



**City of West Palm Beach
City Commission**

**DRAFT
AGENDA**

**January 11, 2021
5:00 P.M.**

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, WITHIN THREE DAYS PRIOR TO ANY PROCEEDING, CONTACT THE CITY CLERK'S OFFICE, 401 CLEMATIS STREET, WEST PALM BEACH, FLORIDA 33401, {(561) 822-1210}

**MAYOR
KEITH A. JAMES**

**CITY COMMISSION
PRESIDENT KELLY SHOAF**

**COMMISSIONER CHRISTINA LAMBERT
COMMISSIONER CHRISTY FOX**

**COMMISSIONER CORY NEERING
COMMISSIONER JOSEPH A. PEDUZZI**

**ADMINISTRATION
CITY ADMINISTRATOR, FAYE W. JOHNSON
CITY ATTORNEY, KIMBERLY ROTHENBURG
CITY CLERK, HAZELINE CARSON**

CALL TO ORDER:

INVOCATION:

PLEDGE OF ALLEGIANCE:

CIVILITY AND DECORUM: The City of West Palm Beach is committed to civility and decorum by its officials, employees and members of the public who attend this meeting. The City Code, Secs. 2-31(8), 2-31(18) and 2-31(22), provides in pertinent part:

- Officials shall be recognized by the Chair and shall not interrupt a speaker.
- Public comment shall be addressed to the City Commission as a whole and not to any individual on the dais or in the audience.
- Displays of anger, rudeness, ridicule, impatience, lack of respect and personal attacks are strictly prohibited.
- Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted.
- Offenders may be removed from the meeting.

ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA:

PRESENTATION AND AWARDS OF MERIT (1):

1. **Mayor's special presentation to Judith Mitchell in recognition of her successful leadership and achievements as CEO of the Kravis Center for the Performing Arts for the past thirty-one (31) years.**
Agenda Cover Memorandum No.: 23176

RECEIVED / FILED (2):

2. **Submittal of the following four (4) reports from the Internal Auditor's Office:**
 1. **Human Resources Recruitment and Retention Post Audit Report (PAR21-01);**
 2. **Legal Services Post Audit Report (PAR21-02);**
 3. **Accounts Payable Post Audit Report (PAR21-03); and**
 4. **Software Licenses Post Audit Report (PAR21-04).***Agenda Cover Memorandum No.: 23175*

Staff Recommended Motion:

Motion to receive, approve, and file the audit reports submitted.

Background:

The four (4) reports were presented to the Audit Committee on December 21, 2020, where they were approved by the Audit Committee Members. Copies of the reports have been provided to the Mayor and the City Commissioners.

Fiscal Note:

No fiscal impact.

COVID-19 VACCINE UPDATE:

CONSENT CALENDAR (3-9):

3. **Minutes of the Regular City Commission Meeting of December 14, 2020.**
Agenda Cover Memorandum No.: 23177

Staff Recommended Motion:

Approve the Minutes of the Regular City Commission Meeting of December 14, 2020.

4. **Resolution No. 336-20(F) accepts funding in the amount of \$46,463 from the Florida Department of State Division of Library and Information Services CARES Act Grant for providing services to support the West Palm Beach Community in its COVID-19 relief and recovery efforts. Resolution No. 367-20(F) amends the full time equivalent (F.T.E.) personnel details of the special revenue fund for FY 2020/2021 to hire a part-time Library Assistant to support the West Palm Beach Community in its COVID-19 relief and recovery efforts.**

RESOLUTION NO. 336-20(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE APPROPRIATION OR TRANSFER OF CITY FUNDS IN FISCAL YEAR 2020/2021 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE GRANT PROGRAMS SPECIAL REVENUE FUND BUDGET TO ACCEPT CONTRIBUTIONS FROM THE FLORIDA DEPARTMENT OF STATE DIVISION OF LIBRARY AND INFORMATION SERVICES AND TO PROVIDE APPROPRIATIONS TO PROVIDE SERVICES TO SUPPORT THE WEST PALM BEACH COMMUNITY IN ITS COVID-19 RELIEF FOR ONE (1) YEAR; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 367-20(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE FULL TIME EQUIVALENT (F.T.E.) PERSONNEL DETAIL OF THE SPECIAL REVENUE FUND FY 2020/2021 ADOPTED BUDGET FOR THE LIBRARY DEPARTMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23178

Staff Recommended Motion:

Approve Resolution No. 336-20(F) and Resolution No. 367-20(F).

Background:

The Florida Department of State Division of Library and Information Services has received \$1,940,696 from the Institute of Museum and Library Services pursuant to the provisions of the CARES Act (Public Law 116-136). In accordance with the CARES Act, this funding is to be used for the following purposes: “to prevent, prepare for, and respond to corona virus, including to expand digital network access, purchase internet accessible devices, and provide technical support services.” The CARES Act also provides as follows: “This funding is to be used as follows: (a) Primarily to address digital inclusion and related technical support; (b) Secondly, to address other efforts that prevent, prepare for, and respond to COVID-19; and (c) With respect to (a) and (b), reach museum and tribal partners, in addition to traditionally eligible library entities, where appropriate.”

The Mandel Public Library of West Palm Beach has received \$46,463 to increase outreach efforts to the community, specifically focusing on local childcare centers, nursing homes and assisted living facilities. As some COVID-19 restrictions are still in place and many citizens still uncomfortable coming into the library, staff are working tirelessly to connect patrons with digital materials and produce a wide variety of virtual programs to bring the library into their homes. This limited capacity for in-person assistance means most of our efforts are concentrated on providing the best services we can digitally and require new solutions to address changing needs. The library plans to enhance our digital presence with improved tools and equipment for producing elevated virtual programming to better serve the community at large. A reference chat service and new library programs calendar will help advance the library’s efforts of providing world-class virtual programs to the community. The library will further respond to the COVID-19 crisis by assembling and distributing Healing Library Kits to help patrons of all ages respond to and process the trauma of the current times. The library will also provide focused outreach to higher need populations including: childcare centers, nursing homes, and assisted living facilities by supplying physical and electronic materials and targeted programming with respect to the needs of those specific populations.

5. **Resolution No. 1-21 authorizing the Mayor to execute a release of code enforcement liens encumbered at 4047 Okeechobee Boulevard.**

RESOLUTION NO. 1-21: A RESOLUTION OF THE CITY COMMISSION OF CITY OF WEST PALM BEACH, FLORIDA, CONDITIONALLY WAIVING CITY LIENS IN THE AMOUNT OF \$304,200; AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A CONDITIONAL RELEASE OF CODE ENFORCEMENT LIENS ENCUMBERING CERTAIN REAL PROPERTY LOCATED AT 4047 OKEECHOBEE BLVD, WEST PALM BEACH, FLORIDA; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23179

Staff Recommended Motion:

Approve Resolution No. 1-21.

Background:

The property located at 4047 Okeechobee Boulevard is a commercial property with multiple sub-units/tenants. The property was purchased in 2013 by 4047 Properties, LLC. The property and its various sub-units/tenants have been cited multiple times over the years for violations, including but not limited to, lack of business license, lack of building permits and inspections for mechanical, building and plumbing permits and inspections, and interior renovations without permits and inspections. The multiple cases were issued Notices of Violations, heard by the Special Magistrate and issued orders for compliance. In each case, the Respondent did not come into compliance and fines have started and will continue to run until compliance is achieved. At this time, the property owner wishes to achieve compliance with bringing the property/sub-units into compliance in exchange for a payment to the City and fulfillment of additional conditions (as per below) to conditionally waive and release the various liens. Approval will conditionally release the \$304,200 fines/liens in exchange for the following conditions and in the timeframes set forward:

- a) A reduced administrative fine in the amount of Fifteen Thousand Dollars (\$15,000), which shall be paid to the City of West Palm Beach, Florida, within ninety (90) days of the date of this Resolution. All monies are non-refundable pursuant to this agreement;
- b) All special assessments (resolution liens) levied against the Property shall be satisfied within sixty (60) days of the date of this Resolution;
- c) All outstanding ad valorem taxes and non-ad valorem assessments levied against the Property shall be satisfied within sixty (60) days of the date of this Resolution;
- d) Within thirty (30) days of the date of adoption of this Resolution, the Owner must submit acceptable plans for the reactivation of Permit #17010879 for the Property to the Building Division;
- e) Upon receipt of any plan review comments by the City's Building Division, the Owner must address all outstanding comments and resubmit to the City within thirty (30) days of issued comment; and
- f) By March 17, 2021, sixty-five (65) days from the acceptance of this resolution, the Property will be completed and ready for habitation. All permitting and inspections will be finalized; rental licenses will have been issued if necessary; Business Tax Receipt and Certificate of Use will have been paid for and issued; and a Certificate of Occupancy or Certificate of Completion supplied, whichever is required.

Approval of Resolution No. 1-21 will authorize the Mayor to execute a Conditional Release of Code Enforcement Liens.

Fiscal Note:

Approval will conditionally release the \$304,200 fines/liens in exchange for, among other conditions, a \$15,000 administrative fee, payment of any outstanding debt owed the City, and payment of any outstanding taxes.

6. **Resolution No. 2-21 authorizing the assessment of city liens in the total amount of \$16,956.68 for unpaid water service, sewer service, and stormwater service charges for the month of September 2020.**

RESOLUTION NO. 2-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AND AUTHORIZING AN ASSESSMENT OF CITY LIENS FOR UNPAID WATER SERVICE, SEWER SERVICE, AND STORMWATER SERVICE; PROVIDING THAT SAID LIENS SHALL BE PRIOR IN DIGNITY TO ALL OTHER LIENS AGAINST THE ASSESSED PROPERTIES, SAVE AND EXCEPT A LIEN FOR TAXES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23180

Staff Recommended Motion:

Approve Resolution No. 2-21.

Background:

In accordance with the Code of Ordinances of the City of West Palm Beach, Florida, 2003, Sections 90-4 and 90-5, the City imposes liens on private real property for delinquent payments due for utility services. The liens to be assessed by Resolution No. 2-21 are for unpaid water service, sewer service, and stormwater service charges for the month of September 2020. The list of properties to be assessed and the associated charges totaling \$16,956.68 are listed in EXHIBIT A - Utility Lien List - September 2020. If not paid, these liens may be foreclosed by the City.

Fiscal Note:

No fiscal impact.

7. **Resolution No. 11-21(F) amending the General Fund to provide appropriations for urgent repairs to City-owned buildings at the City complex.**

RESOLUTION NO. 11-21(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE APPROPRIATION OR TRANSFER OF CITY FUNDS IN FISCAL YEAR 2020/2021 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE GENERAL FUND BUDGET TO PROVIDE APPROPRIATIONS FOR CITY OWNED PROPERTY ROOF AND FACILITIES REPAIRS; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23181

Staff Recommended Motion:

Approve Resolution No. 11-21(F).

Background:

The City Complex on Charlotte Avenue houses City-owned buildings for operating the warehouse, Utilities, and Public Works offices. In 2020, with each rain event, the warehouse east side has experienced roof leaks that result in lost operating space as the areas need to be avoided due to mitigating damages to materials and for the use of buckets to capture the water intrusion. The budget request is based on comparative quotes received by the City Facilities department for the identified critical repair needs. Storm drain trench repairs and concrete replacement (\$16,540); North side concrete roof repairs (\$9,700); gutter downspouts (\$1,500); roof repairs (\$20,300); and weatherproofing (up to max \$27,760) to extend the useful life of the building. Additionally, an exterior door replacement is needed (\$5,200).

Fiscal Note:

Approval will allow critical repairs to be done to mitigate further building damages.

8. **Resolution No. 12-21 amending the Agreement for Management and Staffing of the West Palm Beach Community Redevelopment Agency with Redevelopment Management Associates to reflect current staffing requirements.**

RESOLUTION NO. 12-21: A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY AMENDING CONTACT 21453 AGREEMENT FOR MANAGEMENT AND STAFFING OF THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY AND WEST PALM BEACH REDEVELOPMENT ACTIVITIES.

Agenda Cover Memorandum No.: 23185

Staff Recommended Motion:

Approve Resolution No. 12-21.

Background:

Last year the Community Redevelopment Agency Board voted to make an adjustment to the staffing structure for the CRA. The adjustment was removing the Executive Director for the CRA being provided by Redevelopment Management Associates, LLC (RMA). The Executive Director position was approved to become a City-hired position. In addition, during a review of the contract and scope of services, it was determined that two (2) new positions need to be added to the contract. These include construction manager and assistant marketing coordinator. The position additions are needed, due to the number of projects the CRA has underway. The construction manager will help keep CRA projects on schedule. The assistant marketing coordinator will assist with communications and

promotions in order to timely keep residents up-to-date on the latest project benchmarks. Several projects will also need general promotion to attract opportunities or drive people to Northwood, Pleasant City, and the Historic Northwest. A part-time special events coordinator position will be eliminated.

The contract with RMA and staffing for the CRA impacts both the Downtown-City Center and Northwood/Pleasant City CRA Districts, which are in Commission District 1 and Commission District 3.

Commission District 1: Commissioner Kelly Shoaf.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

The Amendment will result in a savings of approximately \$200,000 for the year.

9. **Resolution No. 14-21(F) amends the General Fund full-time equivalents (FTEs) to restore one (1) Executive Administrative Assistant position in City Administration, restore one (1) Senior Administrative Assistant position in Internal Audit and restore professional services funding in the Internal Audit Department as well as eliminate a Library Assistant position and add On-Call hours for the Mandel Public Library. Resolution No. 15-21(F) authorizes the appropriation or transfer of City funds in Fiscal Year 2021.**

RESOLUTION NO. 14-21(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE FY 2020/2021 FULL TIME EQUIVALENT (F.T.E.) GENERAL FUND BUDGET FOR THE MAYOR'S DEPARTMENT, CITY ADMINISTRATION; THE INTERNAL AUDIT DEPARTMENT; AND THE LIBRARY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 15-21(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE APPROPRIATION OR TRANSFER OF CITY FUNDS IN FISCAL YEAR 2020/2021 IN ACCORDANCE WITH SECTION 4.03 OF THE CITY CHARTER OF THE CITY OF WEST PALM BEACH, FLORIDA, FOR THE PURPOSE OF AMENDING THE GENERAL FUND BUDGET TO REALLOCATE FUNDS FOR THE MANDEL PUBLIC LIBRARY BY REDUCING ONE (1) F.T.E. AND ADDING ON-CALL HOURS AND TO PROVIDE APPROPRIATIONS FOR THE MAYOR'S OFFICE TO ADD ONE (1) F.T.E. AND FOR THE INTERNAL AUDIT DEPARTMENT TO ADD ONE (1) F.T.E. AND PROFESSIONAL SERVICES FUNDING; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.
Agenda Cover Memorandum No.: 23186

Staff Recommended Motion:

Approve Resolution No. 14-21(F) and Resolution No. 15-21(F).

Background:

This item is, in part, to effectuate changes to the FY21 General Fund budget that were discussed with the City Commission during the final budget adoption hearings. Two of the changes relate to restoration of the Senior Administrative Assistant position and professional services funding of \$60,000 in the Internal Audit Department. Funding for these two items were removed from the budget during preparation of the preliminary FY21 budget as part of a series of cost reduction measures to balance the General Fund budget. However, based on the adverse impact to the efficient operation of the Internal Audit Department and as discussed with the Commission, alternative reductions were made. Therefore, the funding can be restored from carryforward dollars as was committed.

The third change is to restore the Executive Administrative Assistant position in City Administration, which was also eliminated as part of the cost reduction measures. This occupied position was going to be eliminated as part of meeting the Mayor's Office 5% budget reduction and would have resulted in a staff layoff. In light of the Commission's concerns about staff layoffs, instead of eliminating the position, the funding for the vacant Vision Zero position was eliminated. However, the Executive Administrative Assistant position was not included in the adopted FY21 General Fund position and needs to be added back into the FTE compliment. Approval of Resolution No. 14-21(F) would amend the FTE General Fund budget by adding back one (1) Executive Administrative Assistant position in City Administration, one (1) Senior Administrative Assistant position, including professional services funding of \$60,000, in the Internal Audit Department. The total funding required for these changes is \$166,680 from General Fund carryforward fund balance.

The last item is a newly proposed change in the Library Department. Staff is recommending eliminating one (1) Library Assistant position that was recently vacated through an internal promotion and to backfill the position by adding one (1) on-call Library Assistant position, which will provide sufficient staff coverage for the Library's first floor Customer Service desk. This reallocation will result in a cost saving of approximately \$23,200 for this fiscal year.

Staff recommends City Commission approval of Resolution No. 14-21(F) to provide FTE count changes and Resolution No. 15-21(F) to provide budget.

Fiscal Note:

Approval will add two (2) FTEs, \$60,000 for Audit Professional Services, eliminate one (1) FTE, and add one (1) on-call position.

RESOLUTION (10):

- 10. Resolution No. 7-21 approving the proposed art concept for 695 South Olive by developers TDC DRI West Palm Beach LLC to satisfy the public art requirement. One percent (1%) of total construction costs escrowed are \$289,309.**

RESOLUTION NO. 7-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, MAKING FINDINGS AND APPROVING INSTALLATION OF PUBLIC ART FOR 695 SOUTH OLIVE MICROUNIT RESIDENTIAL RENTAL DEVELOPMENT BY TDC DRI WEST PALM BEACH, LLC IN COMPLIANCE WITH THE PUBLIC ART ORDINANCE; PROVIDING AN EFFECTIVE DATE; AND OTHER PURPOSES.

Agenda Cover Memorandum No.: 23182

Staff Recommended Motion:

Approve Resolution No. 7-21 approving the proposed art concept for 695 South Olive. This motion is based on the finding that the art meets the criteria set forth in Section 78-125 of the City Code and the recommendation of the ArtLife WPB Committee.

Background:

On December 2, 2020, the ArtLife WPB committee voted unanimously to recommend the art concept for 695 South Olive to satisfy the public art requirement. TDC DRI West Palm Beach LLC commissioned artist Pere Gifre to design and develop a unique public artwork for their development site. This development consists of 217 residential micro-rental units. \$289,309 has been escrowed for this project.

About the Artist:

Pere Gifre is a San Francisco based artist and engineer that specializes in sculpture-based projects, scenography's, and industrial design. His knowledge in these different fields allows him to enrich his designs through the implementation of various techniques and processes such as the VFX Engineering, a self-created design that uses computer systems that allow him to capture the physical properties of nature, such as water and light into a sculpture element.

Artwork Placement:

The proposed artwork is a vertical sculptural element that will be installed in the east facing facade of the building. The work will be placed within an existing "art box" that spans vertically from the second and third story.

Materials:

Polyurethane carved modeling (CAD/CAM and Manually) covered in fiberglass and polyurea, a hardening substance. The work is painted using airbrush techniques, and a protective coating of resins and varnish are added to the finished work.

The artwork is a large sculptural piece whose 2-D appearance is a 3-D wall piece that has two (2) feet of depth within its composition.

The artist has stated that when developing this concept, he wanted the work to be "be avant garde, surprising, symbolic, dynamic, iconic, and to represent the space as something magical to evoke the viewer the sensation of the ocean".

The public art committee considered the criteria set forth in Section 78-125 of the code and commented as follows:

1. Art. The proposed artworks conform to the definition of art contained in this article and will be created by professional artist as defined in this article.
2. Master Plan. The proposed artwork meets the typologies and qualities described in the art in public places master plan.
3. Historic Significance. Not applicable as the proposed artworks are contemporary and site-specific for the public park.
4. Cultural Significance. The proposed artworks will reflect the aesthetic and cultural development of this area and the surrounding neighborhood.
5. Visual Accessibility. The proposed artworks will be readily visible to the public and accessible to the public and meets the location requirements of this article.
6. Quality. The artist is a professional with a visual, engineering, and industrial design background. The medium and the proposed artwork seems of high quality and should have an enduring value.
7. Appropriateness to Site. The proposed artworks' design, scale, and materials are unique for the site.
8. Compatibility. The proposed artworks will be compatible and add value to the surrounding neighborhood.
9. Public Welfare. The proposed artwork will need to meet the structural engineering and may other building code requirements.
10. Maintenance. The proposed artworks will not require extraordinary maintenance, and the maintenance plan addresses weathering and the life of the artwork. The maintenance of the artworks is the responsibility of the owner/developer.
11. Valuation. The proposed artworks meet the valuation requirements of this article. Escrowed owed amount \$289,309.

12. Location. The proposed location of the artwork is in a public space and multiple viewpoints. Any necessary supporting infrastructure will follow applicable City and Florida Building code requirements.

A copy of the artist's resumes, proposal, rendering of the artwork, budget, maintenance, contracts, and supporting documents are available.

The ArtLife WPB Committee recommended approval of the proposed art concept by artist Pere Gifre for the development by TDC DRI West Palm Beach, LLC to be located at 695 South Olive in compliance with the public art ordinance.

Commission District 3: Commissioner Christy Fox.

Fiscal Note:

No fiscal impact.

PUBLIC HEARINGS (11-12):

11. **Public Hearing and Second Reading of Ordinance No. 4918-20 amending Article IV - Downtown Master Plan to modify the permitted uses within the Industrial Chic District and the Brelsford Park District-Residential and remove the density limitations for the Industrial Chic District.**

ORDINANCE NO. 4918-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 94, ZONING AND LAND DEVELOPMENT REGULATIONS AT ARTICLE IV - DOWNTOWN MASTER PLAN, SECTION 94-105 USE REQUIREMENTS AND TABLE IV-2: PERMITTED USE TABLE FOR DMP AND TABLE IV-3: PERMITTED USE TABLE FOR DMP TO MODIFY PERMITTED USES WITHIN THE INDUSTRIAL CHIC DISTRICT AND BRELSFORD PARK DISTRICT; AND SECTION 94-124 INDUSTRIAL CHIC DISTRICT, TABLE IV-28 BUILDING REQUIREMENTS ICD-5 AND TABLE IV-29 BUILDING REQUIREMENTS ICD-2 TO REMOVE DENSITY LIMITATIONS WITHIN THE INDUSTRIAL CHIC DISTRICT; DECLARING THE PROPOSED AMENDMENTS TO BE CONSISTENT WITH ALL OTHER ELEMENTS OF THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23187

Staff Recommended Motion:

Approve Ordinance No. 4918-20 based upon the testimony presented, the staff report, the Planning Board and Downtown Action Committee recommendations, and the findings that the proposed amendment complies with the Comprehensive Plan and the amendment standards found in Section 94-32 of the Zoning and Land Development Regulations.

Background:

The Industrial Chic District and Brelsford Park District are an area of downtown that has not seen much redevelopment in comparison to the rest of downtown. In the last few decades, the area has only seen the construction of a storage facility on 7th Street, the renovation of few of the existing houses inside Brelsford Park, and the renovation of some office buildings along the North Dixie corridor. A large portion of the two (2) districts is currently comprised of vacant lots or occupied by non-compatible industrial uses.

In particular, the area along the west side of North Railroad Avenue continues the operation of some industrial uses, such as Palm Beach Cast Stone located at 809 North Railroad Avenue and utilizing several of the lots on the east side of Railroad Avenue for outdoor storage. Other existing buildings are currently vacant. The Danieli Art world gallery occupies the large warehouse at 1009 North Railroad Avenue and Rinker Materials utilizes the property at 1021 North Railroad Avenue as a truck maintenance yard.

On July 14, 2020, Shutts & Bowen, LLC submitted an application on behalf of N. Railroad Commercial, LLC for a code amendment of the Downtown Master Plan requesting a series of changes directed to facilitate the redevelopment of certain properties located within the ICD-5 (west side of North Railroad Avenue). The applicant had acquired several of the existing buildings and intended to renovate them into restaurants, office, a boutique hotel, and possibly retail and residential.

The applicant is proposing two (2) main changes as follows:

1. Permitted Uses Within the ICD-5:

The applicant is requesting a change to the permitted use table to allow retail, office, restaurant, and other commercial uses within the ICD-5 sub-district without limitations on size or type.

The current use regulations for the ICD-5 and ICD-2 include a series of restrictions intended to limit the size and type of retail, live/work, office, restaurants, and commercial uses allowed within the district. The district, originally envisioned as an alternative neighborhood with industrial character and less conventional uses, includes a specific provision that limits the type of retail, live/work, office, restaurant and commercial uses, to uses identified as art designer related uses. According to the definition in Section 94-109, art design related uses include architects, landscape architect, artist's studios, graphic designers, interior designers, photographers, culinary arts, flower shops, arts production, dance and music studios, film production, various crafts, fashion designers, merchandising studios, and related studios.

The original intent of the district was to attract art related uses and to promote less conventional uses that may utilize the large open space of old industrial building attractive for their tenants. However, since the adoption of the DMP update in 2007, the district has not seen substantial changes and the existing property owners have reported that they have experienced difficulties in finding tenants that meet the design art related uses definition.

Staff supports the applicant's request, since the existing restrictions seem to be hindering the redevelopment of the district instead of helping it. Staff also supports the removal of the existing restriction that limits the size of restaurants to an occupancy of no more than seventy-five (75) patrons. For consistency purposes, staff is recommending the same changes to be included for the Industrial Chic District-2.

The applicant's proposal also includes the removal of the existing restriction for storage facilities. Staff does not support the removal of the existing restrictions, which limits storage uses to small businesses and families.

2. Permitted Uses Within the BPD-R:

The applicant is also requesting a change to the permitted use table to allow surface parking lots within the Brelsford Park District – Residential. The applicant is proposing the construction of new surface parking lots on the properties facing Railroad Avenue to serve the renovated structures located on the west side of the street. Over the years, several of the properties located along the east side of Railroad Avenue have been informally converted into outdoor storage and surface parking lots, despite current regulations that do not allow such uses within the BPD-R. All of these lots are associated with industrial uses occupying the existing buildings on the west side of Railroad Avenue. In some cases, hedges have been installed by the property owners to mitigate the negative impact of the outdoor storage.

Despite the fact that surface parking is not a use commonly supported by staff within a residential neighborhood, the particular conditions of the area, and the potential benefits of the renovation of the old industrial buildings along Railroad Avenue into uses more compatible with the residential neighborhood, justifies the change. Several provisions are recommended to mitigate any possible negative impact caused by the surface parking use.

Additional Changes Proposed by City Staff:

In addition to the changes proposed by the applicant, staff is proposing the removal of the existing density limitation for ICD-5 and ICD-2. Currently, Table IV-28: Building requirements ICD-5, includes a maximum density of forty (40) dwelling units per acre, and Table IV-29: Building requirements ICD-2 includes a maximum density of twenty (20) dwelling units per acre. Similar to the regulations existing within the majority of the downtown core, staff recommends the removal of the density limitations for these two (2) districts to allow more flexibility for the developer to adjust to the market demands on unit size. Despite the removal of the density limitations for both districts, the floor area ratio prescribed for each district is maintained (ICD-5 FAR = 2.75; ICD-2 FAR = 1.0), and the existing requirements for average unit size and minimum unit size are still applicable.

Additional information regarding all proposed changes can be found in the Planning Board report.

COMMUNITY PARTICIPATION: On September 16, 2020, staff facilitated a virtual community participation meeting. During the virtual meeting, the applicant presented to the community the request being presented to the City Commission. Notice for the virtual community meeting was sent via mail to all property owners within the ICD and BPD-R, plus those lying within 500 feet of the two (2) districts, and notice of the public hearings scheduled for the Downtown Action Committee and the Planning Board were also sent to all property owners within the affected area and 500 feet.

NOTICE: A seven (7) day display ad was published in the Palm Beach Post on December 21, 2020, and a five (5) day display ad was published in the Palm Beach Post on January 6, 2021. Proof of publication is housed in the Planning and Zoning division records.

DAC: The Downtown Action Committee reviewed and approved (6-0) the proposed amendment during its October 14, 2020 meeting.

PLANNING BOARD: The Planning Board reviewed and approved (7-0) the proposed amendment during its November 17, 2020 meeting.

Commission District 3: Commissioner Christy Fox.

12. Public Hearing and Second Reading of Ordinance No. 4925-20 approving and authorizing the sale of City-owned property located on Spruce Avenue (PCN 74-43-43-16-19-072-0062) to N Railroad Land, LLC.

ORDINANCE NO. 4925-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA ("CITY") AUTHORIZING THE CONVEYANCE OF A CITY OWNED PROPERTY LOCATED ON SPRUCE AVENUE, (PCN 74-43-43-16-19-072-0062), TO N RAILROAD LAND, LLC; AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY FOR THE CONVEYANCE OF SAID PROPERTY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23188

Staff Recommended Motion:

Approve Ordinance No. 4925-20.

Background:

The City is the owner of the property located on Spruce Avenue, PCN No. 74-43-43-16-19-072-0062 ("Property"). On October 19, 2020, via Resolution No. 259-20, the City determined that the Property was not needed for City purposes, declared the property surplus, and approved sale with the proceeds going to the Housing Trust Fund as the method of disposition of the property.

The City has negotiated the sale of the property to N Railroad Land, LLC for \$20,000. The proceeds of the sale will be deposited in the City's Housing Trust Fund for the development or preservation for affordable or workforce housing.

Pursuant to Section 2-31(27)(c) of the Code of Ordinances, a sale or lease of a property, which is assessed by the county property appraiser for less than \$50,000 does not require an appraisal. The current fair market value of the property is \$15,000 as determined through a Broker Price Opinion provided by Real Estate Asset Disposition Corp., who is a contractor who currently provides real estate services to the City.

Pursuant to Section 2-31(27) of the Code of Ordinances, the sale of surplus property must be approved by Ordinance. As such, City staff seeks approval of Ordinance No. 4925-20 on second reading, authorizing the sale of the Spruce Avenue Property (PCN No. 74-43-43-16-072-0062) to N Railroad Land, LLC.

Commission District 3: Commissioner Christy Fox.

**PUBLIC HEARING – QUASI JUDICIAL (13-14):
DISCLOSURE OF EX PARTE COMMUNICATIONS, IF ANY*
SWEARING IN OF WITNESSES**

- 13. Public Hearing of Resolution No. 327-20 approving the re-plat entitled "STYX PROMENADE" associated with the construction of four (4) new shot-gun style structures, the rehabilitation of one (1) shot-gun style structure, and the development of a new public bi-directional vehicular "Promenade", which extends from 7th Street south, and turning west to North Sapodilla Avenue, along the south portion of the shot-gun structure lots, containing approximately 0.964 acres; and**

Resolution No. 334-20 approving various public easements related to property at 710 North Sapodilla Avenue, owned by Queen of Sheeba, LLC, related to the Styx Promenade and the Northwest Cultural Trail (7th Street).

RESOLUTION NO. 327-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A REPLAT OF REAL PROPERTY TO CREATE THE PLAT ENTITLED "STYX PROMENADE" CONTAINING APPROXIMATELY 0.96 ACRES AND GENERALLY LOCATED ON THE SOUTH SIDE OF 7TH STREET BETWEEN ROSEMARY AVENUE AND SAPODILLA AVENUE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

RESOLUTION NO. 334-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, GRANTING AND ACCEPTING EASEMENTS REGARDING THE PROPERTY AT 710 N. SAPODILLA AVENUE, OWNED BY QUEEN OF SHEEBA, LLC, RELATED TO THE NORTHWEST CULTURAL TRAIL (7TH STREET) AND THE STYX PROMENADE PROJECT; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23183

Staff Recommended Motion:

Approve Resolution No. 327-20 approving the re-plat entitled “Styx Promenade”. This motion is based upon the plat submitted factual testimony, and the findings that the plat is consistent with the Comprehensive Plan, complies with the requirements set forth in Sections 94-44 and 94-342 of the Zoning and Land Development Regulations and complies with all applicable provisions of Chapter 177, Florida Statutes.

Approve Resolution No. 334-20 granting and accepting various easements between the Queen of Sheeba, LLC and the City of West Palm Beach related to the property at 710 North Sapodilla Street.

Background:

The Northwest Historic District was designated on the National Register of Historic Places in 1992 and the Local Register of Historic Places in 1993.

Since mid-2016, the City of West Palm Beach’s Community Redevelopment Agency (CRA) has been leading an initiative called Historic Northwest Rising (HNWR) to revitalize the Historic Northwest Neighborhood. The vision of the initiative is to provide the Historic Northwest District with a multi-purpose venue and public space focused on culture and arts. Through the rehabilitation and expansion of the Sunset Lounge, the creation of the Heart and Soul park, improvements to 7th Street, and the creation of a new City-owned “Styx Promenade”, the initiative aims to bring job opportunities to the Northwest Neighborhood and create a cultural destination for residents and visitors.

As part of the reinvestment into the neighborhood, the CRA has purchased lots within the neighborhood, including four (4) lots on the south of 7th Street (Lots 5-9 of Block 3, Clows Addition) between North Sapodilla Avenue and Rosemary Avenue (one [1] additional lot is in the process of being purchased). A proposal for new commercial structures on these five (5) lots, improvements to the portion of 7th Street between North Sapodilla Avenue and Rosemary Avenue (the project named "Northwest Cultural Trail"), and a new proposed bi-directional City Right-Of-Way (ROW) from 7th Street to North Sapodilla Avenue ("Styx Promenade"), are all proposed as part of a larger project in conjunction with the Sunset Lounge and Heart and Soul Park to bring commercial investment and a cultural area to the Neighborhood.

The construction along 7th Street includes improvements to the sidewalk, street trees, irrigation, and the vehicular travel lanes. The new structures within the five (5) lots are designed as shot-gun style structures (four [4] new, one [1] rehabilitated) to be consistent with the historic neighborhood and surrounding properties. These structures will have entrance connections both to 7th Street to the north and to the new proposed Styx Promenade to the south. The Promenade includes bi-directional vehicular travel lanes that connect 7th Street to North Sapodilla Avenue, as well as parallel parking along the Promenade for visitors to the area, and 90-degree parking spaces south of the Queen of Sheeba restaurant for the restaurant's use. It is Staff's professional opinion that the replat complies with the standards required by the City's Comprehensive Plan and Zoning and Land Development Regulations.

RESOLUTION NO. 327-20:

Approves the plat entitled "Styx Promenade" to create a new right of way extending from 7th Street to where it meets the Queen of Sheeba property at 710 North Sapodilla Avenue; and plat the five (5) lots where the new individual commercial structures are proposed. The Queen of Sheeba property is not included in this replat; however, through easements over the Queen of Sheeba property, the new Styx Promenade will connect to North Sapodilla Avenue. The replat is a condition of site plan approval.

RESOLUTION NO. 334-20:

Although the Queen of Sheeba property is not included in the replat, a portion of the Styx Promenade that connects to North Sapodilla Avenue is within this property. Resolution No. 334-20 includes various easements for sidewalk public access, utility easement, and a public roadway easement for the public use of this portion of the Promenade within the Queen of Sheeba, LLC property at 710 North Sapodilla Avenue. Also included within this Resolution, is an encroachment agreement for the existing Queen of Sheeba restaurant within the 7th Street ROW. This is an existing encroachment; this easement will officially record an encroachment agreement between the City and the Queen of Sheeba LLC property owner.

PREVIOUS APPROVALS:

The shot-gun style commercial structures received site plan approval on March 27, 2020. The Styx Promenade was reviewed by the Downtown Action Committee in October 2019 and approved by a (5-0) vote. Styx Promenade, along with the improvements proposed along 7th Street, went before the City Commission for Face of the City on October 21, 2019.

PUBLIC NOTICE:

Resolution No. 327-20 was advertised in the Palm Beach Post on December 4, 2020. The property was posted with signs on November 29, 2020. Public mailers were sent out to all properties within 500 feet of the affected replat properties on November 14, 2020.

Companion Resolution No. 20-64 and Resolution No. 20-65 will be presented to the CRA for approval.

Commission District 3: Commissioner Christy Fox.

- 14. Public Hearing of Resolution No. 366-20 regarding a request by David Milledge, Esq., of Cotleur & Hearing, on behalf of MorseLife Housing Corporation, Inc., and Tradition of the Palm Beaches, Inc., for the approval of a Major Planned Development amendment to the MorseLife Community Service Planned Development to add two (2) buildings, totaling approximately 37,232 square feet, for the PACE program and Hospice Care and related site improvements, including updates to the campus master plan and development regulations.**

RESOLUTION NO. 366-20: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A MAJOR AMENDMENT TO THE MORSELIFE COMMUNITY SERVICE PLANNED DEVELOPMENT, LOCATED AT 4847 DAVID S. MACK DRIVE, TO ADD TWO (2) BUILDINGS, TOTALING APPROXIMATELY 37,232 SQUARE FEET, FOR THE PACE PROGRAM AND HOSPICE CARE AND RELATED SITE IMPROVEMENTS, INCLUDING UPDATES TO THE CAMPUS MASTER PLAN AND DEVELOPMENT REGULATIONS; DECLARING THIS AMENDMENT CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Agenda Cover Memorandum No.: 23184

Staff Recommended Motion:

Approve Resolution No. 366-20 regarding a Major Planned Development Amendment to the MorseLife Community Service Planned Development. This motion is based upon the factual testimony presented, the application submitted, the staff report, the recommendation of the Planning Board, and the findings that the amendment is consistent with the Comprehensive Plan and complies with the standards found in Sections 94-32 and 94-35 of the City's Zoning and Land Development Regulations.

Background:

The Morse Geriatric Center, consisting of a 280 bed geriatric care facility with support and ancillary uses, was originally approved by Palm Beach County. In 1996, the adjacent property to the north, within the boundary of West Palm Beach, was rezoned to Community Service (CS) to allow for the expansion and integration of the existing Morse Geriatric Center. In 1999, the parcel within the City limits was rezoned to Community Service Planned Development (CSPD) district, to allow the construction of a 454 dwelling unit senior citizen housing development. On July 9, 2001, the Morse Geriatric campus was annexed into the City of West Palm Beach and incorporated into the existing CSPD to create the MorseLife CSPD consisting of approximately 36 acres. On February 25, 2019, the City Commission approved Ordinance No. 4822-19, which expanded the boundaries of the MorseLife CSPD by 9.9 acres to include the former Children's Place at HomeSafe CSPD.

The current MorseLife campus includes: The Tradition of the Palm Beaches, the Edwards Building, the Resnick Building, and a special care facility. The Tradition includes both assisted and independent living units, with both phases served by accessory support uses, such as dining and recreational uses. The Edwards, Resnick, and the special care facility provide various levels of dependent care. MorseLife also provides on-site adult day care, as well as off-site home health care. The northern 9.9 acre parcel is still in use by HomeSafe until they complete the construction of their new facility on 47th Place North. HomeSafe occupies a 4,400 square foot office building and two (2) residential buildings.

Once HomeSafe moves into their new facility, MorseLife will begin the redevelopment of the former HomeSafe site. The redevelopment will occur in two (2) phases. The first phase will cover generally the west half of the site and consist of two (2) new buildings totaling 37,232 square feet and the associated parking. One new building will house a ten (10) bed Hospice Care facility. The existing adult day care (PACE) will be moved into the second new building. The second building will also house offices for the PACE and the Hospice Care. The two (2) existing HomeSafe residential buildings will be demolished to make way for the Phase I redevelopment. The 4,400 square foot building will remain in the Phase II portion of the site and serve as offices for MorseLife. There is no development proposed for Phase II at this time.

The proposed PACE building will be located along the Haverhill Road frontage and will thus result in the closing of the existing driveway entrance to the northern portion of the MorseLife campus. The proposed Hospice Care building will be located along the north property line of the MorseLife CSPD. A sidewalk network circles the two (2) new buildings and also connects the buildings to the remainder of the MorseLife campus. The parking for the buildings is located internal to the site. There will be two (2) internal connection points connecting the parking lot across the previous buffer that separated MorseLife from HomeSafe.

A bus shelter was installed at the entrance to the HomeSafe site, when it was originally constructed. While there is no bus stop currently at the bus shelter, once the northern driveway is removed, there will no longer be a need to have a bus stop at this location. There currently exists a Palm Tran bus stop without a shelter at the Loring Drive entrance to the MorseLife campus. This bus stop had heavy usage pre-COVID by MorseLife employees. As mitigation for the waivers as part of the PACE and Hospice Care redevelopment, MorseLife is required to install a shelter for this bus stop.

As part of the redevelopment of Phase I, MorseLife will be installing a double row of trees along the Haverhill Road to continue the landscape theme from the adjoining, existing MorseLife development, parking lot landscape, and foundation plantings. The new landscape installation will be limited to Phase I. Phase II will continue to be governed by the original HomeSafe landscape plan; however, some additional trees will be installed within Phase II in order to address mitigation issues for recent construction in the existing portion of the MorseLife CSPD. These additional trees are a combination of new trees and relocated trees and shown on the PACE Program Expansion Landscape Plan.

The construction of the two new buildings does not add new uses to the MorseLife CSPD (hospice care is classified as assisted living); however, there is additional square footage being added (specifically medical office uses), which adds vehicular trips to the MorseLife CSPD. The added vehicular trips trigger the requirement for the Major Planned Development amendment. Staff discussed with the applicant, including a development regulation to permit the mix of uses on the site to be modified through a Minor Planned Development amendment provided that: (1) an updated Traffic Performance Standard approval letter from Palm Beach County is provided; and (2) the use mix change does not trigger the Major Planned Development amendment threshold listed in the Zoning and Land Development Regulations. This will allow MorseLife more flexibility in providing future services. An example of this is if MorseLife wanted to convert some of the office space to additional assisted living units, and there was no increase in the approved vehicle trips, then this could be processed administratively as a Minor Planned Development amendment instead of having to be approved by the City Commission. MorseLife has agreed with this methodology. The MorseLife CSPD is approved for 2,653 average daily vehicle trips.

Waivers:

The MorseLife CSPD consists of a number of individually platted parcels, to include the 9.9 acre PACE/Hospice Care parcel. Due to the MorseLife CSPD being developed as an integrated campus, the strict application of the setback and landscape buffer requirements along the internal property lines does not result in a more desirable and attractive development than if these requirements are relaxed. Therefore, the existing MorseLife CSPD development has seen these requirements relaxed along the internal property lines. However, these waivers were never specifically included in the development approvals. Staff is taking the opportunity of this Major Planned Development amendment to amend the development regulations to include the official allowance of waivers to the internal property lines. The setbacks to the external property lines, as well as the overall and external buffers, will continue to adhere to the CSPD requirements. Code Sections - Section 94-203(b)(2) Minimum setbacks (internal parcel lines), Section 94-443(b) Minimum required landscape buffer (internal parcel lines).

A continuation of the existing six (6) foot tall block wall along Haverhill Road is proposed for Phase I. The existing wall is located within the 25 foot front setback for the MorseLife CSPD. The Zoning and Land Development Regulations permit only a four (4) foot tall wall within the front setback. Staff noted that while the six (6) foot tall wall has been shown on all of the previous site plans approved by the City Commission, the previous ordinances and resolution did not specifically approve a waiver to permit a six (6) foot tall wall in the front setback. Staff is including the waiver as part of this amendment for both the existing and proposed wall. Code Section - Section 94-302(c)(1) Nonresidential wall/fence.

Staff has included a letter of opposition that was provided to the Planning Board. The letter states: (1) the construction on the MorseLife campus is negatively impacting the

neighbors; (2) there is a section of fence that was never installed leading to trespass; (3) the buffer adjacent to the neighbors is not being properly maintained; and (4) the lights are creating glare on the neighboring property. MorseLife will be available to address these issues at the City Commission meeting; however, they have stated to staff that their light contractor has reviewed the existing lighting, they contain cut-off reflectors and have shields, and that they will be replacing the dead hedge material.

STANDARDS: The Planning Division has determined that the Major Planned Development Amendment to the MorseLife CSPD meets the required standards found in Sections 94-32 and 94-35, which is the City of West Palm Beach Zoning and Land Development Regulations.

Compliance with the above referenced standards is detailed in the Planning Board Staff Report.

PLANNING BOARD: The Planning Board recommended approval (7-0) of the request to the City Commission after a Public Hearing on November 17, 2020.

NOTICE: Individual notices were mailed to all property owners within 500 feet of the MorseLife CSPD. Signs for the Major Amendment were posted on the property on October 30, 2020.

Commission District 4: Commissioner Joseph Peduzzi.

Fiscal Note:

No fiscal impact.

COMMENTS FROM THE PUBLIC FOR NON-AGENDA ITEMS:

COMMENTS BY THE MAYOR AND CITY COMMISSIONERS:

ADJOURNMENT:

***Pursuant to Resolution No. 179-95, adopted according to the provisions of Section 286.0115, Florida Statutes, members of the Commission shall disclose on the record: 1) ex-parte communications - verbal or written and written communications shall be placed in the record; and 2) site visits, investigations, etc.**

NOTICE: IF ANY PERSON DECIDES TO APPEAL ANY DECISION OF THE CITY COMMISSION AT THIS MEETING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR THAT PURPOSE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY OF WEST PALM BEACH DOES NOT PREPARE OR PROVIDE SUCH A RECORD.