



WEST PALM BEACH

**City of West Palm Beach  
City Commission**

**DRAFT  
AGENDA**

**August 9, 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 JOSEPH A. PEDUZZI**

**COMMISSIONER KELLY SHOAF  
COMMISSIONER CHRISTY FOX**

**COMMISSIONER SHALONDA WARREN  
COMMISSIONER CHRISTINA LAMBERT**

**ADMINISTRATION  
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:**

**CONSENT CALENDAR (1-6):**

1. **Minutes of the Regular City Commission Meeting of July 26, 2021.**  
*Agenda Cover Memorandum No.: 23439*

**Staff Recommended Motion:**

Approve the Minutes of the Regular City Commission Meeting of July 26, 2021.

2. **Resolution No. 181-21 approving the City of West Palm Beach Title VI Program to be submitted to the Florida Department of Transportation (FDOT), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA).**

**RESOLUTION NO. 181-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE CITY'S TITLE VI PROGRAM FOR A THREE (3) YEAR PERIOD FROM JUNE 1, 2021 THROUGH JUNE 1, 2024; INSTRUCTING CITY STAFF TO SUBMIT THE APPROVED TITLE VI PROGRAM TO THE FLORIDA DEPARTMENT OF TRANSPORTATION, THE FEDERAL HIGHWAY ADMINISTRATION AND THE FEDERAL TRANSIT ADMINISTRATION; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23424*

**Staff Recommended Motion:**

Approve Resolution No. 181-21.

**Background:**

The City of West Palm Beach, as a recipient of Federal Transit Administration (FTA), Federal Highway Administration (FHWA), and Florida Department of Transportation (FDOT) financial assistance, is required to comply with United States Department of Transportation (DOT) Title VI regulations found at 49 CFR Part 21. FTA Circular 4702.1B, promulgated pursuant to 49 CFR part 21 and other authority, requires the City of West Palm Beach to submit a Title VI Program to the FTA and FDOT to ensure that its transit services and capital investments are provided in a non-discriminatory manner. The City's Title VI Program was last submitted to FTA in June 2018 pursuant to Resolution No. 154-18. This is the City's updated Title VI Program to be submitted to FTA after the City Commission's approval of Resolution No. 181-21.

3. **Resolution No. 183-21 approving an agreement between the Palm Beach County Food Bank, Inc. and the Mandel Public Library of West Palm Beach to implement a Benefits Outreach Partnership where the Mandel Public Library of West Palm Beach will host a representative to assist people with filing for Florida Food Assistance Program "SNAP" benefits.**

**RESOLUTION NO. 183-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING AN AGREEMENT BETWEEN THE PALM BEACH COUNTY FOOD BANK, INC. AND THE CITY OF WEST PALM BEACH TO IMPLEMENT THE BENEFITS OUTREACH PARTNER AGENCY PROGRAM AT THE MANDEL PUBLIC LIBRARY OF WEST PALM BEACH TO ASSIST FAMILIES APPLYING FOR FLORIDA FOOD ASSISTANCE PROGRAM BENEFITS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23426*

**Staff Recommended Motion:**

Approve Resolution No. 183-21.

**Background:**

The Mandel Public Library of West Palm Beach already has an established relationship with the Palm Beach County Food Bank, Inc. through our Food4OurKids program, which allows us to distribute weekend meals to children and families. We would like to expand this relationship by implementing a Benefits Outreach Partnership with the Palm Beach County Food Bank, Inc. where the Mandel Public Library of West Palm Beach would host a representative, on an as needed and coordinated basis, to assist people with filing for Florida Food Assistance Program "SNAP" benefits. This representative would be hosted on-site at the Mandel Public Library one (1) day per week for eight (8) hours at no cost to the City. Many patrons of the Mandel Public Library of West Palm Beach rely upon the library's computer and internet access already to file for their SNAP benefits. Hosting a representative who could specifically assist people with their SNAP applications would be beneficial for our community.

**Fiscal Note:**

No fiscal impact.

4. **Resolution No. 198-21(F) amends the general fund budget for the grants overall department budget received under the Early Learning Coalition's Child Care Provider Phase V Program and the Mini Grants School Readiness Program in the amounts of \$51,000 and \$38,250. Funds will be specified for staffing, deferred maintenance, program equipment, and supplies.**

**RESOLUTION NO. 198-21(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 FOR THE RECEIPT AND APPROPRIATION OF THE EARLY LEARNING COALITION OF PALM BEACH COUNTY CHILD CARE PROVIDER PHASE V GRANT AWARD AND THE EARLY LEARNING COALITION OF PALM BEACH COUNTY MINI GRANTS SCHOOL READINESS GRANT AWARD TO PROVIDE APPROPRIATIONS TO SUPPORT ONGOING OUT-OF-SCHOOL PROGRAM OPERATIONS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23427*

**Staff Recommended Motion:**

Approve Resolution No. 198-21(F).

**Background:**

On July 12, 2021, the City Commission approved Resolution No. 168-12, which authorized and ratified the City's applications for grants under the Early Learning Coalition of Palm Beach County from the State of Florida Office of Early Learning COVID-19 Response and Relief Supplemental Appropriations Phase V grant funding to support ongoing out-of-school program operations. The Early Learning Coalition provided the City with four (4) [one for each licensed City facility] Early Learning/Child Care Provider Phase V Grant Eligibility Forms to complete, sign, and return for funding. We have received the grant funds for Child Care Providers Phase V - \$51,000 and School Readiness Phase V Mini-grant - \$38,250.

Phase V funding granted is based on the capacity of enrollment at licensed child-care centers. Funds will be specified for staffing, deferred maintenance, program equipment, and supplies. The grant received for each center is as follows:

- Coleman Park Community Center: \$10,500
- Howard Park Community Center: \$10,500
- Gaines Park Community Center: \$15,000
- South Olive Park Community Center: \$15,000
- Total: \$51,000

The Phase V mini-grants are also based on capacity and the number of children enrolled with the Early Learning Coalition of Palm Beach County for financial support at each City licensed facility. Funds will be specified for staffing, deferred maintenance, program equipment, and supplies. The grant received for each center is as follows:

- Coleman Park Community Center: \$7,875
- Howard Park Community Center: \$7,875
- Gaines Park Community Center: \$11,250
- South Olive Park Community Center: \$11,250
- Total: \$38,250

**Fiscal Note:**

Approval will provide funding totaling \$51,000 and \$38,250 for community center licensed child care and school readiness program support.

5. **Resolution No. 195-21 approving the second amendment between the City of West Palm Beach and the Honorable Richard L. Scott, United States Senator, for property located at 415 Clematis Street, Suite 201.**

**RESOLUTION NO. 195-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA APPROVING THE SECOND AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND THE HONORABLE RICHARD L. SCOTT, UNITED STATES SENATOR FOR CERTAIN PROPERTY LOCATED AT 415 CLEMATIS STREET, SUITE 201; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23428*

**Staff Recommended Motion:**

Approve Resolution No. 195-21.

**Background:**

The City of West Palm Beach and the West Palm Beach Community Redevelopment Agency constructed the City Center Complex as the location for the municipal government, along with the library, and governmental and non-profit entities seeking a central location within the community. Moreover, the bonds which funded the construction are tax-exempt, which require non-commercial uses.

The property located at 415 Clematis Street, Suite 201, is part of the City Center complex and in order to facilitate access for the community to their elected official, by Resolution No. 48-19, the City Commission authorized a lease of office space in City Center to Senator Richard L. Scott, which lease was a preliminary six (6) month lease. By Resolution No. 235-19, a First Amendment to the Lease with Senator Richard L. Scott was approved to extend the lease through March 1, 2020, with the ability to extend the term thereafter on a month-to-month basis.

Senator Richard L. Scott desires to extend the Lease through the remainder of his term, through January 2, 2025, with all other terms of the lease remaining the same.

Staff recommends approval of the Second Amendment between the City of West Palm Beach and the Honorable Richard L. Scott, United States Senator, for property located at 415 Clematis Street, Suite 201.

Property is located in Commission District 3: Commissioner Christy Fox.

6. **Resolution No. 210-21 providing notice of intent to enter into a comprehensive agreement for development of a City marina along the downtown waterfront between Palm Harbor Marina and the South Cove islands, and notice that other proposals for the same project will be accepted for evaluation.**

**RESOLUTION NO. 210-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, PROVIDING NOTICE OF INTENT, PURSUANT TO SECTION 255.065, FLORIDA STATUTES, TO ENTER INTO A COMPREHENSIVE AGREEMENT FOR A QUALIFYING PROJECT FOR DEVELOPMENT OF A CITY MARINA ALONG THE DOWNTOWN WATERFRONT; PROVIDING NOTICE OF INTENT TO ACCEPT OTHER PROPOSALS FOR THE SAME PROJECT; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23440*

**Staff Recommended Motion:**

Approve Resolution No. 210-21.

**Background:**

On June 30, 2021, the Procurement Official received an unsolicited proposal from a private entity for a proposed project to construct a city marina in the Intercoastal Waterway adjacent to the Downtown.

The process for consideration of an unsolicited proposal is contained in Section 255.065, Florida Statutes (the "statute"), and Section 66-73 of the City Code of Ordinances. The City Commission has determined that the proposed project is a qualifying project under the statute because it addresses a public need and would serve a public purpose as a recreational facility that would be used by the public at large.

The City Commission must now determine whether it intends to further evaluate proposals for the proposed project, and the timeframe for receiving such proposals, with the intention to negotiate and enter into a comprehensive agreement for the proposed project. If the City Commission expresses its intent to enter into a comprehensive agreement for a city marina project, the City will publish notice that the City will be accepting competing proposals. Due to the complexity of the project, competing proposals will be due sixty (60) days from the issuance of the notice.

Once competing proposals are received, technical evaluation of the proposals by City staff, technical consultants, and advisers, would be conducted to review technical, engineering, financial, and legal aspects of the proposals. The City Commission, with the technical evaluation input, would then hear presentations, evaluate, and rank the proposals. Negotiations for a comprehensive agreement would commence with the top ranked proposer. The statute specifies a number of items, which would need to be addressed in a comprehensive agreement and requires an independent analysis of the proposed agreement and public-private partnership.

Resolution No. 210-21 establishes the City Commission's intent to enter into a comprehensive agreement for a city marina project along the downtown waterfront, from south of Palm Harbor Marina to north of the South Cove islands, and directs the publication of notice that other proposals for the same project will be accepted for evaluation.

**Fiscal Note:**

No fiscal impact.

**RESOLUTIONS (7-10):**

7. **Resolution No. 172-21 ratifying the acceptance of the Closing the Gap Technical Assistance Grant valued at \$100,000 from the Florida Housing Coalition Center for Racial Equity to provide technical support aimed at increasing black homeownership rate within the City of West Palm Beach.**

**RESOLUTION NO. 172-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, RATIFYING THE ACCEPTANCE OF A TECHNICAL ASSISTANCE GRANT VALUED AT \$100,000 FROM THE FLORIDA HOUSING COALITION AIMED AT INCREASING BLACK HOMEOWNERSHIP WITHIN THE CITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

***Agenda Cover Memorandum No.: 23429***

**Staff Recommended Motion:**

Approve Resolution No. 172-21.

**Background:**

In the summer of 2020, Mayor Keith A. James established the Mayor's Task Force for Racial and Ethnic Equality with a mission to identify and help address issues of racial/ethnic equity through education about racial and ethnic inequities, research of best practices, and issuance of policy/funding recommendations to address racial/ethnic inequity in the City of West Palm Beach.

In furtherance of the Mayor's vision and goals, the City's Department of Housing and Community Development applied for and was awarded a grant from the Florida Housing Coalition Center for Racial Equity. The grant's application was approved by Resolution No. 90-21. The Closing the Gap grant will provide two (2) years of technical assistance aimed at increasing the black homeownership rate within the City. The competitive award is valued at \$100,000.

At a minimum, a framework for promoting black homeownership will be developed. The framework will include a work plan based on local data, identified outcome measures, a list of responsible entities, and a time frame for implementation. This framework will include an implementation plan on community engagement, policy and program alignment, capacity building, and private sector engagement. Depending on the City's capacity for rapid implementation, success measures may include data evidencing new homeowners, rehabilitation and preservation funds allocated, new programs created, totally matched savings, training offered, land development code amendments, count of community land trusts established or partnered with, count of real estate professionals in coordination with local closing the gap efforts, and other measures.

The City's matching requirement of \$25,000 will be met utilizing available funds in the City's local housing trust fund.

The deadline for the City to accept the grant and return the signed notice of award is September 20, 2021. Approval of Resolution No. 172-21 ratifies the City Commission's acceptance of the grant and authorizes the Mayor's execution of the grant agreement.

**Fiscal Note:**

The one-time \$25,000 match will come from the City's local Housing Trust Fund.



8. **Resolution No. 150-21 grants Face of the City approval for the multimedia art installation entitled "Natural Beauty" by local artist Anthony Burks Sr. of ATB Fine Art Group, Inc. to be installed at the 500 Passageway on Clematis Street and approving an agreement between the City of West Palm Beach and ATB Fine Art Group, Inc.;**

**Resolution No. 152-21 approves an interlocal agreement between the City of West Palm Beach and the Community Redevelopment Agency for the funding of the art installation; and**

**Resolution No. 151-21(F) authorizes appropriation of \$25,000 from the ArtLife WPB Public Art Account to commission the art installation.**

**RESOLUTION NO. 150-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A MULTIMEDIA ART INSTALLATION ENTITLED "NATURAL BEAUTY" BY LOCAL ARTIST ANTHONY BURKS, SR. OF ATB FINE ART GROUP, INC. TO BE INSTALLED ON THE WEST-FACING WALL OF THE CITY-OWNED BUILDING LOCATED AT 509 CLEMATIS STREET AND APPROVING AN AGREEMENT FOR AN AMOUNT NOT-TO-EXCEED \$45,000 BETWEEN THE CITY OF WEST PALM BEACH AND ATB FINE ART GROUP, INC. FOR THE ART INSTALLATION; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**RESOLUTION NO. 152-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A PROJECT FUNDING INTERLOCAL AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY FOR A MULTIMEDIA ART INSTALLATION BY LOCAL ARTIST ANTHONY BURKS, SR. AT THE 500 PASSAGEWAY ON CLEMATIS STREET FOR AN AMOUNT NOT-TO-EXCEED \$20,000; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**RESOLUTION NO. 151-21(F): A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE APPROPRIATION OR TRANSFER OF PUBLIC ART 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 ARTLIFE WPB CAPITAL PROJECT FUND BUDGET TO PROVIDE APPROPRIATIONS TO COMMISSION A LARGE SCALE ARTWORK FOR THE 500 BLOCK PASSAGEWAY CLEMATIS STREET AND BANYAN BOULEVARD; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23430*

**Staff Recommended Motion:**

Approve Resolution No. 150-21, Resolution No. 152-21, and Resolution No. 151-21(F).

**Background:**

On June 2, 2021, the City of West Palm Beach's ArtLife WPB Committee voted unanimously to recommend "Natural Beauty" a large-scale multimedia art installation by local artist Anthony Burks, Sr. The art will be installed in the passageway of the 500 Clematis Block between Clematis Street and Banyan Boulevard. It will be visible from multiple viewpoints and will enhance the pedestrian passageway experience. The art installation's total budget of \$45,000 will be funded for an amount of \$25,000 by the ArtLife WPB Public Art Account and for an amount not-to-exceed \$20,000 by the West Palm Beach Community Redevelopment Agency ("CRA") as set forth in the project funding interlocal agreement between the City and the CRA.

About the Artist:

Anthony Burks, Sr. is a fine arts and commercial artist. He works primarily in pen and ink, pastels, watercolor, and color pencils. He graduated from The Art Institute of Fort Lauderdale and has worked and collaborated with numerous companies and organizations over the years through his 29-year company with his wife, ATB Fine Art Group Inc.

The Media/Materials:

Color digital printed images on heavy gauge aluminum fabricated panels. Clear coated with satin UV finish.

Refurbished street sign wrapped with full color digital print. Sign to be refashioned with LED lighting.

The Art Concept:

"Natural Beauty" is a series of portrait drawings of individual females from the creative world whom the Artist met from different communities visited and explored by the Artist. These communities include different states, counties, cities, and social media. Nicole Escalera, who inspired the image to be installed on the west-facing wall of the building located at 509 Clematis Street, (original art: 4' x 4' charcoals, watercolor and color pencils on watercolor paper) is a Palm Beach County resident of Caribbean descent (Puerto Rican and Dominican), an art educator, and a yoga instructor. In the Artist's own words: "Her peaceful soul spoke to me, which is why I created her in this image."

The Criteria:

The ArtLife WPB committee reviewed the art concept by Anthony Burks, Sr. for the following criteria set forth in Section 78-125 of the City's Code of Ordinances:

1. Art: The proposed art installation conforms to the definition of art contained in this article and will be created by a professional artist as defined in this article.
2. Master Plan: The proposed art installation complies with the public art master plan.
3. Historic Significance: Not applicable as the proposed art is contemporary.
4. Cultural Significance: The proposed art installation is culturally significant and reflects the aesthetic and cultural traditions and diversity of the city or the surrounding neighborhood.
5. Visual Accessibility: The proposed art installation will be readily visible to the public and meets the location requirements of this article.
6. Quality: The artist is professionally recognized in multiple mediums and the proposed art installation demonstrates a strong aesthetic quality and enduring value.
7. Appropriateness to Site: The proposed multimedia art installation, design, scale, and materials are appropriate for the site.
8. Diversity: The art installation brings diversity to the public art program in terms of media, cultural, and/or historical significance, innovation, and creativity.
9. Public Welfare: The proposed art installation reflects an enduring artistic concept and is not detrimental to the public welfare and will not constitute a safety hazard.
10. Maintenance: The art installation will require only minimum maintenance.
11. Valuation: Not applicable. Funds were allocated from the City and CRA's public art accounts.
12. Location: The identified location complies with the public art master plan and as defined in the code.
13. Artist Qualifications: The artist meets the definition of artist under this article, has demonstrated ability for work in his chosen media, has demonstrated good workmanship in prior artwork, and could complete this project in a timely manner.
14. Budget: The project budget meets the allocated funds for the project and a budget breakdown was part of the artist's proposal.

There is a companion item on the CRA Agenda as CRA Resolution No. 21-32 to approve the project funding interlocal agreement between the City and the CRA.

Commission District 3: Commissioner Christy Fox.

**Fiscal Note:**

Approval will recognize \$25,000 from ArtLife reserve for future projects to Natural Beauty project.

9. **Resolution No. 154-21 approving the proposed art concept for 345 Banyan Boulevard by developers WPB 303 Banyan Apartments, LLC to satisfy the public art requirement. One percent (1%) of the total construction costs escrowed are: \$399,661.64.**

**RESOLUTION NO. 154-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, MAKING FINDINGS AND APPROVING INSTALLATION OF PUBLIC ART FOR 345 BANYAN BOULEVARD RESIDENTIAL DEVELOPMENT BY WPB 303 BANYAN APARTMENTS, LLC IN COMPLIANCE WITH THE PUBLIC ART ORDINANCE; PROVIDING AN EFFECTIVE DATE; AND OTHER PURPOSES.**  
*Agenda Cover Memorandum No.: 23431*

**Staff Recommended Motion:**

Approve Resolution No. 154-21 approving the proposed art concept entitled for 345 Banyan Boulevard. 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 June 2, 2021, the ArtLife WPB committee voted unanimously to recommend the art concept entitled "UNTITLED" for 345 Banyan Boulevard to satisfy the public art requirement. WPB 303 Banyan Apartments, LLC commissioned local artist Ben Leon to design and develop a unique public artwork for their development site. The development consists of a high rise building offering studios to three bedrooms units for lease. \$399,661.64 has been escrowed for this project.

About the Artist:

Ben Leon grew up in West Palm Beach and spent most of his childhood surrounded by construction and architecture projects. Leon attended the University of North Carolina at Chapel Hill, where he received his BFA in Art and focused his energy on bridging the gap between art, architecture, and construction. Process is the driving aspect of his work. The ability to influence every aspect of a design is something he strives to keep consistent throughout his work. The Artist recognizes the equal importance of the physicality of producing a work and the development of the idea or the communication with other parties involved.

Artwork Placement:

UNTITLED consists of large scale purple orchids that weave and climb up the building's parking garage. To give the appearance of a mural, the artist intentionally uses various materials to create a 3-D work to appear flat (2-D).

Materials:

- Koda-XT: To create the orchid shapes.
- Knotwood Battens: To appear like bamboo.

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

1. Art. The proposed artwork conforms 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 artwork is contemporary and site-specific.
4. Cultural Significance. The proposed artwork will reflect the aesthetic and cultural development of this area and the surrounding neighborhood.
5. Visual Accessibility. The proposed artwork 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 artwork's design, scale, and materials are unique for the site.
8. Compatibility. The proposed artwork will be compatible and add value to the surrounding neighborhood.
9. Public Welfare. The proposed artwork will need to meet the structural engineering and any other building code requirements.
10. Maintenance. The proposed artwork will not require extraordinary maintenance, and the maintenance plan addresses weathering and the life of the artwork. The maintenance of the artwork is the responsibility of the owner/developer.

11. Valuation. The proposed artwork meets the valuation requirements of this article. Escrowed owed amount: \$399,661.64.
12. Location. The proposed location of the artwork is in a public space with 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 local artist Ben Leon for the development by WPB 303 Banyan Apartments, LLC to be located at 345 Banyan Boulevard in compliance with the public art ordinance.

Commission District 3: Commissioner Christy Fox.

**Fiscal Note:**

No fiscal impact.

10. **Resolution No. 184-21 granting Face of the City approval for the Artwork entitled "Heart & Soul Park" by Artist EVOCA1 of Mass and Nomads, LLC to be installed at Heart and Soul Park in the Historic Northwest Neighborhood and approving an agreement between the City of West Palm Beach and Mass and Nomads, LLC for the installation.**

**RESOLUTION NO. 184-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE ARTWORK ENTITLED "HEART AND SOUL PARK" BY ARTIST EVOCA1 OF MASS AND NOMADS, LLC TO BE INSTALLED AT THE HEART AND SOUL PARK IN THE HISTORIC NORTHWEST NEIGHBORHOOD AND APPROVING AN AGREEMENT FOR AN AMOUNT NOT-TO-EXCEED \$120,000 BETWEEN THE CITY OF WEST PALM BEACH AND MASS AND NOMADS, LLC FOR THE INSTALLATION OF THE ARTWORK; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23432*

**Staff Recommended Motion:**

Approve Resolution No. 184-21.

**Background:**

On July 7, 2021, the ArtLife WPB Committee voted unanimously to approve a mosaic artwork for the Historic Heart and Soul Park by Artist EVOCA1 with Mass and Nomads, LLC (the "Artwork"), to be installed on the walls and benches at the Heart at Soul Park. The allocation of \$120,000 for the creation and installation of the Artwork was previously approved by the City Commission through Resolution No. 73-20(F) on June 1, 2021.

#### About The Artist:

Elio Mercado / Evoca1 is a Dominican born figurative painter and muralist based out of South Florida. As an autodidact, he has received his art education from the compulsive study of the old masters' works and techniques. He has participated in public art projects and murals around the world, leaving his mark in Abu Dhabi, Peru, Brazil, Ecuador, Austria, Canada, Argentina, Germany, Mexico, Australia, Honolulu, Tunisia, and others. He is the founder of Mass + Nomads, LLC: Art for the Masses, a production studio, and creative consultancy for public art strategies, which develops comprehensive public art projects for culturally driven communities. Mr. Mercado is also the founder and producer of the Artesano Mural Project, which takes place in the Dominican Republic in partnership with international artists, to enhance and revive rural areas to empower local youths. In efforts to raise awareness for homelessness, he founded Sketches for Mankind, a non-profit based out of South Florida.

#### Location:

The Artwork will be installed at the Heart and Soul Park located in the Historic Northwest Neighborhood.

#### The Artwork:

In the spirit of the sunset lounge and its history, the mosaic pieces will follow a similar theme and garner inspiration from old jazz posters and record covers and also recognize historical figures who made an impact and contribution to the area's rich culture.

#### Materials:

- Mosaic Pieces: Ceramic tiles / hand-cut.
- Method of Application: Hand installed with mortar, contact cement, and non-sanded grout. Sealant: Marble and stone sealant.

#### The Criteria:

The ArtLife WPB Committee reviewed the art concept by EVOCA1/Mass and Nomads, LLC based on Section 78-125 of the City Code, which sets forth the following criteria:

- a) Art. The proposed artwork conforms to the definition of art contained in this article and will be created by a professional artist as defined in this article.
- b) Master Plan. The proposed artwork complies with the public art master plan.
- c) Historic Significance. The proposed artwork reflects the history of the area including prominent individuals who made an impact on the area.

- d) Cultural Significance. The proposed artwork is culturally significant and reflects the aesthetic and cultural traditions and diversity of the City or the surrounding neighborhood.
- e) Visual Accessibility. The proposed artwork will be readily visible to the public and meet the location requirements of this article.
- f) Quality. The artist is professionally recognized in multiple mediums and the proposed artwork demonstrates a strong aesthetic quality and enduring value.
- g) Appropriateness to Site. The proposed design, scale and materials are appropriate for the site.
- h) Diversity. The artwork brings diversity to the public art program in terms of media, cultural and/or historical significance, innovation and creativity.
- i) Public Welfare. The proposed artwork reflects an enduring artistic concept and is not detrimental to the public welfare and will not constitute a safety hazard.
- j) Maintenance. The mosaics will require only minimum maintenance.
- k) Valuation. Not applicable. Funds were allocated from the public art account.
- l) Location. The identified location at the Heart and Soul Park complies with the public art master plan and as defined in the Code.
- m) Artist Qualifications. The artist meets the definition of artist under this article; has demonstrated ability for work in his chosen media; has demonstrated good workmanship in prior artwork; and the ability to complete this project in a timely manner.
- n) Budget. The project budget meets the allocated funds for the project, and a budget breakdown was part of the artist's proposal.

Resolution No. 184-21 grants Face of the City approval of the Artwork and approves an agreement between the City of West Palm Beach and Artist Mass and Nomads, LLC.

Commission District 3: Commissioner Christy Fox.

**Fiscal Note:**

The allocation of \$120,000 was previously approved by the City Commission through Resolution No. 73-20(F) on June 1, 2021 for creation and installation of the Artwork.



**PUBLIC HEARINGS (11-15):**

11. **Public Hearing and Second Reading of Ordinance No. 4942-21 modifying the Comprehensive Plan Downtown Master Plan Element to amend Policy 2.4.2 and Policy 3.1.3 in relation to the creation of a new Downtown Master Plan (DMP) Housing Incentive Program.**

**ORDINANCE NO. 4942-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, MODIFYING THE COMPREHENSIVE PLAN TO AMEND THE DOWNTOWN MASTER PLAN ELEMENT, POLICY 2.4.2 TO REMOVE THE NAME OF A SPECIFIC INCENTIVE PROGRAM; TO AMEND POLICY 3.1.3 TO MODIFY THE MAXIMUM DEVELOPMENT CAPACITIES ALLOWED WITH INCENTIVES WITHIN CERTAIN DISTRICTS; AND TO IDENTIFY NEW AREAS ELIGIBLE FOR INCENTIVES WITHIN THE CULTURAL ARTS DISTRICT, THE TRANSIT DEVELOPMENT DISTRICT AND THE CLEMATIS WATERFRONT 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.: 23433*

**Staff Recommended Motion:**

Approve Ordinance No. 4942-21 modifying the Comprehensive Plan Downtown Master Plan Element amending Policy 2.4.2 and Policy 3.1.3 in relation to the creation of a new Downtown Master Plan (DMP) Housing Incentive Program. This motion is based on the factual testimony presented, the staff report, the recommendation of the Planning Board, and the finding that the amendment is consistent with the Comprehensive Plan.

**Background:**

Over the last few years, there has been significant discussion within the City regarding the availability of reasonably priced housing for individuals and families earning a salary close to the Area Median Income (AMI), which is currently \$80,200 for Palm Beach County. There has been an emphasis on housing that is affordable to the income group that work within the downtown area. As employment in the downtown continues to increase, the availability of reasonable-priced housing for workers within downtown has not followed pace, forcing workers to commute to downtown every day and increasing the potential of existing and future traffic congestion.

Currently, the city has an incentive program that allows additional development capacity through the transfer of City-owned development rights (TDRs) to projects proposing housing for individuals and families earning between 50% and 150% of the AMI. From the initiation of this program, three (3) developments within the DMP have utilized the affordable housing incentive program: Evernia Place at 631 Evernia Street, the two (2) recently approved projects at 991 Banyan Boulevard (Flagler Station), and the Grand at 620 3rd Street. In the case of Evernia Place and Flagler Station, 100% of the units (179) are restricted for families with incomes below 80% of AMI, and the projects received, or will receive, financial assistance from the State through the low income tax credit program. In the case of the Grand, the project also received financial assistance from the City in exchange for the affordable units. The three projects received City-owned TDRs at no-cost as an incentive for the construction of the affordable housing units.

Considering that the implementation of the program has resulted in the construction of just 85 units from the total 3,397 units built in the downtown from 2006 to 2021, just 2.5% of the total units that the City has limited in-house TDR capacity, the City has decided to create a more aggressive program to ensure that the construction of residential units for families earning below 100% of the AMI to follow the pace of construction of market rate units. In an effort to expand the program beyond tax credit projects, the City is proposing to create a new program that applies to all residential projects seeking to utilize the incentives within the Downtown Master Plan (DMP). It is the goal of the City to create a new housing incentive program within the DMP to promote the construction of mix income residential buildings.

The City's Planning Division and Housing and Community Development Department have been working on the new DMP Housing Incentive Program that will meet the City's objective of providing housing for working families with incomes between 60% and 100% of the AMI within the limits of the DMP area. Under the scope of the City's established TDR program (Section 94-134 of the ZLDRs), the new incentive will permit additional height and FAR for residential developments, which include residential units for the target income. The details of the DMP Housing Incentive Program will be included in a companion Ordinance No. 4958-21 being presented for approval concurrent to this Comprehensive Plan amendment.

As part of the development of the program, the City has determined that it is necessary to expand the areas eligible to receive incentives, necessitating an amendment to the Downtown Master Plan Element (DMPE) of the City's Comprehensive Plan. The amendments included in Ordinance No. 4942-21 are the proposed amendments to the DMPE of the City's Comprehensive Plan necessary to set the framework for future ZLDR amendments. Two (2) amendments are proposed as follows:

1. Update to Policy 2.4.2:

The proposed amendments will modify Policy 2.4.2 of the DMPE of the City's Comprehensive Plan to remove the existing reference to the specific "Affordable Housing Incentive Program" and maintain a more general policy. The specific name of any housing incentives will be established within the Zoning and Land Development Regulations.

2. Update to Policy 3.1.3:

The proposed amendments will also modify Policy 3.1.3 of the DMPE of the City's Comprehensive Plan to allow, with incentives, additional development capacity and height for certain sub-districts. Specifically, the amendments will allow new areas within the TOD-10, QBD-10, QBD-8, and CAD-5 to be eligible for incentives. The proposed areas are located within a five (5) minute walk of the intermodal station and the Brightline Station, making them a prime location for the construction of new housing.

One additional area located within the CWD-5 is also proposed as eligible for incentives. During the First Reading it was proposed to extend the same height and development intensity allowed within the Clematis Waterfront District 10-12 incentive district located immediately west. However, after discussions, it was decided this block should be assigned the same development intensity and height allowed for the FWD-5-8 immediately north, which allows a maximum height of eight (8) stories and a maximum FAR of 3.75 with incentives. In this case, the area is envisioned for the redevelopment of an existing underutilized public parking garage facility.

The additional development capacity proposed within the subject incentive districts will be obtained through the use of the TDR program; therefore, no additional development will be added to the overall capacity of the Downtown area. The DMP housing incentive program will not preclude the City from incentivizing the development of office, commercial, and hotel in areas where these uses are currently permitted. The proposed amendments will modify Table DMP-1 Maximum Development Capacity, which includes the maximum development capacity and height allowed for each sub-district by right and through incentives, and also modify DMP Figure-3 Incentive Areas to indicate the specific locations where the additional incentives are appropriate. The additional development capacity and height permitted has been calculated utilizing basic urban design principles to ensure the height and intensity of development do not create unintended consequences for the public realm.

The Downtown Action Committee reviewed the proposed amendments during its March 10, 2021 meeting and recommended unanimous approval (7-0). The Planning Board reviewed the proposed amendment during its March 16, 2021 meeting and also recommended unanimous approval (4-0).

The Ordinance was advertised in the publication of the Palm Beach Post of April 12, 2021 for First Reading and on August 4, 2021 for Second Reading.

The amendment will be applicable to properties located within the Downtown Master Plan area within Commission District 3: Commissioner Christy Fox.

12. **Public Hearing and Second Reading of Ordinance No. 4958-21 amending Article IV - Downtown Master Plan of the Zoning and Land Development Regulations to create a new Housing Incentive Program and modify existing special incentives.**

**ORDINANCE NO. 4958-21: 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 94-109 DEFINITIONS, SECTION 94-131 INCENTIVE PROGRAMS-GENERAL, SECTION 94-132 TRANSFER OF DEVELOPMENT RIGHTS, SECTION 94-133 SPECIAL DISTRICT INCENTIVES, SECTION 94-134 AFFORDABLE HOUSING INCENTIVE PROGRAM, AND SECTION 94-135 OKEECHOBEE BUSINESS DISTRICT TO MODIFY THE TRANSFER OF DEVELOPMENT RIGHTS PROGRAM AND CREATE A NEW DOWNTOWN MASTER PLAN HOUSING INCENTIVE PROGRAM; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23434*

**Staff Recommended Motion:**

Approve Ordinance No. 4958-21, amending Article IV - Downtown Master Plan of the Zoning and Land Development Regulations to create a new Housing Incentive Program and modifying existing special incentives. This motion is based on the factual testimony presented, the staff report, the recommendation of the Downtown Action Committee and the Planning Board, and the finding that the proposed amendment complies with all the amendment standards found in Section 94-32 of the Zoning and Land Development Regulations.

**Background:**

Based on discussions with the City Commission and developers subsequent to the presentation made at First Reading on July 12, 2021, the following changes are being proposed:

1. The percentage of Incentive GBA required to set aside was reduced from 27% to 20%.

To provide perspective, a developer building a project on one (1) acre at an FAR of 2.75, which doubles to 5.50 with the housing incentive, would be required to build 24 workforce units at 20% of GBA rather than 32 units at 27% of GBA.

2. The boundaries of the off-site location were expanded to include designated areas just outside of the DMP boundaries where additional workforce housing is desired as detailed in Exhibit C.

Certainly, worth noting is the fact that developers choosing to pursue the Downtown Housing Incentive Program are afforded flexibility with regard to Zoning Code requirements contained in the Downtown Master Plan. These include a reduction of required active use liners on both the first floor as well as upper floors and a modification to the conditional setbacks for parking uses. Staff has conducted an economic analysis to determine if these proposed changes would create incentives for developers to pursue workforce housing, and the strong belief is the program is very viable particularly with the ten (10) year tax increment rebate.

Over the last few years, there has been significant discussions within the City regarding the availability of reasonably priced housing for individuals and families earning a salary within the \$80,200 area median income range (2021 Palm Beach County AMI according to the Florida Housing Finance Corporation), particularly for those that also work within the downtown area. It has been identified that as the employment in the downtown increases, the availability of housing for workers has not followed the same pace. As a consequence of the lack of housing for workers, people who desire to live close to their employment do not have alternatives and are forced to commute to downtown every day, increasing traffic congestion.

Considering this situation, the City started working on a new Downtown Master Plan (DMP) Housing incentive program to incentivize the construction of housing units below market rate. Last April 19, 2021, the City Commission approved on First Reading the proposed changes to the Comprehensive Plan necessary to implement the new program. The Comprehensive Plan changes simply expanded some of the areas designated as eligible for incentives, paving the path for the DMP Housing program.

For the past several months, the City has been working on the details of the new DMP Housing Incentive Program to be included in the Zoning and Land Development Regulations. Staff has conducted several meetings with developers in the area and received feedback on the proposed concepts. The DMP housing concept has been adjusted based on the feedback received.

One of the goals of the Housing Element of the City's Comprehensive Plan is to make every effort to provide a broad range of housing types and adequate housing supply for all ages, family size, and income level categories in the City. Based on data collected from FHFC and information on the residential needs within the downtown, the City is seeking to create a DMP housing incentive program that aims to provide housing units for families with incomes between 60% to 100% of the AMI. This program will replace the existing DMP affordable housing incentive and create a new program appropriate for the current conditions of the downtown area.

The proposal is revamping the special incentives currently existing in the downtown to reflect the changed conditions. The main changes proposed include:

1. Remove Incentives for Class A Office and Full-Service Hotels within the Quadrille Business District (QBD) and the Quadrille Garden District (QGD):

The 2009 DMP update identified the need to connect CityPlace with Clematis Street and proposed the creation of a class A office and full service hotel incentive to promote new construction within the area of the QBD located between Rosemary Avenue and Quadrille Boulevard, Datura Street, and Gardenia Street, and the area of QBD north of Banyan Boulevard. The QBD incentive granted a substantial increase in development capacity and height for the area through the transfer of development rights program and offered City-owned TDRs at no cost to further promote the construction of the class A office and full-service hotel uses. In the twelve (12) years since the adoption of the DMP update, the dynamic of the area has been drastically changed. With the construction of the Brightline train station, the Parkline 25-story residential building, and the new 360 Rosemary 18-story class A office building, the gap between Clematis Street and CityPlace (now renamed as Rosemary Square) is disappearing.

The City has identified that the dynamic of the area is strong enough not to necessitate special incentives for the promotion of particular uses. However, the development intensity proposed by the QBD incentive is still important to maximize the development potential of the remaining vacant parcels in close proximity to the train station.

Considering these circumstances, the City is proposing to remove the special incentives that offered City-owned TDRs at no cost for the development of class A office and full-service hotels within the QBD. The class A office and full-service hotel incentive currently existing for the QGD is also identified as no longer necessary. The additional development capacity and height offered through the TDR incentives will remain, making the area still attractive for the construction of class A office uses due to its proximity to the Brightline train station and its development capacity.

The City is proposing to maintain the existing Okeechobee Business District (OBD) incentive where two (2) new class A office buildings are currently proposed. The West Palm Point, including approximately 430,000 sf of class A office, is currently under site plan approval process, and the One Flagler building including approximately 270,000 sf of class A office is expected to start construction by the end of the year.

2. Modify the Affordable Housing Incentive Program:

The DMP currently includes an incentive program that allows additional development capacity through the transfer of City-owned development rights (TDRs) to projects proposing housing for individuals and families earning between 50% and 150% of the AMI. The program offered developers the transfer of City-owned TDRs at no cost as an incentive for the construction of the affordable housing units.

From the initiation of this program, three (3) developments within the DMP have utilized the affordable housing incentive program: Evernia Place at 631 Evernia Street, Flagler Station at 991 Banyan Boulevard, currently under construction, and the Grand at 620 3rd Street, under building permit review. In the case of Evernia Place and Flagler Station, 100% (179) of the units are restricted for families with incomes below 80% of AMI, and the projects received financial assistance from the State through the tax credit program. In the case of the Grand, the project received financial assistance from the City and CRA. The three (3) projects received City-owned TDRs at no-cost as an incentive for the construction of the affordable housing units.

Considering that the implementation of the program has resulted in the construction of just 85 units from the total 3,397 units built in the downtown from 2006 to 2021, 2.5% of the total units, the City has decided to create a more aggressive program to ensure that the construction of residential units for families earning at or below 100% of the AMI follows the pace of construction of market rate units.

Recent analysis of the housing prices within the downtown area indicate that the market price of available units is not affordable for families earning 100% of the AMI or below. A comparison between the market price for rental units downtown and the amount of rent a family making 100% of the AMI, or less is able to afford shows a substantial gap between the two. In an effort to expand the program beyond low income housing tax credit projects, the City is proposing to create a new program that applies to all residential projects seeking to utilize the incentives within the DMP. It is the goal of the City to create a new housing incentive program within the DMP to promote the construction of mix income residential buildings.

The proposed DMP Housing Incentive Program would utilize the TDR Program to allow developers interested in constructing residential uses to purchase TDRs to increase its development capacity above the by-right capacity up to a maximum development capacity permitted by the incentive. In compensation for the incentive, the project would be required to set aside certain number of units for families with incomes between 60% and 100% of AMI. The program is based on the concept that the additional development capacity offered to developers compensate for the reduction of revenue from the income restricted units.

The main requirements of the program are:

- a. Project shall set aside 20% of the gross building area (GBA) allowed by the incentive for units for families with incomes between 60% and 100% of the AMI (Note: Staff is recommending this figure be reduced to 20% from 27%).
- b. From the required set aside GBA, a 20% discount will be offered to account for efficiency, and the remainder square footage shall be divided by the project's average unit size to determine the total number of units to set aside.

- c. The total required number of units set aside shall be divided to allocate at least 25% of the total units for households with income at 60% of the AMI or below, and 25% of the total units for households with income at 80% of the AMI or below. The remainder of the units can be allocated to any of the income levels between 60%-100% of the AMI.
- d. The unit types and sizes shall reflect the proposed unit mix and size of the market rate units.

To support the construction of the residential units for families with incomes between 60%-100% of the AMI and recognizing the reduced rent these families can pay, the City is working with the CRA on a complementary program to provide additional financial support to participant projects. The financial support will materialize through a Tax Increment Finance (TIF) program that will reimburse to the developer certain percentage of the County and City portion of the ad valorem property taxes generated by the project. The special TIF program to support the construction of residential units below market rate is currently under draft and subject to adjustments, but the initial concept includes the following elements:

- a. A project participating in the DMP housing program may be eligible to receive a reimbursement of up to 30% of the County and City portion of its ad valorem property tax for ten (10) years.
- b. The maximum reimbursement will be determined by the income of the restricted units as follows:
  - o Units at 60% AMI or below \$16,000/ year/10 years
  - o Units at 80% AMI or below \$12,000/ year/ 10 years
  - o Units at 100% AMI or below \$8,000/year/ 10 years

In addition, the City currently offers incentives that reduce water/waste water capacity fees, engineering fees, and parking requirements for eligible affordable and workforce housing projects. This program will complement those existing incentives for downtown projects.

Compliance with the DMP housing incentive can be provided in three (3) different ways:

- a. On-site: Developer can provide all the income restricted units on site, integrated as part of the project. Units shall be finished, including all the elements considered standard for the market rate units. Units shall not be clustered or segregated for the market rate units.
- b. Off-site: Developer can provide all the income restricted units off-site at an alternative location. Alternative locations shall be within the Downtown Master Plan area, the Jefferson Terminal District or in the area just north of Good Samaritan Hospital east of Dixie Highway as reflected in Exhibit C. Off-site units shall be constructed before or concurrently with the development of the parent project.



- c. Payment in lieu: Developer can provide a monetary contribution to the Housing Trust Fund. The total amount of the payment in lieu shall be based on the per square foot construction cost according to the International Code Council Building Valuation Data table, which establishes the cost of construction per building type.

3. Expansion of the TDR Receiving Sites:

The amendment is also proposing the expansion of the TDR receiving sites, specially to designate additional areas within the Transit Development District and the Cultural Arts District as receiving sites. These areas were not designated for increased development capacity originally, but as the pressure for development downtown grows, the area located between the two train stations has become a prime area for redevelopment.

4. Minor Adjustments:

Some minor adjustments are also proposed in some of the incentive building requirements tables to reflect desirable compatibilities for building heights and adjustments to the minimum street frontage setback.

**DOWNTOWN ACTION COMMITTEE:** The Downtown Action Committee recommended approval (7-0) of the request described herein at their June 9, 2021 public hearing.

**PLANNING BOARD:** The Planning Board recommended approval (4-0) of the request described herein at their June 15, 2021 public hearing.

**COMMISSION DISTRICT:** The proposed amendments affects properties located within Commission District 3: Commissioner Christy Fox.

**13. Public Hearing and Second Reading of Ordinance No. 4962-21 providing for revisions to the dates for candidates to qualify for General Elections in March 2022 and all future elections for City offices.**

**ORDINANCE NO. 4962-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 30, ELECTIONS, SECTION 30-1 AND SECTION 30-2 OF THE CODE OF ORDINANCES TO REVISE THE DATE FOR CANDIDATES TO QUALIFY FOR CITY OFFICES; PROVIDING A SEVERABILITY AND CODIFICATION CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**  
*Agenda Cover Memorandum No.: 23435*

**Staff Recommended Motion:**

Approve Ordinance No. 4962-21 on Second Reading.

**Background:**

Chapter 30 of the West Palm Beach Code of Ordinances contains the elections regulations adopted by the City Commission, which provides the dates and methods for qualifying. The Palm Beach County Supervisor of Elections has requested that municipalities amend their qualifying period, so that their qualifying ends on or before the 95th day before Election Day in order to accommodate vote-by-mail requirements, as further set forth in Section 101.62 of the Florida Statutes. Section 100.3605 Florida Statutes governs the conduct of municipal elections. The Statute authorizes the City to change the dates for qualifying and for the election of members of the governing body by adoption of an ordinance.

Ordinance No. 4962-21 modifies the dates relative to qualifying.

**Fiscal Note:**

No fiscal impact.

14. **Public Hearing of Resolution No. 182-21 authorizing the City's application to the U. S. Department of Justice under the Bureau of Justice Assistance Edward J. Byrne Formula Grant Program seeking a grant in the amount of \$75,931 for the Police Department.**

**RESOLUTION NO. 182-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING SUBMITTAL OF AN APPLICATION TO THE U. S. DEPARTMENT OF JUSTICE FOR AN EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT REQUESTING FUNDING FOR THE WEST PALM BEACH POLICE DEPARTMENT TO SUPPORT CRIMINAL AND SPECIAL INVESTIGATIONS FOCUSING ON VIOLENT CRIME AND NARCOTICS INVESTIGATIONS; PROVIDING AN OPPORTUNITY FOR PUBLIC COMMENT TO CITIZENS, NEIGHBORHOODS AND COMMUNITY BASED ORGANIZATIONS; PROVIDING FOR EFFECTIVE DATE; AND OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23425*

**Staff Recommended Motion:**

Approve Resolution No. 182-21.

**Background:**

The City of West Palm Beach, on behalf of its Police Department, intends to submit an application to the U. S. Department of Justice Edward Byrne Memorial Justice Assistance Grant (JAG) for a grant in the amount of Seventy-Five Thousand Nine Hundred Thirty-One Dollars (\$75,931) to purchase surveillance equipment and allocate funds to the investigative funds expenditure (IFE) account.

The West Palm Beach Police Department intends to use the JAG Grant awarded funds to proactively combat violent crime and conduct narcotics related investigations through the Criminal Investigations and Special Investigations Divisions. Conducting violent crime investigations, including homicides, related firearm type crimes, and major drug trafficking investigations involves the use of sophisticated surveillance equipment and utilizing investigative funds expenditures, including informants and relocating investigative witnesses. The awarded funds are to be allocated as follows:

- |   |                    |
|---|--------------------|
| 1. Purchase of "SPIDER" and "AXIS" covert surveillance equipment: | \$27,970.76        |
| 2. Investigative Expenditure Funds:                               | <u>\$47,960.24</u> |
| Total:  | \$75,931.00        |

The solicitation was announced on June 8, 2021, and the application deadline is August 9, 2021.

A requirement of the grant is that citizens, neighborhood, and community-based organizations be given the ability to comment on the application. The public hearing for this resolution provides such opportunity for public comment.

Resolution No. 182-21 authorizes the application for a U. S. Department of Justice Edward Byrne Memorial Justice Assistance Grant (JAG) grant in the amount of \$75,931 for the purchase of investigative surveillance equipment and allocating funds to the investigative funds expenditures accounts.

**Fiscal Note:**

No match required for grant. Grant is requesting \$75,931 in grant funding.

15. **Public Hearing of Resolution No. 189-21 authorizing acceptance of federal entitlement grants in the amount of \$4,705,024; approving and authorizing submission of the One-Year Action Plan for Fiscal Year 2021-2022 and authorizing execution of all related documents.**

**RESOLUTION NO. 189-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING ACCEPTANCE OF FEDERAL ENTITLEMENT GRANTS FROM THE U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM, THE HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM; AND THE HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA) PROGRAM; APPROVING THE CITY'S ANNUAL ACTION PLAN FOR FISCAL YEAR 2021-2022 FOR USE OF THE FUNDS; AUTHORIZING THE MAYOR TO EXECUTE ALL AGREEMENTS AND RELATED DOCUMENTS NECESSARY TO RECEIVE THE GRANT FUNDS AND TO AWARD THE GRANT FUNDS TO SUBRECIPIENTS; AUTHORIZING AND DIRECTING THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT TO SUBMIT THE ONE-YEAR ACTION PLAN TO THE U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23436*

**Staff Recommended Motion:**

Approve Resolution No. 189-21.

**Background:**

The City of West Palm Beach is an entitlement recipient of federal funds from the U. S. Department of Housing and Urban Development (HUD) under the Community Development Block Grant Program (CDBG), HOME Investment Partnerships Program (HOME), and the Housing Opportunities for Persons with AIDS Program (HOPWA). For Fiscal Year (FY) 2021-2022, the City anticipates receiving a total of \$4,705,024 as follows:

- CDBG: \$1,023,448;
- HOME: \$478,968; and
- HOPWA: \$3,202,608.

The funds are intended to address the community development and housing needs within the corporate limits of the City of West Palm Beach by achieving the overall goal of decent housing, providing a suitable living environment, and expanding economic development opportunities principally for low and moderate income persons. As a part of developing the Plans, federal regulations require the City to hold public meetings to receive public input on the use of the funds. In addition to this public hearing, the City held an input meeting via Zoom on July 1, 2021. Public comments received have been incorporated into the Plan.

In order to receive these funds, the City is required to submit an Annual One-Year Action Plan to HUD which describes the City's intended use of these funds. The submission deadline of the Annual One-Year Action Plan is August 15, 2021.

Resolution No. 189-21: (a) authorizes the acceptance of the funds, (b) approves the uses of funds for the federal programs, (c) authorizes the Mayor to execute grant agreements and all other documents necessary for the submission of the Action Plan and the receipt and use of grant funds, and (d) authorizes submittal of the Action Plan to HUD for its review and approval.

**Fiscal Note:**

Budget line item appropriations will be set up in the FY22 Grant fund budget.

**PUBLIC HEARING – QUASI JUDICIAL (16-17):  
DISCLOSURE OF EX PARTE COMMUNICATIONS, IF ANY\*  
SWEARING IN OF WITNESSES**

- 16. Public Hearing and First Reading of Ordinance No. 4960-21 regarding a Future Land Use (FLU) Map Amendment to change the FLU designation of ±4.15 acres located at 2101 Presidential Way from Multifamily to Commercial East;**

**Public Hearing and First Reading of Ordinance No. 4961-21 regarding a Rezoning to change the zoning designation of ±4.15 acres located at 2101 Presidential Way from Residential Planned Development to General Commercial, with a further rezoning to Commercial Planned Development; and**

**Discussion of Resolution No. 177-21 regarding a Major Amendment to the Banyan Cay Residential/Commercial Planned Development to expand the boundaries of the RPD/CPD to include an additional ±4.15 acres located at 2101 Presidential Way, grant waivers to the City's Zoning and Land Development Regulations, and amend the master plan and design guidelines accordingly, to provide for the construction of a 191-unit multifamily residential development.**

**The above-referenced requests are being made by Joni Brinkman, of Urban Design Studio, on behalf of ECI-Palm Beach, LLC.**

**ORDINANCE NO. 4960-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN OF THE CITY OF WEST PALM BEACH, FLORIDA, BY CHANGING THE FUTURE LAND USE DESIGNATION OF ±4.15 ACRES LOCATED AT 2101 PRESIDENTIAL WAY FROM MULTIFAMILY TO COMMERCIAL EAST; DECLARING THE PROPOSED AMENDMENT TO THE FUTURE LAND USE MAP TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**ORDINANCE NO. 4961-21: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE ZONING MAP OF THE CITY OF WEST PALM BEACH BY REZONING ±4.15 ACRES LOCATED AT 2101 PRESIDENTIAL WAY FROM A RESIDENTIAL PLANNED DEVELOPMENT ZONING DESIGNATION TO GENERAL COMMERCIAL, WITH A FURTHER REZONING TO COMMERCIAL PLANNED DEVELOPMENT; DECLARING THIS ZONING MAP AMENDMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; REVISING THE ZONING MAP OF THE CITY ACCORDINGLY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**RESOLUTION NO. 177-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A MAJOR AMENDMENT TO THE BANYAN CAY RESORT RESIDENTIAL AND COMMERCIAL PLANNED DEVELOPMENTS, GENERALLY LOCATED NORTH OF PRESIDENTIAL WAY AND EAST OF CONGRESS AVENUE, TO EXPAND THE BOUNDARIES AND INCORPORATE AN ADDITIONAL ±4.15 ACRES, GRANT WAIVERS TO THE CITY'S ZONING AND LAND DEVELOPMENT REGULATIONS, AND AMEND THE MASTER PLAN, DEVELOPMENT PROGRAM, AND DESIGN GUIDELINES ACCORDINGLY TO PROVIDE FOR THE CONSTRUCTION OF A MULTIFAMILY RESIDENTIAL DEVELOPMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23437*

**Staff Recommended Motion:**

Approve Ordinance No. 4960-21, changing the Future Land Use designation of ±4.15 acres located at 2101 Presidential Way from Multifamily to Commercial. This motion is based upon the application submitted, the staff report, factual testimony, the recommendation of the Planning Board, and the findings that the request complies with the standards found in Policy 1.1.5 of the Future Land Use Element of the City's Comprehensive Plan.

Approve Ordinance No. 4961-21, changing the zoning designation of ±4.15 acres located at 2101 Presidential Way from Residential Planned Development to General Commercial, with a further rezoning to Commercial Planned Development. This motion is based upon the application submitted, the staff report, factual testimony, the recommendation of the Planning Board, and the findings that the request complies with the Comprehensive Plan and the standards in Section 94-32 of the City's Zoning and Land Development Regulations.

Discuss Resolution No. 177-21, which will approve a Major Amendment to the Banyan Cay Residential/Commercial Planned Development to expand the boundaries of the RPD/CPD to include an additional ±4.15 acres located at 2101 Presidential Way, grant waivers to the City's Zoning and Land Development Regulations, and amend the master plan and design guidelines accordingly, to provide for the construction of a 191-unit multifamily residential development.

**Background:**

(The information provided below is a general summary. A full analysis is included in the Staff Report.)

Located north of Presidential Way and east of Congress Avenue, Banyan Cay currently consists of a total of ±119.53 acres and is the location of the former north golf course of The President Country Club, within the Lands of the President. Due to a decline in the membership and the financial instability of the private club, The President Country Club was sold in July 2011.

In order to enhance the remaining south golf course, the north course was approved for redevelopment as an exclusive resort-style community consisting of residential homes; a resort hotel with spa, meeting space, and restaurant; golf clubhouse; and a future multifamily high-rise, and resort cottages. Originally known as the PCC Resort Community, the initial version was adopted by the City Commission on July 8, 2013.

Several amendments have occurred since the original approval, with the most recent being approved by the City Commission on May 3, 2021. The golf course clubhouse was ultimately completed (but is still pending a final Certificate of Occupancy) and many of the 94 single family homes in Pod A have also been completed and are now occupied; the remaining homes in Pod A have been permitted. Following a lengthy stall, the hotel and associated parking garage have also resumed construction.

Adjacent to the Banyan Cay RPD/CPD, across Presidential Way, is the site of the tennis courts that once belonged to The President Country Club, along with a large vacant tract of land that used to be a part of the south golf course before it was redesigned. Together, consisting of ±4.15 acres, this plot of land was the location of a previously-approved multifamily development known as Presidential Tower. Presidential Tower was approved as a 193-foot tall residential building consisting of 288 dwelling units. Ultimately this project was never constructed and the entitlements authorizing such development expired. With the exception of the tennis courts, the property continues to sit vacant.

In October 2019, the site of Presidential Tower was acquired by ECI Palm Beach, LLC with the hopes of moving forward with a multifamily residential project. ECI Palm Beach, LLC, hereinafter referred to as “the applicant”, has developed a proposal to construct an eight (8) story multifamily building, but is requesting 191 dwelling units, 58 units more than what the current MF FLU allows. As density waivers are no longer an option, the applicant has proposed to incorporate their site into the adjacent Banyan Cay RPD/CPD and make it a part of the master-planned community. By doing so, it would allow unbuilt dwelling units within the Banyan Cay site to be carried over to the applicant’s parcel on the southwest side of Presidential Way. The density across the expanded PD would continue to be within the allowance given by the Comprehensive Plan, it would just be shifting units from one area to another, similar to a Transfer of Development Rights (TDR) program.

In order to provide for the incorporation into Banyan Cay, the zoning and FLU designations of the ±4.15-acre property need to be consistent with the rest of the master plan. As such, the applicant is proposing to change the FLU designation of the former Presidential Tower site, hereinafter referred to as the “expansion parcel” from Multifamily (MF) to Commercial East (CE), as well as change the zoning designation from Residential Planned Development (RPD) to General Commercial (GC), with a further rezoning to Commercial Planned Development (CPD). Immediately following, the master plan, legal description, etc. for the Banyan Cay RPD/CPD would all be updated to incorporate the expansion parcel; pursuant to Sec. 94-207.e. of the City’s ZLDRs; this aspect requires a Major Amendment to Banyan Cay.

The expansion parcel is proposed to become Pod E, Permissible Building Area (PBA) #8, within the Banyan Cay Master Plan, and as indicated previously, developed with an eight (8) story building containing 191 multifamily dwelling units. Included with the applicant’s Major Amendment is their request to add two (2) waivers from the City’s ZLDRs; they are outlined below:

- Waiver Request #1: Section 94-77.a.3. – Maximum Building Height
- Waiver Request #2: Section 94-486 – Required Parking

**CONCLUSION:** Overall, the proposed residential development on the expansion parcel is a significant reduction from what was approved in 2006-2007, both in terms of building scale as well as the number of residential dwelling units. While there is some concern about the expansion of the Banyan Cay RPD/CPD across Presidential Way into an area that otherwise is residentially zoned, utilization of the Banyan Cay master plan and design guidelines will ensure that the site is limited to multifamily residential uses and that development of such (or any future modifications to) go through an extensive review process. Restricting the FLU designation further prevents any development that would be incompatible with the surrounding area.

Subject to the conditions outlined in Resolution No. 177-21, the project complies with all of the other requirements of Banyan Cay RPD/CPD, and the Development Services Department – Planning Division has found that the request satisfies all of the standards found within the City’s Comprehensive Plan and ZLDRs. Therefore, Staff is recommending approval of the request, subject to the conditions outlined in Resolution No. 177-21.

**PLANNING BOARD:** After a Public Hearing on June 15, 2021, the Planning Board recommended approval (4-0) of the request, subject to the conditions recommended by Staff.

**PUBLIC NOTICE:** Individual notices were mailed to all property owners within 500 feet of the property, and signs were posted on the subject property. As required by Florida Statutes, Ordinance No. 4960-21 was advertised on August 2, 2021. All ordinances and resolutions will also be advertised prior to Second Reading.



Commission District Nos. 1 and 3: Commissioner Kelly Shoaf and Commissioner Christy Fox, respectively.

**Fiscal Note:**

No fiscal impact.

17. **Public Hearing of Resolution No. 178-21 regarding a request by Gary M. Brandenburg, of Brandenburg & Associates, P.A., on behalf of Timothy M. Hulett, for a Major Amendment to the Hulett Place Commercial Planned Development (CPD) to allow for the construction of a 22,684 square foot office building.**

**RESOLUTION NO. 178-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A MAJOR AMENDMENT TO THE HULETT ENVIRONMENTAL SERVICES COMMERCIAL PLANNED DEVELOPMENT, LOCATED AT 7670 OKEECHOBEE BOULEVARD, TO ALLOW FOR THE CONSTRUCTION OF A 22,684 SQUARE FOOT TWO (2) STORY BUILDING; DECLARING THIS AMENDMENT CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

*Agenda Cover Memorandum No.: 23438*

**Staff Recommended Motion:**

Approve Resolution No. 178-21 regarding the Major Amendment to allow for the construction of a 22,684 square foot office building. This motion is based upon the application submitted, the staff report, factual testimony the recommendation of the Planning Board, the findings that the request complies with the Comprehensive Plan, and the standards in Section 94-32 and 94-35 of the City's Zoning and Land Development Regulations.

**Background:**

(The information provided below is a general summary. A full analysis is included in the Staff Report).

Located at the southwest corner of Okeechobee Boulevard and Wekiva Way, between Land Rover Palm Beach and the Golden Shoppes retail center, the subject property is the corporate headquarters of Hulett Environmental Services. It has a Commercial Planned Development (CPD) zoning designation and a Commercial (C) Future Land Use (FLU) designation. Currently, the site is developed with an office building with storage, totaling approximately 22,004 square feet. The remainder of the site is devoted to parking and landscape areas. The portion of the property which contains the building and paved parking area was developed when it was under the jurisdiction of Palm Beach County. Subsequently, in 2006, it was annexed into the City.

On January 24, 2011, the City Commission approved Ordinance No. 4318-11, which rezoned the site to a Commercial Planned Development (CPD) to allow for the construction of an additional 30,165 square foot office building in the northeast corner of the property. The City Commission approval included a site plan for the building.

On October 29, 2012, the City Commission then approved Ordinance No. 4436-12, transferring the site plan approval and development conditions of the CPD to a separate resolution. Resolution No. 266-12 approved a Major Amendment to the CPD to reconfigure the site based on a revised design for the previously approved 30,165 square feet. Approved plans included a reduced footprint, with the same total 30,165 square feet of office space, improvements and increase in parking area along the shared access easement along the southern portion of the property.

For reasons that are unknown, Hulett Environmental Services Inc. (HES) chose not to move forward with the previously approved expansions but have reached a point where they have grown too large for their existing building. As such, the applicant would like to now proceed with constructing a second building at the site to expand the business and increase the number of employees. The new site plan includes 22,684 square feet of office space and a 2,520 square foot warehouse/service bay addition, and includes a reconfiguration of the parking area by installing a pedestrian circulation system that has been implemented throughout the site that includes connections to the existing sidewalks along both Okeechobee Boulevard and Wekiva Way for maximum utilization and safety.

**CONCLUSION:** The Development Services Department - Planning Division has found the Major Amendment request complies with all of the required standards found in Section 94-32 of the City's Zoning and Land Development Regulations, and therefore, Staff is recommending approval of the request subject to the conditions set forth in Resolution No. 178-21.

**PLANNING BOARD:** The Planning Board recommended approval (5-0) of this request to the City Commission after a Public Hearing on June 15, 2021.

**PUBLIC NOTICE:** Individual notices were mailed to all property owners within 500 feet of the Hulett Environmental Services CPD on July 8, 2021, and signs were posted on the property on May 28, 2021. Resolution No. 178-21 was advertised in the Palm Beach Post on July 30, 2021.

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.**