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Mayor Keith A. James  
Commission President Christy Fox (District 3)  
Commissioner Cathleen Ward (District 1)  
Commissioner Shalonda Warren (District 2)  
Commissioner Joseph A. Peduzzi (District 4)  
Commissioner Christina Lambert (District 5)

City Administrator Faye W. Johnson  
City Attorney Kimberly Rothenburg  
City Clerk Shaquita Edwards

**City of West Palm Beach  
City Commission  
Agenda  
Monday, April 3, 2023  
5:00 PM**

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, FL 33401, (561) 822-1210.

**1. CALL TO ORDER**

**2. MOMENT OF SILENCE**

**3. PLEDGE OF ALLEGIANCE**

**4. 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.

## 5. ADDITIONS / DELETIONS / REORGANIZATION OF AGENDA

## 6. PROCLAMATION

- 6.1. Proclaiming April 9-15, 2023 as National Public Safety Telecommunications Week. Proclamation to be accepted by Suzette Dodd, Telecommunications Manager, West Palm Beach Police Department.

**Originating Department:**  
Mayor's Office

## 7. CONSENT CALENDAR

All items listed under the consent calendar are considered routine and will be enacted by one motion. There will be no separate discussion of these items.

- 7.1. Resolution No. 68-23(F) accepting and appropriating funds in the amount of \$3,250 from Prime Time of Palm Beach County funded by the Children Services Council in recognition of the after-school programs at Vedado Park, Gaines Park, and South Olive Park completing the Quality Improvement System (QIS) core quality practices. These funds are to be used for program supplies, professional development, field trips, special youth/family events, and other program expenditures.

**Originating Department:**  
Parks and Recreation

**Ordinance/Resolution:**

RESOLUTION NO. 68-23(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 2022/2023 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 TO PROVIDE FOR THE RECEIPT AND APPROPRIATION OF THE GRANT AWARD FROM PRIME TIME OF PALM BEACH COUNTY TO PROVIDE AFTER SCHOOL PROGRAM SUPPLIES, PROFESSIONAL DEVELOPMENT, FIELD TRIPS, SPECIAL YOUTH/FAMILY EVENTS, OTHER PROGRAM EXPENDITURES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The Quality Improvement System (QIS) incentive program is a Prime Time of Palm Beach County strategy designed to further increase after school program quality for their participant's activities/programs. The QIS is a performance-based recognition program that awards financial incentives to out-of-school time programs that go above and beyond in their QIS work. The award amount is based upon a tiered process through which a program demonstrates the implementation of advanced youth

development and program management practices. These practices are in concert and direct relationship with a program's voluntary participation and work in Prime Time's QIS incentive program. Funding is provided by the Children's Services Council of Palm Beach County and is based upon the availability of funds and performance.

This past year, three (3) of the City's after-school programs were eligible to receive a QIS Core Practices Development Grant through Prime Time's QIS incentive program. They have each completed the QIS core quality practices that aim to increase and maintain positive youth development, which leads young people to develop skills necessary to be successful socially, emotionally, and academically. Prime Time requires that the grant be spent on professional development, program supplies, field trips, special youth and/or family events, and other program expenditures.

Gaines Park Community Center, South Olive Community Center, and Vedado Park Community Center have each been recognized for going above and beyond in their QIS work. Gaines Park was awarded \$1,250; South Olive was awarded \$1,000; and Vedado Park was awarded \$1,000.

Commission District 1: Commissioner Cathleen Ward.

Commission District 5: Commissioner Christina Lambert.

**Fiscal Note:**

Approval will provide \$3,250 in additional funds to be used towards professional development, field trips, special youth and/or family events, and other program expenditures.

- 7.2. Resolution No. 69-23 approving a Special Event License Agreement with Upscale Studio, Inc. for the "Gentleman's Flavor" on Saturday, June 17, 2023, and authorizing the issuance of a permit for the sale, possession, and consumption of alcoholic beverages at the event.

**Originating Department:**

Parks and Recreation

**Ordinance/Resolution:**

RESOLUTION NO. 69-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A SPECIAL EVENT LICENSE AGREEMENT BETWEEN THE CITY AND UPSCALE STUDIO, INC. FOR THE PURPOSE OF CONDUCTING GENTLEMAN'S FLAVOR AT GAINES PARK - MARY V. MCDONALD-WILSON CENTER ON JUNE 17, 2023 FROM 6:00 PM TO 9:00 PM; AUTHORIZING THE ISSUANCE OF A PERMIT TO UPSCALE STUDIO, INC. FOR THE SALE, CONSUMPTION, AND POSSESSION OF ALCOHOLIC BEVERAGES AT THE GENTLEMAN'S FLAVOR SPECIAL

EVENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

Upscale Studio, Inc. has submitted an application to produce the "Gentleman's Flavor" event on Saturday, June 17, 2023 from 6:00 PM to 9:00 PM at Gaines Park - Mary V. McDonald-Wilson Center. This will be the first time this event is being held in West Palm Beach. During this event, Upscale Studio, Inc. will serve food, alcoholic, and non-alcoholic beverages.

Pursuant to Article Section 78-152 of the City Code of Ordinances, a special event permit is required to host a special event in a City park and Section 58-85 of the Code of Ordinances requires approval of the City Commission, subject to conditions, for the sale, possession, and consumption of alcoholic beverages in a City park during a hosted special event.

Upscale Studio, Inc. will pay the City of West Palm Beach a \$1,395 special event permit fee, a \$350 special event security deposit, and will provide the City of West Palm Beach general liability insurance and liquor liability insurance. Both insurance policies will list the City of West Palm Beach as the additional insured.

Resolution No. 69-23 approves a Special Events License Agreement between the City and Upscale Studio, Inc. and authorizes issuance of a permit for the sale, consumption, and possession of alcoholic beverages at the event.

Commission District 1: Commissioner Cathleen Ward.

**Fiscal Note:**

Permit revenues will be received as stated.

- 7.3. Resolution No. 70-23 approving a sixth amendment to the interlocal agreement between the City of West Palm Beach, West Palm Beach Community Redevelopment Agency, and the CityPlace Community Development District; and

Resolution No. 71-23 approving a second amendment to Right-Of-Way Improvement and Maintenance Agreement between the City of West Palm Beach, CityPlace Community Development District, and the West Palm Beach Community Redevelopment Agency.

**Originating Department:**

Community Redevelopment Agency

**Ordinance/Resolution:**

RESOLUTION NO. 70-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THAT CERTAIN SIXTH AMENDMENT TO INTERLOCAL AGREEMENT BY AND AMONG THE CITY OF WEST PALM BEACH, THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY, AND THE CITYPLACE COMMUNITY DEVELOPMENT DISTRICT, AMENDING SECTION 4.5 RELATING TO EXPENDITURE OF EXCESS INCREMENT REVENUE; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

RESOLUTION NO. 71-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THAT CERTAIN SECOND AMENDMENT TO RIGHT-OF-WAY IMPROVEMENT AND MAINTENANCE AGREEMENT BY AND AMONG THE CITY OF WEST PALM BEACH, THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY, AND THE CITYPLACE COMMUNITY DEVELOPMENT DISTRICT, AMENDING AND RESTATING SECTION 15 RELATED TO EXCESS INCREMENT REVENUE.

**Background Information:**

The City of West Palm Beach (City), West Palm Beach CRA (CRA) and CityPlace Community Development District (CDD) have been operating under an agreement that the CDD will maintain a portion of the rights-of-way impacted by its development within its boundary districts. The original agreement stipulates that the CRA will pay increment revenues, which are applied for payment of principal, redemption price, and interest on the bonds issued in 2012. In addition, the District has bonds issued in 2018 that were used to pay for recent infrastructure enhancements. The 2012 bonds have approximately \$15 million in principal remaining to be paid, and the 2018 bonds have approximately \$40 million in principal remaining to be paid until the CRA sunsets in 2046. The payment of the bonds and other obligations are summarized in order as listed below:

1. 2012 Bond Debt Service Obligations;
2. While the 2012 Bonds are outstanding; Required Agency (CRA) Payments;
3. 2018 Bond Debt Service Obligations;
4. Operating and maintenance obligations and other lawful purposes while the 2012 Bonds are outstanding;
5. 1/12 of the 2018 Bonds Debt Service Obligations retained in a revenue fund;
6. Operating and maintenance obligations for public improvements and any other lawful purpose of the CDD; and

7. Funds remaining after obligations 1-6 are met, remain with the CDD to be used for lawful purposes.

The second amendment to the right-of-way agreement acknowledges that if Excess Increment Revenue remains available after fulfilling its obligations under the Original ROW Agreement, it may expend the funds for any other lawful district purpose provided the uses is also consistent with those permitted under Chapter 163, Part III, Florida Statutes and the Amended and Restated Community Redevelopment Plan for the Expanded City Center Area as is more fully identified in Exhibit A to the Sixth Amendment to the Interlocal Agreement between the City of West Palm Beach, the West Palm Beach Community Redevelopment District and the Cityplace Community Development District.

The Sixth Amendment to the Interlocal Agreement imposes annual reporting of distribution of Excess Increment Revenue and an approval processes for expenditures that are not one of the enumerated items listed in Exhibit A.

The CDD proposes to use Excess Increment Revenue for the following purposes:

- Gap financing for the development associated with affordable or workforce housing;
- Creation of public space improvements inclusive of shared parking facilities;
- Mobility and traffic solutions;
- Incentives for new job creation and above market tenant allowance or concessions required to attract new businesses to West Palm Beach with priority given to those firms seeking to hire residents;
- On-going maintenance, programming and repair costs associated with new public space improvements, public right of ways and shared parking garages;
- Public Art; and
- Incentives for development that attracts tourism.

Approval of Resolution No. 70-23 and Resolution No. 71-23 will authorize execution of the agreements attached to this agenda item as summarized above.

The CRA companion items are Resolution No. 23-7 and Resolution No. 23-8.

Commission District 3: Commissioner Christy Fox.

**Fiscal Note:**

No financial terms have been changed.

- 7.4. Resolution No. 81-23 approving an agreement among the City of West Palm Beach, the West Palm Beach CRA, and 300 Banyan, LLC for the construction of City improvements in a portion of the 300 block alley located between Banyan Boulevard and Clematis Street.

**Originating Department:**

Community Redevelopment Agency

**Ordinance/Resolution:**

RESOLUTION NO. 81-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH APPROVING AN AGREEMENT AMONG THE CITY OF WEST PALM BEACH, THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY, AND 300 BANYAN LLC, REGARDING FUNDING AND CONSTRUCTION OF CITY IMPROVEMENT IN THE ALLEY LOCATED IN THE 300 BLOCK BETWEEN CLEMATIS STREET AND BANYAN BOULEVARD; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The Developer of 300 Banyan Boulevard, 300 Banyan LLC, is currently constructing a new twelve-story office building on the site located at the SW corner of Banyan Boulevard and Olive Avenue. The project, which includes the renovation of the existing 301 Clematis Street building, envisions the activation of the east-west alley located between the two sites with a new restaurant and outdoor seating extending on the alleyway.

In 2019, the CRA completed the renovation of the 300 block alleyway located between Clematis Street and Datura Street with the intention to continue with other alleyway improvements in the subsequent years. The Developer's idea to activate the alleys fits the City's and CRA's goal to enhance downtown's pedestrian realm and improve pedestrian connectivity through alleyways, as included in Goal 4 of the Downtown Target area of the CRA's Strategic Finance Plan.

Considering the alignment of goals through Resolution No. 23-9, the CRA is proposing an agreement with the project Developer for the construction of the alley improvements on the portion of the alley immediately adjacent to their project (eastern portion). The goal is to avoid duplicate work and expedite the construction of the improvements.

The Developer has been working with the City on the design of the improvements, and the proposed agreement will provide funding for the project in an amount not-to-exceed \$2,500,000 for soft and hard cost. The Developer is contributing \$500,000 to the project, which has been used up to this point for design services.

The funding for the project is currently allocated in the CRA budget for FY 23 and includes additional funds for the City to complete the western section of the alley improvements.

Resolution No. 81-23 provides the City's approval for the Developer to perform the City Improvement work in the alley at the CRA's expense (project funded by the CRA).

The CRA companion item is Resolution No. 23-9.

Commission District 3: Commissioner Christy Fox.

**Fiscal Note:**

No fiscal impact.

- 7.5. Resolution No. 73-23 authorizing the submission of an application to the Florida Department of Transportation for a grant in the amount of \$100,000 to fund the Police Department's Occupant Protection Program (seatbelts and child restraint device usage); and

Resolution No. 74-23(F) providing for the receipt and appropriation of \$100,000 in grant funding in FY 2022/2023.

**Originating Department:**

Police

**Ordinance/Resolution:**

RESOLUTION NO. 73-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING THE SUBMITTAL OF AN APPLICATION TO THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR AN OCCUPANT PROTECTION AND CHILD PASSENGER SAFETY GRANT TO FUND THE WEST PALM BEACH POLICE DEPARTMENT OCCUPANT PROTECTION PROGRAM; AUTHORIZING EXECUTION OF ALL NECESSARY DOCUMENTS; PROVIDING FOR AN EFFECTIVE DATE;AND OTHER PURPOSES.

RESOLUTION NO. 74-23(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 2022/2023 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 RECOGNIZE RECEIPT OF FUNDS FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR REIMBURSEMENT OF OVERTIME COSTS FOR TRAFFIC EDUCATION AND ENFORCEMENT OF OCCUPANT SAFETY LAWS AND TO PROVIDE APPROPRIATIONS FOR THE EXPENDITURES; PROVIDING AN EFFECTIVE; AND FOR OTHER PURPOSES.

**Background Information:**

In January 2022, the West Palm Beach Police Department (WPBPD) submitted a concept paper to the Florida Department of Transportation (FDOT) regarding the proposed use of grant funds to be included in the State's Fiscal Year 2023 Highway Safety Plan. The paper used statistics on crash outcomes in the City of West Palm Beach and the rest of the State to help justify why this education and enforcement plan targeting occupant restraint usage, safety belts, and child restraint devices should be funded in the City of West Palm Beach.

In 2022, the West Palm Beach Department issued 1,425 safety belt and child restraint citations and warnings throughout the City. This was a 125% increase from the previous year before, and this was in large part due to the Occupant Protection grant.

Throughout the City there has been an increase in car club gatherings in parking lots and roadway intersections. During these gatherings, vehicle passengers often hang out of the windows to record the dangerous driving and remove their seatbelts to do so. Often during a traffic stop initiated for another violation, officers have discovered more passengers not wearing seatbelts. This is occurring by both front and rear passengers. It is not uncommon to discover many of the rear seat occupants are unaware they are required to use a seatbelt per Florida State Statute. Many of these unrestrained drivers or occupants are under 18 years of age.

The WPBPD will continue to integrate high visibility enforcement, community outreach, and publicity to educate the public on safety belt usage. The WPBPD has adjusted the enforcement to the needs of the community. Crash data is used to determine where the most crashes are occurring and to conduct the above stated enforcement and outreach in those areas.

On September 2, 2022, Chief Adderley was notified the FDOT agreed and has determined that the City of West Palm Beach's plan merited inclusion in the Highway Safety Plan in the amount of \$100,000 in overtime reimbursement (salary & benefits). The City must submit an electronic application to accept this subgrant and complete associated documents. The grant period began on October 1, 2022, but the program cannot be implemented until all documents are complete. This program supports the City's Vision Zero goal of zero traffic fatalities.

Resolution No. 73-23 accepts the grant and authorizes execution of any necessary documents.

Resolution No. 74-23(F) accepts and appropriates the grant funding of \$100,000.

**Fiscal Note:**

No fiscal impact.

- 7.6. Resolution No. 79-23 approving a Custom Work Agreement with AT&T Southeast for the undergrounding of existing overhead utilities for the Tamarind Avenue Improvement project.

**Originating Department:**

Engineering

**Ordinance/Resolution:**

RESOLUTION NO. 79-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING THE AGREEMENT FOR CUSTOM WORK BETWEEN BELLSOUTH TELECOMMUNICATIONS, LLC, d/b/a AT&T SOUTHEAST AND THE CITY OF WEST PALM BEACH IN CONNECTION WITH THE UNDERGROUNDING OF OVERHEAD UTILITIES FOR THE TAMARIND AVENUE IMPROVEMENTS PROJECT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

The CRA's Strategic Finance Plans for the Downtown/City Center District identifies target project areas and specific redevelopment activities and funding mechanisms for such projects. Amendment No. 15 identifies the downtown core as a target area with focus on Tamarind Avenue. The Plan states that the beautification of Tamarind Avenue will address all modes of transportation through the Historic Northwest.

Design and Construction for the Tamarind Avenue Improvements is funded utilizing Water and Sewer Renewal and Replacement Fund 454, Water Sewer Construction Fund 456, Water and Sewer Series 2017A Construction Fund 45A, Stormwater Series 2008C Revenue Bond Construction Fund 488, and CRA Bond funds.

In accordance with the plan noted above, part of the beautification of Tamarind Avenue includes undergrounding all the existing overhead utilities for a cost of \$64,946.

Resolution No. 79-23 approves the scope and fee from AT&T.

Commission District 3: Commissioner Christy Fox.

- 7.7. Resolution No. 85-23 regarding the Icon Marina Village project; assuming responsibility for the seawall and assigning maintenance responsibility for the seawall and certain improvements in the Flagler Drive right-of-way to the owner.

**Originating Department:**

Engineering

**Ordinance/Resolution:**

RESOLUTION NO. 85-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, REGARDING THE ICON MARINA VILLAGE PROJECT; ASSUMING RESPONSIBILITY FOR THE PROJECT'S SEAWALL; ASSIGNING RESPONSIBILITY FOR MAINTENANCE OF THE SEAWALL AND CERTAIN RIGHT-OF-WAY IMPROVEMENTS TO THE PROJECT OWNER; APPROVING A RIGHT-OF-WAY IMPROVEMENT AND SEAWALL MAINTENANCE AGREEMENT BETWEEN THE CITY OF WEST PALM BEACH AND RD IMV OWNER LLC; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

RD IMV Owner, LLC ("Owner") has developed a portion of mixed-use project located at 4444 / 4334 / 4328 N. Flagler Drive, known as the Icon Marina Village (the "Project"). The Project is constructed on property adjacent to Lake Worth with a privately-owned seawall (the "Seawall").

In order for the Project to be removed from FEMA's Special Flood Hazard map, the Federal Emergency Management Agency ("FEMA") requires that the City assume responsibility for the Seawall. The City will only assume responsibility for the Seawall for FEMA purposes provided such responsibility can be re-assigned back to the Owner.

Additionally, the Project features elements, including specialty pavers, bike racks, specialized landscaping, trees, irrigation system to be installed within the N. Flagler Drive public right-of-way adjacent to the Project, per applicable plans approved by the City.

The Owner agrees to assume all maintenance obligations for the Seawall and right-of-way improvements installed for the Project, along with any landscape and hardscape improvements currently existing and installed in the right-of way.

Resolution No. 85-23 approves a Right of Way Improvement and Seawall Maintenance Agreement between the City and the Owner pursuant to which the City agrees to assume maintenance responsibility for the Seawall and assigns such obligation back to the Owner, and the Owner also assumes all maintenance obligations for the improvements in the Flagler Drive right-of-way adjacent to the Project.

Commission District 1: Commissioner Cathleen Ward.

**Fiscal Note:**

No direct fiscal impact.

- 7.8. Resolution No. 55-23(F) allocates \$50,000 from the Public Art Reserves towards the continuation of "Aqua di Vida: a Stormwater Awareness Campaign" to be implemented City-wide over a five (5) year span. Resolution No. 19-22 granted Face of the City for the design.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

RESOLUTION NO. 55-23(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 2022/2023 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 DESIGN AND INSTALL AQUA DI VIDA: A STORMWATER AWARENESS CAMPAIGN CITYWIDE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Background Information:**

On February 1, 2023 at their regularly scheduled meeting, the ArtLife Committee voted unanimously to recommend to City Commission the allocation of \$50,000 from the Art Reserves to continue the expansion of the Awareness Campaign for the Stormwater inlets.

Resolution No. 19-22 granted Face of the City to local artist Gregory Dirr's design "Aqua di Vida" to be installed on the 100-400 blocks of Clematis Street. The ArtLife Program continues its partnership with Public Works, Public Utilities, and Sustainability to bring awareness to the City's storm water inlets.

The goal of this public art project is to bring visual attention and raise awareness about the importance and function of our stormwater inlets. What goes down the drains has the potential to negatively affect our water systems: litter, trash, and cigarette butts are a few of the examples that could cause a negative impact. This request is to implement a city-wide initiative over a five (5) year span whereby Stormwater Drainage & Street Sweeping (under Utilities) will designate high target areas for attention. The design of the utility system is not changing and the request is to continue the partnership and awareness program over a span of five (5) years.

"Aqua De Vida" is a colorful design to grab the viewers' attention of water, waves, and upon closer inspection, fish with bright red slogans that read: Protect our Waterways; Trash in the Streets Pollutes What We Eat; Be the Solution to Water Pollution; Only Rain Goes Down the Drain!, and Keep it Clean. The artist states that he referenced classical tropical flora design as an inspiration for his design, and that he sought to evoke feeling through the design and color choices. Lastly, he states "I wanted to create works of art that function both conceptually and visually. Something that would fit beautifully with the greater landscape and vibe of the City's local culture."

Resolution No. 55-23(F) approves the allocation of \$50,000 from the Public Art Reserves for the City-wide public art project: "Aqua di Vida" a Stormwater Awareness campaign.

**Fiscal Note:**

Approval will utilize AiPP Reserves for Future Projects to provide appropriations for the Aqua Di Vida art installation.

## 8. RESOLUTIONS

- 8.1. Resolution No. 54-23 approves the proposed art concepts for 300 Banyan and 111 South Olive by Brand Atlantic Real Estate Partners to satisfy the public art requirement. One percent (1%) of the total construction costs escrowed is \$500,544.08.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

RESOLUTION NO. 54-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, MAKING FINDINGS AND APPROVING INSTALLATION OF PUBLIC ARTWORKS BY RODRIGO GARAGARZA AND OUIZI (LOUISE JONES) FOR 301 CLEMATIS AND 111 OLIVE IN COMPLIANCE WITH THE PUBLIC ART ORDINANCE; PROVIDING AN EFFECTIVE DATE; AND OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 54-23.

This motion is based on the findings that the proposed artworks meet the criteria set forth in Section 78-125 of the City Code as reviewed by the ArtLife WPB Committee.

**Background Information:**

The developer of this property is currently constructing a Class A office building at 300 Banyan Boulevard consisting of approximately 87,600 square feet with an outdoor dining area. In addition, the structure at 301

Clematis is simultaneously being renovated and will contain 28,500 square feet of office with retail and dining opportunities.

On February 1, 2023 at the regularly scheduled meeting, the ArtLife Committee voted unanimously to recommend to City Commission the proposed artworks by Rodrigo Garagarza and Ouizi (Louise Jones) for 300 Banyan and 111 South Olive.

### ABOUT THE ARTIST

Rodrigo Garagarza was born in Mexico City in 1971 and studied Architecture in Mexico and subsequent art courses in Italy and France. Rodrigo has a working background in sculptural architecture. In 2011, Rodrigo established his sculpture studio and since that year has continuously worked on commissions and has presented his work in individual exhibitions in several museums and galleries throughout Mexico.

Louise Jones (née Chen), aka Ouizi, was born and raised in Santa Monica, CA to Shanghainese parents. She is best known for her large scale floral mural installations, which can be seen in public spaces throughout the United States, from museums to public parks. The murals often depict site-specific plants and animals, and the techniques are uniquely informed by her education in drawing and printmaking. Her affinity towards botanical subjects continues to grow, stemming from an early introduction to Georgia O’Keeffe and fond memories of picking figs with her grandmother. She currently lives and works in Detroit.

### ABOUT THE ARTWORKS

“Jacks” is a painted stainless-steel sculpture 9’ x 6’9” x 9’H. The artist stated: “I like to modify the scale and use of simple objects such as toy jacks. I enjoy being able to relate to these forms, which have been modified in a way in which they will no longer be used as toys, but as larger figures that will be observed and that will influence our experience – objects that will occupy space, generate shadows, and perhaps remind us of an everlasting childhood.”

The alleyway will have mirror images painted on both the north and south facing walls. The image resembles a Baroque Style bouquet with muted colors. To further emphasis the immersive experience, the addition of two (2) different lighting systems will be installed: linear wall grazers and orb lights that will crisscross across the alleyway creating a nighttime garden experience.

### MATERIALS

Jacks – Painted stainless steel with directional lighting.

Mural – Paint with linear wall grazer fixtures and additional orb lights.

Based on the findings that the proposed artworks meet the criteria set forth in Section 78-125 of the City Code as reviewed by the ArtLife WPB Committee, Resolution No. 54-23 approves two (2) artworks: (1) Jacks by Rodrigo Garagarza, and (2) a large-scale mural by Ouizi (Louise Jones) for 300 Banyan and 111 South Olive to satisfy the Developers public art requirement.

Commission District 3: Commissioner Christy Fox.

**Fiscal Note:**

No fiscal impact.

- 8.2. Resolution No. 56-23 approves, as Face of the City, the Storm of '28 Memorial Park Monument at The Storm of 28 Memorial Park located at 924 25th Street by the Storm of 28 Memorial Park Coalition in partnership with the Frisbie Group. Title of the Monument will be granted to the City upon completion. The funding of \$157,955 is provided by the Frisbie Group.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

RESOLUTION NO 56-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA APPROVING THE STORM OF 28 MEMORIAL PARK MONUMENT TO BE INSTALLED AT 25TH STREET AND TAMARIND AVENUE AS PART OF THE STORM OF 28 MEMORIAL PARK COALITION AND FUNDING PROVIDED BY THE FRISBIE GROUP IN COMPLIANCE WITH THE PUBLIC ART ORDINANCE; PROVIDING AN EFFECTIVE DATE; AND OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 56-23.

This motion is based on the findings that the proposed monument meets the criteria set forth in Section 78-125 of the City Code as reviewed by the ArtLife WPB Committee.

**Background Information:**

On February 1st at their regular scheduled meeting, the ArtLife Committee reviewed the Monument and Memorial Application package under Section 78-10 (Article 1 General).

The Storm of '28 Memorial Park Monument will stand to honor the 600 plus black victims who lost their lives in the second deadliest natural disaster in the USA. The Storm of '28 Memorial Park Coalition has been working

tirelessly to create a memorial next to the existing mass grave. Additionally, the Coalition, through this important monument, aims to provide a platform where history, art, and design converge to strengthen cultural identity, heal trauma, and foster community in the City of West Palm Beach.

The memorial will allow present and future generations, many who have ancestors who are resting in this mass grave site, to have a beautiful place to reflect and honor the individuals who lost their lives. The monument finally pays tribute to those victims who were not afforded a dignified burial.

The site for the monument will become a sacred place for healing and forgiveness, and it will stand as a reminder that such atrocities should never be repeated. This memorial will allow us as a community in West Palm Beach to come together and honor those who have passed.

#### Design Features:

- “Their Eyes Were Watching God” Quote
- "Field of Memories” Statement on Back
- Thank You List on the Back
- Black Granite with Gold Engravings
- Coral Stone Monument Base
- Kinetic Hurricane Emblem in the Center

#### Landscape Features:

- Tabby Concrete, Stamped, in the Shape of the West African Symbol for Faith and Hope
- 4” x 8” Tabby Concrete Stamped, Running Bond
- 2’ Tall Stone Wall
- Sod Berms to Resemble Hurricane Bands
- Pigeon Plum Trees
- Green Island Ficus Hedges
- Pedestrian Bench with Dividers

Title of the monument will be given to the City after completion of the monument. Maintenance of the physical monument, excluding landscaping, benches, and lights, will be maintained by ArtLife WPB Fund 316. Maintenance of the landscaping and lights will be overseen by Parks and Recreation.

Resolution No. 56-23 approves as Face of the City "The Storm of '28 Memorial Park Monument" design to be installed at The Storm of '28 Memorial Park at 25th Street and Tamarind Avenue and grants title of the monument to the City.



Commission District 1: Commissioner Cathleen Ward.

**Fiscal Note:**

No fiscal impact.

- 8.3. Resolution No. 78-23 approving a Workforce Housing Grant Agreement with Northwood Partnership, LLP for the development of a 270-unit multi-family, mixed-income development to be known as "The Spruce".

**Originating Department:**

Housing and Community Development

**Ordinance/Resolution:**

RESOLUTION NO. 78-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AUTHORIZING A GRANT IN THE AMOUNT OF \$2,500,000 TO NORTHWOOD PARTNERSHIP, LLP RELATED TO THE DEVELOPMENT OF A MIXED-USE PROJECT INCLUDING WORKFORCE HOUSING, TO BE KNOWN AS "THE SPRUCE", LOCATED ALONG SPRUCE STREET BETWEEN 24TH AND 25TH STREETS; PROVIDING CERTAIN ADDITIONAL INCENTIVES FOR THE DEVELOPMENT OF WORKFORCE HOUSING; APPROVING A WORKFORCE HOUSING GRANT AGREEMENT BETWEEN NORTHWOOD PARTNERSHIP, LLP AND THE CITY OF WEST PALM BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 78-23.

**Background Information:**

Northwood Partnership, LLP intends to construct a mixed-use project located along Spruce and Street between 24th and 25th Street to be known as "The Spruce". The project will consist of a multifamily, mixed income housing rental development comprised of approximately 270 units, ground level commercial space and garage parking. Project amenities planned to be offered include: rooftop amenity deck, game areas, and gated off-leash dog park. The building is also planned to feature a club room, fitness facility, and co-workspace.

The Developer, the City of West Palm Beach, and the Community Redevelopment Agency (CRA) have negotiated multiple incentives in return for designating 30% of the project residential units as workforce housing. Specifically, City staff and the Developer have negotiated a Workforce Housing Grant Agreement with the following material terms:

- Workforce Housing: The Developer has agreed that thirty percent (30%) of the residential units (a total of 80 units) shall be restricted as workforce housing for qualified residents between 80% AMI (no less than 10 units) and 100% AMI (no less than 70 units). The

workforce housing units will remain subject to occupancy only by eligible households for twenty (20) years. The workforce housing units shall be floating and shall not be clustered or segregated. The types and sizes of the workforce housing units shall be proportionally similar to the unit type mix and size of the market rate unit.

- **Community Benefits:** The Developer will utilize best commercial efforts to pre-market the Project's Restricted Units to employees of the City of West Palm Beach no later than sixty (60) days prior to marketing the Project's rental units to the general public. The Developer shall utilize best efforts to work with the City to distribute the marketing materials to the prospective tenants.
- **Equal Opportunity:** The Developer will require its contractor to utilize best efforts to utilize City-certified MWBE minority and woman owned small businesses for construction and services for the project.

In consideration of the creation of workforce housing, the City agrees to provide:

- **Grant Funding:** Grant the Developer the sum of Two Million Five Hundred Thousand Dollars (\$2,500,000) on a reimbursement basis, for eligible project costs in connection with the construction the project. Funds will be disbursed over a three (3) year period.
- **Development Incentives:** Provide incentives in the form of fee waivers or reductions, which include but are not limited to, expedited permitting, utility capacity fee reduction, and other incentives detailed in the agreement.

In addition to the incentives negotiated by the City, the CRA intends to pay or refund to the Developer, on an annual basis, from Legally Available Funds, a Tax Increment Finance (TIF) Refund incentive equal to Fifty Percent (50%) of the tax increment revenue generated by the Project for a term of twenty (20) years, not-to-exceed Six Million One Hundred Thousand Dollars (\$6,100,000). The TIF agreement will be presented to the CRA Board at an upcoming CRA meeting.

The City's Workforce Housing Grant Agreement is provided with this agenda item, which provides a detailed description of the terms and conditions that were negotiated.

Commission District 1: Commissioner Cathleen Ward.

**Fiscal Note:**

Funds will be disbursed to the developer over a three (3) year period as detailed in the agreement.

Year 1:  
 \$1 Million (Housing Trust Fund/CRA funds)

Year 2:  
 \$1 Million (Housing Trust Fund/CRA funds)

Year 3:  
 \$500,000 (CRA funds)

The City will provide the upfront grant in the amount of Two Million Five Hundred Thousand Dollars (\$2,500,000) to the Developer on behalf of the CRA.

Payment of the \$2.5M grant will result in a loan between the City and the CRA. The CRA shall make payments to the City in annual installments on October 10th of each fiscal year as follows:

Fiscal Year	2023/24:	\$500,000
Fiscal Year	2024/25:	\$500,000
Fiscal year	2025/26:	\$500,000
Fiscal year	2026/27:	\$500,000
Fiscal year	2027/28:	\$500,000

Funds will be deposited in HCD's Housing Trust Fund.

- 8.4. Resolution No. 80-23 approving a funding interlocal agreement with the West Palm Beach Community Redevelopment Agency for the funding of a workforce housing grant in the amount of \$2,500,000 for the project to be known as "The Spruce".

**Originating Department:**  
 Housing and Community Development

**Ordinance/Resolution:**  
 RESOLUTION NO. 80-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH APPROVING A FUNDING INTERLOCAL AGREEMENT WITH THE WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY FOR THE FUNDING OF A WORKFORCE HOUSING GRANT IN THE AMOUNT OF \$2,500,000 TO NORTHWOOD PARTNERSHIP, LLP RELATED TO THE DEVELOPMENT OF A MIXED-USE PROJECT INCLUDING WORKFORCE HOUSING, TO BE KNOWN AS "THE SPRUCE", LOCATED ALONG SPRUCE STREET BETWEEN 24TH AND 25TH STREETS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 80-23.

**Background Information:**

Northwood Partnership, LLP intends to construct a mixed-use project located along Spruce between 24th and 25th Street to be known as “The Spruce”. The project will consist of a multifamily, mixed income housing rental development comprised of approximately 270 units, ground level commercial space and garage parking. Project amenities planned to be offered include: rooftop amenity deck, game areas, and gated off-leash dog park. The building is also planned to feature a club room, fitness facility, and co-workspace.

The Developer, the City of West Palm Beach, and the Community Redevelopment Agency (CRA) have negotiated multiple incentives, which includes a grant in the amount of Two Million Five Hundred Thousand Dollars (\$2,500,000), in return for designating 30% of the project residential units as workforce housing. The CRA desires to provide such funding to the developer of The Spruce, but is unable to immediately do so. As such, the City intend to advance the CRA’s contribution of the grant such that the funding shall be converted to a loan between the City and the CRA for the CRA’s contribution.

Payments of the loan to the City by the CRA shall be made in annual installments on October 10th of each fiscal year as follows:

- Fiscal Year 2023/2024: \$500,000
- Fiscal Year 2024/25: \$500,000
- Fiscal year 2025/26: \$500,000
- Fiscal year 2026/27: \$500,000
- Fiscal year 2027/28: \$500,000

The Interlocal Agreement provides a detailed description of the obligations of the City and the CRA regarding the funding.

Commission District 1: Commissioner Cathleen Ward.

**Fiscal Note:**

The CRA agrees to fund (via the City) the upfront grant in the amount of Two Million Five Hundred Thousand Dollars (\$2,500,000).

Payment by the CRA to the City shall be made in annual installments on October 10th of each fiscal year. Funds will be deposited in HCD's Housing Trust Fund.

- 8.5. Resolution No. 89-23 approving a grant agreement with the Police Athletic League of West Palm Beach, Inc. (PAL) in the amount of \$100,000 to fund operational costs supporting crime prevention programs and the overall goals of the organization.

**Originating Department:**

Housing and Community Development

**Ordinance/Resolution:**

RESOLUTION NO. 89-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A GRANT TO THE POLICE ATHLETIC LEAGUE OF WEST PALM BEACH, INC., IN THE AMOUNT OF \$100,000 TO FUND OPERATIONAL COSTS IN SUPPORT OF CRIME PREVENTION PROGRAMS AND THE OVERALL GOALS OF THE ORGANIZATION; APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A GRANT AGREEMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 89-23.

**Background Information:**

The Police Athletic League of West Palm Beach, Inc. (PAL) has a significant partnership with the City of West Palm Beach. Its mission is to prevent juvenile crime and violence by providing civic, athletic, recreational, and educational opportunities to the youth of West Palm Beach.

The City wishes to enter into a grant agreement with PAL to fund operational expenses associated with crime prevention programming and consulting services that will advance the goals and objectives of such programs and the organization overall.

Project expenses of \$50,000 will be paid in advance and the remaining \$50,000 will be paid on a reimbursement basis based on actual costs incurred in conformance with the allowable costs in the agreement. PAL is required to submit quarterly reports for all active programs. Such reports shall include, but not be limited to, a brief description of each program; the number of children participating in the programs; the type of activities, classes, or services provided by each program; and any accidents, incidents, disturbances or violations of law occurring during the period covered by the report.

The agreement provides all terms and conditions negotiated with the organization. The term of the agreement commences upon execution by the City for a term of one (1) year with an option to renew for one (1) additional term of one (1) year, subject to the availability of funds and an agreed upon revised budget.

Resolution No. 89-23 approves the grant agreement with the Police Athletic League of West Palm Beach.

Commission District 3: Commissioner Christy Fox.

## 9. PUBLIC HEARING

- 9.1. Public Hearing and First Reading of Ordinance No. 5039-23 amending Chapter 94, Article VII - Special Districts, Section 94-203 - Community Service Planned Development (CSPD) District; to modify language regarding the permissible location and required underlying zoning.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

ORDINANCE NO. 5039-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING CHAPTER 94 - ZONING AND LAND DEVELOPMENT REGULATIONS, ARTICLE VII - SPECIAL DISTRICTS, SECTION 94-203 - COMMUNITY SERVICE PLANNED DEVELOPMENT (CSPD) DISTRICT; TO MODIFY LANGUAGE REGARDING THE PERMISSABLE LOCATION AND REQUIRED UNDERLYING ZONING, ADDING AN EXCEPTION FOR EXISTING PD'S WITHIN THE DMP; DECLARING THESE PROPOSED ZONING TEXT AMENDMENTS TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN AND THE ZONING AND LAND DEVELOPMENT REGULATIONS OF THE CITY; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Ordinance No. 5039-23.

**Background Information:**

A request by Jon Schmidt, on behalf of Rosarian Academy Inc., for improvements to the Rosarian Academy school property. As part of these improvements, the applicant is seeking to process three (3) separate applications:

1. A text-amendment to modify language allowing for the expansion of the planned development boundary or allowing the rezoning of Downtown Master Plan (DMP) subdistricts directly into Community Service Planned Developments (CSPD) without an underlying Community Service (CS) zoning designation.
2. An expansion of the boundary of the existing school CSPD by incorporating approximately 1.79 acres through rezoning of right-of-way lands previously abandoned (Approved under Ordinance No. 5028-22 by City Commission on January 23, 2023) and parcels

adjacent to the school which are zoned Loftin District Residential (LD-R) and Loftin District - 5 (LD-5).

3. Major Planned Development Amendment to the Rosarian Academy CSPD to do the following:

- The addition of a 150' x 280' athletic field;
- Relocation of early learning classrooms located at 800 N Olive;
- Reconfiguration of parking onsite;
- Improvements to internalized stacking, drop-off, and vehicular circulation; and
- Update the development regulations based on the expansion of the CSPD and any proposed site plan additions or changes.

With the influx of development throughout the City of West Palm; and specially with the relocation of large businesses, firms, offices, and residents to the Downtown; there has been an increased demand on schools and other community services/amenities. As such, Rosarian Academy is looking to capitalize and facilitate improvements to its downtown campus in order to improve site operations/efficiency and provide minor additions in student capacity.

The City's Planning staff recognizes the request and finds the suggested text amendment to be an appropriate means to achieve the school's proposed changes.

This code revision shall be heard by the Planning Board on March 21, 2023, where the board shall make its recommendation. The results of the public hearing will be presented to the City Commission.

Commission District 3: Commissioner Christy Fox.

- 9.2. Public Hearing of Resolution No. 23-23: A request by Harvey E. Oyer, III of Shutts & Bowen LLP on behalf of City Place North Partners LP to abandon and vacate a 2,662 square foot (0.06 acre) portion of an alleyway between South Rosemary Avenue, Evernia Street, Fern Street, and the FEC railroad for the revised appraisal value of \$552,500.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

RESOLUTION NO. 23-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, VACATING AND ABANDONING A 2,662 SQUARE FOOT (0.06 ACRE) PORTION OF AN ALLEYWAY BETWEEN THE SOUTH ROSEMARY AVENUE, EVERNIA STREET, FERN STREET, AND FEC RAILROAD RIGHT-OF-WAY; AUTHORIZING THE MAYOR TO EXECUTE A DISCLAIMER OF INTEREST IN THE AFORESAID ALLEYWAY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 23-23 based upon the findings that right-of-way is no longer needed for any public purpose and that the abandonment complies with the criteria set forth in Section 78-217 of the City's Code of Ordinances.

**Background Information:**

City Place North Partners LP has proposed and received Downtown Action Committee (DAC) approval on January 11, 2023 for a new 25-story Class-A 466,080 square foot office tower project at 515 Fern Street, which will consist of approximately 425,236 square feet of office and 9,369 square feet of commercial space.

The proposed development site is currently bisected by a portion of an alleyway located between South Rosemary Avenue and the FEC Railroad in the block between Evernia Street and Fern Street. The total square footage requested to be abandoned is approximately 2,662 sf (0.06 acres).

In accordance with the Code of Ordinance, Planning staff asserts that the alleyway is not needed for any public purpose and the abandonment will comply with the criteria set forth in Section 78-217 of the Code of Ordinances.

Resolution No. 23-23 vacates and abandons the 2,662 square feet of the right-of-way upon receipt of a revised appraisal fee of \$552,500 as compensation for the value of the right-of-way. This value averages the appraisal conducted by Anderson & Carr, Inc. at \$725,000 and the appraisal conducted by the applicant. The average value between two appraisals was \$650,000 and includes a 15% discount.

**CONCLUSION:** It is staff's professional opinion that the alleyway proposed to be abandoned is no longer needed and that adding the square footage to the development project would allow them to proceed forward and provide new construction within the Quadrille Business District and along the Fern Street corridor.



**PUBLIC NOTICE:** In accordance with Section 78-215 of the City's Code of Ordinances, individual notices were mailed to all property owners within 500 feet of the property, and signs were posted on the subject alley right-of-way.

Commission District 3: Commissioner Christy Fox.

## 10. PUBLIC HEARING - QUASI-JUDICIAL

Disclosure of ex-parte communications, if any\*  
Swearing-in of witnesses.

- 10.1. Public Hearing and First Reading of Ordinance No. 5035-23 designating the Bowser Inn, 311 North Sapodilla Avenue on the West Palm Beach Register of Historic Places.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

ORDINANCE NO. 5035-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, DESIGNATING 311 NORTH SAPODILLA AVENUE AS A HISTORIC SITE ON THE WEST PALM BEACH REGISTER OF HISTORIC PLACES, AS FURTHER LEGALLY DESCRIBED HEREIN; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CONFLICTS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Ordinance No. 5035-23 on First Reading and schedule Second Reading for April 17, 2023.

**Background Information:**

This application is for the designation of the site at 311 North Sapodilla Avenue, West Palm Beach, Florida, formerly known as the location of the Bowser Inn, the Seminole Hotel, and the J.C. Lake Building. Additionally, this was the location of the Palm Beach Tribune office, a weekly paper that focused on African-American news items.

The site consists of a primary two-story structure on the corner built in 1927, and two (2) Vernacular one-story buildings that face east built in 1934. The site lies within the Northwest Historic District, but due to alterations over the years, it was classified as non-contributing.

The West Palm Beach Community Redevelopment Agency recently purchased the property and is redeveloping the property. Given the current rehabilitation and the site's importance to the neighborhood, the CRA is seeking an individual designation.

On February 28, 2023, the Historic Preservation Board unanimously recommended approval (7 - 0) to designate this building.

Commission District 3: Commissioner Christy Fox.

- 10.2. Public Hearing and First Reading of Ordinance No. 5038-23 regarding a request by Harvey E. Oyer, III, of Shutts & Bowen, LLP, on behalf of CityPlace Retail, LLC, for a Major Amendment to the CityPlace Development of Regional Impact (DRI) to Section 3.20 Conversion of Uses of Ordinance No. 4412-12, which contains the current DRI regulations.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

ORDINANCE NO. 5038-23: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, RELATING TO A DEVELOPMENT OF REGIONAL IMPACT NOW KNOWN AS CITYPLACE DEVELOPMENT OF REGIONAL IMPACT; AMENDING SECTION 3.20 "CONVERSION OF USES" OF ORDINANCE NO. 4412-12; REPEALING ALL ORDINANCES OR PORTIONS OF ORDINANCES IN CONFLICT HEREWITH; CONSTITUTING THIS ORDINANCE AS AN AMENDMENT TO THE DEVELOPMENT ORDER APPROVED BY THE CITY OF WEST PALM BEACH IN COMPLIANCE WITH LAW; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Ordinance No. 5038-23.

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 Major Development of Regional Impact Amendment is consistent with the Comprehensive Plan and complies with the standards found in Section 94-32 of the City's Zoning and Land Development Regulations.

**Background Information:**

CityPlace is a Development of Regional Impact (DRI) that is governed by Ordinance No. 4412-12, which is the latest amendment of the original DRI approved by Ordinance No. 3098-97. Section 3.3 of Ordinance No. 4412-12 lists the use categories within the DRI and establishes the baseline intensities/densities for each use as shown below.

Retail Use: 850,000 SF  
Office Use: 1,239,182 SF  
Housing: 800 dwelling units  
Hotel: 800 rooms

Minimum 2.5 acres open space as park

Attraction/Recreation:

- a. 2,500 seat Kravis Center Theater
- b. 750,000 SF convention center
- c. 4,000 seat cinema and 500-seat IMAX Theater
- d. 400,500 SF Cultural use

Educational Use: 10,206 SF

Section 3.20 of Ordinance No. 4412-12 establishes that uses may be converted from one category to another, provided that no category may increase by more than 50 percent and no category may decrease by more than 25 percent. For example, the baseline for office is 1,239,182 square feet, so using the full conversion ratio of 50 percent would permit a maximum of 1,858,773 square feet of office or a minimum of 929,387 square feet of office within the DRI. The amount of square footage, hotel rooms or seats that can be converted from one use to another is based on the peak hour vehicle trips generated by the use. The conversion of uses based on the vehicle trips generated is used so that the overall traffic impact of the DRI does not increase based on the conversion.

The approval of the West Palm Point office building project on the Tent Site exceeded the office baseline of 1,239,182 square feet that has been committed within the DRI (not all the office square footage has been constructed yet). West Palm Point was approved to convert square footage from the Indoor Recreation subcategory in order to increase the amount of office square footage within the DRI by approximately 6 percent over the baseline.

CityPlace Retail, LLC, would like to construct two (2) office towers at the northeast corner of South Rosemary Avenue and Hibiscus Street (former Brio and AMC movie theater block) within the recently approved Rosemary Square East Subarea. CityPlace Retail, LLC, has calculated that the total office square footage for the two towers plus the currently committed office square footage within the DRI would exceed the current conversion cap of 1,858,773 square feet of office. In order to accommodate this additional office square footage, CityPlace Retail, LLC, has requested to increase the maximum cap conversion ratio from 50 percent to 75 percent. The amendment also includes an increase in how much any category may be decreased from 25 percent to 50 percent.

Downtown West Palm Beach and the CityPlace DRI have evolved since the establishment of the original baseline densities and intensities in Section 3.3 and the conversion ratio in Section 3.20. Allowing greater flexibility to change the baseline ratios will permit redevelopment within the DRI to react to development needs, in this case, additional office square

footage. Staff has reviewed the applicant's request and does not object to the concept of the change to the conversion ratio. However, staff has analyzed the Section 3.20 language and is proposing additional language to clarify the conversion methodology, so that future conversions are all done in a consistent manner. Staff's updated version of Section 3.20 is included below (Text which is underlined is added. Text which is ~~struck-through~~ is deleted.).

### SECTION 3.20 CONVERSION OF USES

Subject to Level III site plan approval, the amount of each of the general use categories of Office, Retail, Residential, Attraction/Recreation, Educational and Hotel authorized by this Development Order may be exceeded by way of a conversion from one land use category to another in accordance with the equivalency factors set forth in this provision, provided that (a) the total amount of any land use category that may be converted to another category does not exceed 2550 percent of the amount of development permitted for the land use category from which the conversion is to be made, (b) the conversion does not result in an increase of more than 450175 percent of the amount of the general land use category to which the conversion is to be made, and (c) the total of development in the Development of Regional Impact does not exceed the total equivalent development authorized for the Development of Regional Impact. No conversion of square footage designated for the Convention Center Project shall occur without the prior written approval of the Board of County Commissioners of Palm Beach County and the City Commission of the City of West Palm Beach, unless: (1) the property subject to the Convention Center Project is not conveyed to Palm Beach County, or (2) once the property has been conveyed to Palm Beach County, it ever reverts to the West Palm Beach Community Redevelopment Agency. In the event of (1) or (2) above, the 750,000 square feet designated for the Convention Center Project may be converted to another land use category, as described herein above. Except as noted below, conversions shall be made by calculating an equivalency factor based upon the highest peak-hour traffic generation rates found in the latest Edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual. The equivalency factor shall not include pass by or internal capture calculations. In the event the convention center is not built, the number of residential units permitted in its place will be determined through the Level III site plan review and shall not require a corresponding decrease in other approved land uses. In the event that future phases of the Convention Center Project are not approved through the Level III site plan review by the year 2018, (build-out date), County approval shall not be required for the conversion of the remaining square footage of convention center use to other land uses permitted by this Development Order.

In order to ensure consistent conversion of uses, each use category shall use the following ITE codes and measurement variables for conversion purposes.

<u>Retail Use</u>	820 [Shopping Center
<u>(&gt;150k)] Square Footage</u>	
<u>Office Use</u>	710 [Office Building]
<u>Square Footage</u>	
<u>Hotel</u>	310 [Hotel] Rooms
<u>Theater, Cinema, IMAX Theater</u>	445 [Movie Theater] Seats
<u>Convention center</u>	495 [Recreational Community
<u>Center] Square Footage</u>	
<u>Cultural use (Indoor Recreation subcategory)</u>	445 [Movie Theater]
<u>Square Footage (492 [Health/fitness club])</u>	<u>Square Footage</u>
<u>Educational Use</u>	550 [University/College]
<u>Square Footage</u>	

If an ITE code is removed or changed in the current edition from what is listed in this section, then developer's traffic engineer and the City shall agree on the appropriate new ITE code to use and the new code shall be used for any future conversions.

The ITE Trip Generation Manual includes categories of uses to use to calculate the vehicle trips generated by those uses. Some uses listed in Section 3.3 align with ITE codes and some do not. Code 820, Shopping Center (>150k), is in alignment with the CityPlace use conversion, since CityPlace DRI baseline is 850,000 square feet of retail. The original trip generation calculations for the CityPlace DRI used ITE code 820 for retail, 710 for Office and 310 for Hotel, so these three codes are consistent with the original DRI. The ITE Trip Generation Manual does not include a Convention Center or a Cultural code, so determining the trip generation rate to use for each of these uses can vary among traffic engineers. Staff was unable to locate an ITE code for these uses in the original CityPlace DRI trip generation documents.

A consistent conversion code needs to be established since differing traffic engineers have submitted traffic statements to the City that use different ITE codes for the same DRI use category. For example, the Indoor Recreation subcategory has been used with ITE codes 437, 492, and 495, as part of previous traffic statements submitted by different traffic engineers. The three codes generate different numbers of vehicle trips. Staff reviewed the various traffic statements as well as the definitions in the Zoning and Land Development Regulations to establish the specific codes and their unit of measurement that will be used to ensure consistent conversions.

The update to Section 3.20 also includes the addition of language to clarify that the conversion is based on the highest peak hour traffic generation for a use, since uses have differing AM and PM peak hour impacts and that the conversion from one use to another is based on the actual number of trips generated by the use and that there is no discount in the number of trips based on pass by uses or internal capture.

The changes to Section 3.20 do not approve a specific project. Any specific project will be reviewed for compliance with the development regulations and the CityPlace DRI Capacity Table as a Level III Site Plan Review. The Level III Site Plan Review will require public hearings before the Planning Board and City Commission.

**STANDARDS:** The Planning Division has determined that the Major DRI Amendment meets all eight (8) of the required amendment standards found in Section 94-32 of the City of West Palm Beach Zoning and Land Development Regulations.

Compliance with the above referenced standards is detailed in the attached 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 February 22, 2023.

Commission District 3: Commissioner Christy Fox.

**Fiscal Note:**

No fiscal impact.

- 10.3. Resolution No. 44-23: A request by Harvey E. Oyer, III of Shutts and Bowen, LLP, on behalf of Northwood Enterprises, LLC for an abandonment of a portion of the public alley right-of-way, located between 25th Street to the north, 24th Street to the south, Spruce Avenue to the east, and Broadway to the west, consisting of approximately 0.08 acres (3,600 square feet) for the mixed-use development known as The Spruce.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

RESOLUTION NO. 44-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, VACATING AND ABANDONING A PORTION OF THE PUBLIC ALLEY RIGHT-OF-WAY, APPROXIMATELY 0.08 ACRES (3,600 SQUARE FEET) IN SIZE, LOCATED BETWEEN 25TH STREET TO THE NORTH, 24TH STREET TO THE SOUTH, SPRUCE AVENUE TO THE EAST, AND BROADWAY TO THE WEST; RESERVING AN ACCESS AND UTILITY EASEMENTS;

AUTHORIZING EXECUTION OF A DISCLAIMER OF INTEREST IN THE AFORESAID RIGHT-OF-WAY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 44-23.

**Background Information:**

The subject portion of the public alley is an approximate 15-foot wide right-of-way, located between 25th Street to the north, 24th Street to the south, Spruce Avenue to the east, and Broadway to the west. The alley is encumbered by underground public utilities and overhead FPL powerlines. The applicant, who is also the owner of the tracts of land immediately north and immediately south of the right-of-way, desires to vacate the right-of-way to assemble the tracts for future development of the subject area. A location map of the subject area is provided in EXHIBIT A.

The abandonment of the subject alley is necessary for the petitioner to consolidate adjacent parcels of land for development; specifically, the subject alley and eight (8) parcels will be combined in order to construct a mixed-use project, known as "The Spruce," comprised of 270 multifamily residential units (which includes a portion of affordable residential units), 6,383 square feet of amenities space, and 2,330 square feet of retail and an eight-level parking garage.

Due to the current location and existing condition, the subject right-of-way has very little development potential or use to anyone other than the adjacent property owners as part of an assemblage into their property. The abandonment of the subject portion of the public alley will not result in any negative impact to the surrounding area, since the right-of-way considered for abandonment is incorporated in the development proposal for the subject area.

The development plan for "The Spruce" project also provides for an ingress and egress access easement connection to 24th Street in order to maintain alley access and connection to the existing street network.

The City will retain a utility easement within the abandoned alley, as non-City utilities are located there. The City will also receive a utility easement over the access easement area for relocation of City utilities.

An appraisal for the abandonment of the subject property was prepared by Anderson and Carr Inc. on September 23, 2022. According to the appraisal report, the market value for the subject area with the ingress/egress access and utility easements reservation is \$190,000. The applicant is requesting a waiver of the requirement to pay compensation for the alley abandonment because the project will provide workforce housing.

**STANDARDS:** Staff has found the requested abandonment complies with the abandonment criteria as established in Sec. 78-217 of the City's Code of Ordinances.

**NOTICES:** Pursuant to the requirements of Sec. 78-215(b) of the City's Code of Ordinances, individual notices were mailed to property owners within 400 feet of the subject property, the site was posted, and the resolution was advertised in the Palm Beach Post. To date, the City has not received any inquiry regarding the general nature of this request.

Commission District 1: Commissioner Cathleen Ward.

**Fiscal Note:**

Waiver of \$190,000 consideration requested by the Applicant.

- 10.4. Resolution 47-23: A Special Site Plan Review request by Harvey E. Oyer, III of Shutts & Bowen, LLP, on behalf of Northwood Partnership, LLC, for the construction of an eight-story mixed use building with 270 multifamily residential units (which includes a portion of workforce residential units pursuant to Resolution No. 306-22) to be located on Spruce Street between 24th and 25th Streets, and requesting waivers and variances from the City's Zoning and Land Development Regulations.

**Originating Department:**

Development Services

**Ordinance/Resolution:**

RESOLUTION NO. 47-23: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, APPROVING A SPECIAL SITE PLAN REVIEW OF THE DEVELOPMENT PROPOSAL CONSISTING OF AN EIGHT-STORY MIXED USE BUILDING WITH 270 MULTIFAMILY RESIDENTIAL UNITS (WHICH INCLUDES WORKFORCE HOUSING UNITS) ON THE SUBJECT PROPERTY FRONTING 25TH STREET TO THE NORTH, 24TH STREET TO THE SOUTH, AND SPRUCE AVENUE TO THE EAST; GRANTING THE WAIVER AND VARIANCE REQUESTS FROM THE PROVISION OF SECTIONS 94-209 AND 94-210 OF THE CITY OF WEST PALM BEACH, FLORIDA ZONING AND LAND DEVELOPMENT REGULATIONS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Staff Recommended Motion:**

Approve Resolution No. 47-23 based on the findings that the project, subject to the conditions set forth in the Resolution, complies with the Interim Standards established by Resolution No. 306-22.

**Background Information:**



The subject site is approximately 1.51 acres located within the Northwood Mixed Use District (NMUD) - Transition subdistrict on the west side of Spruce Avenue between 25th Street and 24th Street. The subject site comprises eight (8) parcels and a portion of the public alley that runs west to east between Broadway and Spruce Avenue. The subject site is currently vacant with the exception of the existing paved public alley that bisects the area.

Specifically, the proposed development includes an eight-story mixed use building with 270 multifamily residential units (which includes 80 affordable/workforce designated residential units), 6,383 square feet of amenities space, and 2,330 square feet of retail and an eight-level parking garage. The development proposal also includes the abandonment of a 3,600-square foot portion of the existing public alley right-of-way.

Additionally, the petitioner requests a waiver to eliminate the required liner building screening along the proposed parking garage structure's south façade facing 24th Street and east façade facing the proposed open space area. The petitioner requests a variance to allow for a 487-foot long building as measured along the north façade facing 25th Street. The petitioner also requests a variance to allow for a proposed building setback of 17 feet and two (2) inches from the south property line (along 24th Street). The petitioner requests a variance to allow for a proposed building with 0% of the south façade (facing 24th Street) located within the minimum and maximum setback area.

The development proposal remains consistent with the mix of uses and development pattern within the subject area and would provide the opportunity for infill development. It is staff's professional opinion that the requests comply with the interim standards established by Resolution No. 306-22 and the applicable standards of the City's Code of Ordinances. Therefore, staff is recommending approval of the requests, subject to the proposed conditions, as identified in the staff report and Resolution No. 47-23.

**STANDARDS:** Staff has found the requested special site plan review complies with the interim standards as established in Section 4 of Resolution No. 306-22.

**NOTICES:** Pursuant to the requirements of Sections 94-39(i)(5) and 94-39(j) of the City's Code of Ordinances, individual notices were mailed to property owners within 500 feet of the subject property, the site was posted, and the resolution was advertised in the Palm Beach Post. To date, the City has not received any inquiry regarding the general nature of this request.

Commission District 1: Commissioner Cathleen Ward.

## **11. COMMENTS FROM THE PUBLIC**

Public comments are limited to 3 (three) minutes. Anyone wishing to address the Commission should complete a "Comments by the Public" card and present it to the City Clerk prior to the Public Comments. When you are called to speak, please go to the podium and state your name and address for the record prior to addressing Commission. The Commission will not discuss the matter nor respond to the comment this evening. Comments made will become part of the record and may be addressed at a later date.

## **12. COMMENTS BY THE MAYOR AND CITY COMMISSIONERS**

## **13. 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 2.) written communications shall be placed in the record; and 3) site visits, investigations, etc. shall be disclosed.

NOTICE: If any person decides to appeal any decision made by the City Commission at this meeting, that person will need a record of the proceedings, and that, for such purposes, may need to ensure that a verbatim records of the proceedings be made, which record includes the testimony and evidence upon which the appeal is based. The City of West Palm Beach does not prepare or provide such record.