



AGENDA

**REGULAR MEETING OF THE STUART CITY COMMISSION
TO BE HELD APRIL 11, 2022
AT 4:00 PM
COMMISSION CHAMBERS
121 SW FLAGLER AVE.
STUART, FLORIDA 34994**

CITY COMMISSION

**Mayor Merritt Matheson
Vice Mayor Troy McDonald
Commissioner Becky Bruner
Commissioner Eula R. Clarke
Commissioner Mike Meier**

ADMINISTRATIVE

**City Manager, David Dyess
City Attorney, Michael J. Mortell
City Clerk, Mary R. Kindel**

Agenda items are available on our website at <http://www.cityofstuart.us>
Phone: (772) 288-5306. Fax: (772) 288-5305. E-mail: mkindel@ci.stuart.fl.us

In compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation to attend this meeting should contact the City's ADA coordinator at 772-288-5306 at least 48 hours in advance of the meeting, excluding Saturday and Sunday.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he will need a record of the proceeding, and that for such purpose he 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.

(RC) next to an item denotes there is a City Code requirement for a Roll Call vote.
(QJ) next to an item denotes that it is a quasi-judicial matter or public hearing.

WHAT IS CIVILITY? Civility is caring about one's identity, needs and beliefs without degrading someone else's in the process. Civility is more than merely being polite. Civility requires staying "present" even with those persons with whom we have deep-rooted and perhaps strong disagreements. It is about constantly being open to hear, learn, teach and change. It seeks common ground as a beginning point for dialogue. It is patience, grace, and strength of character. Civility is practiced in our City Hall.

PUBLIC COMMENT: If a member of the public wishes to comment upon ANY subject matter, including quasi-judicial matters, please submit a Request to Speak form. These forms are available in the back of the Commission Chambers, and should be given to the City Clerk prior to introduction of the item number you would like to address.

CONSENT CALENDAR: Those matters included under the Consent Calendar are self-explanatory, non-controversial, and are not expected to require review or discussion. All items will be enacted by one motion. If discussion on an item is desired by any City Commissioner that item may be removed by a City Commissioner from the Consent Calendar and considered separately. If an item is quasi-judicial it may be removed by a Commissioner or any member of the public from the Consent Calendar and considered separately.

QUASI-JUDICIAL HEARINGS: Some of the matters on the Agenda may be "quasi-judicial" in nature. City Commissioners will disclose all ex-parte communications, and may be subject to voir dire by any interested party regarding those communications. All witnesses testifying will be "sworn" prior to their testimony. However, the public is permitted to comment without being sworn. Unsworn testimony will be given appropriate weight and credibility by the City Commission.

ROLL CALL

PLEDGE OF ALLEGIANCE

1. ARTS MOMENT - STARSTRUCK ACADEMY & THEATRE PERFORMANCE BY MORGAN ROBERT AND TIERNAN WATKINS

PROCLAMATIONS

2. PUBLIC SAFETY TELECOMMUNICATORS WEEK - APRIL 10-16, 2022
3. WATER CONSERVATION MONTH - APRIL 2022

PRESENTATIONS

4. SERVICE AWARDS - APRIL 2022
5. LOW IMPACT DEVELOPMENT

COMMENTS BY CITY COMMISSIONERS

COMMENTS BY CITY MANAGER

APPROVAL OF AGENDA

COMMENTS FROM THE PUBLIC (3 Minutes Max.)

CONSENT CALENDAR

6. APPROVAL OF 03/28/2022 CCM MINUTES (RC)

7. STUART HOUSING AUTHORITY RATIFICATION APPOINTMENT (RC)
8. AUTHORIZATION TO EXECUTE IRL LICENSE PLATE GRANT AGREEMENT & BA #11 - TRESSLER DRIVE WATER QUALITY IMPROVEMENTS (RC):

RESOLUTION No. 38-2022; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A GRANT AGREEMENT FOR THE INDIAN RIVER LAGOON LICENSE PLATE FUNDING PROGRAM AND AUTHORIZING BUDGET AMENDMENT No. 11 TO THE 2021-2022 ENTERPRISE FUND; APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF FUNDS FOR THE TRESSLER DRIVE WATER QUALITY IMPROVEMENT PROJECT; PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

9. AWARD OF ITB# 2022-107: TRESSLER DRIVE WATER QUALITY IMPROVEMENTS PROJECT (RC):

RESOLUTION No. 40-2022; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA APPROVES THE AWARD OF ITB #2022-107, TRESSLER DRIVE WATER QUALITY IMPROVEMENTS PROJECT TO THE LOWEST, RESPONSIVE, AND RESPONSIBLE BIDDER WITH A TOTAL UNIT PRICE OF \$238,762.23 TO FERREIRA CONSTRUCTION SOUTHERN DIVISION CO., INC. OF HOBE SOUND, FLORIDA PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

10. AUTHORIZING BUDGET AMENDMENT NO. 12 TO THE 2021-2022 POLICE BUDGET (1190) (RC):

RESOLUTION No. 42-2022; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AUTHORIZING BUDGET AMENDMENT No. 12 TO THE 2021-2022 POLICE BUDGET (1190); APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF FUNDS FOR THE INVESTMENT AND ENHANCEMENT OF TECHNOLOGY AND EQUIPMENT TO EFFICIENTLY RESPOND TO GUN VIOLENCE.

END OF CONSENT CALENDAR

COMMISSION ACTION

11. SATISFYING THE BALANCE OF PALMETTO HARBOR ASSESSMENT (RC):

RESOLUTION 39-2022; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA ABSOLVING THE NON- AD VALOREM ASSESSMENT ROLL FOR "PALMETTO HARBOR SEWER PROJECT"; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

12. PALMETTO COVE RPUD ROW MAINTENANCE AGREEMENT (RC):

CONTINUED TO APRIL 25, 2022 CCM RESOLUTION No. 41-2022; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A MAINTENANCE AGREEMENT BETWEEN 924 SW PALM CITY ROAD AND THE CITY OF STUART RELATING TO THE PROPOSED IMPROVEMENTS WITHIN THE ALLEY-WAY OF 11 FOOT ALLEY-WAY, AS SET FORTH IN THE ACCESS AND MAINTENANCE AGREEMENT, PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

ORDINANCE SECOND READING

ORDINANCE FIRST READING

DISCUSSION AND DELIBERATION

13. FUTURE LAND USE DISCUSSION

ADJOURNMENT

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 4/11/2022

Prepared by: Susej Meleqi

Title of Item:

ARTS MOMENT - STARSTRUCK ACADEMY & THEATRE PERFORMANCE BY MORGAN ROBERT
AND TIERNAN WATKINS

Summary Explanation/Background Information on Agenda Request:

ARTS MOMENT

Funding Source:

N/A

Recommended Action:

Enjoy!

ATTACHMENTS:

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 4/11/2022

Prepared by: Ryanne Cavo

Title of Item:

PUBLIC SAFETY TELECOMMUNICATORS WEEK - APRIL 10-16, 2022

Summary Explanation/Background Information on Agenda Request:

National Public Safety Telecommunications Week (NPSTW), observed every second week in April, has been set aside to recognize and celebrate the work of telecommunications helping to save millions of lives every day. If it weren't for the telecommunications flawlessly doing their jobs, billions of lives would have been lost due to untimely assistance. So, throughout this week, we honor and thank those invisible telecommunications who have continued to serve in this demanding profession.

Funding Source:

N/A

Recommended Action:

Issue the Proclamation.

ATTACHMENTS:

1. Public Safety Telecommunicators Week (April 10-16, 2022)

**PROCLAMATION
PUBLIC SAFETY TELECOMMUNICATORS WEEK
APRIL 10-16, 2022**

WHEREAS, emergencies can occur at any time that require police, fire, or emergency medical services; and

WHEREAS, when an emergency occurs the prompt response of police officers, firefighters and paramedics is critical to the protection of life and preservation of property; and

WHEREAS, the safety of our police officers and firefighters is dependent upon the quality and accuracy of information obtained from citizens who telephone the City of Stuart's emergency communications center; and

WHEREAS, Public Safety Telecommunicators are the first and most critical contact our citizens have with emergency services; and

WHEREAS, Public Safety Telecommunicators are the single vital link for our police officers and firefighters by monitoring their activities by radio, providing them information, and ensuring their safety; and

WHEREAS, Public Safety Telecommunicators of the City of Stuart have contributed substantially to the apprehension of criminals, suppression of fires and treatment of patients; and

WHEREAS, each dispatcher has exhibited compassion, understanding and professionalism during the performance of their job in the past year.

NOW, THEREFORE, I, MERRITT MATHESON, Mayor for the City of Stuart, do hereby proclaim the week of April 10 - 16, 2022, to be:

PUBLIC SAFETY TELECOMMUNICATORS WEEK

in the City of Stuart, Florida, and honor of the men and women whose diligence and professionalism keep our City and citizens safe.

IN WITNESS WHEREOF, I have hereto set my hand and caused the seal of the City of Stuart Florida to be affixed this 11th day of April, 2022.

MERRITT MATHESON
MAYOR

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 4/11/2022

Prepared by: RYANNE CAVO

Title of Item:

WATER CONSERVATION MONTH - APRIL 2022

Summary Explanation/Background Information on Agenda Request:

Stuart and the State of Florida has designated April, typically a dry month when water demands are most acute, Florida's Water Conservation Month, to educate citizens about how they can help save Florida's precious water resources.

Funding Source:

N/A

Recommended Action:

Issue the Proclamation.

ATTACHMENTS:

1. Water Conservation Month - April 2022

**PROCLAMATION
WATER CONSERVATION MONTH
APRIL 2022**

WHEREAS, water is a basic and essential need of every living creature; and

WHEREAS, the State of Florida, Water Management Districts, and the City of Stuart are working together to increase awareness about the importance of water conservation; and

WHEREAS, Stuart and the State of Florida has designated April, typically a dry month when water demands are most acute, Florida's Water Conservation Month, to educate citizens about how they can help save Florida's precious water resources; and

WHEREAS, the City of Stuart has always encouraged and supported water conservation through various educational programs and special events; and

WHEREAS, every business, industry, school, and citizen can make a difference when it comes to conserving water; and

WHEREAS, every business, industry, school, and citizen can help by saving water and thus promote a healthy economy and community.

NOW, THEREFORE, I, Merritt Matheson, Mayor of the City of Stuart, Florida, do hereby proclaim the month of April 2022 as:

WATER CONSERVATION MONTH

in the City of Stuart, Florida, and is calling upon each citizen and business to help protect our precious resources by practicing water-saving measures and becoming more aware of the need to save water.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Stuart to be affixed this 11th day of April, 2022.

MERRITT MATHESON
MAYOR

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 4/11/2022

Prepared by: Karen Chambers Cuffy

Title of Item:

SERVICE AWARDS - APRIL 2022

Summary Explanation/Background Information on Agenda Request:

Nicholas Testa	Fire Rescue	20 years
Michael Gerwan	Police	20 years
William (Bill) Ritacco	Public Works	15 years
Angel Nazario	Utilities & Engineering	10 years

Funding Source:

General Fund

Recommended Action:

Present Awards

ATTACHMENTS:

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 4/11/2022

Prepared by: David Dyess

Title of Item:

LOW IMPACT DEVELOPMENT

Summary Explanation/Background Information on Agenda Request:

Dr. Leesa Souto of Marine Resources Counsel and staff to present

Funding Source:

N/A

Recommended Action:

N/A

ATTACHMENTS:

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 4/11/2022

Prepared by: Susej Meleqi

Title of Item:

APPROVAL OF 03/28/2022 CCM MINUTES (RC)

Summary Explanation/Background Information on Agenda Request:

APPROVAL OF 03/28/2022 CCM MINUTES (RC)

Funding Source:

N/A

Recommended Action:

Approve Minutes.

ATTACHMENTS:

1. 03282022 CCM Minutes.

MINUTES
REGULAR MEETING OF THE STUART CITY COMMISSION
HELD MARCH 28, 2022 AT 5:30 PM
COMMISSION CHAMBERS
121 SW FLAGLER AVE.
STUART, FLORIDA 34994

CITY COMMISSION

Mayor Merritt Matheson
Vice Mayor Troy McDonald
Commissioner Becky Bruner
Commissioner Eula R. Clarke
Commissioner Mike Meier

ADMINISTRATIVE

City Manager, David Dyess
City Attorney, Michael J. Mortell
City Clerk, Mary R. Kindel

ROLL CALL

5:30 PM

PRESENT: Mayor Matheson, Vice Mayor McDonald, Commissioner Bruner, Commissioner Clarke, Commissioner Meier

PLEDGE OF ALLEGIANCE

COMMENTS BY CITY COMMISSIONERS

Commissioner Meier

- Commented in the Commissioners wish list for 2022 and one of his goals is for walking and bike trails through Haney Creek but reminded all of the watershed program done by previous City employees years ago in Haney Creek, appreciates the project and does not want to lose sight of such past projects.

Commissioner Bruner

- Inquired about who takes care of weathered American flags in the City. City manager Dyess responded the Public Works Director, Milton Leggett handles flags.

Commissioner Clarke

- Remembrance of Dr. Howell, (2020 Charter Advisory Board member) and asked if a short memorium of his life could be done and presented to his family in appreciation for all he has done for the City.
- Reported that she has been receiving comments pertaining to the corner of Palm Beach Rd. and MLK Blvd. and would like to striping the sidewalk, perhaps a signal or crosswalk.
- Noted the Art Event in downtown over the past weekend and wondered if there would be any reports on parking.

Vice Mayor McDonald

- Commented on a structure fire in East Stuart and thanked the Fire Dept. for their hard work.
- Commented on the progress of Fire Station #3.
- Thanked the Stuart Police Department for assisting with the fire.

Mayor Matheson

- Announced that there was a Rivers Coalition Meeting last Thursday and thanked Ben Hogarth for his participation.
- Commented on the various events; Health Fair in East Stuart, Art Show, Water Fest in Stuart last weekend.
- Provided a brief Lake Okeechobee update and announced the St. Lucie locks closure since end of 2021.

COMMENTS BY CITY MANAGER

No Comments.

APPROVAL OF AGENDA

5:44 PM MOTION: Approve

MOVED BY: Eula Clarke

SECONDED BY: Mike Meier

Motion approved unanimously.

COMMENTS FROM THE PUBLIC (3 Minutes Max.)

5:45 PM

- 1) Joe Flannigan - Indian Grove Drive; Commented on road rage that he witnessed this past weekend over a parking space and noted a solution and suggested a parking committee.
- 2) Kat Kehoe - 13th St.; Thanked the Commission for removing the large trucks from their El Dorado Heights neighborhood and her past comment on floodlights, provided research results on LED lighting.
- 3) Carla Williamson - 13th St.; Thanked the Commission for eliminating the trucks and wants a safe neighborhood.

4) Ken Gill - 14th St.; Commented on the garbage truck building.

CONSENT CALENDAR

1. APPROVAL OF 03/14/2022 CCM MINUTES (RC)
2. AWARD RFP #2022-202, PROFESSIONAL ENGINEERING SERVICES FOR THE CITY COURTESY DOCK AND WAVE ATTENUATOR (RC):

RESOLUTION No. 34-2022; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA APPROVING THE AWARD OF RFP #2022-202: PROFESSIONAL ENGINEERING SERVICES FOR THE CITY COURTESY DOCK AND WAVE ATTENUATOR TO THE TOP RANKED FIRM, CUMMINS CEDERBERG, INC. OF JUPITER, FLORIDA PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

3. AUTHORIZATION TO APPLY FOR A DEO GRANT (RC):

RESOLUTION No. 37-2022; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE CITY MANAGER TO APPLY TO THE DEPARTMENT OF ECONOMIC OPPORTUNITY FOR A COMMUNITY PLANNING TECHNICAL ASSISTANCE GRANT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

END OF CONSENT CALENDAR

5:55 PM MOTION: Approve

MOVED BY: Eula Clarke

SECONDED BY: Mike Meier

Motion approved unanimously.

COMMISSION ACTION

4. LETTER TO U.S. REPRESENTATIVE BRIAN MAST REGARDING SAINT LUCIE RIVER TRAIN BRIDGE LEGISLATION

City Attorney Mortell read the letter to Congressman Brian Mast into the record.

Vice Mayor McDonald noted he would like to add a sentence to the end of the first paragraph, "providing equitable access to navigate navigable waters to ensure that unreasonable obstructions to navigation are not caused by the train bridge crossing is a

priority for the City of Stuart."

Commissioner Clarke noted the last part of the sentence is to be reversed, more direct. The language will be added and clarification was made that the top priority is a new rail bridge.

5:58 PM MOTION: Approval with added language "providing equitable access to navigate navigable waters to ensure that unreasonable obstructions to navigation are not caused by the train bridge crossing is a priority for the City of Stuart. "

MOVED BY: Mike Meier

SECONDED BY: Eula Clarke

Motion approved unanimously.

ORDINANCE SECOND READING

ORDINANCE FIRST READING

6:01 PM

5. ABANDONMENT OF A PORTION RIGHT-OF-WAY AS REQUIRED BY THE PALMETTO COVE RPUD (RC):

ORDINANCE No. 2484-2022; AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA PROVIDING FOR THE ABANDONMENT OF A CERTAIN PUBLIC RIGHT-OF-WAY WITHIN THE CITY BEING THAT PORTION OF A PLATTED 11 FOOT-WIDE ALLEY AS SHOWN ON THE PLAT OF HALPATIOKEE PARK, MORE CLEARLY DESCRIBED AND DEPICTED IN EXHIBIT 'A' ATTACHED; FOR PAYMENT OF A PRIVILEGE FEE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Tom Reetz, Senior Planner, presented Palmetto Cove RPUD R.O.W. Abandonment with a map of the alley. Public Works approved the abandonment and it will be brought back before the Commission by Resolution.

6:04 PM MOTION: Approve

MOVED BY: Mike Meier

SECONDED BY: Troy McDonald

Motion approved unanimously.

6. SILVERTHORN RESIDENTIAL PUD (QUASI-JUDICIAL) (RC):

ORDINANCE No. 2472-2022; AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE CITY'S COMPREHENSIVE PLAN THEREBY CHANGING THE FUTURE LAND USE DESIGNATION FROM "COMMERCIAL" TO "MULTI-FAMILY RESIDENTIAL" FOR A 9.43 ACRE PARCEL ANNEXED BY ORDINANCE NO.

1527-97, OWNED BY TED GLASRUD ASSOCIATES FL LLC, LOCATED ON THE SOUTH EAST CORNER OF SE INDIAN STREET AND SE COMMERCE AVENUE, SAID LAND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED; AND FURTHER PROVIDING THAT SAID LANDS SHALL CONCURRENTLY BE REZONED FROM COMMERCIAL PLANNED UNIT DEVELOPMENT "CPUD" TO RESIDENTIAL PLANNED UNIT DEVELOPMENT "RPUD" ON THE CITY'S OFFICIAL ZONING MAP; ESTABLISHING THE SILVERTHORN RPUD CONSISTING OF SEVENTY SEVEN (77) ATTACHED HOMES; APPROVING A MASTER SITE PLAN; PROVIDING FOR DEVELOPMENT CONDITIONS AND A TIMETABLE FOR DEVELOPMENT, DECLARING THE PLAN TO BE CONSISTENT WITH THE CITY'S COMPREHENSIVE PLAN; PROVIDING DIRECTIONS TO THE CITY CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

6:06 PM

Nine (9) People sworn; Tom Reetz and Kev Freeman of City of Stuart, Melissa Corbett of Milcor Group, Doug Fitzwater of Lucido and Associates, Michael DeMilio, and Justin Cook of Meritage Homes. Three (3) did not present.

Tom Reetz, Senior Planner presented, including the changes since the LPA Meeting, stormwater improvements, and conditions for development to be added to Second Reading.

The property was annexed into the City in 1997 as a Commercial Planned Unit Development.

Michael DeMillio of Meritage Homes provided a brief introduction and presented a PowerPoint. Doug Fitzwater assisted Mr. DeMillio in presentation.

Justin Cook, Meritage Homes came forward and reported that there is still over 100 acres south of this property and presented on attainable housing.

6:54 PM - Commissioner Discussion and question and answer session with applicant.

Melissa Corbett stated the requirements are being exceeded, explaining the flows. Ms. Corbett commented for the record, from LPA, based from data of 2019, master plan approval and the traffic plan approval is getting ready to be updated.

Discussions continued amongst Commissioners and applicant.

PUBLIC COMMENT:

- 1) Alessandro Anzalone - SE Mentmore Lane; In favor of the project.
- 2) Adrian Bruna - In favor of the project.
- 3) Daniel Cendejas - SE Sea Hunt Way; In favor of the project.
- 4) Helen McBride - SE Flamingo Ave; In favor, wonders in a discount could be offered for the hometown hero residents of Meritage Homes.

- 5) Matt Rardon - SW Brassie Way; In favor of the project.
- 6) Kristen Brown - Owner of property and is in favor of the project.
- 7) Robin Cartright - (Zoom) Hibiscus Ave; Opposes project, concerned about the traffic and feels the housing is not attainable.
- 8) Linda Kay Richards - (Zoom) Cabana Pointe; Opposes project and expressed concern over traffic, densities, and attainable housing.
- 9) Tim Mourandian - SE Mentmore Lane; Homeowner in Trilliam, feels it's high quality, affordable, well designed and energy efficient.
- 10) Carla Williamson - SE 13th St. - Commented on housing costs for comparison.

Discussion amongst Commissioners.

8:02 PM MOTION: Deny

MOVED BY: Troy McDonald

SECONDED BY: Becky Bruner

YES: Becky Bruner, Merritt Matheson, Eula Clarke, Troy McDonald (4)

NO: Mike Meier (1)

DISCUSSION AND DELIBERATION

ADJOURNMENT

8:04 PM

Mary R. Kindel, City Clerk

Merritt Matheson, Mayor

**Minutes to be approved at the Regular Commission
Meeting this 11 day of April, 2022.**

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 4/11/2022

Prepared by: Mary Kindel

Title of Item:

STUART HOUSING AUTHORITY RATIFICATION APPOINTMENT (RC)

Summary Explanation/Background Information on Agenda Request:

STUART HOUSING AUTHORITY BOARD OF COMMISSIONERS APPOINTMENT RATIFICATION

Funding Source:

N/A

Recommended Action:

Ratify Jennie Davis' appointment to the Stuart Housing Authority for 4-year term.

ATTACHMENTS:

1. Stuart_Housing_Authority_Terms Log 2022

STUART HOUSING AUTHORITY BOARD OF COMMISSIONERS

NAME	Current Term	Expiration	Future Terms	2022 Ratification
Jennie Davis	4 years	2018-2022	2022-2026	4-Year Term, 2022-2026
Nancy Judy	4 years	2018-2022		
Barbara Dotson	4 years	2019-2023	2023-2027	
Deborah Langston	4 years	2019-2023	2023-2027	
Martha Mosley	4 years	2020-2024	2024-2028	
Lilly Williams	4 years	2020-2024	2024-2028	
Pearl Clark	4 years	2021-2025	2025-2029	

NOTE: SHA Commissioner Nancy Judy is not seeking re-appointment and Board prefers not to fill the vacant position. SHA By-Laws state they can have between 5 and 7 boardmembers.

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 4/11/2022

Prepared by: Tim Voelker, Janine Wilde

Title of Item:

AUTHORIZATION TO EXECUTE IRL LICENSE PLATE GRANT AGREEMENT & BA #11 - TRESSLER DRIVE WATER QUALITY IMPROVEMENTS (RC):

RESOLUTION No. 38-2022; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A GRANT AGREEMENT FOR THE INDIAN RIVER LAGOON LICENSE PLATE FUNDING PROGRAM AND AUTHORIZING BUDGET AMENDMENT No. 11 TO THE 2021-2022 ENTERPRISE FUND; APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF FUNDS FOR THE TRESSLER DRIVE WATER QUALITY IMPROVEMENT PROJECT; PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

On October 11, 2021, the City of Stuart adopted Resolution No. 73-2021 authorizing the submittal of a grant application for the Indian River Lagoon License Plate Funding Program to provide funding for the Tressler Drive Water Quality Improvement project. The Tressler Drive Water Quality Improvement Project will redirect stormwater runoff to a treatment train, where a baffle box will provide nutrient and sediment removal. The baffle box will discharge to a bioswale, which will provide retention and removal of additional nutrients and sediment prior to discharge to Poppleton Creek and ultimately to the St. Lucie River. It is estimated that 40.92 pounds per year of Total Nitrogen (TN) and 7.67 pounds per year of Total Phosphorus (TP) will be kept from entering the lagoon.

On January 11, 2022, the Utilities & Engineering Department was notified by the South Florida Water Management District of the award of the grant in the amount of \$89,980.00.

Costs associated with this project are anticipated to be \$259,425.10 with a breakdown provided below.

DESCRIPTION	COST	INDIAN RIVER LAGOON COUNCIL GRANT	INDIAN RIVER LAGOON LICENSE PLATE GRANT	CITY FUNDING
Total Bid Award	\$238,762.23	\$80,000.00	\$89,980.00	\$68,782.23
3% Contingency Amount	\$7,162.87	\$0.00	\$0.00	\$7,162.87
Construction, Engineering, Inspection (CEI) Services	\$13,500.00	\$0.00	\$0.00	\$13,500.00
Total	\$259,425.10	\$80,000.00	\$89,980.00	\$89,445.10

Budget Amendment No. 11 is to accept the additional funding received from the Indian River Lagoon License Plate Grant and allow for the appropriation of these funds.

Funding Source:

Project is included in the Fiscal Year 2021/2022 Budget - Stormwater Enterprise Fund, Capital Outlay

Budget Amendment No. 11	From:	Indian River Lagoon License	
		Plate Funding Program:	\$89,980.00
	To:	Stormwater, Capital Outlay:	\$89,980.00

Recommended Action:

Move approval of Resolution No. 38-2022.

ATTACHMENTS:

1. R38-2022 Authorization To Execute IRL License Plate Grant Agreement & BA No. 11 - Tressler Drive Water Quality Improvements
2. Indian River Lagoon License Plate Funding Agreement



**BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA**

RESOLUTION NUMBER 38-2022

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A GRANT AGREEMENT FOR THE INDIAN RIVER LAGOON LICENSE PLATE FUNDING PROGRAM AND AUTHORIZING BUDGET AMENDMENT No. 11 TO THE 2021-2022 ENTERPRISE FUND; APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF FUNDS FOR THE TRESSLER DRIVE WATER QUALITY IMPROVEMENT PROJECT; PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

* * * * *

WHEREAS, the Florida legislature established the Florida Indian River Lagoon License Plate in 1996 to help restore and protect this unique lagoon system. Funds generated from sales of these license plates are used to support habitat restoration, water quality improvement, and environmental education projects; and

WHEREAS, the South Florida Water Management District is responsible for administering Indian River Lagoon License Plate funds for projects in St. Lucie, Martin, and Palm Beach counties; and

WHEREAS, the City of Stuart continues to implement strategies to improve the quality of stormwater runoff entering the St. Lucie River to advance toward BMAP goals and improving water quality of the St. Lucie River and Estuary; and

WHEREAS, the Tressler Drive Water Quality Improvement project is estimated to reduce the Total Nitrogen (TN) by 40.92 pounds per year and Total Phosphorus (TP) by 7.67 pounds per year from entering the Indian River Lagoon, and

WHEREAS, the City of Stuart has previously adopted Resolution No. 66-2021, which authorized the Mayor to execute a cost-share agreement for the Tressler Drive Water Quality Improvement project with the Indian River Lagoon (IRL) Council, and

WHEREAS, the City of Stuart has previously adopted Resolution No. 73-2021, which authorized the Utilities & Engineering Department to submit a grant application for the Indian River Lagoon License Plate Funding Program.

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

SECTION 1: The Mayor is hereby authorized and directed to execute a grant agreement for the Indian River Lagoon License Plate Funding Program to provide funding for the Tressler Drive Water Quality Improvement project.

SECTION 2: The 2021-2022 Year Budget of the Enterprise Fund of the City of Stuart, Florida, being Resolution No. 38-2022 of the City Commission of the City of Stuart, Florida, as amended, hereinafter the "Budget," is hereby further amended, as follows:

From: Indian River Lagoon License Plate Funding Program:	\$89,980.00
To: Stormwater, Capital Outlay:	\$89,980.00

SECTION 3: This resolution shall take effect on adoption.

Resolution No. 38-2022

Authorization to execute IRL License Plate Grant Agreement & BA No. 11 - Tressler Drive
Water Quality Improvements

Commissioner _____ offered the foregoing resolution and moved its
adoption. The motion was seconded by Commissioner _____ and upon being put
to a roll call vote, the vote was as follows:

MERRITT MATHESON, MAYOR
TROY MCDONALD, VICE MAYOR
BECKY BRUNER, COMMISSIONER
EULA R. CLARKE, COMMISSIONER
MIKE MEIER, COMMISSIONER

YES	NO	ABSENT	ABSTAIN

ADOPTED this 11th day of April, 2022.

ATTEST:

MARY R. KINDEL
CITY CLERK

MERRITT MATHESON
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL J. MORTELL, ESQ.
CITY ATTORNEY



**2021 SOUTH FLORIDA WATER MANAGEMENT DISTRICT
INDIAN RIVER LAGOON LICENSE PLATE FUNDING AGREEMENT**

Recipient: City of Stuart Recipient's Project Manager: Tim Voelker, P.E., Utilities & Engineering Director Address: 121 SW Flagler Ave, Stuart, FL 34994 Telephone No.: 772-288-5332	Agreement Number: 4600004556 PO Number: 950000_____ Must reference above on all invoices. District Funding Amount: \$89,980.00
SFWMD Project Manager: Kathy LaMartina Telephone No.: (772) 678-9872 Email: klamart@sfwmd.gov Contract Specialist: Dora Dixon Telephone No.: (561) 682-6420 Email: ddixon@sfwmd.gov Address: 3301 Gun Club Road P.O. Box 24680 West Palm Beach, FL 33416-4680	
Insurance: NA	
Federal Employer Identification Number: 59-6000433	
Project Title: Tressler Drive Water Quality Improvement Project Description: Tressler Drive Water Quality Improvement Project will improve the quality of runoff entering the St. Lucie River to advance toward BMAP goals. Stormwater runoff currently discharges directly to Poppleton Creek. The project will redirect the runoff to a baffle box and bioswale, removing an estimated 40.92 pounds per year of total Nitrogen and 7.67 pounds per year of Total Phosphorus.	

This **Agreement** is entered into between "the Parties", the South Florida Water Management **District**, (the "**District**"), and the undersigned Applicant, hereinafter referred to as the "**Recipient**". The **Recipient** warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms and conditions of this **Agreement**, and shall abide by all legal, financial, and reporting requirements, such as matching funds and final reports for all funding received by the **Recipient** from the **District**.

ARTICLE 1 – PROJECT

- 1.1 The **Recipient** shall, to the satisfaction of the **District**, fully and timely perform all work items described in the "Statement of Work," attached hereto as Exhibit "A", and made a part of this **Agreement**.
- 1.2 As part of the services to be provided by the **Recipient** under this **Agreement**, the **Recipient** shall substantiate, in whatever forum reasonably requested by the **District**, any supporting documentation utilized as a basis for payment by the **District**. This paragraph shall survive the expiration or termination of this **Agreement**.
- 1.3 Attached to this **Agreement** are the following exhibits which are incorporated herein:
 - Exhibit A:** Statement of Work
 - Exhibit B:** Payment and Deliverable Schedule

ARTICLE 2 - TERM OF THE AGREEMENT

- 2.1 The period of performance of this **Agreement** shall commence on the last date of execution of this **Agreement** and shall continue for a period of one (1) year.
- 2.2 The Parties agree that time is of the essence in the performance of each and every obligation under this **Agreement**.

ARTICLE 3 - COMPENSATION/CONSIDERATION

- 3.1 As consideration for the Project required by this **Agreement**, the **District** shall reimburse the **Recipient** an amount not to exceed the **District** Funding Amount specified on page one (1) of this **Agreement**. Such amount is contingent upon **Recipient's** documentation verifying actual expenditures of the invoiced amount for the **District's** reimbursement of seventy-five (75%) of the project costs and **Recipient's** documentation of at least twenty-five percent (25%) of the total project costs (match). **Recipient's** match may be documented by direct expenses and/or in-kind services. The **District** shall only be obligated to pay for documented actual

expenditures within the not-to-exceed amount specified on the cover page of this **Agreement** and therefore, no additional consideration shall be authorized.

- 3.2 The **Recipient** assumes sole responsibility for all work, which shall be performed pursuant to Exhibit "A." By providing funding hereunder, the **District** does not make any warranty, guaranty, or any representation whatsoever regarding any of the work performed hereunder, including but not limited to the adequacy or sufficiency of all or any part of work described in Exhibit "A".
- 3.3 The **Recipient** hereby agrees that it shall use other sources of funding for all work associated with the design and permitting aspects of the Project. **District** funds shall only be used for the Project and tasks identified in Exhibit "A".

ARTICLE 4 – FUNDING PAYMENTS AND REPORTING

- 4.1 The **District** shall make payment to the **Recipient** upon completion and acceptance of the deliverable(s) as described in the "Payment and Deliverable Schedule", and receipt of a fully documented reimbursement package. The **Recipient's** reimbursement request package shall contain all backup documentation required to substantiate actual expenditures (see Attachment 1 to Exhibit "B"). The request shall include but is not limited to:
- **Recipient's** invoice (include the **District's Agreement** Number and Purchase Order number);
 - Signed certification letter on **Recipient's** letterhead (signed by an authorized representative of the **Recipient**) that the Project has been completed in accordance with Exhibit "A" of this **Agreement**;
 - Tasks completed per the **Agreement** (if all tasks finished, a statement indicating that the project is completed per the **Agreement**); and
 - Vendor invoices/application for payment) for the **District Project Manager(s)** to ascertain that each deliverable in the invoice has been substantially complete.
- 4.2 The **Recipient's** invoice shall reference the **District's** Agreement Number and purchase order number and shall be emailed to APInvoice@sfwmd.gov or mailed to Accounts Payable at the following address:

**South Florida Water Management District
ATTN: Accounts Payable
P.O. Box 24682
West Palm Beach, Florida 33416-4682**

The **Recipient** shall not submit an invoice to any other address at the **District** except as identified in article 4.3.

- 4.3 The **Recipient** shall submit the quarterly reports and all other deliverables, along with copies of all invoices, and documentation of the actual costs incurred and invoiced to the **District** for its 75% reimbursement and the **Recipient's** 25% match, to the Project Manager at the following address:

South Florida Water Management District

ATTN: Kathy LaMartina

421 SW Camden Ave. #1

Stuart, FL 34994

Phone: 772-221-4060 Ext. 26

Email: klamart@sfwmd.gov

- 4.4 The **District** shall have the right to inspect all work and review all reports before authorization of payment is made to the **Recipient**. It is the policy of the **District** that payment for all goods and services shall be made in a timely manner and that interest payments are made on late payments. In accordance with the applicable sections of Chapter 218 Florida Statutes; Florida Prompt Payment Act, a "proper" invoice is defined as an invoice that conforms to all statutory requirements and all **District** requirements as set forth in the **Agreement** for invoice submission. The time at which payment shall be due from the **District** shall be forty-five (45) days from receipt of a proper invoice and acceptance of services and/or deliverables, based on compliance with the statutory requirements set forth in the applicable sections of Chapter 218 Florida Statutes and upon satisfaction of the **District** conditions as detailed in the **Agreement**.

Failure of the **Recipient** to follow the instructions set forth in the **Agreement** regarding a proper invoice and acceptable services and/or deliverables may result in an unavoidable delay in payment by the **District**.

Any disputes regarding invoice payments which cannot be resolved by the appropriate department of the **District** shall be concluded by final written decision of the District Procurement Bureau Chief not later than sixty (60) days after the date on which the proper invoice was received by the **District**.

ARTICLE 5 - PROJECT MANAGEMENT

- 5.1 The Parties shall direct all matters arising in connection with the performance of this **Agreement** to the attention of the Project Manager for attempted resolution or action. The Project Manager shall be responsible for overall coordination and oversight relating to the performance of this **Agreement**.

- 5.2 All notices, demands, or other communications regarding this **Agreement**, other than those set forth in paragraph 4.2 above, shall be in writing and forwarded to the attention of both the Project Manager and the Contract Specialist noted on the first page of this **Agreement** by certified mail, return receipt requested.
- 5.3 Should either Party change its address, written notice of such new address shall promptly be sent to the other Party.
- 5.4 All correspondence to the **District** under this **Agreement** shall reference the **District's** Agreement Number.

ARTICLE 6 - INDEMNIFICATION AND INSURANCE

- 6.1 The following indemnification clause shall only be applicable to Investor-owned Utilities or Private Entities:

For value received, which is hereby acknowledged, the **Recipient** shall defend, indemnify, save and hold the **District**, its officers, directors, board members, agents, assigns, and employees, harmless from liabilities, damages, losses, and costs including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrong conduct of the **Recipient** and other persons employed or utilized by the **Recipient** in the performance of the **Agreement**. The **District** shall have the right to approve counsel selected by the **Recipient** to defend the **District** in the event the **District** is named in any legal action.

- 6.2 Government entities will be responsible for their own acts of negligence up to the amounts in Section 768.28, Florida Statutes. The entity assumes any and all risks of personal injury, bodily injury and property damage attributable to negligent acts or omissions. This in no way means that an agency consents to be sued. It should warrant and represent that it is self-funded for Worker's compensation and liability insurance, covering at a minimum bodily injury, personal injury and property damage with protection being applicable to the officers, employees, servants and agents while acting within the scope of their employment during performance under this **Agreement**. It is further agreed that nothing contained herein shall be construed or interpreted as (1) denying to either party any remedy or defense available to such party under the laws of the State of Florida; (2) the consent of the State of Florida or its agents and agencies to be sued; of (3) a waiver of sovereign immunity of the State of Florida beyond the wavier provided in Section 768.28, Florida Statutes.

- 6.3 **LIABILITY/INSURANCE:** The **Recipient** shall investigate all claims of every nature at its expense. Each party is responsible for all personal injury and property damage attributable to the negligent acts of omissions of that party and the officers, employees and agents thereof. Nothing herein shall be construed as an indemnity or a waiver of sovereign immunity enjoyed by any party hereto, as provided in Section 768.28, Florida Statutes, as amended from time to time. or any other law providing limitations on claims.

ARTICLE 7 - TERMINATION/REMEDIES

- 7.1 It is the policy of the **District** to encourage good business practices by requiring recipients to materially perform in accordance with the terms and conditions of the **Agreement**. In accordance with **District** Rule 40E-7, Part II, Florida Administrative Code, "material breach" is defined as any substantial, unexcused non-performance by failing to perform an act that is an important part of the transaction or performing an act inconsistent with the terms and conditions of the **Agreement**.

If the **Recipient** materially fails to fulfill its obligations under this **Agreement**, the **District** will provide written notice of the deficiency by forwarding a Cure Notice citing the specific nature of the material breach. The **Recipient** shall have thirty (30) days to cure the breach. If the **Recipient** fails to cure the breach within the thirty (30) day period, the **District** shall issue a Termination for Default Notice. Once the **District** has notified the **Recipient** that it has materially breached its contract with the **District**, by sending a Termination for Default Notice, the **District's** Governing Board shall determine whether the **Recipient** should be suspended from doing future work with the **District**, and if so, for what period of time. The **District's** Governing Board may consider the factors detailed in Rule 40E-7, Part II, Florida Administrative Code in making a determination as to whether a **Recipient** should be suspended, and if so, for what period of time. Should the **District** terminate for default in accordance with this provision, the **District** shall be entitled to recover procurement costs in addition to all other remedies under law and/or equity.

- 7.2 The **District** may terminate this **Agreement** at any time for convenience upon thirty (30) calendar days prior written notice to the **Recipient**. The performance of work under this **Agreement** may be terminated by the **District** in accordance with this clause in whole, or from time to time in part, whenever the **District** shall determine that such termination is in the best interest of the **District**. Any such termination shall be affected by delivery to the **Recipient** of a Notice of Termination specifying the extent to which performance of work under the **Agreement** is terminated, and the date upon which such termination becomes effective. In the event of termination for convenience, the **District** shall compensate the **Recipient** for all authorized and accepted work performed through the termination date. The **District** shall be relieved of any and all future obligations hereunder, including but not limited to, lost profits and consequential damages under this **Agreement**. The **District** may withhold all payments to the

Recipient for such work until such time as the **District** determines the exact amount due to the **Recipient**.

- 7.3 In the event a dispute arises, which the Project Managers cannot resolve between themselves, the Parties shall have the option to submit to non-binding mediation. The mediator or mediators shall be impartial, shall be selected by the Parties, and the cost of the mediation shall be borne equally by the Parties. The mediation process shall be confidential to the extent permitted by law.

ARTICLE 8 - RECORDS RETENTION

- 8.1 The **Recipient** shall maintain records and the **District** shall have inspection and audit rights as follows:

- A. Maintenance of Records. The **Recipient** shall maintain all financial and non-financial records and reports directly or indirectly related to the negotiation or performance of this **Agreement**, including supporting documentation for any service rates, expenses, research or reports. Such records shall be maintained and made available for inspection for a period of five (5) years from completing performance and receiving final payment under this **Agreement**.
- B. Examination of Records. The **District** or its designated agent shall have the right to examine in accordance with, generally accepted governmental auditing standards all records directly or indirectly related to this **Agreement**. Such examination may be made only within five (5) years from the date of final payment under this **Agreement** and upon reasonable notice, time and place.
- C. Extended Availability of Records for Legal Disputes. In the event that the **District** should become involved in a legal dispute with a third party arising from performance under this **Agreement**, the **Recipient** shall extend the period of maintenance for all records relating to the **Agreement** until the final disposition of the legal dispute, and all such records shall be made readily available to the **District**.

8.2 Public Records

- A. **Compliance with Florida Laws:** **Recipient** must provide public access to all records concerning this Agreement according to applicable Florida laws including Chapter 119, Florida Statutes. If **Recipient** asserts any exemptions to Florida's public records laws, Recipient has the burden of establishing and defending the exemption. Recipient's failure to comply with this section is a breach of this **Agreement**.

B. **Recordkeeping and Public Access:** Under the applicable sections of Chapter 119, Florida Statutes a request to inspect or copy public records relating to a District contract for services must be made directly to the District. In addition, **Recipient** must: (1) keep and maintain public records required by the District in order to perform the service; (2) upon request from the District's custodian of public records, provide the District with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by law; (3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the **Agreement** term and following completion of the **Agreement** if the **Recipient** does not transfer the records to the District; and (4) transfer, at no cost, to the District, all public records in possession of the **Recipient** or keep and maintain public records required by the District to perform the service. If the **Recipient** transfers all public records to the District upon completion of the **Agreement**, the **Recipient** shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the **Recipient** keeps and maintains public records upon completion of the **Agreement**, the **Recipient** shall meet all applicable requirements for retaining the public records. All records stored electronically must be provided to the District upon request from the District's custodian of public records, in a format that is compatible with the information technology systems of the District. At the conclusion of the **Agreement** with the District, **Recipient** shall provide all applicable records associated with this Agreement on electronic media (CD-ROM or USB flash drive).

C. **IF THE RECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE RECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT TELEPHONE NUMBER (561) 682-2729, EMAIL ADDRESS PUBLCRECORDS@SFWMD.GOV AND MAILING ADDRESS: 3301 GUN CLUB ROAD, WEST PALM BEACH, FL 33406.**

ARTICLE 9 - STANDARDS OF COMPLIANCE

- 9.1 The **Recipient**, its employees, subcontractors or assigns, shall comply with all applicable federal, state, and local laws and regulations relating to the performance of this **Agreement**. The **District** undertakes no duty to ensure such compliance, but will attempt to advise the **Recipient**, upon request, as to any such laws of which it has present knowledge.

- 9.2 The laws of the State of Florida shall govern all aspects of this **Agreement**. In the event it is necessary for either party to initiate legal action regarding this **Agreement**, venue shall be in the Fifteenth Judicial Circuit for claims under state law and in the Southern District of Florida for any claims which are justifiable in federal court.
- 9.3 Pursuant to the applicable sections of Chapter 216, Florida Statutes, the **Recipient** is prohibited from the expenditure of any funds under this **Agreement** to lobby the Legislature, the judicial branch, or state agency.
- 9.4 The **Recipient** shall allow public access to all Project documents and materials in accordance with the provisions of Chapter 119 of the Florida Statutes. Should the **Recipient** assert any exemptions to the requirements of Chapter 119 and related Statutes, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon the **Recipient**
- 9.5 The **Recipient** shall obtain, at its sole expense, all necessary licenses, authorizations and permits from the appropriate private party or federal, state, municipal or local agency, and other governmental approvals, prior to commencing performance of this **Agreement**. A delay in obtaining permits shall not give rise to a claim by the **Recipient** for additional compensation. If the **Recipient** is unable to obtain all necessary permits in a timely manner, either party may elect to terminate this **Agreement**, each party to bear its own costs, notwithstanding other provisions of this **Agreement** to the contrary.
- 9.6 The **Recipient** hereby assures that no person shall be excluded on the grounds of race, color, creed, national origin, handicap, age, or sex, from participation in, denied the benefits of, or is otherwise subjected to discrimination in any activity under this **Agreement**. The **Recipient** shall take all measures necessary to effectuate these assurances.
- 9.7 The **Recipient** is hereby authorized to contract with third parties (subcontracts) for services awarded through a competitive process required by Florida Statutes. The **Recipient** shall not subcontract, assign or transfer any other work under this **Agreement** without the prior written consent of the **District's** Project Manager. The **Recipient** agrees to be responsible for the fulfillment of all work elements included in any subcontract and agrees to be responsible for the payment of all monies due under any subcontract. It is understood and agreed by the **Recipient** that the **District** shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract(s).

- 9.7 Pursuant to Section 287.133 of the Florida Statutes, a person or affiliate who has been placed on the convicted vendor list may not submit a bid, proposal, or reply to a request to provide any goods or services related to the construction of the Project contemplated herein. **Recipient** also assures that it is not on the District's Suspension of Contractors List. **Recipient** agrees to include a provision to this effect in all requests for proposals and subcontracts related to construction of this project.
- 9.8 **Scrutinized Companies.** Recipient shall comply with section 287.135, Florida Statutes. The Recipient further understands and accepts that this **Agreement** shall be either void by the **District** or subject to immediate termination by the **District** in the event there is any misrepresentation or false certification on the part of the Recipient. The **District**, in the event of such termination, shall not incur any liability to the Recipient for any work or materials furnished.

ARTICLE 10 - RELATIONSHIP BETWEEN THE PARTIES

- 10.1 The **Recipient** shall be considered an independent contractor and neither party shall be considered an employee or agent of the other party. Nothing in this **Agreement** shall be interpreted to establish any relationship other than that of an independent contractor between the parties and their respective employees, agents, subcontractors, or assigns, during or after the performance on this **Agreement**. Both parties are free to enter into contracts with other parties for similar services.
- 10.2 The **Recipient** shall not assign, delegate, or otherwise transfer its rights and obligations as set forth in this **Agreement** without the prior written consent of the **District**. Any attempted assignment in violation of this provision shall be null and void.
- 10.3 It is the intent and understanding of the Parties that this **Agreement** is solely for the benefit of the **Recipient** and the **District**. No person or entity other than the **Recipient** or the **District** shall have any rights or privileges under this **Agreement** in any capacity whatsoever, either as third-party beneficiary or otherwise.

ARTICLE 11 - GENERAL PROVISIONS

- 11.1 Notwithstanding any provisions of this **Agreement** to the contrary, the Parties shall not be held liable for any failure or delay in the performance of this **Agreement** 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 **Agreement** shall otherwise remain in effect. This provision shall not apply if the "Statement of Work" of this **Agreement** specifies that performance by the **Recipient** is specifically required during the occurrence of any of the events herein mentioned.

11.2 Any inconsistency in this **Agreement** shall be resolved by giving precedence in the following order:

- (a) Terms and Conditions outlined in Articles 1-11
- (b) Exhibit "A" Statement of Work
- (c) All other exhibits, attachments, and documents specifically incorporated herein by reference

11.3 Failures or waivers to insist on strict performance of any covenant, condition, or provision of this **Agreement** 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 **Agreement**. 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 **Agreement** specifically referred to therein and shall not be deemed a waiver of any other provision. No waiver shall constitute a continuing waiver unless the writing states otherwise.

11.4 Should any term or provision of this **Agreement** 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 **Agreement**, to the extent that the **Agreement** shall remain operable, enforceable and in full force and effect to the extent permitted by law.

11.5 This **Agreement** may be amended only with the written approval of the Parties.

11.6 This **Agreement** may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy, email or facsimile copy of this **Agreement** and any signatory hereon shall be considered for all purposes as original.

11.7 This **Agreement** states the entire understanding and **Agreement** between the Parties and supersedes any and all written or oral representations, statements, negotiations or Agreements previously existing between the Parties with respect to the subject matter of this **Agreement**. The **Recipient** recognizes that any representations, statements or negotiations made by **District** staff do not suffice to legally bind the **District** in a contractual relationship unless they have been reduced to writing and signed by an authorized **District** representative. This **Agreement** shall inure to the benefit of and shall be binding upon the parties, their respective assigns,

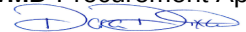
and successors in interest. This **Agreement** may be amended only with the written approval of the Parties.

IN WITNESS WHEREOF, the Parties or their duly authorized representatives hereby execute this **Agreement** on the date written below.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

By: _____
Candida Heater, Director
Administrative Services Division

Date: _____

 **SFWM** Procurement Approved
By:  Date: 03/22/2022

CITY OF STUART

By: _____
Authorized Official

Title: _____

Date: _____

EXHIBIT "A"
STATEMENT OF WORK
TRESSLER DRIVE WATER QUALITY IMPROVEMENT PROJECT

1.0 INTRODUCTION

The project is in the City of Stuart, Florida in the Poppleton Creek drainage basin. Stormwater runoff from a 13.7-acre urban residential development currently discharges directly to Poppleton Creek. This project proposes to construct a 2nd generation baffle box and bioswale to treat runoff prior to discharge. The project will remove nutrients and sediment and provide stormwater retention and is important for the City to continue progress towards BMAP requirements for the St. Lucie River. The City has spent nearly two decades investing in conservation and water quality improvements that include restoration of previously disturbed environmentally sensitive lands. Concurrently, the City completed stormwater treatment projects including the installation of dozens of baffle boxes in strategic locations throughout the downtown area. The proposed 2nd generation baffle box and bioswale for the Poppleton Creek drainage basin will further these many efforts to mitigate and eventually eliminate nutrient pollution from runoff throughout Stuart.

2.0 BENEFITS TO THE IRL

The improvements will remove 40.92 pounds per year of TN, 7.67 pounds per year of TP, and 502.72 pounds per year of TSS from untreated stormwater prior to discharge to Poppleton Creek, and ultimately to the St. Lucie River.

3.0 LOCATION OF PROJECT

Located in Stuart, Florida within the Poppleton Creek drainage basin along SE Tressler Drive. Latitude 27°11'10.20"N, Longitude 80°15'1.52"W.

4.0 SCOPE OF WORK

Outputs include:

- Construction of a 2nd generation baffle box and bioswale to treat runoff into Poppleton creek.
- Public Education about the benefits of the project through signage at the project location, website materials, and social media posts.

5.0 WORK BREAKDOWN STRUCTURE

Task 1. Bidding. The City of Stuart will bid the permitted design drawings for the bioswale construction, baffle box installation, and associated restoration. A contractor will be selected among the most responsive and responsible bidders, and the City will execute a contract with the contractor for the proposed scope of work. A copy of the bid documents, construction drawings, technical specifications, and the notice to proceed will be provided.

Task 2. Construction. The project proposes to construct a 2nd generation baffle box and bioswale to treat runoff prior to discharge. All improvements will be constructed according to the approved construction drawings and technical specifications. As built drawings will be provided at the completion of construction.

Task 3. Education. The City will post signage at the project site showing the project concept plan during construction. The City will also include a new project summary on the City's website and social media sharing the project benefits at the completion of the project.

Task 4. Quarterly Reports. The City will submit quarterly reports updating the South Florida Water Management District Project Manager and the Indian River Lagoon Council on the progress for the project.

Task 5. Final Report. The City will submit a final report at the completion of the project. The final report is intended to capture a brief summary of the project, financial summary of the actual grant and match expenditures, and include construction photos.

6.0 COST BREAKDOWN AND TASK

Detailed Project Budget

Task	Deliverable	IRLNEP Cost Share Funding Amount	City Cost Share Funding Amount	City Cost Share Funding Source (In-kind or Cash)	IRL License Tag Fund
1	Bidding	\$0	\$3,000	City (Cash)	\$0
2	Construction of Improvements	\$80,000	\$68,782.23	City (Cash)	\$89,980
	Construction Engineering and Inspection (CEI)	\$0	\$13,500	City (Cash)	\$0
3	Education	\$0	\$3,000	City (Cash and In-Kind)	\$0
4	Quarterly Reports	\$0	\$0		\$0
5	Final Report	\$0	\$4,000	City (Cash)	\$0
	Summary Cost	\$80,000	\$92,282.23		\$89,980
	Project Total Cost	\$262,262.23			

EXHIBIT "B"
PAYMENT AND DELIVERABLE SCHEDULE

Recipient may invoice the District requesting a reimbursement of 75% of the total costs to complete each deliverable within the not-to-exceed maximum amount shown below. Payment is contingent upon the Recipient providing documentation with each invoice showing actual expenditures, including its minimum 25% cost share, as well as providing the deliverables as described in the Payment and Deliverable Schedule. The District shall only be obligated to reimburse for documented actual expenditures within the not-to-exceed amounts specified below.

All deliverables submitted hereunder are subject to review and acceptance by the District. Acceptability of all work will be based on the judgment of the District that the work is technically complete and accurate.

The Recipient shall be responsible for submitting Quarterly Reports starting after the first quarter following Agreement execution to the District Project Manager. The Recipient shall deliver to District a complete set of deliverables for this task including a summary sheet of all invoices paid for each period. The Recipient shall be responsible for all aspects of managing and completing the project as described in Exhibit "A".

TASK	DELIVERABLE	TASK SCHEDULE START-END	NOT TO EXCEED AMOUNT	DELIVERABLE DUE DATE
1 Bidding	Bid Documents, Construction drawings and technical specs, notice to proceed letter	February 1, 2022- April 1, 2022	\$3,000	May 1, 2022
4 Quarterly Reports	Quarterly Reports	February 1, 2022- April 30, 2022	\$0	May 31, 2022
4 Quarterly Reports	Quarterly Reports	May 1, 2022 - July 31, 2022	\$0	August 31, 2022
2 Construction & Inspection	As-builts	May 2, 2022- July 31, 2022	\$252,262.23	September 30, 2022
3 Education	Photo of project signage, copy of website literature and social media posts	May 2, 2022- July 31, 2022	\$3,000	September 30, 2022
4 Quarterly Reports	Quarterly Reports	August 1, 2022- September 30, 2022	\$0	September 30, 2022
5 Final Report	Final Report & Statement	August 1, 2022- September 30, 2022	\$4,000	September 30, 2022

PROJECT FUNDING
Cost Sharing

Project Funding Source	Amount	Attachments
Total Project Cost	\$262,262.23	Cost estimate without CEI
Match Funds awarded by IRL Council	\$80,000	Agreement Contract IRL2021-16
Match City of Stuart Cash and In-Kind	\$92,282.23	2022 Approved Budget
Funds requested from SFWMD IRL License Tag Fund	\$89,980	
% Match: (Match/Total Project Costs)	52.6%	

Attachment 1

Documentation Required for all Contract Payments

Listed below are the minimum requirements for documentation to support invoice payment requests. Additional requirements may be in effect for this contract depending on the source of funds for this work.

Contractors and Recipients performing work must maintain accurate books, records, documents and other evidence that sufficiently and properly support all direct and indirect costs expended in the performance of the contract or agreement. The Contractor or Recipient shall allow the District, Federal, State, or other parties providing contract funding, access to periodically inspect, review or audit such documents as books, vouchers, records, reports, canceled checks, payroll registers or any and all similar material as deemed necessary. These records shall be maintained for five years following the close of the contract or agreement.

Project deliverables and services performed by the Contractor or Recipient should be in a proper and satisfactory manner as described in the Statement of Work. Only Contractor or Recipient expenditures for goods, services and other deliverables falling within the categories agreed to pursuant to the Statement of Work and approved contract budget should be paid. All costs should be reasonable, appropriate, necessary, valid and eligible. Expenditures should be made in accordance with applicable laws, rules and regulations and complete (transactions are documented, and all funds are accounted for).

Expenditures for periods prior to the current billing period will only be approved if supported by adequate documentation along with a written explanation as to why the expense was not submitted during the correct billing period.

Expenditures for work performed prior to the execution of an agreement are not allowable unless specifically provided for in the contract.

Invoices for fixed unit rate contracts must show the number of service units being billed, the cost per unit, and be in agreement with contract terms and conditions.

In detail, invoices and the documentation accompanying invoices for services under contracts which are not fixed price must include the following:

1. The beginning and end date of the work period being invoiced should be specified on all contractor, Recipient and subcontractor invoices. The invoice date and the date of services and deliverables provided should not precede the date that a contract was executed unless specifically provided for in the contract. Similarly, the end date of contracts and related agreements should not be exceeded in terms of invoice dates, services, etc. without the execution of a contract amendment. Deliverables should be specifically quantifiable, measurable, and verifiable. The completion of all tasks/services included in the Statement of Work should be required to meet all deliverables prior to approval for final Contractor or Recipient payment.

2. Detailed description of material purchased, work completed, and/or service performed, in direct relation to each project or project component, along with project name or number should be provided.
3. Supporting documentation for each invoice should be complete, mathematically accurate, sufficient in detail, and verifiable.
 - a. The invoicing of labor costs, if applicable, should be accompanied by documentation supporting the pay rate and the employees' job title along with approved timesheets covering the period of service. Pay rates and job titles must agree to rates and job titles specified in the contract. Summary schedules should be supported by detailed records totaling the amounts on the summary schedule. The Contractor or Recipient must maintain and provide upon request the relevant payroll register pages covering the period of service.
 - b. If the contract specifies that indirect costs may be charged based on a specified rate, then the calculation must be provided. In the absence of this indirect costs will not be allowable.
 - c. Purchases or rental of commodities such as materials, equipment, tools, etc. should be accompanied by an invoice or receipt from the supplier that describes what was purchased, the date of purchase, the number of units, and the cost per unit. Purchases should be allowable per the agreement, directly related to the scope of work, reasonable and within the agreement period.
 - d. Invoices for services provided should be in sufficient detail as to determine 1) what was provided (to determine how it relates to the overall contract); 2) when the services were provided (to determine whether the amounts being billed pertain to the correct period); 3) the unit price and total cost of what was provided (to determine whether it's reasonable given the task performed); and 4) minimum performance standards were achieved in accordance with contract requirements and expectations.
 - e. If the contract allows for the separate billing of travel costs such costs must comply with the District's travel policy which includes the submission of a completed District provided *Travel Expense Reimbursement* form along with documentation of all travel expense items listed on the form. If the District's form is not used, the form must contain the same information as provided in the District's form.
 - f. Vehicle and/or equipment allowance and usage charges should be reported in detail by number of hours used and dates of use. Contractors/Recipients must maintain documentation by use of a log that shows the vehicle/equipment description, the location where the item was in use, if a vehicle it should show the beginning and ending odometer readings along with total mileage and if a piece of equipment it should show the beginning and ending times that the equipment was in use for and who the operators were. A copy of the log for the applicable time frame must be submitted with the invoice package. Usage of vehicles and equipment should be reasonable based on the task being performed and agree to the rates as specified in the contract.
 - g. The requirements above also apply to subcontractors.

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 4/11/2022

Prepared by: Alaina Knofla

Title of Item:

AWARD OF ITB# 2022-107: TRESSLER DRIVE WATER QUALITY IMPROVEMENTS PROJECT (RC):

RESOLUTION No. 40-2022; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA APPROVES THE AWARD OF ITB #2022-107, TRESSLER DRIVE WATER QUALITY IMPROVEMENTS PROJECT TO THE LOWEST, RESPONSIVE, AND RESPONSIBLE BIDDER WITH A TOTAL UNIT PRICE OF \$238,762.23 TO FERREIRA CONSTRUCTION SOUTHERN DIVISION CO., INC. OF HOBE SOUND, FLORIDA PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

This solicitation was advertised in the Palm Beach Post on January 28, 2022. DemandStar notified four hundred ninety-seven (497) potential bidders, there were twenty-nine (29) plan holders, and issued five (5) bid packages for this project. Four (4) bids were received by the bid opening date and time of 2:30 pm. February 23, 2022.

Utilities and Engineering Staff has checked references and recommends award of the lowest responsive, responsible bidder, for the total of \$238,762.23.

Funding Source:

1810/563

Recommended Action:

Adopt Resolution No. 40-2022

ATTACHMENTS:

1. 40-2022



**BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA**

RESOLUTION NUMBER 40-2022

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA APPROVES THE AWARD OF ITB #2022-107, TRESSLER DRIVE WATER QUALITY IMPROVEMENTS PROJECT TO THE LOWEST, RESPONSIVE, AND RESPONSIBLE BIDDER WITH A TOTAL UNIT PRICE OF \$238,762.23 TO FERREIRA CONSTRUCTION SOUTHERN DIVISION CO., INC. OF HOBE SOUND, FLORIDA PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

* * * * *

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

WHEREAS, the City entered into the competitive bid process in order to solicit licensed general contractors to submit for construction of the Tressler Drive Water Quality Improvements project.

WHEREAS, the project consist of erosion control, vegetation removal, demolition/grouting of existing culvert, installation of a Nutrient Separating Generation 2 Baffle Box with ancillary concrete drainage structures & piping, grading and planting of bio-swale, placement of rip-rap and asphalt roadway construction/restoration. Work shall include furnishing all labor, materials, and equipment to complete the work as specified and in accordance with the drawings, specifications, and other contract documents.

SECTION 1: The City Commission of the City of Stuart hereby approves the award of ITB #2022-107: Tressler Drive Water Quality Improvements Project to the lowest, responsive, and responsible bidder, Heavy Civil, Inc., of Pompano Beach, Florida at the unit price total of \$238,762.23; subsequent to review and approval by City Attorney.

SECTION 2: This resolution shall take effect upon adoption.

Commissioner _____ offered the foregoing resolution and moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a roll call vote, the vote was as follows:

MERRITT MATHESON, MAYOR
TROY MCDONALD, VICE MAYOR
BECKY BRUNER, COMMISSIONER
EUALA R. CLARKE, COMMISSIONER
MIKE MEIER, COMMISSIONER

YES	NO	ABSENT	ABSTAIN

ADOPTED this 11th day of April 2022.

ATTEST:

MARY R. KINDEL
CITY CLERK

MERRITT MATHESON
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL J. MORTELL, ESQ.
CITY ATTORNEY

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 4/11/2022

Prepared by: Joe Tumminelli

Title of Item:

AUTHORIZING BUDGET AMENDMENT NO. 12 TO THE 2021-2022 POLICE BUDGET (1190) (RC):

RESOLUTION No. 42-2022; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AUTHORIZING BUDGET AMENDMENT No. 12 TO THE 2021-2022 POLICE BUDGET (1190); APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF FUNDS FOR THE INVESTMENT AND ENHANCEMENT OF TECHNOLOGY AND EQUIPMENT TO EFFICIENTLY RESPOND TO GUN VIOLENCE.

Summary Explanation/Background Information on Agenda Request:

This is a budget amendment to allocate funds from undesignated ARPA fund balance to the police budget in order to purchase technology. Purchases of this nature are specifically authorized in the final rule of the ARPA allowed funds use.

Funding Source:

American Rescue Plan Act (ARPA)

Recommended Action:

Motion To Approve

ATTACHMENTS:

1. R42-2022 BA #12 ARPA Funding for investigations of Gun Violence



**BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA**

RESOLUTION NUMBER 42-2022

**A RESOLUTION OF THE CITY COMMISSION OF
THE CITY OF STUART, FLORIDA, AUTHORIZING
BUDGET ADMENDMENT NO. 12 TO THE 2021-2022
POLICE BUDGET (1190); APPROPRIATING AND
AUTHORIZING THE EXPENDITURE OF FUNDS
FOR THE INVESTMENT AND ENHANCEMENT OF
TECHNOLOGY AND EQUIPMENT TO
EFFICIENTLY RESPOND TO GUN VIOLENCE.**

* * * * *

WHEREAS, Section 9901 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-2, §9901) added section 603(a) to the Social Security Act ("ARPA"), which created the Coronavirus Local Fiscal Recovery Fund for the purpose of providing funds to local governments to facilitate the ongoing recovery from the COVID-19 pandemic; and

WHEREAS, the State of Florida, Division of Emergency Management has received funds to disburse from the U.S. Department of Treasury that have been earmarked for non-entitlement units of local government, which includes the City of Stuart, Florida; and

WHEREAS the City has had an increase in gun violence over the course of two years during the pandemic and is looking to improve the infrastructure of existing investigative tools to combat such violence. Evidence-based factors to combat gun violence and to invest and enhance technology and equipment to allow the Stuart Police Department to efficiently respond to gun violence.

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF STUART,
FLORIDA, AS FOLLOWS:**

SECTION 1: The 2021-2022 Year Budget of the Police Department (1190) of the City of Stuart, Florida, being Resolution No. 42-2022 of the City Commission of the City of Stuart, Florida, as amended, hereinafter the "Budget," is hereby further amended, as follows:

From: ARPA (Rescue Plan) Funds \$64,650.00

To: Police Department 1190.552 (operating) \$64,650.00

SECTION 2: This resolution shall take effect on adoption.

Commissioner _____ offered the foregoing resolution and moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a roll call vote, the vote was as follows:

MERRITT MATHESON, MAYOR
TROY MCDONALD, VICE MAYOR
BECKY BRUNER, COMMISSIONER
EULA R. CLARKE, COMMISSIONER
MIKE MEIER, COMMISSIONER

YES	NO	ABSENT	ABSTAIN

ADOPTED this ____ day of _____.

ATTEST:

MARY R. KINDEL
CITY CLERK

MERRITT MATHESON
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL J. MORTELL, ESQ.
CITY ATTORNEY

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 4/11/2022

Prepared by: David Dyess

Title of Item:

SATISFYING THE BALANCE OF PALMETTO HARBOR ASSESSMENT (RC):

RESOLUTION 39-2022; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA ABSOLVING THE NON- AD VALOREM ASSESSMENT ROLL FOR "PALMETTO HARBOR SEWER PROJECT"; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

In 2007, the city commission approved a non-ad valorem assessment to provide sewer for the Palmetto Harbor neighborhood. At that time, the city was not running grinder sewers in that area. The neighborhood voted and approved to be assessed for the sewer hook up. The principal assessment was for \$10,753.76 at an 8% interest rate.

In 2012, the discussion was brought up about the cost of the principle in relation to the sign up and save grinder system that was less expensive. Several options were examined to include a rebate on some of the principle. However, I can not find where a specific option discussed was chosen as it was left to a neighborhood vote. The finance director has advised that none of the remaining 18 properties received a rebate if one was implemented.

In March of 2022, the city was approached about the assessment. The discussion was about the interest rate and how unbalanced it is in relation to the principal. At the completion of this year, over \$15,000.00 will have been paid. The assessment has five years remaining. After speaking with both the utilities director and the finance director, we are all in agreement that the assessment should be considered satisfied.

Funding Source:

N/A

Recommended Action:

Motion to approve

ATTACHMENTS:

1. R39-2022 Absolve PALMETTO HARBOR SEWER PROJECT from debt balance
2. Attachment A
3. 109-2007



**BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA**

RESOLUTION NUMBER 39-2022

**A RESOLUTION OF THE CITY COMMISSION OF
THE CITY OF STUART, FLORIDA ABSOLVING
THE NON- AD VALOREM ASSESSMENT ROLL FOR
“PALMETTO HARBOR SEWER PROJECT”;
PROVIDING AN EFFECTIVE DATE; AND FOR
OTHER PURPOSES.**

* * * * *

WHEREAS, the City of Stuart City Commission approved Resolution 109-07 authorizing a non-ad valorem assessment roll for “Palmetto Harbor Sewer Project” pursuant to Florida Statute 197.3632; and

WHEREAS, the Martin County Tax Collector has been assessing the properties since September of 2007 at an approximate rate of \$1,014.60 per year; and

WHEREAS, the original principle was approximately \$10,753.76 and the City of Stuart City Commission agrees that the principle debt has been satisfied and a reasonable amount of interest collected. The City of Stuart City Commission desires to absolve the balance of the “Palmetto Harbor Sewer Project” non-ad valorem assessment.

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

SECTION 1: The City hereby absolves the balance of the non-ad valorem assessment roll for the “Palmetto Harbor Sewer Project Special Assessment” and declares the roll satisfied.

SECTION 2: The City Manager is directed to certify to the Martin County Tax Collector in an

electronic medium indicating that the non-ad valorem assessment roll for the properties attached hereto as "Attachment A" are satisfied on or before September 15, 2022.

SECTION 3: This resolution shall take effect upon adoption.

Commissioner _____ offered the foregoing resolution and moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a roll call vote, the vote was as follows:

MERRITT MATHESON, MAYOR
TROY MCDONALD, VICE MAYOR
BECKY BRUNER, COMMISSIONER
EULA R. CLARKE, COMMISSIONER
MIKE MEIER, COMMISSIONER

YES	NO	ABSENT	ABSTAIN

ADOPTED this 11th day of April 2022.

ATTEST:

MARY R. KINDEL
CITY CLERK

MERRITT MATHESON
MAYOR

REVIEWED FOR FORM AND
CORRECTNESS:

MICHAEL J. MORTELL
CITY ATTORNEY

Attachment A

PCN	Address
0838410000000021760000	518 SW North Carolina Dr.
0838410000050016020000	540 SW North Carolina Dr.
0838410000050018080000	530 SW North Carolina Dr.
0838410000050024060000	541 N North Carolina Dr.
08384100900000015060000	515 SW North Carolina Dr.
08384100900000017020000	513 SW North Carolina Dr.
08384100900000019080000	511 SW North Carolina Dr.
08384100900000025050000	505 SW North Carolina Dr.
08384100900000027010000	503 SW North Carolina Dr.
08384100900000030050000	501 SW South Carolina Dr.
08384100900000026030000	502 SW South Carolina Dr.
08384100900000031030000	503 SW South Carolina Dr.
08384100900000032010000	505 SW South Carolina Dr.
08384100900000033090000	507 SW South Carolina Dr.
08384100900000034070000	509 SW South Carolina Dr.
08384100900000035040000	511 SW South Carolina Dr.
08384100900000037000000	515 SW South Carolina Dr.
08384100900000012030000	516 SW South Carolina Dr.

City of Stuart

Salfish Capital of the World

CITY OF STUART, FLORIDA

RESOLUTION NUMBER 109-07

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA ADOPTING THE NON-AD VALOREM ASSESSMENT ROLL FOR "PALMETTO HARBOR SEWER PROJECT" PURSUANT TO SEC 197.3632 FLORIDA STATUTES; DIRECTING THE MAYOR TO CERTIFY THE ASSESSMENT ROLL TO THE MARTIN COUNTY TAX COLLECTOR BY SEPTEMBER 15, 2007 AS REQUIRED BY LAW; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA that:

SECTION 1: The City completed construction of the "Palmetto Harbor Sewer Project Special Assessment Project" and has previously announced its intention to levy a special assessment to pay a portion of the project costs and collect the special assessments using the uniformed method of collection" as described in s. 197.3632, Florida Statutes. A public hearing was conducted on December 18, 2006 at which the City Commission received written objections and testimony from interested persons.

SECTION 2: The City hereby adopts the non-ad valorem assessment roll for the project. A copy of the assessment roll is attached hereto as "Attachment A." The unit of measurement for the special assessment is established on a lot by lot basis, that is, the assessments are spread equally among the assessed lots in which each lot receives a special benefit from the project.

SECTION 3: The City Clerk as designee of the Mayor shall certify the assessment roll in an electronic medium to the Martin County Tax Collector on or before September 15, 2007.

The assessment for each parcel shall be posted on the roll.

SECTION 4: This resolution shall take effect upon adoption.

Resolution 109-07

Commissioner Krauskopf offered the foregoing resolution and moved its adoption.
The motion was seconded by Commissioner Christie and upon being put to a
roll call vote, the vote was
as follows:

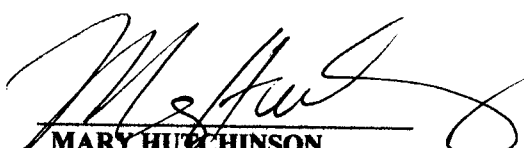
MARY HUTCHINSON, MAYOR
JEFFREY KRAUSKOPF, VICE MAYOR
JAMES A. CHRISTIE, COMMISSIONER
MICHAEL MORTELL, COMMISSIONER
CAROL WAXLER, COMMISSIONER

YES	NO	ABSENT
✓		
✓		
✓		
✓		
✓		

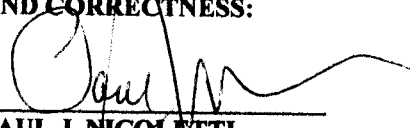
ADOPTED this 27th day of August 2007.

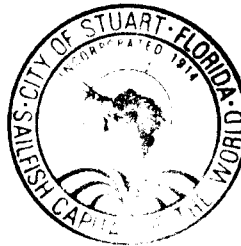
ATTEST:


CHERYL WHITE
CITY CLERK


MARY HUTCHINSON
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:


PAUL J. NICOLETTI
CITY ATTORNEY



NORTH / SOUTH CAROLINA DRIVE SEWER
YEAR 1 of 20
ALLOCATION

#	PCN	PROPERTY ADDRESS	OWNER	TOTAL	PRINCIPAL	INTEREST
1	08-38-41-000-000193-4	550 SW NORTH CAROLINA DR	PRENNER, BARNARD JACK & CATHY L (TR)	10753.76	217.68	796.92
2	08-38-41-000-000217-6	518 SW NORTH CAROLINA DR	JONES, L WINONA	10753.76	217.68	796.92
3	08-38-41-000-00010-4	500 SW NORTH CAROLINA DR	FRANCKE, DALE H & ELAINE G	10753.76	217.68	796.92
4	08-38-41-000-00030-0	510 SW NORTH CAROLINA DR	VALENT, LAWRENCE R & SYLVIA M	10753.76	217.68	796.92
5	08-38-41-000-00060-5	512 SW NORTH CAROLINA DR	DEBERRY, LOTTIE LEE (TR) DEC'D	10753.76	217.68	796.92
6	08-38-41-000-00070-1	514 SW NORTH CAROLINA DR	TODZIA, DANIEL & TODZIA, LAURA	10753.76	217.68	796.92
7	08-38-41-000-000120-1	520 SW NORTH CAROLINA DR	FIRST UNITED METHODIST CHURCH FLORIDA CONFERENCE OFFICE	10753.76	217.68	796.92
8	08-38-41-000-000180-2	540 SW NORTH CAROLINA DR	KARRAS, JOHN LOUIS	10753.76	217.68	796.92
9	08-38-41-000-000180-8	530 SW NORTH CAROLINA DR	ZARRO, JOANNE R	10753.76	217.68	796.92
10	08-38-41-000-000220-0	551 SW NORTH CAROLINA DR	BRINSLEY, NORMAN S & MARGO E	10753.76	217.68	796.92
11	08-38-41-000-000240-6	541 SW NORTH CAROLINA DR	DERRENBACHER, DAVID B & STACEY	10753.76	217.68	796.92
12	08-38-41-000-00010-8	531 SW NORTH CAROLINA DR	SANFORD, JAMES TERRY JR & LAURENCE G	10753.76	217.68	796.92
13	08-38-41-000-00021-3	527 SW NORTH CAROLINA DR	CHESKATY, REX B	10753.76	217.68	796.92
14	08-38-41-000-00090-9	523 SW NORTH CAROLINA DR	TARALLO, ANTHONY A	10753.76	217.68	796.92
15	08-38-41-000-000110-5	521 SW NORTH CAROLINA DR	CELESTE, SALVATORE A & SUSAN S	10753.76	217.68	796.92
16	08-38-41-000-000130-1	517 SW NORTH CAROLINA DR	FLYNN, JAMES P	10753.76	217.68	796.92
17	08-38-41-000-000150-6	515 SW NORTH CAROLINA DR	COOK, ROBERT C JR & LEEANNE F	10753.76	217.68	796.92
18	08-38-41-000-000170-2	513 SW NORTH CAROLINA DR	JONES, ANDREW C	10753.76	217.68	796.92
19	08-38-41-000-000180-8	511 SW NORTH CAROLINA DR	FALK, ALLEN W	10753.76	217.68	796.92
20	08-38-41-000-000210-4	509 SW NORTH CAROLINA DR	MATTHEWS, ANNA	10753.76	217.68	796.92
21	08-38-41-000-000230-0	507 SW NORTH CAROLINA DR	FEDELE, GREGORY T & WAGNER, KIM L (JTRS)	10753.76	217.68	796.92
22	08-38-41-000-000250-5	505 SW NORTH CAROLINA DR	WILSON, JOSEPHINE	10753.76	217.68	796.92
23	08-38-41-000-000270-1	503 SW NORTH CAROLINA DR	KEARNEY, RUSSELL & KEARNEY, DEBORAH	10753.76	217.68	796.92
24	08-38-41-000-000290-7	501 SW NORTH CAROLINA DR	DAVIS, WILLIAM EDWARD	10753.76	217.68	796.92
25	08-38-41-000-000280-8	500 SW SOUTH CAROLINA DR	ROSOLOWSKI, CHESTER & SUSAN	10753.76	217.68	796.92
26	08-38-41-000-000300-5	501 SW SOUTH CAROLINA DR	MCCRAGHAN, SHAWN R	10753.76	217.68	796.92
27	08-38-41-000-000280-3	502 SW SOUTH CAROLINA DR	THILLBERG, CARL W SR	10753.76	217.68	796.92
28	08-38-41-000-000310-3	503 SW SOUTH CAROLINA DR	CARROLL, JAMES P & LAURA	10753.76	217.68	796.92
29	08-38-41-000-000240-8	504 SW SOUTH CAROLINA DR	MARTINSEN, ERNST	10753.76	217.68	796.92
30	08-38-41-000-000320-1	505 SW SOUTH CAROLINA DR	POLLEY, RAYMOND M	10753.76	217.68	796.92
31	08-38-41-000-000220-2	506 SW SOUTH CAROLINA DR	KISSANE, MICHAEL J & CAROL	10753.76	217.68	796.92

Attachment A pg 1 of 2

NORTH / SOUTH CAROLINA DRIVE SEWER
YEAR 1 of 20
ALLOCATION

32	08-38-41-009-000-00330-9	507 SW SOUTH CAROLINA DR	FROEHLING, TRACEE V	10753.76	217.68	796.92
33	08-38-41-009-000-00200-6	508 SW SOUTH CAROLINA DR	MOFAZELLI, STEVEN & MOFAZELLI, DIANE	10753.76	217.68	796.92
34	08-38-41-009-000-00340-7	509 SW SOUTH CAROLINA DR	JOHNSTON, LORETTA B	10753.76	217.68	796.92
35	08-38-41-009-000-00180-0	510 SW SOUTH CAROLINA DR	GEARY, JUANITA D (CO-TRS) & GEARY, EDWARD A (CO-TRS)	10753.76	217.68	796.92
36	08-38-41-009-000-00350-4	511 SW SOUTH CAROLINA DR	DEMARS, MARK E	10753.76	217.68	796.92
37	08-38-41-009-000-00180-4	512 SW SOUTH CAROLINA DR	MACDOWELL, WILLIAM G	10753.76	217.68	796.92
38	08-38-41-009-000-00360-2	513 SW SOUTH CAROLINA DR	SHAW, ROBERT W	10753.76	217.68	796.92
39	08-38-41-009-000-00140-9	514 SW SOUTH CAROLINA DR	NICHOLSON, RONALD J & NICHOLSON, VICKI	10753.76	217.68	796.92
40	08-38-41-009-000-00370-0	515 SW SOUTH CAROLINA DR	HOWELL, TIMOTHY J	10753.76	217.68	796.92
41	08-38-41-009-000-00120-3	516 SW SOUTH CAROLINA DR	ALBANESE, THOMAS & CAROL	10753.76	217.68	796.92
42	08-38-41-009-000-00380-8	517 SW SOUTH CAROLINA DR	HILL, NANCY R	10753.76	217.68	796.92
43	08-38-41-009-000-00100-7	518 SW SOUTH CAROLINA DR	STOELTING, MICHELE	10753.76	217.68	796.92
44	08-38-41-009-000-00080-1	519 SW SOUTH CAROLINA DR	GUILD, LINDA L & GUILD, MERLE R	10753.76	217.68	796.92
45	08-38-41-009-000-00070-3	521 SW SOUTH CAROLINA DR	ADAMS, JAN E & HILL, NANCY	10753.76	217.68	796.92
46	08-38-41-009-000-00060-5	523 SW SOUTH CAROLINA DR	WYLDE, GARY E & LYNN	10753.76	217.68	796.92
47	08-38-41-009-000-00050-7	526 SW SOUTH CAROLINA DR	DEVINE, ROY M JR & JUDITH A	10753.76	217.68	796.92
48	08-38-41-009-000-00040-0	527 SW SOUTH CAROLINA DR	SPROUL, WILLIAM R & CLAUDIA C	10753.76	217.68	796.92

Attachment A pg 2 of 2

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 4/11/2022

Prepared by: Tom Reetz

Title of Item:

PALMETTO COVE RPUD ROW MAINTENANCE AGREEMENT (RC):

CONTINUED TO APRIL 25, 2022 CCM RESOLUTION No. 41-2022; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A MAINTENANCE AGREEMENT BETWEEN 924 SW PALM CITY ROAD AND THE CITY OF STUART RELATING TO THE PROPOSED IMPROVEMENTS WITHIN THE ALLEY-WAY OF 11 FOOT ALLEY-WAY, AS SET FORTH IN THE ACCESS AND MAINTENANCE AGREEMENT, PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

On May 10, 2021, the City Commission adopted Ordinance No. 2463-2021, a Residential Planned Unit Development approving a 13 unit Town home project called Palmetto Cove. Condition #15 of the RPUD required the developer to apply to the City for the abandonment of the unimproved alley way or agree with the City's Public Works Department to improve and maintain the alleyway in perpetuity prior to obtaining a site permit.

The developer satisfied the condition #15 in part when, on March 28th, 2022, the City Commission unanimously approved Ordinance 2484-2022 to abandon a portion of the 11-foot wide alley. To complete the Developers' obligation concerning the right-of-way, Resolution 41-2022 is seeking authorization to have the Mayor and City Clerk execute the attached maintenance agreement allowing for access, improvements and maintenance of the remaining portion of right-of-way.

Funding Source:

N/A

Recommended Action:

Approve Resolution No. 41-2022 authorizing the Mayor and City Clerk to execute an Access and Maintenance Agreement for a portion of ROW at the Palmetto Cove RPUD.

ATTACHMENTS:

1. A.1 Resolution No. 41-2022 Palmetto Cove authorization
2. B.1 Access and Maintenance Agreement - Final



**BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA**

RESOLUTION NUMBER 41-2022

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A MAINTENANCE AGREEMENT BETWEEN 924 SW PALM CITY ROAD AND THE CITY OF STUART RELATING TO THE PROPOSED IMPROVEMENTS WITHIN THE ALLEY-WAY OF 11 FOOT ALLEY-WAY, AS SET FORTH IN THE ACCESS AND MAINTENANCE AGREEMENT, PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

* * * * *

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

SECTION 1: The Mayor and City Clerk are authorized and directed to execute an Access and Maintenance Agreement (the "Maintenance Agreement"}, attached hereto as "Exhibit A," between 924 SW Palm City Road, LLC (the "Developer") and the City of Stuart (the "City") relating to the proposed improvements on that certain alleyway right-of-way, as set forth in in Maintenance Agreement.

SECTION 2: This resolution shall take effect upon adoption.

Resolution No. 41-2022
Authorization to Execute a
Maintenance Agreement

Commissioner _____ offered the foregoing Ordinance and moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a roll call vote, the vote was as follows:

MERRITT MATHESON, MAYOR
TROY MCDONALD, VICE MAYOR
BECKY BRUNER, COMMISSIONER
EULA R. CLARKE, COMMISSIONER
MIKE MEIER, COMMISSIONER

YES	NO	ABSENT	ABSTAIN

ADOPTED on second and final reading this _____ day of _____, 2022.

ATTEST:

MARY R. KINDEL
CITY CLERK

MERRITT MATHESON
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL J. MORTELL, ESQ.
CITY ATTORNEY

This Instrument Prepared By:
Christen Spake, Esq.
McCarthy, Summers, Wood,
Norman, Melby, & Schultz P.A.
2400 S.E. Federal Highway, Fourth Floor
Stuart, Florida 34994

ACCESS AND MAINTENANCE AGREEMENT

This Access and Maintenance Agreement is made this ____ day of _____, 2022, by The City of Stuart, a political subdivision of the State of Florida (“City”), and 924 SW Palm City Road, LLC, a Florida limited liability company, whose mailing address is 12917 Mizner Way, Wellington, FL 33414 (the “Developer”), as follows:

W I T N E S S E T H

WHEREAS, Developer is the owner of the land described as set forth in the attached **Exhibit “1,”** incorporated herein by this reference (the “Property”), that it intends to develop for residential and attendant use; and

WHEREAS, the parcels comprising the Property are separated by an unimproved public right-of-way; and

WHEREAS, City abandoned a portion of the right-of-way to the ownership of Developer, and maintains its interest in the remaining portion of the right-of-way identified on the attached **Exhibit “2,”** made a part hereof by this reference (the “Maintenance Area”); and

WHEREAS, City granted Developer’s application for an RPUD on the Property, as set forth in Ordinance Number 2463-2021, recorded in Official Records Book 3247, Page 1338, of the Public Records of Martin County, Florida (the “Ordinance”), a condition of which is performance of certain maintenance obligations by Developer or its successor property owner’s association (“POA”); and

WHEREAS, the Ordinance requires Developer and City enter into an agreement to improve and maintain the Maintenance Area in perpetuity prior to obtaining a site permit; and

WHEREAS, Developer has agreed to pave and maintain the Maintenance Area in exchange for use by residents of the Property and their invitees; and

WHEREAS, City and Developer have agreed that Developer and residents of the Property may make use of the Maintenance Area and shall maintain the Maintenance Area, all in accordance with the terms and conditions that follow.

NOW THEREFORE, in consideration of the foregoing premises, the beneficial covenants, agreements, representations and warranties contained herein, and for other good

and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties covenant and agree as follows:

1. Recitals. The recitals set forth in each of the foregoing “Whereas” clauses are true and correct, and are incorporated herein by this reference.

2. Use of Maintenance Area. City hereby grants Developer, for the benefit of the Property, a perpetual right to use and improve the Maintenance Area for the purposes of access, including without limitation ingress and egress of vehicular and pedestrian traffic, underground and above-ground utilities, drainage, and landscaping and maintenance. Developer shall not install gates or other barriers upon the Maintenance Area that would exclude the public from use of the Maintenance Area.

3. Maintenance. Developer shall be responsible for maintenance of the Maintenance Area at its sole cost and expense. Developer shall cause the Maintenance Area to be paved and shall in all cases maintain the Maintenance Area clear of obstructions and materials that would make it impassible by automotive, bicycle, and other pedestrian and motor-vehicle traffic. Developer shall remove, fill, and/or repair, as necessary, obstructions, potholes, washouts, and other defects that may arise on the Maintenance Area and maintain the Maintenance Area in a safe, attractive, and serviceable condition.

4. No Abandonment. During the pendency of this Agreement City shall not abandon and/or vacate the interests of the City in and to the Maintenance Area or any portion thereof, or otherwise take action that would frustrate, impede, or invalidate the rights, interest, and intent of this Agreement or Developer’s rights in the Maintenance Area.

5. Insurance. Developer shall maintain, at its sole expense, a policy of liability insurance in the minimum amount of One Million and no/100 Dollars (\$1,000,000.00) covering the Property and naming City as an additional insured. Developer may elect to maintain, or not maintain, additional insurance coverage on the Property in its sole and absolute discretion.

6. Damage to Maintenance Area. Developer shall be responsible for repairing all damage to the Maintenance Area, except that any damage caused by City shall be repaired at City’s expense. This Section does not limit Developer’s ability to recover damages and other sums from liable parties in accordance with applicable law.

7. Covenants Running with the Land.

- a. All of the covenants, agreements, benefits, and burdens described herein constitute covenants running with the land and are binding upon any and all individuals and entities, and their respective successors in interest (including without limitation assigns, tenants, heirs, and personal representatives), having or hereafter acquiring any right, title or interest in and to all or a portion of the Maintenance Area.
- b. Responsibility for the performance of any duty or obligation set forth herein will be binding on City and Developer and Developer’s successors and/or assigns. The

liability of Developer in connection herewith will terminate upon Developer's assigning, delegating, or turning over maintenance and management of the Maintenance Area to a successor, assign, or POA.

8. Term. The term of this Agreement shall be in perpetuity. This Agreement may be terminated only by written agreement of the Parties.

9. Default. If Developer fails or refuses to satisfy its obligations hereunder, City may perform such maintenance or requirement as is reasonably necessary to comply with this Agreement, the costs of which shall constitute a lien against the Property dedicated to common ownership and use of the residents of the Property on the to-be-recorded plat of the Property ("Common Areas"), foreclosable in the same manner as a mortgage. This provision shall not be interpreted to provide an exclusive remedy, and either party may pursue any appropriate remedy in the event the other party or its successors in interest fail to abide by the provisions of this Agreement.

10. Assignment. Developer may assign this Agreement to a successor, including without limitation the POA or such other entity as is charged with ownership and maintenance of the Common Areas.

11. Miscellaneous.

- a. Attorneys' Fees. In the event a party institutes any legal or equitable action or proceeding for the enforcement of any right or obligation herein contained, the prevailing party after a final adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding, including at the trial and all appellate levels.
- b. Amendment. The provisions of this Agreement may be modified or amended, in whole or in part, or terminated, only by the written consent of Developer or its successor and City, evidenced by a document that has been fully executed and acknowledged and recorded in the official records of the County Recorder of Martin City, Florida.
- c. No Waiver. No waiver of any default of any obligation by a party shall be implied from any omission to take any action with respect to such default. Any party may waive the benefit of any provision or condition contained in this Agreement, and such waiver shall not constitute a subsequent waiver of any provision or condition.
- d. No Agency. Nothing in this Agreement shall be deemed or construed by any party or by any third person to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between or among the parties.
- e. Severability. Each provision of this Agreement, and the application thereof, are

hereby declared to be independent of, and severable from, the remainder of this Agreement if any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, and such holding shall not affect the validity or enforceability of the remainder of this Agreement. In the event the validity or enforceability of any provision of this Agreement is held to be dependent upon the existence of a specific legal description, the Owner of the property for which a legal description is required agrees to promptly cause such legal description to be prepared. Ownership of the Property and the Maintenance Area by the same person or entity shall not terminate this Agreement nor in any manner affect or impair the validity or enforceability of this Agreement.

- f. Time of Essence. Time is of the essence as to the obligations set forth in this Agreement.
- g. Entire Agreement. This Agreement contains the complete understanding and agreement of the parties with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.
- h. Governing Law. The laws of the State of Florida shall govern the interpretation, validity, performance, and enforcement of this Agreement without giving effect to any choice or conflict of law provision or rule (whether of the State of Florida or any other jurisdiction), and venue for any civil action brought hereunder shall lie in Martin County, Florida.
- i. Bankruptcy. In the event of any bankruptcy affecting any party, the parties agree that this Agreement shall, to the maximum extent permitted by law, be considered an agreement that runs with the land and that is not rejectable, in whole or in part, by the bankrupt person or entity.

IN WITNESS WHEREOF, the parties hereto have accepted, made, and executed this Agreement upon the terms and conditions above stated on the date first written above.

**– REMAINDER OF PAGE INTENTIONALLY BLANK –
SIGNATURE PAGES FOLLOW**

ATTEST:

CITY OF STUART:

MARY L. KINDEL
CITY CLERK

MERRITT MATHESON
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL J. MORTELL, ESQUIRE
CITY ATTORNEY

DEVELOPER:

Signed, sealed and delivered in the presence of: 924 SW Palm City Road, LLC, a Florida limited liability company

_____ By: _____

Print: _____ As: _____

Print: _____

STATE OF _____

CITY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of October, 2022 by _____ as _____ of 924 SW Palm City Road, LLC, a Florida limited liability company, who is ☐ personally known to me or ☐ has produced _____ as identification.

{Notary Seal}

Notary Public
Printed Name: _____
My Commission Expires _____

EXHIBIT "1"

Property

LEGAL DESCRIPTION:

**LOTS 1, 2, 3, 4, 5 6, AND 7 BLOCK 2 OF HALPATIOKEE PARK
AS RECORDED IN PLAT BOOK 8, PAGE 25 OF THE PUBLIC
RECORDS OF PALM BEACH, NOW MARTIN COUNTY,
FLORIDA, PART OF S.W. ¼ OF THE SE ¼ OF SECTION 5,
TOWNSHIP 38 SOUTH, RANGE 41 EAST**

AND

**LOT 2, DYER ESTATES, ACCORDING TO THE PLAT THEREOF
AS RECORDED IN PLAT BOOK 14, PAGE 36, OF THE PUBLIC
RECORDS OF MARTIN COUNTY, FLORIDA.**

EXHIBIT "2"

Maintenance Area

LEGAL DESCRIPTION:

A PORTION OF THE 11 FOOT WIDE ALLEY, AS SHOWN ON THE PLAT OF DYER ESTATES, AS RECORDED IN PLAT BOOK 14, PAGE 36, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA, AND THE PLAT OF HALPATIOKEE PARK, AS RECORDED IN PLAT BOOK *, PAGE 25, PUBLIC RECORDS OF PALM BEACH, NOW MARTIN COUNTY, FLORIDA AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF LOT 2, DYER ESTATES, PLAT BOOK 14, PAGE 36, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA; THENCE NORTH 89°36'34" WEST ALONG THE NORTH LINE OF SAID LOT 2, DYER ESTATES, A DISTANCE OF 179.81 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID LOT 2, DYER ESTATES; THENCE NORTH 00°19'34" EAST, A DISTANCE OF 11.30 FEET TO A POINT ON THE SOUTH LINE OF PLAT OF HALPATIOKEE, AS RECORDED IN PLAT BOOK 8, PAGE 25, PUBLIC RECORDS OF PALM BEACH (NOW MARTIN) COUNTY, FLORIDA; THENCE SOUTH 89°36'25" EAST ALONG SAID SOUTH LINE PLAT OF HALPATIOKEE, A DISTANCE OF 179.80 FEET; THENCE SOUTH 00°17'22" WEST, A DISTANCE OF 11.30 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING:

BEGIN AT THE NORTHEAST CORNER OF LOT 2, DYER ESTATES, PLAT BOOK 14, PAGE 36, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA; THENCE NORTH 89°36'34" WEST ALONG THE NORTH LINE OF SAID LOT 2, DYER ESTATES, A DISTANCE OF 134.99 FEET, MORE OR LESS, TO THE SOUTHERLY EXTENSION OF THE WEST LINE OF LOT 7, BLOCK 2, PLAT OF HALPATIOKEE PARK, AS RECORDED IN PLAT BOOK 8, PAGE 25, PUBLIC RECORDS OF PALM BEACH (NOW MARTIN) COUNTY, FLORIDA; THENCE NORTH 00°22'35" EAST, ALONG SAID SOUTHERLY EXTENSION OF SAID WEST LINE LOT 7, BLOCK 2, A DISTANCE OF 11.30 FEET TO A POINT ON THE SOUTH LINE OF SAID PLAT OF HALPATIOKEE PARK; THENCE SOUTH 89°36'25" EAST ALONG SAID SOUTH LINE PLAT OF HALPATIOKEE PARK, A DISTANCE OF 134.97 FEET; THENCE SOUTH 00°17'22" WEST, A DISTANCE OF 11.30 FEET TO THE POINT OF BEGINNING.

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 4/11/2022

Prepared by: Mary Kindel

Title of Item:

FUTURE LAND USE DISCUSSION

Summary Explanation/Background Information on Agenda Request:

Discuss the current procedure for Future Land Use applications and discussion of other issues pertaining to the process.

Funding Source:

N/A

Recommended Action:

No action is requested. Informational purposes only.

ATTACHMENTS: