modifications to the Pro Shop and the Tennis Center due to the improvements made by CONSULTANT.
- 11.11 The CONSULTANT shall not make or allow to be made any alterations in or to the Tennis Center and the Pro Shop without first obtaining the written consent of TOWN, which consent may be granted or withheld in the TOWN's sole discretion. The CONSULTANT shall have no authority or power, express or implied, to create or cause any construction lien or mechanics or materialmen's lien or claim of any kind against the Tennis Center and the Pro Shop. The CONSULTANT shall promptly cause any such liens or claims to be released by payment, bonding or otherwise within thirty (30) days after request by TOWN, and shall indemnify the TOWN against losses arising out of any such claim including without limitation, legal fees and court costs. NOTICE IS HEREBY GIVEN THAT THE TOWN SHALL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIAL FURNISHED OR TO BE FURNISHED TO THE CONSULTANT, OR TO ANYONE HOLDING THE PROPERTY THROUGH OR UNDER THE CONSULTANT, AND THAT NO MECHANIC'S OR OTHER LIENS FOR ANY LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF THE TOWN IN THE PRO SHOP OR TENNIS CENTER.
- 11.12 Upon termination of the CONTRACT, the CONSULTANT shall, remove its equipment, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear excepted.

## **12. GENERAL PROVISIONS**

- 12.1 Notwithstanding any provisions of this CONTRACT to the contrary, the parties shall not be held liable for any failure or delay in the performance of this CONTRACT that arises from fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. Failure to perform shall be excused during the continuance of such circumstances, but this CONTRACT

shall otherwise remain in effect.

- 12.2 The laws of the State of Florida shall govern all aspects of this CONTRACT. In the event it is necessary for either party to initiate legal action regarding this CONTRACT, venue shall be in Palm Beach County (the Fifteenth Judicial Circuit) for claims under state law and in the Southern District of Florida for any claims, which are justiciable in federal court.
- 12.3 In the event any provisions of this CONTRACT shall conflict, or appear to conflict, the CONTRACT, including all exhibits, attachments and all documents specifically incorporated by reference, shall be interpreted as a whole to resolve any inconsistency.
- 12.4 Failures or waivers to insist on strict performance of any covenant, condition, or provision of this CONTRACT by the parties, their successors and assigns shall not be deemed a waiver of any of its rights or remedies, nor shall it relieve the other party from performing any subsequent obligations strictly in accordance with the terms of this CONTRACT. No waiver shall be effective unless in writing and signed by the party against whom enforcement is sought. Such waiver shall be limited to provisions of this CONTRACT specifically referred to therein and shall be not deemed a waiver of any other provision. No waiver shall constitute a continuing waiver unless the writing states otherwise.
- 12.5 Should any term or provision of this CONTRACT be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this CONTRACT, to the extent that the CONTRACT shall remain operable, enforceable and in full force and effect to the extent permitted by law.
- 12.6 This CONTRACT may be amended, extended, or renewed only with the written approval of the parties.
- 12.7 This CONTRACT states the entire understanding and CONTRACT between the parties and supersedes any and all written or oral representations, statements, negotiations, or CONTRACTs previously existing between the parties with respect to the subject matter of this CONTRACT. The CONSULTANT recognizes that any representations, statements or negotiations made by TOWN staff do not suffice to legally bind the TOWN in a contractual relationship unless they have been reduced to writing and signed by an authorized TOWN representative. This CONTRACT shall inure to the benefit of and shall be binding upon the parties, their respective assigns, and successors in interest.

IN WITNESS WHEREOF, the parties or their duly authorized representatives hereby execute this CONTRACT on the date first written above.

TOWN OF LAKE PARK, FL

ATTEST:  
Vivian M. Lemley  
Vivian Mendez Lemley, Town Clerk

By: Desca DuBois  
Desca DuBois, Mayor

TOWN OF LAKE PARK  
(TOWN SEAL)  
SEAL

FLORIDA

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: Thomas J. Baird  
Thomas J. Baird, Town Attorney

CONSULTANT:

BY: Itamar Macedo  
Itamar Macedo

**FIRST AMENDMENT TO CONTRACT BETWEEN THE TOWN OF LAKE PARK, FL AND ITAMAR MACEDO**

**WHEREAS**, the Town of Lake Park (Town) has executed an Contract for the provisions of Professional Tennis Lessons and Instruction (the Contract) with Itamar Macedo (Macedo) effective September 3, 2009; and

**WHEREAS**, paragraph 2.1 of the Contract provides for up to three one year extensions of the Contract and the Town and the Macedo have agreed to renew the Contract for one year from September 1, 2010 to August 31, 2011; and

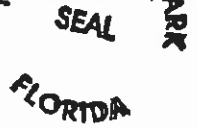
**WHEREAS**, the effective date of the amendment to the Contract will be September 1, 2010.

**NOW THEREFORE**, the Town and the Macedo have agreed to exercise the right to renew the Contract effective September 1, 2010, upon the same terms as contained in the Contract until August 31, 2011.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the 18 day of August, 2010.

**ATTEST:**

By: Vivian Mendez  
Vivian Mendez, Town Clerk



**Approved as to Form and Legal Sufficiency:**

Thomas J. Beard  
Thomas J. Beard, Town Attorney

**TOWN OF LAKE PARK**

By: P. Osterman  
for Desca DuBois, Mayor:

By: Maria V. Davis  
Maria V. Davis, Town Manager

**CONSULTANT:**

By: Itamar Macedo  
Itamar Macedo



**EXHIBIT C  
SECOND AMENDMENT TO THE CONTRACT  
BETWEEN THE TOWN OF LAKE PARK, FL AND ITAMAR MACEDO**

**THIS SECOND AMENDMENT TO THE CONTRACT**, made this \_\_\_ day of \_\_\_\_\_, 2011, by and between the Town of Lake Park, a municipal corporation of the State of Florida, hereinafter designated as "the TOWN", and ITAMAR MACEDO, 1087 Raintree Drive, Palm Beach Gardens, FL 33410, hereinafter designated as "MACEDO".

**WITNESSETH THAT:**

**WHEREAS**, the TOWN is a municipality with those powers and authority enumerated by Chapter 166 Florida Statutes and the Florida Constitution; and

**WHEREAS**, the TOWN is empowered to enter into contractual arrangements with public agencies, private corporations or other persons; and

**WHEREAS**, the TOWN has previously entered into a Contract with MACEDO as an independent contractor to provides services as a tennis instructor; and

**WHEREAS**, the TOWN and MACEDO subsequently entered into a "first" amendment to that Contract; and

**WHEREAS**, the TOWN has budgeted funds in its current fiscal year budget which are available for the funding of this Contract;

**NOW THEREFORE**, the TOWN and MACEDO in consideration of the benefits flowing from each to the other do hereby agree to a Second Amendment to the Contract as follows:

**2. TERM AND PERIOD OF PERFORMANCE**

- 2.1 The original Contract is amended to extend the term, its commencement being retroactive to September 1, 2011 ("Commencement Date") and continuing until August 31, 2012, at which time the Contract shall terminate.

**3. CONSIDERATION AND RENT**

- 3.1 The TOWN shall provide office space for the CONSULTANT in the Pro Shop building at Lake Shore Park at a monthly Facility User Fee ("Fee") of \$1,181.00 per month. The Fee shall be paid by MACEDO by the 10<sup>th</sup> day of each month by cashier's check or money order made payable to "The Town of Lake Park, Florida" and delivered to the Town of Lake Park Finance Department located at 535 Park Ave, Lake Park Florida 33403. If MACEDO fails to make any payment of the Fee within 15 days after receipt of written notice from TOWN of such failure, then MACEDO shall pay a late charge in an amount equal to five percent (5%) of the amount of the Fee then due. The late charge shall be paid to TOWN within 30 days after demand by

TOWN. In addition, interest at the rate of one and one-half percent (1.5%) per month shall accrue against the delinquent payment(s) from the date due until the date the payment is received by TOWN. MACEDO and TOWN agree that the late charge is a reasonable estimate of the extra administrative expenses incurred by TOWN in handling the delinquency. Any and all sums of money or charges required to be paid by MACEDO under this Contract other than the Fee shall be considered "Additional Fees" whether or not the same is so specifically designated and TOWN shall have the same rights to enforce due and timely payment by MACEDO of all Additional Fees as are available to TOWN relating to the Fee.

- 3.2 In the event the MACEDO pays an amount that is less than the amount stipulated to be paid under this Contract, such payment shall be considered to be made only on account of the stipulated amount. No endorsement or statement on any check or letter shall be deemed to be an accord and satisfaction. The TOWN may accept any check or payment without prejudice to the TOWN's right to recover the balance due or to pursue any other remedy available to the TOWN pursuant to this Contract or under the law.
- 3.3 MACEDO shall pay to the TOWN a monthly utility fee of \$75.00, said utility fee beginning retroactively as of September 1, 2011. This utility fee shall be deemed to cover the Pro Shop's expenses for electricity, garbage collection, and water and sewer services.
- 3.4 The TOWN shall invoice MACEDO monthly for electrical charges at the tennis courts beginning with the usage period of November 1, 2011.

**IN WITNESS WHEREOF**, the parties or their duly authorized representatives hereby execute this Second Amendment to the Contract effective September 1, 2011.

**TOWN OF LAKE PARK, FL**

**ATTEST:**

\_\_\_\_\_  
Vivian M. Lemley, Town Clerk

By: \_\_\_\_\_  
James DuBois, Mayor

(TOWN SEAL)

**APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY**

By: \_\_\_\_\_  
Thomas J. Baird, Town Attorney

**ITAMAR MACEDO**

\_\_\_\_\_

**Discussion  
And  
Possible  
Action**

# TAB 5



Town of Lake Park Town Commission

Agenda Request Form

Meeting Date: December 7, 2011

Agenda Item No. *Tab 5*

- PUBLIC HEARING
- RESOLUTION
- ORDINANCE ON FIRST READING
- DISCUSSION/POSSIBLE ACTION
- ORDINANCE ON SECOND READING
- BID/RFP AWARD
- PRESENTATION/PROCLAMATION
- CONSENT AGENDA
- Other:

**SUBJECT:** Tree Planting In Kelsey Park In Memory of Mayor Desca DuBois.

**RECOMMENDED MOTION/ACTION:** Motion to approve.

Approved by Town Manager *W. P. Davis* Date: *12/1/11*

David Hunt, Public Works Director November 30, 2011  
Name/Title Date of Actual Submittal

<b>Originating Department:</b> Public Works	Costs: Force Account Labor  Funding Source: Public Works Acct. #: N/A	Attachments: Location Map
<b>Department Review:</b> <input type="checkbox"/> Attorney _____ <input type="checkbox"/> Community Development _____ <input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____	<input type="checkbox"/> Grants _____ <input type="checkbox"/> Human Resources _____ <input type="checkbox"/> Information Technology _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____	<input type="checkbox"/> PBSO _____ <input checked="" type="checkbox"/> Public Works <i>gtd</i> <input type="checkbox"/> Recreation _____ <input type="checkbox"/> Town Clerk _____ <input checked="" type="checkbox"/> Town Manager _____
<b>Advertised:</b> 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 <i>gtd</i> Please initial one.

**Summary Explanation/Background:** When the Mayor of Lake Park, the Honorable Desca DuBois suddenly passed away in April of this year, Mr. Henry Arch McNish wanted to memorialize her for her service to the Town. He donated money with the intention of getting a tree planted in Kelsey Park. Other people have joined with Mr. McNish and enough

(2)

money has been raised to plant an oak tree as well as placing a donated memorial plaque at its base.

The Commission is being asked to approve a Town space for the placement of this privately funded memorial. The suggested location for the donated tree and plaque is close to the Kelsey Park gazebo (see attached site map). In addition, Commission approval is being sought to hold a public memorial service at the selected tree planting site on Saturday, January 7, 2012.

No Town funds are needed for this project beyond some Public Works labor. Chris Wayne and Associates (CWA) has been contacted by the donors to purchase, install, and warranty the Live Oak tree using the donated funds. CWA is also contributing to the memorial by absorbing some of the costs associated with the tree planting.

There would be some Town involvement in the form of Public Works forces' labor (time spent during regularly budgeted hours) to install a low, concrete marker with attached plaque at the base of the tree.





memorial tree location

Lake Shore Dr

Google

© 2011 Google

2/1/2011 1985

26°47'53.77"N 80°03'13.15"W elev 3 ft

# TAB 6





**Town of Lake Park Town Commission**

**Agenda Request Form**

**Meeting Date: December 7, 2011**

**Agenda Item No. *Table***

- |  |  |
|--|--|
| <input type="checkbox"/> PUBLIC HEARING              | <input type="checkbox"/> RESOLUTION                            |
| <input type="checkbox"/> ORDINANCE ON FIRST READING  | <input checked="" type="checkbox"/> DISCUSSION/POSSIBLE ACTION |
| <input type="checkbox"/> ORDINANCE ON SECOND READING | <input type="checkbox"/> BID/RFP AWARD                         |
| <input type="checkbox"/> PRESENTATION/PROCLAMATION   | <input type="checkbox"/> CONSENT AGENDA                        |
| <input type="checkbox"/> Other:                      |  |

**SUBJECT: Employee Cost Savings Incentives Program**

**RECOMMENDED MOTION/ACTION: Approval**

Approved by Town Manager *H.P. Davis* Date: *12/1/11*  
*Daniel McElhannon Turner*  
 Name/Title *HA DIRECTOR* Date of Actual Submittal *12/1/11*

<b>Originating Department:</b> Vice Mayor Kendall Rumsey	<b>Costs: \$ -0-</b> Funding Source: Acct. #	<b>Attachments:</b> Proposed Employee Cost Savings Incentives Program
<b>Department Review:</b> <input type="checkbox"/> Attorney _____ <input type="checkbox"/> Community Development _____ <input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____	<input type="checkbox"/> Grants _____ <input type="checkbox"/> Human Resources _____ <input type="checkbox"/> Information Technology _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____	<input type="checkbox"/> PBSO _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Recreation _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ OR Not applicable in this case <u><b>BMT</b></u> Please initial one.

**Summary Explanation/Background:**

At the November 16, 2011 Commission meeting, staff presented to the Commission its more structured Employee Cost Savings Incentives Program which contained provisions for the establishment of a review committee and criteria for the consideration and implementation of cost saving ideas. Staff was directed to develop and bring back to the Commission criteria for the award of paid vacation time; revised program guidelines providing that department heads would not be eligible for participation in the program; and, the inclusion of language providing for the review of this program after one year to determine if actual cash incentives can be provided.

Attached is the Employee Cost Savings Incentives Program as revised pursuant to the Commission's direction.

Employee Cost Savings Incentives Program:

Have employee suggestion boxes installed at Town Hall, the Library and at the Public Works Department where employees can submit their written suggestions on 3 x 5 index cards. Each suggestion card must be signed and dated by the employee. Suggestion cards will be retrieved on a fiscal quarterly basis by Human Resources staff and submitted to the review committee for consideration. Only non-department head employees are eligible to participate in this program.

A review committee will be established consisting of three people, two department heads, (one of whom will be the Finance Director who can provide feedback on the ideas submitted from a fiscal and budgetary perspective), one non-department head employee, and one alternate which will review the ideas submitted for possible implementation. If a member of the review committee has submitted a cost savings idea that is brought before the committee for consideration, that committee member shall recuse himself or herself from such deliberation. If a member is recused, the alternate will participate in the deliberation to prevent the committee from voting into a tie.

The criteria for consideration and implementation of ideas submitted would consist of the following:

<b>Criteria for Consideration of Ideas Submitted</b>
1. Originality of idea
2. Timetable for implementation of idea
3. Compliance with Governmental Accounting Standards Board (GASB) and other public financial management and accounting requirements
4. Anticipated quantifiable budgetary savings or efficiency in operation
5. Anticipated increase in revenue

If at the end of each succeeding fiscal quarter a Town employee has submitted a suggestion that once it has been implemented either results in a quantifiable cost savings to the Town or an increase in Town revenue for that fiscal quarter, the employee will be awarded four to 24 hours of leave with pay added to their vacation leave bank to be taken in accordance with the established vacation leave policy.

The criteria for the awarding of such vacation leave with pay are as follows:

<b>Criteria for the Awarding of Vacation Leave</b>
1. For ideas that directly result in a quantifiable cost savings or increase in revenue from \$100.00 to \$1,499.99, one (1) hour of paid vacation leave will be awarded.
2. For ideas that directly result in a quantifiable cost savings or increase in revenue from \$1,500.00 to \$9,999.99, five (5) hours of paid vacation leave will be awarded.
3. For ideas that directly result in a quantifiable cost savings or increase in revenue from \$10,000.00 to \$24,999.99, ten (10) hours of paid vacation leave will be awarded.
4. For ideas that directly result in a quantifiable cost savings or increase in revenue from \$25,000.00 to \$39,999.00, twenty (20) hours of paid vacation leave will be awarded.
5. For ideas that directly result in a quantifiable cost savings or increase in revenue of \$40,000.00 or more, twenty-four (24) hours of paid vacation leave will be awarded.

This Employee Cost Savings Incentives Program will be reviewed at the end of Fiscal Year 2012 and if the Town's revenues or cost savings have exceeded its projected expenditures, a certain percentage of this amount, to be determined by the Town Commission, will be set aside for the purpose of awarding a financial incentive to the employees whose ideas directly resulted in such savings. Such program funding will be maintained by the Town Finance Department.

Additionally, at the end of the fiscal year, the employee whose idea(s) resulted in the most significant cost savings or revenue increase to the Town would be presented with a proclamation by the Town Commission.