

**AGENDA
TOWN OF JUPITER ISLAND
TOWN COMMISSION MEETING
WEDNESDAY, JUNE 12, 2024, 9:00 AM
ISLAND ROOM – TOWN HALL – 2 BRIDGE ROAD**

PLEDGE OF ALLEGIANCE

ROLL CALL

COMMENTS*

Mayor/Commissioner Comments

- a. Town Coffee Update
- b. Other Comments

Public Comment (Non-Agenda Related)

Public Comment is an opportunity for the Mayor and Town Commissioners to listen to any issue(s) of importance to you. Public Comment is offered at the beginning of our meetings, in the event attendees cannot stay in chamber for the agenda item or meeting duration. If you elect to address an item on today's agenda during opening Public Comment, we ask that you please refrain from re-addressing the item during Public Comment at the agenda item. Residents also may submit comments, at any time, to the Mayor and Commissioners into the public record: THMail@tji.martin.fl.us. (Please email Public Comment at least one business day prior to the meeting to ensure timely distribution to the Mayor and Commissioners.)

NOTE: The Town Commission meeting will recess at 12:30pm to convene a closed-door Attorney-Client Session to be conducted in the Town Hall Conference Room. The Town Commission will reconvene once the private session adjourns.

CONSENT ITEMS

1. Consent Agenda

Category A- To be reviewed and approved (as is or as edited) by the Town Commission

- a. Minutes of the May 14, 2024, Town Commission Meeting

Category B- Other Informational Materials (No Action Required)

- a. Minutes of the April 25, 2024, Board of Adjustment Meeting
- b. Minutes of the May 2, 2024, Impact Review Committee Meeting
- c. Minutes of the February 21, 2024, Pension Board Meeting
- d. Minutes of the February 21, 2024, Jt. Town/SMRU Defined Contribution Plan Meeting
- e. Police Activity Report - May 2024
- f. Building Department Report – May 2024

g. Code Compliance Activity Report

PRIORITY MATTERS

2. Representative John Snyder*
3. Introduction of New SMRU Assistant Director Naudia Harty*
4. Florida's Turnpike Enterprise - Project Development and Environment Study - Interchange between Florida's Turnpike and I-95 at SE Bridge Road*

COMMISSION ACTION ITEMS

5. Ordinance No397 - Notice Revision - 1st Reading
6. Ordinance No 395 - Appeal Process (de novo) - 1st Reading
7. Ordinance No 396 - Commercial Vehicle Lettering - 2nd Reading
8. Paving Contracts
 - a. Sunshine Land Design - Work Authorization, Resurface Town Hall Parking Lot
 - b. Ferreira - Piggyback, Infrastructure Construcion & Maintenance
9. Town/SMRU Bid Awards
 - a. ITB 2024-06 Fleet Vehicle Maintenance and Repair Services
 - b. ITB 2024-05 Generator Maintenance Services
10. Resolution #915 - Approving the Retention of Ascensus Trust (Retirement Plan Services Providers)
11. Proposed Budget FY 2024-2025 and TRIM
 - a. Proposed Budget Millage Rates and Public Hearing Dates
 - b. Financial Report - May 2024 (*no action required*)
12. Debris Removal Disposal Contract Pricing (CERES)

DISCUSSION AND DELIBERATION ITEMS

13. Waterfront Setback Line Study Update*
14. Vulnerability Assessment Steering Committee Discussion
15. Public Safety Items
 - a. Hurricane Preparation*
 - b. Security Road Show Review*

- c. In-Car Video Update*

16. Long Range Planning

- a. Comprehensive Plan Update*
- b. Land Development Regulation (LDR Review)
- c. Community Survey*

17. BOA/IRC/LPA

- a. Draft Ordinance Regarding Chair Appointments
- b. Administrative Review
- c. BOA/IRC Discussion

18. Town Manager's Report

- a. SMRU Cybersecurity*
- b. Congressional Fly-in Debrief, Florida League of Cities & National League of Cities Washington D.C. * (Kelly Layman)
- c. 2024 Martin County Election Cycle (Kelly Layman)

19. Town Attorney Report

- a. Litigation Update*

OTHER ITEMS

20. Meeting Dates

- July 16, 2024 – Town Coffee with Commissioner Scott
- July 17, 2024 – Town Commission/Beach Protection – 9AM
- July 17, 2024 – SMRU Board – 12:30PM
- August 16, 2024 - Town Coffee with Commissioner Taddeo - 9AM
- August 19, 2024 - Town Commission/Beach Protection (if required) - 9AM
- September 9, 2024 - Town Commission/Beach Protection - 9AM
- September 9, 2024 - SMRU Board - 12:30PM
- September 9, 2024 - 1st Budget Hearing - 5:01PM
- September 11, 2024 - 2nd Budget Hearing - 5:01PM
- NOTE: No Town Coffee Meeting in September**

21. Other Items*

** No advanced materials provided*

TOWN COMMISSION

Penny Townsend, Mayor
Marshall Field VI, Vice Mayor
Anne Scott, Commissioner

Patricia Warner, Commissioner
Joseph Taddeo, Commissioner

ADMINISTRATIVE STAFF

Town Manager, Robert Garlo
Town Attorney, Thomas J. Baird
Town Clerk, Kimberly Kogos

TOWN VISION

The Town of Jupiter Island is a barrier island community, between the Indian River Lagoon and the Atlantic Ocean, where the beauty of nature will always dominate the presence of man. Our vision for the future is illustrated by the traditions of the past, formed by a community of caring individuals who, with imagination and heart, have combined the island's beautiful gifts of nature with those of tradition and family. Inherent in the character of the Town are tranquility, seclusion and safety. The residents of Jupiter Island will faithfully endeavor to preserve and nurture their unique community for all future generations

STATE MANDATED STATEMENT

If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings, and that, for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Town prior to the meeting. Please contact the Town Hall, 2 Bridge Road, Hobe Sound, FL 33455, telephone (772) 545-0103.

**MINUTES
TOWN OF JUPITER ISLAND
TOWN COMMISSION MEETING
TUESDAY, MAY 14, 2024**

TIME: Tuesday, May 14, 2024 – 9:00 AM
PLACE: Town Hall Island Room – 2 Bridge Rd., Hobe Sound, FL
PRESENT: Present were Mayor Penny Townsend, Vice Mayor Marshall Field VI, and Commissioners Anne Scott and Patricia Warner. Also present were Town Manager Robert Garlo, Town Clerk Kimberly Kogos, Town Attorney Thomas Baird and IT Director Bill Sutton.

Mayor Townsend called the meeting to order at 9:00 AM.

PLEDGE OF ALLEGIANCE

ROLL CALL

COMMENTS*

1. Mayor/Commissioner Comments

Mayor Townsend announced those present and voting and acknowledged special guests Senator Gayle Harrell and Representative Toby Overdorf. She then read the Town Vision Statement.

a. Town Coffee Update

Commissioner Warner summarized the topics discussed during the Town Coffee held on May 13, 2024. These included current litigation, public safety, improving communications, Public Safety's Closed Home Program, the Waterfront Setback Line and ZIP, public beach closings, and the ownership of South Beach Road. Additionally, Director Trent provided an update on the US 1 bridge project, indicating the possibility of two lanes opening soon. Commissioner Warner mentioned that Chief Ewing posted a synopsis of his comments regarding the Public Safety Department Town Meeting held on April 24th. While she did not recall the exact number in attendance, she noted that seven people had joined virtually.

b. Other Comments

Mayor Townsend noted the turnpike presentation would be rescheduled to the June meeting and Town Manager Garlo added three items to his Town Manager's Report.

2. Public Comment (Non-Agenda Related)

There was no public comment.

CONSENT ITEMS

3. Consent Agenda

MOTION: *Scott/Field moved to approve the consent agenda.*

ACTION: *Motion passed 4-0.*

Commissioner Scott highlighted significant improvements in the public safety activity report. However, she mentioned that she did not understand how to interpret the building department report.

Commissioner Warner referred to her comment in the April meeting minutes about the strategic plan. She clarified that she meant they should honor the past while embracing inevitable changes that will occur in the near future.

Category A- To be reviewed and approved (as is or as edited) by the Town Commission

- a. Minutes of the March 21, 2024, Town Commission Meeting
- b. Minutes of the April 17, 2024, Town Commission Meeting
- c. Minutes of the April 10, 2024, Development Review Process Workshop
- d. Minutes of the April 16, 2024, Waterfront Setback Line Study Presentation
- e. Fixed Asset Disposals - April 2024
- f. In Layman's Terms Contract Extension

Category B- Other Informational Materials (No Action Required)

- a. Minutes of the March 28, 2024, Board of Adjustment Meeting
- b. Minutes of the April 4, 2024, Impact Review Committee Meeting
- c. Minutes of the April 17, 2023, Scholarship Committee Meeting
- d. Minutes of the March 5, 2024, Beautification Committee Meeting
- e. Police Activity Report – April 2024
- f. Building Department Report – April 2024
- g. Code Compliance Activity Report

PRIORITY MATTERS

4. Senator Gayle Harrell*

Mayor Townsend introduced Senator Gayle Harrell, mentioning their recent meeting during the Chamber of Commerce Breakfast and commended her for the topics discussed at that event.

Senator Harrell greeted the commission, and provided an overview of the legislative session, highlighting approval of the largest state budget. She emphasized the Senate's focus areas which included the Live Healthy program, a loan program for innovative health care projects, and behavioral health focus.

She referred to the Town's vision statement noting the common ground with the Senate regarding environmental issues. This year's budget included significant funds for environmental concerns such as the Everglades, water quality restoration, Forever Florida, beach renourishment, and the wildlife corridor.

Senator Harrell emphasized that education remains a significant focus for both her and the legislature. She noted that the University of Florida ranks fifth among public universities in the nation and mentioned that tuition has not increased in ten years. She also highlighted the availability of school choice for

parents, building the workforce, emphasizing high school technical education, and the ongoing efforts to increase teacher salaries.

5. Representative Toby Overdorf (Chair of Martin County Legislative Delegation)*

Representative Toby Overdorf greeted the commission. Mayor Townsend noted his efforts on the aquatic preserve designation and ensuring it would not interfere with beach renourishment projects.

Representative Overdorf acknowledged the importance of restoration activities and provided an additional update from the legislative session. He emphasized a focus on other topics included: impact of social media on youth, environment, House Bill 1379, water quality, strengthening law enforcement, and human trafficking,

Vice Mayor Field questioned if there had been discussion regarding the affordability of flood insurance. Senator Harrell stated that standard insurance rates have begun to drop, and there have been several new insurance companies coming into the state. She noted that she is personally shopping for a new provider and is discovering there are other companies able to offer a lower premium. Senator Harrell also noted that the State is waiving all State taxes on insurance premiums, including flood insurance.

Representative Overdorf referenced the NAVD and NAGD geodetic systems, advising to use the NAVD, and cautioned there is a foot and a half difference between the two. He also highlighted the importance of utilizing current surveys for personal flood insurance. Additionally, he echoed Senator Harrell's remarks regarding overall insurance status, noting a leveling off in trends.

Vice Mayor Field addressed the ongoing discussions about transitioning from septic to sewer systems. He expressed a desire to cultivate partnerships and emphasized the necessity for continued support. Representative Overdorf recommended that the town review HB 1379, which outlines a 10-year deadline for required septic system switchover or the installation of new systems, which could be significantly more expensive.

Senator Harrell emphasized that this continues to be a major focus in the Senate, underscoring the importance of having adequate funding. She discussed the Clean Waterways Act, which was passed four years ago, highlighting its significant impact on reducing stormwater runoff, a contributing pollutant.

Commissioner Scott pointed out that 1,000 people are moving to Florida every day. Senator Harrell responded that there are also significant numbers of people moving out of Florida. She emphasized the importance of Florida safeguarding its resources and being good stewards of its properties. Senator Harrell mentioned the concept of home rule, which permits various communities to govern themselves. She highlighted Florida's sound economy and the various opportunities it offers.

Representative Overdorf emphasized that preservation and planning are crucial for future growth, advocating for a 20-year plan and beyond. He expressed concern that Florida is currently lagging behind in infrastructure and institutional preservation, which is necessary to accommodate growth. Additionally, he stressed the importance of environmental preservation, mentioning that 5% of revenue from Seminole casinos is allocated towards environmental initiatives.

Senator Harrell referenced an ongoing lawsuit between Palm Beach Gardens and Palm Beach County pertaining to impact fees versus mobility fees, noting that while recognizing the importance of impact fees, she is advocating for a compromise. She confirmed the existence of a 20-year road development plan, which includes a detailed 10-year segment and coordination with Metropolitan Planning Organizations (MPOs).

She pointed out a significant funding issue exacerbated by the rise of electric vehicles, which do not contribute to impact fees due to the absence of gas taxes, traditionally used for road maintenance. Furthermore, she highlighted that cars are becoming more fuel-efficient, resulting in decreased gas consumption.

Vice Mayor Field remarked that we are among the few countries lacking a road tax. Senator Harrell replied that addressing this issue would require action at the federal level.

Commissioner Warner mentioned Form 6, to which Senator Harrell acknowledged the controversies surrounding it. She expressed her support of Form 1 for elected, unpaid officials in municipalities with populations under 1,000, and reiterated her intention to support it again next year if it is brought forward. Senator Harrell emphasized the fiduciary responsibility of elected officials and provided valid reasons for Form 6 disclosures, particularly in cases of potential misappropriation of funds, underscoring the importance of transparency. Representative Overdorf referred to the legislative action, noting the House's responsibility in this regard, and mentioned that Form 6 would be revisited in the next year's session.

Mayor Townsend thanked them for attending and expressed hope to invite them back before the legislative session to collaborate on drafting mutually beneficial bills for their community and other municipalities.

Representative Overdorf encouraged initiating outreach well in advance of the legislative session, suggesting starting as early as November, following the election.

6. Florida's Turnpike Enterprise - Project Development and Environment Study for a New Direct Connection Interchange between Florida's Turnpike and I-95 at SE Bridge Road*

The presentation will be delivered at the June meeting.

COMMISSION ACTION ITEMS

7. Ordinance No 390 - Property Rights Element - 2nd Reading and Adoption

Senior Planner Ruben Cruz provided background information and process review.

Town Attorney Baird read Ordinance 390 by title:

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AMENDING THE JUPITER ISLAND COMPREHENSIVE PLAN TO ADD A PROPERTY RIGHTS ELEMENT.

Public Comment:

There was no public comment.

MOTION: *Field/Warner moved to approve and adopt Ordinance 390 on second reading.*

ACTION: *Motion passed 4-0.*

8. Ordinance No 394 - Home Based Business - 1st Reading

Director Catherine Harding reviewed the purpose of Ordinance 394 referring to Home Based Businesses.

Mayor Townsend inquired how the Town would be able to determine if a resident has a home-based business. Director Harding responded that the Town may not be aware until an issue arises with the

business, at which time the Town can address those matters.

Commissioner Warner asked if an Airbnb qualifies as a home-based business, which Director Harding confirmed.

Mayor Townsend pointed out that the fee schedule currently does not include Airbnbs and mentioned a real estate office operating on the Island. She requested a review and revision of the fee schedule to be presented in June. She noted that if Ordinance 394 were adopted, it would not change current tax amounts. Mayor Townsend discussed passing the ordinance on first reading and bringing a text amendment back for the second reading.

Town Attorney Baird explained that the State has imposed limitations on the amount and frequency with which occupational licenses and business taxes can be changed or updated. He mentioned that staff could research this issue further, and if there is an opportunity to increase fees, it could be pursued. He advised waiting until any changes are made, and if so, to identify them during the first reading in June. There was consensus to proceed accordingly.

9. Ordinance No 396 - Commercial Vehicle Lettering - 1st Reading

Mayor Townsend referred to Ordinance 396 and asked for clarification for the purpose of the Ordinance.

Director Harding explained that work vehicles are properly identified.

Vice Mayor Field suggested enforcing the required DOT numbers on commercial vehicles.

Mayor Townsend noted it is a way to monitor who is coming on and off the Island.

Town Attorney Baird read Ordinance 396 by title:

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AMENDING CHAPTER 14, ARTICLE II, SECTION 14-35 OF THE CODE OF ORDINANCES OF THE TOWN OF JUPITER ISLAND, ENTITLED "PARKING OF COMMERCIAL VEHICLES"; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Public Comment:

There was no public comment.

MOTION: *Scott/Warner moved to approve Ordinance 396 on first reading.*

ACTION: *Motion passed 4-0.*

10. Ordinance No 395 - Appeal Process - 1st Reading

Town Manager Garlo provided an overview of the purpose of Ordinance 395.

Commissioner Scott expressed support of the ordinance but would prefer a broader definition of affected person, but it is a step in the right direction.

Town Manager Garlo conveyed Commissioner Taddeo's comments on the ordinance, explaining that there are potential unintended consequences regarding the standing of individuals who may appeal. He proposed

that anyone wishing to change an ordinance must list the pros and cons of the change. Commissioner Taddeo is not in favor of the ordinance at this time.

Vice Mayor Field expressed he is in favor of de novo but not in favor of the standing portion of the ordinance and prefers to leave it at 1000'.

Commissioner Warner expressed her favor of de novo but is not ready to support the 1000' standing.

Mayor Townsend opined that for the process to have standing, a person would have to be present or send communication as an affected person. Town Attorney Baird confirmed.

Mayor Townsend provided additional comments regarding administrative decisions and the milestones of an application and appeal process. She also pointed out two coinciding dates and grammatical errors in the second paragraph on Page 3.

MOTION: *Scott moved to approve Ordinance 395 on first reading.*

Motion died due to lack of second.

Public Comment:

Mr. Bob Rowden referred to a past application that was approved and not appealed. He noted that there is a new project on North Beach Road that very few properties located within the required 1,000' that permits them to appeal.

Mayor Townsend clarified that there are few people able to appeal the project in question, and is an example of unintended consequences, due to the location of the project.

Commissioner Scott referred to a project that doubled its approved amount of fill, but she was not allowed to appeal since she was not within the required 1,000'.

Vice Mayor Field stated he is not opposed to changing 1,000' to 1,500', but there should be parameters put in place for any other grounds of appeal. He recommended they should have limited grounds of appeal.

Mayor Townsend stated that any appeal should be based on the standards of the project.

Town Attorney Baird stated that the present code allows standing for those given notice of 1,000' and if standing is changed, then the notification must change as well since those people are impacted the greatest.

Commissioner Warner stated that 1,000' is not sufficient in many cases on the Island, including dead end roads.

Vice Mayor Field is in favor of 1,500' and de novo at this time.

Town Attorney Baird stated additional proposed changes could be brought back at first reading in June, since the notice section of the code must also be altered.

Discussion ensued regarding standing of a person who is aggrieved, including narrowing the definition of aggrieved and listing the reasons why.

Town Attorney Baird noted that staff would be responsible for determining whether a person is aggrieved or not.

Discussion continued.

Public Comment:

Ms. Adena Testa asked Town Attorney Baird if the term “affected party” is defined by state statute. Town Attorney Baird explained that anyone who wants to challenge the comprehensive plan or its amendments is considered an affected party under a very broad standard, which is why he included a broad standard in this ordinance.

Commissioner Scott opined that she does not support the litigation argument, clarifying that staff's role would be to determine whether the appeal package is complete, rather than assessing its merit.

Vice Mayor Field moved in favor of 1,500' and de novo. Commissioner Warner stated she would second. Vice Mayor Field also stated he would be in favor of stripping out the 1,500' and pass de novo today on first reading.

Commissioner Scott asked Town Attorney Baird to explore a way for someone beyond 1,500 feet to have standing. Mayor Townsend noted that this topic is more aligned with changing definitions in the LDR.

Mr. Bob Rowden expressed there are so many things to be considered and the path does not fit every situation. Noise and safety need to be included in a standing definition as North Beach Road is very different than South Beach Road. Mayor Townsend explained that North beach road is a dead-end road so any traffic impacts all residents on that road.

Vice Mayor Field suggested potential criteria including a dead-end road, cul-de-sacs, etc. He asked Town Attorney Baird for a draft that would include such language. Town Attorney Baird explained that he would review with staff, since there may be some difficulty establishing and identifying proper parameters.

Mayor Townsend summarized the draft language, which includes expanding the notice radius from 1,000 feet to 1,500 feet and addressing Commissioner Warner's concern about individuals who will be regularly impacted due to the road's configuration.

The Town Commission recessed at 10:55 AM.

The Town Commission reconvened at 11:08 AM.

11. Engagement Letters

Mayor Townsend clarified that Attorney Baird will continue to be the Town Attorney.

Vice Mayor Field inquired about engaging Cooper and Kirk. Town Manager Garlo explained that the engagements are for external litigation services. Vice Mayor Field requested a discussion on whether the Town should remain in front of the State Supreme Court or abandon the case.

Commissioner Scott stated that she opposes any discussion regarding litigation at this time.

Vice Mayor Field asked for a shade meeting in June to discuss litigation.

MOTION: *Scott/Warner moved to accept both letters of engagement and executed by the Town Manager.*

ACTION: *Motion passed 4-0.*

Mayor Townsend inquired whether there is a desire to substitute either of the counsels for pending litigation.

Commissioner Scott stated that the new council has not been engaged, so current counsel must remain counsel of record at this time.

Town Attorney Baird explained that there are currently four pending cases involving the Town, with two trial dates both set for June 11, 2024. He mentioned that although the two mandamus cases are not overly complex, it would be crucial to act swiftly in substituting counsel, as a notice of substitution must be filed and preparations for the case need to commence. Town Attorney Baird noted that Jones Foster agrees to the substitution of counsel. Mayor Townsend raised the concern of potential double payment since the new counsel would essentially replicate the work done by Jones Foster. In response, Town Attorney Baird reassured that the new counsel would inherit the work already done by Jones Foster and could seamlessly continue from there.

MOTION: *Scott/Warner moved to authorize the Town Manager to execute the engagement letters and authorize pursuit of substitution for the two mandamus cases as seen fit.*

ACTION: *Motion passed 3-1. Mayor Townsend voted in opposition.*

Town Attorney Baird emphasized the importance of promptly substituting counsel for the Notice case, a Supreme Court matter. Regarding the Slan case involving rights-of-way (ROW), he noted that depositions had not been conducted at this time, but notice to produce documents had been filed.

MOTION: *Field/Warner moved to authorize the Town Manager to substitute counsel for the remaining cases as seen fit.*

ACTION: *Motion passed 4-0.*

12. Vulnerability Assessment Support Services (Cummins Cederberg)

a. Support Services (Cummins Cederberg)

Director Duchock noted that Tasks 10-11 were being brought back to the Commission for approval as revisions to the scope and costs were made as requested.

Mayor Townsend questioned if maps would be provided at the end of the project. Director Duchock confirmed that maps would be presented along with a comprehensive report.

Mayor Townsend inquired whether the Town had previously managed its own grants. Director Duchock responded affirmatively, mentioning his regular administration of grants concerning beach matters. He noted his involvement in handling all local funding requests and acknowledged the associated challenges.

Commissioner Scott questioned Director Duchock's capacity for the workload during hurricane season.

Mayor Townsend clarified that these tasks would commence after the current hurricane season and would extend over a two-year period, minimizing the immediate workload impact. She mentioned that Cummins Cederberg has some reporting responsibilities. Director Duchock confirmed Mayor Townsend's statement and elaborated that Cummins Cederberg would generate the deliverables and submit them to the state as part of the grant administration process.

Public Comment:

There was no public comment.

MOTION: *Scott/Field moved to approve the work proposal as presented in an amount not to exceed \$24,000.*

ACTION: *Motion passed 3-1. Mayor Townsend voted in opposition.*

b. Steering Committee Discussion

Director Duchock summarized the Cummins Cederberg memo.

Commissioner Scott expressed a desire for recommendations from Town Manager Garlo.

Mayor Townsend reviewed the proposed list of participants, noting some omissions such as conservancy groups, coastal engineer Dr. Kriebel, duplicate listings for Stuart Trent, guardians, and others.

Town Manager Garlo clarified that this was an initial discussion, suggesting that he and Director Duchock could collaborate and return with recommendations to the commission. The proposed roster for the steering committee would be revisited in June.

13. Paving Contracts and Work Authorizations

Director Trent provided an overview of the proposed projects, highlighting that the paving contracts would enable the Town to address various road conditions effectively. He elaborated that all three contracts are piggybacks through other municipalities, with two of them also incorporating work authorizations.

Commissioner Scott inquired about the cost implications of not piggybacking. Director Trent responded, explaining that would be difficult to deduce without receiving responses, noting that one advantage of piggybacking is that the increased volume of work typically translates to lower unit pricing. Additionally, he mentioned that the two contracts with Martin County are willing to maintain the 2001 prices, which is advantageous for the Town.

Commissioner Scott expressed concern about construction contracts with government, and is reluctant to piggyback contractors who have long-standing relationships with local governments. She explained that honoring 2001 pricing seems odd in 2024. Director Trent explained Sunshine Land Design was in line with other market prices.

Vice Mayor Field asked about the challenges receiving bids. Director Trent stated that the market continues to be strong for construction, particularly pavers. He explained that he has used Sunshine Land Design to pave South Beach Road and has used Asphalt paving in the past as well.

a. Asphalt Paving Systems, Inc. Piggyback Agreement and Work Authorization

MOTION: *Scott/Warner moved to approve piggyback agreement with Asphalt Paving Systems, Inc.*

ACTION: *Motion passed 4-0.*

MOTION: *Field/Warner moved to approve the work authorization with Asphalt Paving Systems, Inc.*

ACTION: *Motion passed 4-0.*

- b. Sunshine Land Design Piggyback and Work Authorization - Town Hall Parking Lot Resurfacing

MOTION: *Field/Warner moved to approve the piggyback agreement with Sunshine Land Design.*

ACTION: *Motion passed 3-1. Commissioner Scott voted in opposition.*

Discussion unfolded regarding pricing and the selection process. Vice Mayor Field expressed that if there were genuine concerns, the decision to move forward should be reconsidered.

Director Trent emphasized the preference for moving forward sooner rather than later, especially with the rainy season approaching. He mentioned that he had also arranged a piggyback with Ferreira and could inquire about project pricing. Additionally, he highlighted the likelihood of utilizing these two contractors for future projects within the Town. He requested to proceed no later than the next meeting.

There was no motion to approve work authorization.

There was a consensus to revisit the matter during the June meeting. Commissioner Scott volunteered to collaborate with Director Trent to identify any concerns.

- c. Ferreira Piggyback Agreement

There was a consensus to revisit the matter during the June meeting.

2. Town Board and Committee Appointments

Mayor Townsend provided recommendations for filling various vacancies on Town Boards and Committees:

Local Planning Agency:

New appointment - Wendy Nolan, Alternate

Position change - Jim Hauslien, Regular (moved from Alternate)

Grievance Resolution Board:

New appointment - Angelo Schiralli, Alternate

Position change - Ken McBrayer, Regular (moved from Alternate)

Scholarship Committee:

New appointment - Sally Zunino, At Large

Beautification Committee:

New appointment - Debbie Textor, At Large

Impact Review Committee:

New appointment - Maria Bayazid, Alternate

MOTION: *Field/Warner moved to approve the appointments as presented.*

ACTION: *Motion passed 4-0.*

Vice Mayor Field suggested that the chair position of boards be rotated. Mayor Townsend stated that members of the board should decide.

Discussion ensued about adding language to encourage chair rotation, pros and cons to term limits, focused on BOA and IRC specifically.

DISCUSSION AND DELIBERATION ITEMS

15. Development Review Options

Director Harding reviewed the three options for changes in the Development Review process. Town Manager Garlo clarified Administrative Approval and stated that Director Harding is simply adding ADA language. She also removed interior renovations.

Commissioner Scott opined that the BOA should be fully advisory.

Director Harding noted that the applicant must still go before all three boards, the BOA, then IRC and Town Commission.

Commissioner Scott stated that she is not in favor of making the process easier for the developers as a goal.

Vice Mayor Field stated he is in favor of Option 2.

Town Manager Garlo stated another option would be for all variances to be heard by the commission or a variance that is granted vests the commission with the authority to overrule.

Mayor Townsend noted that Commissioner Taddeo typically emphasizes the importance of having "more people" involved, as it provides additional perspectives on the applications, favoring Option 3.

Discussion ensued about pros and cons of each option and how the IRC and BOA governance system is broken. Two examples include a recently approved application where the BOA approved fill based on their criteria which does not include impacts; and IRC approved the application based on their criteria of impacts but were not permitted to review impacts of the fill that was approved by the BOA.

Since there was no consensus, the commission agreed to postpone the decision until Commissioner Taddeo returns. Staff will be tasked with providing additional options to fill the gap in the meantime.

*The Town Commission recessed at 12:35 PM for the SMRU Board Meeting.
The Town Commission reconvened at 2:03 PM.*

Commissioners agreed that there is a problem and directed staff to come up with additional options to solve the matter. Three solutions were provided, but no one solution was agreed on.

Vice Mayor Field explained that if you have a quorum of three for BOA and IRC one possibility would be to combine those boards into one, providing a better chance of meet quorum and more eyes on the project.

Vice Mayor Field suggested a potential solution to address quorum issues by merging the Board BOA and the IRC into a single entity. This consolidation would not only improve the likelihood of meeting quorum but also increase the number of perspectives reviewing each project.

Commissioner Scott stated she would like to see the problem stated in writing, circulated, and have consensus on the actual problem. Vice Mayor Field felt the problem was identified as the IRC is not permitted to consult with the BOA.

Mayor Townsend noted that the criteria used by the BOA, the IRC, and for variances are all different standards. She pointed out that the BOA's actions do not consider the effects on neighbors or the community. She suggested that perhaps the solution is to adjust the standards to eliminate the gap between the boards.

Town Attorney Baird pointed out that the issue arises because the Alternative Development Standards are handled by a different board than the Impact Review. He suggested that the IRC could be given jurisdiction over the Alternative Development Standards as well, leaving the BOA to handle only variances, with very true variance applications.

Vice Mayor Field stated that this leans toward combining both boards.

Mayor Townsend questioned whether the alternative development standards still serve their intended purpose, noting that they were meant to be exceptions to the code, not the norm.

Director Harding agreed to compile and present statistics on the number of applications for alternative development standards, including how many were approved and how many were denied. Additionally, she would analyze any potential workload should the boards be combined, as well as locate Smith's letter concerning the BOA and its deficiencies.

Vice Mayor Field inquired if anyone had a reason not to eliminate the alternative development standards.

Mayor Townsend noted that there is a finite list of areas to which the Alternative Development Standards can be applied and recommended creating a list of these situations. Vice Mayor Field suggested that this task should be handled by a consultant. However, Mayor Townsend countered that Director Harding is fully capable of creating the list based on the LDRs.

Town Attorney Baird suggested that staff research the origin of the alternative development standards, identify the problems they were intended to address at that time, determine if those problems still exist, and assess whether continuing with the alternative development standards is appropriate, or if new code language needs to be drafted.

Vice Mayor Field opined that external help would be best.

MOTION: *Field/Scott moved to engage a consultant to review the LDR as a whole.*

ACTION: *Motion passed 4-0.*

16. Strategic Plan Workshop Update and Discussion

Mayor Townsend summarized the feedback from the workshop.

MOTION: *Field/Scott moved to pursue with the County to have a Jupiter Island representative on the Parks and Recreation Advisory Board.*

ACTION: *Motion passed 4-0.*

Mayor Townsend stated further feedback should involve sending a written survey to the community.

Vice Mayor Field suggested that commissioners submit a list of questions to be included in the survey, incorporating a scale of importance and a comments section. There was consensus for staff to develop the initial topics, allowing commissioners to add to them for the June meeting.

Discussion ensued about the workshop conversation regarding LDR definitions. Director Harding explained that the Town adopted the state building codes which already define topics in the LDR.

Mayor Townsend highlighted additional feedback, noting the necessity for workshops to be conducted online with remote participation options through written comments. She emphasized that workshops are crucial for commission members to engage with each other, stating that they can communicate with residents at any time. Therefore, she reiterated that public comments during workshops should be limited.

The commission discussed scheduling Beach Protection meetings following the Coffee Meeting each month. It was agreed to revisit this decision next month when Commissioner Taddeo is present.

Discussion about communication concerns was addressed. Suggestions such as focus groups and surveys had already been discussed. Specific recommendations to improve communication should be directed to the Town Manager.

Mayor Townsend stated that other outcomes included establishing priorities such as environmental issues, water management, public safety, and reviewing the Comprehensive Plan (policy statement) and LDRs.

Additionally, there was a suggestion to hire a consultant to assist with LDRs and explore alternative funding options for beach projects. The Chief was tasked with developing ideas to enhance public safety in the event the Town lost its contract with the county (LMS).

Vice Mayor Field mentioned stormwater runoff and the Clean Waterways Act, urging Director Trent to seek assistance if needed to address the matter.

Consensus was reached to utilize the Island Room on May 21 for a cybersecurity vendor showcase aimed at public safety and law enforcement. The event will be open to the public.

17. Town Manager Evaluation Follow-up

Mayor Townsend stated that the Town Manager is the only employee who does not have a written evaluation and was conducted for the first-time last year. She attempted to improve the form by basing it on the job description.

Commissioner Scott stated that she does not feel there is a need for a form.

Vice Mayor Field stated that everyone interacts with the Town Manager very well. He stated that the only real benefit is a written record of his performance and is up to the Town Manager if he wants one.

Commissioner Warner agreed with Commissioner Scott that the current Town Manager is doing very well and is trusted, although written record may be beneficial for the Town Manager.

There was consensus to keep the recommended form and include space for comment.

MOTION: *Warner/Field moved to approve the evaluation form and evaluations returned to the Town Manager by September each year.*

ACTION: *Motion passed 4-0.*

18. Town Manager's Report

a. Town of Jupiter US 1 Bridge Update*

Director Trent provided an update regarding the US1 Bridge construction in Jupiter. He explained that the contractor has received an incentive to open traffic lanes ahead of schedule. The contractor has stated that two lanes should be open by November 2024 with completion by October 2025.

b. Other Items*

Town Manager Garlo brought up the topic of building permit extensions with a 1% fee (2% for the first 18 months and reduced to 1% for an extension). Last year, Governor DeSantis passed an executive order following Hurricane Ian granting permit extensions, even if expired. He noted recent requests are citing the Governor's order.

Director Harding stated that the building department reviewed permit extension fees back to 2018 and provided the totals for each year. She explained the policy and process of the extension process.

Town Manager Garlo explained that extension requests are increasing in number based on an executive order that was based on hurricane damaged properties.

Director Harding stated that five permits were renewed based on the statute, even though they were already expired at the time of extension, missing the window for extension. Discussion ensued.

There was consensus not to waive the 1% fee.

Town Manager Garlo informed the Commission that the legislative session had concluded, and as a result, the Town had detached from its registered lobbyist. He expressed the Town's interest in interviewing top-tier lobbyists to select the most suitable candidate for next year's legislative activities.

MOTION: *Field/Scott moved to authorize the Town Manager to interview and engage a new lobbyist.*

ACTION: *Motion passed 4-0.*

Ms. Kelly Layman, Legislative and External Relations consultant, informed the Commission that she and Town Manager Garlo had been discussing plans for the next 30 days, emphasizing increased engagement by the Town Commission with the Martin County Commission and School Board. She provided a map detailing the various county districts and noted that Harold Jenkins would not be seeking reelection. Currently, three candidates have shown interest, but none have qualified via petition, meaning they must qualify by fee before June 14, 2024. She requested the Commission to withhold discussion on candidates until they officially qualify. Ms. Layman assured that engagement would occur during their campaign, with the election scheduled for August. She confirmed that two potential candidates, Blake Capps and Frank Deambra, were present earlier in the meeting. She noted that the third candidate had sent her regards.

Ms. Layman highlighted concerns regarding the National Flood Insurance Program, mentioning an issue with Congress not recertifying the flood insurance maps. She noted that currently, the increases are capped at approximately 18% annually, but the trend does not appear to be decreasing.

She mentioned that she will be attending the Florida League of Cities meeting tomorrow with Mayor Townsend. She anticipates Governor DeSantis action on the budget within the next two weeks.

Lastly, she confirmed that the prohibition on gas-powered leaf blowers is for one year. She explained that the Town could send a note to the Governor regarding this matter.

MOTION: *Field/Scott moved to authorize the Town Manager to issue a letter/email to the Governor's office pertaining to local ordinances.*

ACTION: *Motion passed 4-0.*

Also, Ms. Layman would like to add some legislative issue to the survey if the commission approves. The Commission agreed.

2. Town Attorney Report

Town Attorney Baird stated that the code states that the Mayor appoints the Chair and Vice Chair for the BOA, IRC and LPA. The commission stated they would like to change the language for the boards and committees to appoint their own Chair and Vice Chair. Consensus was gained for Town Attorney Baird to bring back a draft ordinance to change the code.

a. Litigation Update*

Town Attorney Baird provided a litigation update, indicating that there are currently three pending challenges to the Department of Environmental Protection's (DEP) notice of intent to issue CCCL permits. He mentioned that the cases have been consolidated for a hearing scheduled in October 2024, with depositions already noticed. Additionally, he noted that Town Manager Garlo was previously noticed for a deposition, which has been postponed and rescheduled for August 2024.

He acknowledged Vice Mayor Field's earlier request for a June Attorney-Client meeting and requested to work with the Town Manager to notice an attorney/client session in June to discuss the Dolphin Suite LLC vs. Town of Jupiter Island, Feldsine vs. Town of Jupiter Island, and Jupiter Island Compound LLC vs. Testa (notice case), and Slan/Hanson vs. Town of Jupiter Island.

MOTION: *Field/Scott moved to authorize the Town Manager and Town Attorney to call for and notice an attorney client session in June.*

ACTION: *Motion passed 4-0.*

STAFF REPORTS

3. Financial Report

a. Monthly Financial Report

Director Pazanski reviewed the monthly financial report for April as follows:

- Total Revenue \$10,401,612
- Total General Fund Expenditures \$6,056,450
- Unassigned Fund Balance (reserves) \$7,160,335
- Total Fund Balance (reserves) \$12,828,540

He noted that the budget process begins next month and reviewed the process, emphasizing the importance of establishing the maximum proposed ad valorem millage rate by the end of July 2024. Director Pazanski also mentioned that he will be out of town in July and highlighted the timing coinciding with setting the

millage rate. He expressed his willingness to meet with the Commissioners individually to discuss the budget.

OTHER ITEMS

4. Meeting Dates

- June 11, 2024 – Town Coffee with Vice Mayor Field – 9AM
- June 12, 2024 – Town Commission/Beach Protection – 9AM
- July 16, 2024 – Town Coffee with Commissioner Scott
- July 17, 2024 – Town Commission/Beach Protection – 9AM
- July 17, 2024 – SMRU Board – 12:30PM
- August 16, 2024 - Town Coffee with Commissioner Taddeo - 9AM
- August 19, 2024 - Town Commission/Beach Protection - 9AM
- September 9, 2024 - Town Commission/Beach Protection - 9AM
- September 9, 2024 - SMRU Board - 12:30PM
- September 9, 2024 - 1st Budget Hearing - 5:01PM
- September 12, 2024 - 2nd Budget Hearing - 5:01PM

5. Other Items*

Mayor Townsend asked staff to provide a cheat sheet on the definition of Home Rule. Additionally, there was a request for staff to seek Town representation on the Florida Shore and Beach Preservation Association.

Director Duchock provided a brief overview of the board and noted that it would be a benefit to have a representative from Jupiter Island on the board. Ms. Layman stated that she would work to seat Director Duchock on the board.

MOTION: *Field/Scott moved to approve seeking a position on the Florida Shore and Beach Presentation Association Board.*

ACTION: *Motion passed 4-0.*

Ms. Layman recommended Town Attorney Baird provide information regarding Home Rule. She briefly spoke about Dillon's Rule, which is other states' version of Home Rule.

Commissioner Scott stated that the Commission had been in attendance since 9:00 AM with less than 45 minutes of break time, emphasizing the need for tighter agenda management and more disciplined efficiency in the future. She suggested implementing a time limit for each agenda item.

Adjourned at 4:17 PM.

Respectfully submitted,

Kimberly Kogos, Town Clerk

TOWN OF JUPITER ISLAND
BOARD OF ADJUSTMENT MEETING
Thursday, April 25, 2024 – 9:00 a.m.



TIME: Thursday, April 25, 2024 - 9:00 a.m.

PLACE: Town Hall - Island Room

PRESENT: Present in person were Chair Marjorie Graham, Vice Chair Mark Newman, Members Nancy Auth, Jodi Dines, Hugh O'Kane, and Alternate Members E.B. Smith and Stephanie Flinn. Also present were Building Department Director Catherine Harding, Senior Planner Ruben Cruz, Town Clerk Kimberly Kogos, and Town Attorney Thomas Baird.

Chair Marjorie Graham called the meeting to order at 9:04 a.m. She introduced the Board members as well as alternate members and clarified voting members. She determined there was a quorum present.

Town Clerk Kogos swore in speakers including Attorney Jared Gaylord of Marc Gaylord P.E., Chuck Yannette of Parker-Yannette Design Group, Inc; Mitch Miller of Village Architects; Senior Planner Ruben Cruz; and Building Director Catherine Harding.

1. Minutes of the meetings of March 28, 2024

MOTION: *Newman/Auth moved to approve the minutes of the March 28, 2024, Board of Adjustment meeting.*

ACTION: *The motion passed 5-0.*

2. 103 North Beach Road

This is the application of AGTC JI Properties, LLC, represented by Jared Gaylord, Esq. of Marc R. Gaylord, P.A., requesting the following:

In accordance with Article X, Division III, Section 3.00, General Alternative Development Standards, Article X, Division III, Section 3.01, Initial Measuring Point for Building Height, the applicant is requesting the use of Article IV, Division II, Section 2.00, Building Height, in order to use the initial measuring point to 14.8' NAVD;

AND

In accordance with Article X, Division III, Section 3.00, General Alternative Development Standards, Article X, Division III, Section 3.02, Placement of more than 3' of Fill, the applicant is requesting to use Article IV, Division III, Section 3.01, Fill, in order to create a more level property and comply with state regulations.

Ex-Parte Communication:

- Chair Graham stated she spoke with Director Harding on the phone regarding the application and drove by the property with Mr. Cruz a few months ago.
- Member Auth stated she visited the property with Mr. Cruz yesterday, briefly met the property owner, and read all materials.
- Member O'Kane stated he visited the property and had no exparte communication.

- *Member Dines stated she had visited the property with Mr. Cruz.*
- *Vice Chair Newman stated he had a brief conversation with Mr. Cruz this morning, had driven by the property in the past, and read all materials.*
- *Alternate Member Stephanie Flinn stated she viewed the property.*
- *Alternate Member E.B. Smith stated he visited the property and had no ex-parte communication.*

Chair Graham clarified with Director Harding which version of the Land Development Regulations (LDRs) is being used for today's application. Director Harding explained the changes in the LDRs and what is applicable to today's application.

Senior Planner Cruz introduced the application and provided background information. He stated that the applicant acquired the subject property on December 2, 2010. The residence was originally constructed around 1964 and the applicant is wanting to redevelop the subject parcel. He explained that in order to go before the Impact Review Committee (IRC) for approval of the proposed project, the application needs to go before the Board of Adjustment (BOA), as the proposed plans reviewed by staff indicated an Initial Measuring Point (IMP) at a proposed 14.8' NAVD, and the total placement of 4.6' of fill. He noted staff has addressed each criteria with comments.

Mr. Cruz stated that if the BOA approves the application, the following conditions are recommended by staff:

- Applicant will have to obtain a Florida Department of Environmental Protection (DEP) permit.
- Silt screen shall be installed along the side yard area and rear yard area facing the ocean.
- Additional comments may follow anytime during the review process (i.e. Building Permit, etc.).

Mr. Cruz introduced the applicant's representative.

Attorney Jared Gaylord greeted the Board and introduced the project team including Mitch Miller, Doug Winter, Chuck Yannette and Danny Castanicos, as well as property owners Mr. and Mrs. Curan. Mr. Gaylord provided aerial photographs and survey of the property. He provided the site plan of the proposed home and explained the proposed fill of 4.6 feet of fill and initial measuring point (IMP). He briefly reviewed the floor plans, explained the calculations pertaining to the requested IMP and provided elevations for comparison purposes. He provided ground photographs of the current property and neighboring properties.

Mr. Chuck Yannette reviewed the landscape plans explaining the intent of full and heavy buffers.

Chair Graham referred to the LDR alternate development standards and asked if the excess fill is not necessary to build the finished floor elevation of the building.

Attorney Gaylord conceded and clarified that the building would not be any more visible than a structure constructed without employing the alternative development standards. He stated the extra fill is not needed for that purpose and explained the reason for the proposed fill request.

Chair Graham asked which properties granted additional fill have installed a hobby room or additional living space in the basement. Attorney Gaylord explained that most of the neighboring properties use the lowest level as garage space.

Chair Graham reiterated that others have been granted the relief but did not use the additional fill to create a basement to put in additional living space such as a recreational room or hobby room.

Attorney Gaylord contended that the code doesn't mandate evidence of basement contents for an initial point of fill application. He addressed the Alternative Development Standards and stated that each of these requirements have been met.

Vice Chair Newman argued in favor of the basement versus exposed pilings, stating that exposed pilings would require more fill and would be less aesthetically pleasing.

Attorney Gaylord concurred, mentioning that over 3' of fill would be necessary regardless to level the sunken "low" patio. He noted where the fill would be placed.

Chair Graham asked for the height of the basement wall and how much is exposed. Mr. Miller stated that the wall is 8' tall and 5' will be hidden by fill with 3' exposed. He confirmed there is a window well on the north side of the structure.

Discussion ensued regarding the living space in the basement area which includes a hobby room.

Additional discussion ensued regarding the process of application based on denial of any portion of the two requests.

Member Auth stated that there is not a hardship in this application and expressed confusion regarding the use of the hobby room. She opined that the structure is similar in character with the neighborhood. Pertaining to drainage, she opined that the exfiltration systems do not concern her as they seem to do their job. She expressed that the application seems to meet the standards.

Member O'Kane expressed that situating the garage beneath the structure is logical and resolves supplementary concerns such as utilities. He deemed it a sensible request.

Member Dines stated that she does not feel concern over the application. She expressed favor of the application since the basement is not externally visible.

Vice Chair Newman stated he is in favor of the application. Alternate Members Flinn and Smith agreed.

Chair Graham expressed concern about excess fill but understood the purpose for this project.

Public Comment:

There was no public comment.

MOTION: *Newman/ O'Kane moved to approve the application as presented.*

ACTION: The motion passed 5-0.

3. Other Items

A. Next Meeting – May 30, 2024

B. Other Items

No other items were discussed.

The meeting was adjourned at 10:43 a.m.

Respectfully submitted,

Kimberly Kogos, Town Clerk

**MINUTES
TOWN OF JUPITER ISLAND
IMPACT REVIEW COMMITTEE MEETING
THURSDAY, MAY 2, 2024**

TIME: Thursday, May 2, 2024 – 9:00 a.m.
PLACE: Town Hall – Island Room
PRESENT: Present at Town Hall were Chair Bonnie Schiralli, Vice Chair Judy Holden, Members Val McNeely, Eleanor Seaman, and Alternate Member Marshall Field V. Also present were Building Department Director Catherine Harding, Senior Planner Ruben Cruz, Town Clerk Kimberly Kogos, and Town Attorney Thomas Baird

Chair Schiralli called the meeting to order at 9:00 a.m.

Chair Schiralli read for the record Article X, Division II, Section 2.00 of the Land Development Regulations regarding the purpose of the Impact Review Process. Members of the Committee and staff introduced themselves. Chair Schiralli established a quorum, introducing the Committee members, Town Attorney Thomas Baird, Town Clerk Kimberly Kogos, Building Director Catherine Harding and Senior Planner Ruben Cruz. She also established voting members.

Town Clerk Kogos swore in those intending to speak including Attorney Jared Gaylord of Marc R. Gaylord, Chuck Yannette of Parker-Yannette Design Group, Inc; Mitchell Miller of Village Architects AIA, Inc; Richard Rutledge of Innocenti and Webel; Evan Anderson of Onshore Construction; Bill Bickford of Northworks; Garrett Arabetian; Graham Goldsmith of J. Graham Goldsmith, Architects; Adam Davis of J. Graham Goldsmith, Architects; Bert Krebs of Innocenti and Webel; Cindy Keegan; Mark Schafernich; Director Catherine Harding; and Ruben Cruz.

1. Minutes of the meeting held April 4, 2024

MOTION: *Holden/Seaman moved to approve the minutes of the April 4, 2024, IRC meeting, as presented.*

ACTION: *Motion passed 5-0.*

2. 103 North Beach

This is the application of AGTC JI Properties, LLC, represented by Jared Gaylord of Marc R. Gaylord, P.A., requesting the following:

The proposed demolition of the existing residence and the construction of a new, two-story residence with a basement consisting of garage and storage space, a mechanical equipment room, and hobby room along with a laundry room. Also proposed is a new pool and spa with pool patio, open terraces, circular driveway and motor court, and associated landscape and hardscape. There will be a new septic system and exfiltration trench system.

Ex-Parte Communication

- *Member McNeely stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Vice Chair Holden stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Member Seaman stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Chair Schiralli stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*

- *Member Field, V stated that he visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*

Mr. Cruz introduced the application and provided background information. He explained the staff approval process and provided recommended conditions including:

- Silt screen shall be installed and maintained along the front, side, and rear yard area facing the ocean.
- Construction Buffer and fence/mesh screening shall be installed prior to commencement of construction and maintained during construction.
- Dumpster and portable toilet shall be screened from public view.
- Connection fees due to South Martin Regional Utility shall be satisfied prior to Building Permit issuance.
- Applicant will adhere to Public Safety Review comments (see attached memorandum).
- Please note additional comments from the Town or SMRU may follow anytime during the review process (i.e., Building Permit, etc.).
- Please note additional requirements may be requested prior to issuance of Building Permit (i.e. DEP permit, Connection Fees, etc.).

Attorney Jared Gaylord, representing property owners, the Curran family, greeted the committee and introduced the project team. He began his presentation by showing aerial views of the property, as well as the survey, site plan, and proposed floor plans and elevations. He reviewed the site data and displayed streetscape photographs of the current property and neighboring properties.

Mr. Chuck Yanette, landscape architect for the project, presented and reviewed the proposed landscape plans. He explained that the primary need is thicker mid-level buffering. He reviewed the planting plans followed by views of the existing and proposed buffers for comparison purposes. Mr. Yanette reviewed the construction staging plans and explained the buffering for the construction stage.

Member Seaman referred to the adjacent right-of-way (ROW) and asked about any impacts on that area. Attorney Gaylord explained that there are no impacts proposed for the ROW.

Chair Schiralli asked about the existing fence and if the fence would be removed. Mr. Yanette confirmed the fence would be removed.

Vice Chair Holden referred to the port-o-john and expressed concern regarding the view of the toilet. Mr. Yanette stated that the space would be screened.

Chair Schiralli referred to the front buffer and opined that the area in question is thin. She also referenced the fencing and confirmed it would be 8' tall. She expressed interest in a denser front buffer during construction. She also explained that the construction area needs to be watered down during demolition.

Public Comment:

There was no public comment.

MOTION: *Holden/Field V moved to approve the application with the seven (7) recommended conditions as well as the request to improve the front buffer, based on the testimony presented, the plans submitted, and the fact that the application meets the standards of Article X, Division 2, Section 2.03 for impact review.*

ACTION: *Motion passed 5-0.*

3. 400 South Beach

This is the application of Mr. & Mrs. Peter Smith, represented by Jared Gaylord, Esq. of Marc R. Gaylord, P.A., requesting the following:

The proposed demolition of the existing non-conforming residence, detached garage, orchid house, pool, pool patio and driveway and the construction of a new, one & two-story residence with garage, new pool, terraces, mechanical enclosures, driveways, motor court and associated landscape and hardscape. Also proposed is a new septic system and exfiltration trench system.

Ex-Parte Communication

- *Member McNeely stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Vice Chair Holden stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Member Seaman stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Chair Schiralli stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Member Field, V stated that he visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*

Mr. Cruz introduced the application and provided background information along with seven (7) recommended conditions to consider if the application is approved.

Attorney Jared Gaylord, representing property owners Mr. and Mrs. Smith, introduced the project team and provided a presentation beginning with aerial views of the property. He displayed the property site plan, proposed floor plans and elevations. He reviewed the site data and provided 3D renderings of the proposed structure. He also provided streetscape photographs of the current property.

Vice Chair Holden referred to the second floor sitting area and asked about the balustrade materials. It was confirmed the material is glass.

Chair Schiralli referred to an adjacent easement. Attorney Gaylord confirmed the three properties that have use of the easement.

Mr. Bert Krebs, landscape architect, reviewed the landscape plans beginning with the demolitions/existing vegetation removal/relocation plan. He reviewed the buffer and construction staging plans followed by the proposed landscape plan. He displayed the landscape elevations.

Vice Chair Holden stated that she would like to add the condition in a motion that the neighboring property access is not blocked at any time during or after construction.

Chair Schiralli referenced an old trash bin that should be removed. It was confirmed that the bin belongs to the neighbor, although it is not visible to the property owner.

Chair Schiralli opined that the south side buffer is particularly weak. Mr. Krebs confirmed the space would be bolstered and explained additional plantings on the east side.

Chair Schiralli asked about fencing height. Mr. Krebs pointed out that there was 8-foot fencing on the north side, while on the east side, there was only tree protection fencing.

Chair Schiralli also noted that the construction area needs to be watered down during demolition.

Public Comment:

There was no public comment.

MOTION: *Holden/Field moved to approve the application with the seven (7) recommended conditions as well as the condition that the neighbors always have access to the easement, based on the testimony presented, the plans submitted, and the fact that the application meets the standards of Article X, Division 2, Section 2.02 and 2.03 for impact review.*

ACTION: *Motion passed 5-0.*

4. 77 South Beach

This is the application of Mr. & Mrs. William Laverack, Jr., represented by Jared Gaylord, Esq. of Marc R. Gaylord, P.A., requesting the following:

The proposed construction of a new addition with a covered loggia that connects to the existing north guest suite, along with modifications to the hardscape and landscaping.

Ex-Parte Communication

- *Member McNeely stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Vice Chair Holden stated that she stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Member Seaman stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Chair Schiralli stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Member Field, V stated that he visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*

Mr. Cruz introduced the application and provided background information and noted seven (7) recommended conditions to consider if the application is approved.

Attorney Jared Gaylord, representing property owners Mr. and Mrs. Laverack, Jr., introduced the project team and provided a presentation of the proposed project. He displayed aerial views of the property along with the floor plans, elevations and site data information.

Mr. Richard Rutledge, landscape architect, displayed photographs of the current streetscape and explained the location of the proposed addition and buffering plants. He provided renderings that include the addition and proposed landscaping. He displayed the existing vegetation removal/relocation plan, the construction staging/buffer plan, and the proposed landscape plan.

Public Comment:

There was no public comment.

MOTION: *Holden/McNeely moved to approve the application with the seven (7) recommended conditions, based on the testimony presented, the plans submitted, and the fact that the application meets the standards of Article X, Division 2, Section 2.02 for impact review.*

ACTION: *Motion passed 5-0.*

5. 512 South Beach

Chair Schiralli recused herself from this application as she is an abutting neighbor. She passed the gavel to Vice Chair Holden.

This is the application of Mr. & Mrs. Ryan Simovitch, represented by Jared Gaylord, Esq. of Marc R. Gaylord, P.A., requesting the following:

The proposed construction of a new, two-story residence with two 2-car garages, new pool, spa and pool deck, loggias, a balcony, driveway and motor court, and a new entry gate, along with associated landscape and hardscape. Also proposed is a new septic system and exfiltration trench system.

Ex-Parte Communication

- *Member McNeely stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Vice Chair Holden stated that she stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Member Seaman stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Member Field, V stated that he visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*

Mr. Cruz introduced the application and provided background information. He noted seven (7) conditions to be considered if the application is approved.

Attorney Jared Gaylord, representing the Simovitch family, introduced the project team. He provided aerial photographs of the property and explained that the previous structure had been demolished. He displayed the site and floor plans, elevations, and renderings of the proposed structure. He provided photographs of the current site conditions and streetscape.

Member Seaman asked Attorney Gaylord to review the proposed gate. Attorney Gaylord provided an explanation of the gate and associated materials.

Mr. Chuck Yanette, landscape architect, presented the landscape plan and explained the buffer plantings. He provided elevations of current and proposed buffers for comparison purposes. He explained the existing retaining wall and the proposed gate.

Member McNeely asked about the retaining wall and Mr. Yanette provided additional details for clarification.

Vice Chair Holden asked about the vegetation removal/relocation plan referring to existing sabal palms. Mr. Yanette provided clarification.

Public Comment:

There was no public comment.

MOTION: *Field V/McNeely moved to approve the application with the seven (7) recommended conditions, based on the testimony presented, the plans submitted, and the fact that the application meets the standards of Article X, Division 2, Section 2.02 for impact review.*

ACTION: *Motion passed 5-0.*

Chair Schiralli rejoined the committee as Chair.

The committee recessed at 10:41 a.m.

The committee reconvened at 10:53 a.m.

6. 87 Links

This is the application of Mr. & Mrs. Charles Haldeman, represented by Adam Davis of J. Graham Goldsmith, Architect, requesting the following:

The proposed demolition of the existing residence, pool, and pool patio and the construction of a new, one & two-story residence with garage, new pool, spa, terraces, driveway, along with hardscape and revisions and additions to the landscaping. Also proposed is a new septic system and exfiltration trench system.

Ex-Parte Communication

- *Member McNeely stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Vice Chair Holden stated that she stated that she visited the property alone, read all materials, and had no ex-parte communication.*
- *Member Seaman stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Chair Schiralli stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Member Field, V stated that he visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*

Mr. Cruz introduced the application and provided background information and noted seven (7) conditions to be considered if the application is approved. He explained two typos in the staff memo and clarified the applicant agent as well as the setback area of the property.

Mr. Graham Goldsmith noted that the proposed structure is located directly next to the Jupiter Island Club, thus the architecture is similar to that of the Club. He noted the design is old Florida with gabled roofs, rectangular windows, and dormers.

Mr. Adam Davis, representing the Haldeman family, provided a presentation of the proposed dwelling beginning with aerial views, the site plan, and photographs of the existing structure. He displayed floor plans and elevations followed by the site data.

Mr. Bert Krebs, landscape architect, reviewed the demolition plan and construction buffering. He reviewed the proposed buffers and planting materials.

Member Seaman asked about impacts, if any, to the cottage on the south side of the property. Mr. Davis explained how there would be no impacts on the neighboring property.

Chair Schiralli requested an 8' construction gate instead of a 6' gate. She also referred to the dumpster and requested a separate screening for the dumpster area. She referred to the trailer and toilet along the north property line and requested an enclosure of some sort to shield the area since it is slightly elevated. She commented on the buffering and suggested a denser plant material.

Public Comment:

There was no public comment.

MOTION: *McNeely/Holden moved to approve the application with the seven (7) recommended conditions as well as the conditions recommended by committee members listed below, based on the testimony presented, the plans submitted, and the fact that the application meets the standards of Article X, Division 2, Section 2.02 and 2.03 for impact review.*

- *Fencing around construction trailer and port-o-let*
- *Fencing at 8' not 6'*
- *Rear buffer to be enhanced*

ACTION: *Motion passed 5-0.*

7. 488 South Beach

This is the application of M Southern Command LLC, represented by Mr. Chuck Yanette of Parker - Yannette Design Group, Inc., requesting the following:

The proposed construction of 2 new vehicular gates at the driveways and slight modifications to the previously approved landscaping.

Ex-Parte Communication

- *Member McNeely stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Vice Chair Holden stated that she stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Member Seaman stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Chair Schiralli stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Member Field, V stated that he visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*

Mr. Cruz introduced the application and provided background information noted six (6) conditions to be considered if the application is approved.

Mr. Chuck Yanette, representing the property owner, provided a presentation of the proposed gates and modified landscaping. He provided site plans and elevations of the proposed gates. He reviewed the current and proposed buffering for comparison purposes.

Vice Chair Holden asked for confirmation of the gate setback. Mr. Yanette stated that the gate is 25' from the access

drive. Vice Chair Holden expressed concern that the gates are not set back far enough for a construction truck and trailer to park if the gates are closed. Discussion ensued regarding the hedge along the access drive as well as the gate setback.

The written concerns submitted from Nancy Auth was referred to as well as those from public safety.

Public Comment:

There was no public comment.

MOTION: *Field V/McNeely moved to approve the application subject to staff conditions as stated in the staff memorandum and as meeting the standards of Article X, Division II, Section 2.02 for impact review and based upon the testimony presented and the plans submitted.*

ACTION: *Motion passed 5-0.*

8. 392 South Beach

This is the application of Mr. & Mrs. Peter Morse, represented by Adam Davis of J. Graham Goldsmith, Architects, requesting the following:

The proposed construction of a new service gate south of the primary driveway.

Ex-Parte Communication

- *Member McNeely stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Vice Chair Holden stated that she stated that she visited the property, read all materials, and had no ex-parte communication.*
- *Member Seaman stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Chair Schiralli stated that she visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*
- *Member Field, V stated that he visited the property with Ruben Cruz, read all materials, and had no ex-parte communication.*

Mr. Cruz introduced the application and provided background information, noting six (6) recommended conditions if the application is approved.

Mr. Adam Davis, representing property owner Mr. and Mrs. Morse, provided a presentation of the proposed service gate. He provided an aerial view of the property along with site plans and photographs of the current conditions. He reviewed the proposed gate material and noted the setback of 16'8".

Member McNeely asked if the new driveway and access would destroy the existing sidewalk. Mr. Davis explained that the access area had been used previously for heavy construction traffic and the sidewalk was not impacted at that time.

Chair Schiralli explained that sidewalk maintenance would need to be an added condition to the motion.

Public Comment:

There was no public comment.

MOTION: *Field V/Holden moved to approve the application subject to staff conditions as stated in the staff memorandum and the condition that the property owners are responsible for sidewalk maintenance, and as meeting the standards of Article X, Division II, Section 2.02 for impact review and based upon the testimony presented and the plans submitted.*

ACTION: *Motion passed 5-0.*

9. Other Items

a. Next Meeting – June 6, 2024

Vice Chair Holden stated that she requested meeting dates from staff as well as committee members' availability for the summer. She mentioned that two dates, one in July and one in January, needed to be rescheduled due to holidays.

b. Other matters

The committee asked for a copy of the LDR that provides for the minimum width of the driveway and sidewalk maintenance.

Discussion ensued regarding remote participation and requested a copy of the resolution.

10. Adjournment

Chair Schiralli adjourned the meeting at 11:55 a.m.

Respectfully submitted,

Kimberly Kogos, Town Clerk

**MINUTES
TOWN OF JUPITER ISLAND
PENSION PLAN COMMITTEE MEETING
WEDNESDAY, FEBRUARY 21, 2024**

TIME: Wednesday, February 21, 2024 – 9:00 AM
PLACE: Town Hall Island Room – 2 Bridge Rd., Hobe Sound, FL
PRESENT: Present were Chair Ged Parsons and members Craig Donaldson, Town Manager Robert Garlo, Finance Director Matthew Pazanski and Assistant Town Manager/Beach Protection Director John Duchock. Town Clerk Kimberly Kogos was also present.

Call to Order and Comments*

Chair Parsons called the meeting to order at 9:04am and announced a quorum had been established.

Brief discussion ensued regarding the possibility of buying out the plan. Mr. Pazanski and Mr. Gardner agreed to research and provide more information to the Board.

1. Introduction of New Board Member*

Director Matthew Pazanski introduced newly appointed member Craig Donaldson who attended remotely. The Committee members welcomed Mr. Donaldson.

Action Items

2. Approval of Minutes - November 15, 2023

Chair Parsons asked for comments regarding the November 2023 meeting minutes. There were no comments.

MOTION: *Finance/HR Director Pazanski/Town Manager Garlo moved to approve the minutes of the November 15, 2023, meeting.*

ACTION: *Motion 5-0*

3. AGW Capital Advisors, Inc. - Performance Review and Capital Markets Indices

Mr. P.J. Gardner of AGW Capital Advisors greeted the Committee and provided a review of the 4th quarter performance. He discussed the capital market indices through year end. He explained that the last quarter was good, and compared this current year-end to the previous year-end values. He noted that the portfolio has two years of distributions banked at this time.

Mr. Gardner reviewed the Town's portfolio performance. He highlighted the various asset classes and noted specific areas where a change may benefit the portfolio.

Mr. Gardner presented the portfolio recommendations and reviewed inflation, interest rates and the labor market. He reviewed the Fed and leading economic indicators, and indicated a possible nearing recession. He referenced increasing corporate earnings, but warned not to be disappointed if earnings are not as

good as expected.

Mr. Gardner reviewed the portfolios investment managers and their strategies, followed by the expense analysis.

He reviewed the rebalance recommendation including swapping Chiron for T Rowe Price.

MOTION: *Beach Protection District Director / Assistant Town Manager Duchock/Town Manager Garlo moved to approve the recommendations and rebalance as discussed.*

ACTION: *Motion 5-0*

Discussion and Other Business

4. Record Keeper Trustee Discussion*

Director Pazanski explained that Newport Group had merged with Ascensus and the platform will move from Newport to Ascensus. He noted that Ascensus, not Matrix, would be the trustee and Newport could be the recordkeeper. He explained that this action will occur in November, so no committee action is required at this time.

5. Other Items*

Mr. Pazanski reviewed fees and asked the committee if the fees are in line with other companies. Chair Parsons stated that the fees are not out of line in comparison.

Chair Parsons stated that the next meeting date will be in May. The committee agreed on May 13 at 10:30am.

6. Adjournment

The meeting adjourned at 10:31am.

Respectfully submitted by:

Kimberly Kogos, Town Clerk

**MINUTES
TOWN OF JUPITER ISLAND
JT. TOWN/SMRU DEFINED CONTRIBUTION PLAN COMMITTEE MEETING
WEDNESDAY, FEBRUARY 21, 2024**

TIME: Wednesday, February 21, 2024 – 10:15 AM
PLACE: Town Hall Island Room – 2 Bridge Rd., Hobe Sound, FL
PRESENT: Present were Finance Director Matthew Pazanski, Assistant Town Manager/Beach Protection Director John Duchock, Director of Planning and Zoning Ruben Cruz, Information Technology Director Bill Sutton, Public Services Director Stuart Trent, and Control System Specialist Dustin Lindholm. Town Clerk Kimberly Kogos and P.J. Gardner of AGW Capital Advisors were also present.

1. Approval of Minutes - November 15, 2024

Director Duchock asked for comments regarding the November 15, 2023 minutes. Hearing none, he called for a motion to approve the minutes as presented.

MOTION: *Pazanski/Trent moved to approve the Minutes of the November 15, 2023, meeting as presented.*

ACTION: *Motion Approved 6-0.*

2. AGW Capital Advisors, Inc. - Performance Review and Capital Markets Update

Mr. Garner greeted the Committee and provided a brief history of the business relationship between AGW and the Town of Jupiter Island/SMRU. He presented the Town's Fiduciary Investment Review to date noting that although the Town had taken a conservative approach, values were close to 90 percent. Member Pazanski questioned the possibility of amortizing, something that has been discussed from time to time. Mr. Gardner noted that it may be worth revisiting again with the elevated interest rates and was encouraged to present an analysis at the next meeting. He noted some degree of normalcy had occurred within fixed income markets, indicating solid returns for the Town with the Overall YTD total up 17.7%.

Mr. Gardner briefly reviewed the Town's portfolio's performance, noting that the last two months of the year indicated improvement across the board for all equity markets. Highlighting sections of the Fiduciary Investment Review, Mr. Gardner remarked that the propensity for a recession and the disparity between US and International markets continues to be extensive, the Town's diversified approach has proved beneficial. Mr. Gardner noted that the quarter was up 8%, basically in line year-to-date.

Mr. Gardner noted that reserves were at approximately 1.25 million, and to date all active managers are outperforming the index of 8.47%. The Committee reviewed Mr. Garner's Portfolio Recommendations and discussed the prospect of avoiding a recession with an Inverted Yield Curve.

The Committee discussed the Acquisition of Newport Group by Ascensus, and the proposition of Matri becoming trustee custodian and Newport the trustee.

Director Duchock called for a motion to approve requesting documents from Ascensus for attorney review and recommendation.

MOTION: *Cruz/Lindholm moved to approve requesting legal documents from Ascensus for legal review and recommendation.*

ACTION: *Motion Approved 6-0.*

3. Withdrawal Requests*

There were no withdrawal requests to discuss.

4. Other Items*

There were no additional items discussed.

5. Adjournment*

The meeting was adjourned at 11:40am.

Respectfully Submitted,

Kimberly Kogos, Town Clerk



Jupiter Island Public Safety Department
May 2024
Activity Report



Monthly Activity

	May 2023	May 2024	YTD - 2023	YTD - 2024
<i>Calls for Service</i>	232	157	878	718
<i>Arrests</i>	0	1	1	6

Traffic Activity

	May 2023	May 2024	YTD - 2023	YTD - 2024
<i>Traffic Stops</i>	62	83	315	349
<i>Vehicle Citations</i>	10	18	44	52
<i>Parking Citations</i>	17	3	39	57
<i>Vehicle Crashes</i>	1	1	7	6

Major Crimes

<i>Crime Type</i>	May 2023	May 2024	YTD - 2023	YTD - 2024
<i>Robbery</i>	0	0	0	1
<i>Burglary</i>	0	0	0	0
<i>Theft</i>	0	3	0	4
<i>Auto Theft</i>	1	0	1	0
<i>Assault</i>	0	0	0	0
Total	1	3	1	5

Other Crimes

<i>Type</i>	May 2023	May 2024	YTD - 2023	YTD - 2024
<i>Fraud</i>	0	0	1	0
<i>Drug Violations</i>	0	0	0	0
<i>Trespassing</i>	0	0	1	0
<i>Vandalism</i>	0	0	0	0
<i>Disorderly Conduct</i>	0	0	0	0
<i>Lewd & Lascivious</i>	0	0	0	0
Total	0	0	2	0



Jupiter Island Public Safety Department
May 2024
Activity Report



Code Compliance

<i>Violation Type</i>	May 2023	May 2024	YTD - 2023	YTD - 2024
<i>Parking in Right of Way</i>	-	18	-	68
<i>No Flag Persons Present</i>	-	4	-	14
<i>Working Outside Hours</i>	-	0	-	3
<i>Work with No Permit</i>	-	0	-	0
<i>All Other Violations</i>	-	3	-	15
<i>Total Violations</i>	-	25	-	100

ALS Fire Rescue Responses

<i>Medical calls this month</i>	7	<i>Avg. response time</i>	2.3 minutes
<i>Fire calls this month</i>	12	<i>Avg. response time</i>	1.3 minutes

Criminal Activity

Traffic Arrest /May 1, 2024, During a lawful traffic stop the driver was issued a criminal traffic citation with a mandatory court appearance for Driving with an expired license more than 6 months. The vehicle was turned over to a licensed driver.

Vehicle Burglary/Theft / Case #2024-00005745; May 8, 2024; Officers received a report of a vehicle burglary in the area of the Blowing Rocks Preserve parking lot. The victim reported her purse containing her wallet and credit cards was removed from her unlocked vehicle while she was at the beach. There are no suspects or additional information at this time, the investigation remains open and on-going.

Traffic Arrest /May 10, 2024, During a lawful traffic stop the driver was issued a criminal traffic citation with a mandatory court appearance for Driving with No Driver's License/Never Issued. The vehicle was turned over to a licensed driver.

Traffic Arrest /May 12, 2024, During a lawful traffic stop the driver was issued a criminal traffic citation with a mandatory court appearance for Driving with No Driver's License/Never Issued. The vehicle was turned over to a licensed driver.



Jupiter Island Public Safety Department
May 2024
Activity Report



Petit Theft / Case #2024-00005975; May 13, 2024, Officer's responded to the Hobe Sound Public Beach for a report of stolen property. The victim indicated that he had left his belongings unattended on the beach while he was kite surfing and an unknown subject removed his backpack containing kite surfing equipment from the beach. A possible suspect has been identified and the investigation is on-going.

Petit Theft/Fraudulent Use of a Credit Card / Case #2024-00006728; On May 29, 2024, Officers responded to the area of the 400 block for a report of a stolen wallet. The victim, a construction worker, stated that another worker had taken his wallet from his vehicle and used his credit cards to make purchases at two local businesses in Hobe Sound while on his lunch break. The suspect returned to work and was confronted by the victim and admitted to taking the wallet and using the credit cards. The suspect was placed under arrest for theft and fraudulent use of a credit card and transported to the MC jail.

Hobe Sound Beach Statistics

<i>Calls for Service- Day</i>	5
<i>Calls for Service- Night</i>	2
<i>Patrols</i>	94
<i>Traffic Stops</i>	8

Hobe Sound Beach Activity

DAYTIME 7am-7pm

Suspicious Person / May 1, 2024, at 3:46 pm, officers responded to a report of a suspicious person taking pictures at the Hobe Sound Public Beach. The complainant advised officers of an older white male taking pictures of his girlfriend. The subject was gone before officers arrived. The Complainant was advised that it is not illegal to take pictures at the public beach. An incident report was completed.

County Ordinance Violation: Signs / May 12, 2024, at 8:42 am, officers made contact with subjects at the public beach pavilion and advised them of the county ordinance prohibiting the posting of signs. The signs were removed without incident.



***Jupiter Island Public Safety Department
May 2024
Activity Report***



Animal Control Call / May, 12, 2024, at 6:43 pm, officers responded to the public beach for a report of an aggressive dog off leash at the public beach. The owner was located and provided a ride with the dog off of the island.

Police Service Call / May 26, 2024, at 3:11 pm, Officers responded to the public beach to assist a subject at the beach make contact with a family member who inadvertently left the beach with the subject's phone and car keys. Contact was made and the family member.

Suspicious Incident: County Ordinance Violation / May 27, 2024, 9:43 am, Officers responded to the public beach for a report of a group of individuals setting up a tent and BBQ grill on the beach. The individuals were advised of the county ordinance prohibiting fires. The grill was removed without incident.

NIGHTTIME 7pm-7am

Disabled Vehicle / May 12, 2024, 7:18 pm, Officers responded to the parking lot of the public beach to assist with a disabled vehicle. The vehicle was provided a jump start and left the area.

Petit Theft / May 13, 2024, at 7:00 pm, Officers responded to a report of a theft from the beach. See Petit Theft Call, Case# 2024-00005975 in the Criminal Activity Report above.

To: Mayor and Town Commission

From: Catherine Harding, Building Planning and Zoning Director

Subject: Building Department Report May 2014

Enclosed is the Building Department report for May 2024.

The Building Department has seen an increase in Building Permits over the last year. We are approving small-scale permits in-house and are receiving permits online as contractors become aware of our internet access. Buck, our outside contractor for building inspections, is doing a good job of keeping up with the ongoing jobs.

The Building Season has started, and Code Compliance is helping with construction truck traffic and maintenance of the construction sites. Frank reports that everyone is cooperating with maintaining safe roads.

The staff is working with the BOA and the IRC scheduling summer meetings to hear applicants as soon as possible, to meet the demands of starting the summer construction season.

In all, life is good.

Building Department Activity Report
2024

Monthly Report



Month		Calendar Year Totals	January		February		March		April		May		Year to Date	
Category	Item	Jan 2023- Dec 2023	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount
Year	Previous / Current		2023	2024	2023	2024	2023	2024	2023	2024	2023	2024	2023	2024
Permits & Fees	Building Permits Issued	238	15	13	14	13	12	14	13	22	38	47	79	87
	Value of Construction	\$83,737,334.31	\$428,775.60	\$989,367.10	\$918,312.10	\$232,182.00	\$2,277,301.07	\$1,146,487.16	\$615,374.75	\$3,666,900.00	\$59,733,747.60	\$51,349,223.46	\$63,973,511.10	\$57,384,159.70
	Cost Certification Fees	\$324,306.91	\$41,258.00	\$0.00	\$1,581.72	\$8,598.30	\$29,445.68	\$711.30	\$0.00	\$11,787.10	\$0.00	\$0.00	\$72,285.40	\$21,096.70
	Permit Extension Fee (1%)	\$10,742.74	\$0.00	\$0.00	\$750.00	\$0.00	\$9,892.74	\$518.34	\$0.00	\$34,489.69	\$50.00	\$35,050.00	\$10,692.74	\$70,058.03
	Permit Expansion Fees	\$22,407.42	\$247.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$10,000.00	\$0.00	\$8,254.00	\$0.00	\$18,501.50	\$0.00
	Work Without a Permit Fee	\$1,430.76	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$38.00	\$0.00	\$0.00	\$0.00	\$38.00	\$0.00
	Permit Fees (2%)	\$1,678,378.73	\$8,595.52	\$23,068.37	\$18,366.24	\$5,076.33	\$45,546.02	\$22,929.74	\$12,367.50	\$82,649.26	\$1,194,974.95	\$1,075,946.07	\$1,279,850.23	\$1,209,669.77
	Total Permit Fees	\$2,037,266.56	\$50,101.02	\$23,068.37	\$20,697.96	\$13,674.63	\$84,884.44	\$24,159.38	\$22,405.50	\$128,926.05	\$1,203,278.95	\$1,110,996.07	\$1,381,367.87	\$1,300,824.50
Applications Received														
	DRC	14		0		1		0		4		0	14	5
	IRC	20		3		4		2		1		5	20	15
	BOA	7		0		3		1		0		4	7	8
Inspections														
	Inspections	1100	79	66	53	78	73	51	40	37	51	163	296	344
	Final Inspections	321	19	20	13	27	22	19	19	25	20	21	83	112
	Certificate of Occupancy	4	0	2	0	0	0	3	0	2	0	0	0	5
	Permits Finaled/Closed	196	17	15	11	16	16	16	12	12	11	13	67	72
Other														
	Demolition Permits	8	0	0	0	0	0	0	0	0	2	0	2	0
	Locate Tickets	963	68	50	65	44	71	89	108	86	119	140	323	409



Enforcement List

Enforcement Number	Address/ Parcel Number	Category	Date Filed	Status	Next Action	Next Action Date	Date Closed
E2024-0054	251 S BEACH RD 35-38-42-002-109-00370-7	CONSTRUCTION SIT	05/01/2024	CLOSED - IRRELEV			04/30/2024
E2024-0055	310 S BEACH RD 35-38-42-002-119-00650-7	CONSTRUCTION SIT	05/01/2024	OPEN - VERBAL WA			05/06/2024
E2024-0056	374 S BEACH RD 35-38-42-002-128-00790-9	CONSTRUCTION SIT	05/01/2024	CLOSED - NO VIOLA			
E2024-0057	67 N BEACH RD 35-38-42-004-000-02510-3	VIOLATION OF LDR'S	05/01/2024	CLOSED - COMPLIE			05/01/2024
E2024-0058	75 S BEACH RD 35-38-42-009-093-00040-6	VIOLATION OF LDR'S	05/01/2024	CLOSED - COMPLIE			05/01/2024
E2024-0059	41 N BEACH RD 35-38-42-004-000-02390-8	CONSTRUCTION SIT	05/03/2024	CLOSED - COMPLIE		05/09/2024	05/17/2024
E2024-0060	101 OSCEOLA WAY 35-38-42-005-067-00060-9	LANDSCAPE MAINT	05/03/2024	OPEN - COMPLAINT		05/06/2024	
E2024-0061	21 S BEACH RD 35-38-42-009-085-02080-9	LANDSCAPE MAINT	05/06/2024	CLOSED - COMPLIE			05/06/2024
E2024-0062	482 S BEACH RD 35-38-42-052-000-00020-0	LANDSCAPE MAINT	05/09/2024	OPEN - COMPLAINT			
E2024-0063	304 S BEACH RD 35-38-42-012-000-00020-0	VIOLATION OF LDR'S	05/13/2024	CLOSED - COMPLIE			05/13/2024
E2024-0064	430 S BEACH RD 35-38-42-002-136-00940-1	LANDSCAPE MAINT	05/15/2024	OPEN - COMPLAINT			05/16/2024



Enforcement List

Enforcement Number	Address/ Parcel Number	Category	Date Filed	Status	Next Action	Next Action Date	Date Closed
E2024-0065	71 LINKS RD 35-38-42-009-092-00070-1	VIOLATION OF LDR'S	05/16/2024	CLOSED - COMPLIE			05/17/2024
E2024-0066	10 BASSETT CREEK N TRL 35-38-42-016-000-00110-7	PROPERTY MAINTEN	05/16/2024	CLOSED - IRRELEV			05/16/2024
E2024-0067	50 S BEACH RD CONV000000023	VIOLATION OF LDR'S	05/16/2024	CLOSED - COMPLIE			05/17/2024
E2024-0068	1 ESTRADA RD 35-38-42-009-131-00700-5	CONSTRUCTION SIT	05/20/2024	CLOSED - COMPLIE			05/21/2024
E2024-0069	502 S BEACH RD 35-38-42-031-000-00010-0	CONSTRUCTION SIT	05/30/2024	CLOSED - COMPLIE			05/30/2024
E2024-0070	512 S BEACH RD 35-38-42-024-000-00020-6	VIOLATION OF LDR'S	05/31/2024	CLOSED - COMPLIE			05/31/2024
E2024-0071	41 N BEACH RD 35-38-42-004-000-02390-8	CONSTRUCTION SIT	05/31/2024	CLOSED - COMPLIE			05/31/2024
E2024-0072	15 N BEACH RD 35-38-42-004-005-00010-1	CONSTRUCTION SIT	05/31/2024	CLOSED - COMPLIE			05/31/2024

Records: 19

Population: All Records

Enforcement.DateFiled in <Previous month> [05/01/24 - 05/31/24]

ORDINANCE NO. 397

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AMENDING THE TOWN'S LAND DEVELOPMENT REGULATIONS AT ARTICLE X, DIVISION 7, SECTIONS 7.03 AND 7.04 OF APPENDIX "A" TO INCREASE THE SCOPE OF THE NOTICE TO BE PROVIDED; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission has adopted land development regulations which provide for notices to properties potentially impacted by development applications; and

WHEREAS, the Town Commission has determined that Article X, Division 7, Sections 7.03 and 7.04 of Appendix A of the Town's Code of Ordinances should be amended to increase the scope of notices to be sent to property owners who are potentially affected by an application for development.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AS FOLLOWS:

Section 1: The whereas clauses are incorporated herein as the legislative findings of the Town Commission.

Section 2. The Town Commission hereby amends Appendix A of the Town of Jupiter Island's Code of Ordinances as follows:

Sec. 7.03. Notice of administrative review application.

- A. Notice of an application for administrative review pursuant to article X, section 1.00(A), (B), or (C) shall be provided as follows at least 21 days before a final decision to approve, approve with conditions, or deny the application is made by the administrative official:
 - 1. Mail to all owners of the property within ~~1,000~~ 1,500 feet from any part of the parcel proposed for development at the address shown on the Martin County tax records. Notice of the application shall also be provided to all property owners whose properties are located on the same street if it ends in a cul-de-sac.

regardless of whether the properties are within 1,500 of the property which is the subject of the application. The notice shall include the date and time of the public hearing on the application; and

2. Posting notice in at least three conspicuous places within the town, including the Town Hall, which notice shall provide a brief summary of such application along with the date, time and place of the public hearing.

B. The notice shall:

1. Generally describe the application; and
2. Advise the property owners that additional information on the application is available at Town Hall upon request; and
3. Advise the property owners that they have a right to request a hearing on the application before the impact review committee; and
4. Provide a schedule of impact review committee meeting dates.

Sec. 7.04. Notice of public hearing.

A. Notice of a public hearing on an application for development approval shall include a brief summary of the application and the date, time and place of the public hearing, and shall be provided as follows:

1. A copy of the notice of hearing shall be mailed to each property owner within ~~1,000~~ 1,500 feet of the parcel proposed for development at the addresses shown on the Martin County tax records. Notice of the application shall also be provided to all property owners whose properties are located on the same street if it ends in a cul-de-sac, regardless of whether the properties are within 1,500 feet of the property which is the subject of the application.
2. A copy of the notice of hearing shall be posted in at least three conspicuous places within the town, including the Town Hall.

B. Notice of a public hearing on an application for development approval shall be posted and mailed not less than:

1. Fourteen days prior to the public hearing if the hearing is held in the months of December, January, February, March, April, and May; or
2. Twenty-one days prior to the public hearing if the hearing is held in the months of June, July, August, September, October, or November, except that:

- C. Notice of impact review committee hearings which are held at the request of a property owner pursuant to article X, section 1.02(B) shall be posted and mailed not less than ten days prior to the hearing of the impact review committee.

Section 3. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 4. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Jupiter Island, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 5. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Jupiter Island.

Section 6. Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

(continued on next page)

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED UPON FIRST READING THE ____ DAY OF _____, 2024.

PASSED UPON SECOND READING THE ____ DAY OF _____, 2024.

Mayor

Vice-Mayor

Commissioner

Commissioner

Commissioner

Attest:

Town Clerk

ORDINANCE NO. 395

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AMENDING APPENDIX A OF THE CODE OF ORDINANCES; PROVIDING FOR THE AMENDMENT OF ARTICLE X, DIVISION 8 REGARDING APPEALS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Jupiter Island, Martin County, Florida (Town Commission) recognizes its responsibility to the elected and appointed officials serving the Town; and,

WHEREAS, the Town Commission has determined that it is appropriate to amend Appendix A of the Town's Code of Ordinances to provide that an appeals of the decisions of administrative officials are for determination by the Town Commission; and,

WHEREAS, the Town commission has determined that it is appropriate to amend Appendix A of the Town's Code of Ordinances to provide that any affected person may take an appeal of the decision of an administrative official, the Board of Adjustment, or the Impact Review Committee; and

WHEREAS, the Town Commission has determined that it is appropriate to amend Appendix A of the Town's Code of Ordinances to provide that the standard of review of any appeals of the decisions of administrative officials, the Board of Adjustment or the Impact Review Committee shall be de novo.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AS FOLLOWS:

Section 1: The whereas clauses are incorporated herein as the legislative findings of the Town Commission.

Section 2. The Town Commission hereby amends Article X, Division 8, Sections 8.00, 8.01, 8.02 and 8.03 of Appendix A of the Town of Jupiter Island's Code, which contains the Town's Land Development Regulations, as follows:

ARTICLE X. DEVELOPMENT REVIEW AND APPROVAL: STANDARDS AND UNIFORM PROCEDURES

DIVISION 8. - APPEALS

Sec. 8.00. - Authority and purpose.

A. The ~~board of adjustment~~ town commission shall ~~is authorized to~~ hear appeals from any requirement, decision or determination made by the administrative official, including interpretations, approval or denial of applications, conditions of development approval, and decisions made with regard to the enforcement of these regulations.

B. The town commission is authorized to:

- 1.Hear appeals from decisions of the board of adjustment; and
- 2.Hear appeals from decisions of the impact review committee.

Sec. 8.01. - By whom taken.

Any person aggrieved by a decision or interpretation by the administrative official, or a decision of the impact review committee or board of adjustment, may seek review of such decision or interpretation pursuant to this division. An aggrieved person shall mean the applicant or any person noticed of the application pursuant to-code who made an appearance in person or in writing in regard to the initial application.

Sec. 8.02. - Appeal period.

All appeals shall be filed in writing within 30 days after rendition of the order, requirement, decision, or determination from which such appeal is taken, or the right to appeal shall be barred. An order shall be considered rendered for purposes of an appeal from the administrative official on the date the administrative official makes a determination in writing relating to the matter under appeal and, in the case of an appeal from the impact review committee or board of adjustment, the order shall be considered rendered on the date ~~on which the decision or determination is made and approved by motion by~~ the impact review committee or board of adjustment's written development order.

Sec. 8.03. - Review.

Appeals filed pursuant to this section shall include any information presented for consideration to the administrative official, board of adjustment, or impact review committee, but may also include any new facts or other information for consideration by the town commission and set forth the alleged inconsistency or non-conformity with procedures or criteria set forth in this chapter. Appeals shall be filed on forms provided by the town. ~~The board of adjustment and the town commission shall decide an appeal within 60 days of the filing of such appeal, unless an extension of time is consented to by the applicant. The concurring affirmative vote of three-fifths of the fully constituted members of the board of adjustment or the town commission, whichever shall be the appellate body, shall be necessary to reverse or modify any administrative decision or development order, requirement, decision or determination.~~ Appeals filed pursuant to this section shall ~~be based on the record of the proceedings below and shall not~~ may be presented de novo. The time allotted for presentation of an appeal shall be determined by the mayor, chairperson. The commission shall have the authority to render a final decision in regard to the ~~matter~~ development order being heard appealed or in its sole discretion may remand the matter back to the body from which the appeal was taken with such direction from the commission it deems appropriate.

Section 3. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 4. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Jupiter Island, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 5. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Jupiter Island.

Section 6. Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED UPON FIRST READING THE _____ DAY OF _____, 2024.

PASSED UPON SECOND READING THE _____ DAY OF _____, 2024.

Mayor

Vice-Mayor

Commissioner

Commissioner

Commissioner

Attest:

Town Clerk

#3667969 v1 18270-00002

ORDINANCE NO. 396

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AMENDING CHAPTER 14, ARTICLE II, SECTION 14-35 OF THE CODE OF ORDINANCES OF THE TOWN OF JUPITER ISLAND, ENTITLED "PARKING OF COMMERCIAL VEHICLES"; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Jupiter Island, Martin County, Florida (Town) has such powers and authority as conferred upon it by the Florida constitution and Chapter 166, Florida Statutes; and,

WHEREAS, the Town Commission has previously adopted Article II of Chapter 14 of the town's Code of Ordinances (Code) regulating the parking of commercial vehicles within the Town; and,

WHEREAS, the Town Manager has recommended that the Town Commission amend the Town code, Chapter 14, Section 14-35, to create new parking standards.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AS FOLLOWS:

Section 1: Whereas clauses are incorporated herein.

Section 2: Article II, Division I. Section 14-35 of Chapter 14 of the Code is hereby amended as follows:

Sec. 14-35. - Parking of commercial vehicles and trucks.

No commercial vehicle or truck may be parked or stored on any property within a residential district unless said vehicle or truck is parked or stored in a wholly enclosed garage. This restriction does not apply to the temporary parking of commercial vehicles

while in actual use for construction purposes, routine deliveries, or service calls within the town.

It shall be unlawful for any person, firm or corporation to operate, park, stand or use any commercial vehicle upon a public street or road in the town, unless such vehicle contains the name of the company permanently affixed on both sides of the vehicle in lettering at least three inches high indicating the name of the person, firm, or corporation owning the vehicle and any company insignia or logo. The lettering and logo, if any, shall be in a color which contrasts with the color of the vehicle.

For the purposes of this section, a "commercial vehicle" is defined as any vehicle designed, used, or maintained primarily for the transportation of goods, supplies, or other property for purposes of business, trade or commerce, or for the purpose of providing services.

Section 3. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 4. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Jupiter Island, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 5. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Jupiter Island.

Section 6. Effective Date.

This Ordinance shall take effect immediately upon its execution.

(Continued Next Page)

PASSED UPON FIRST READING THE _____ DAY OF MAY, 2024.

PASSED AND ADOPTED UPON SECOND READING FOLLOWING PUBLIC HEARING
THE _____ DAY OF JUNE, 2024.

(SEAL)

TOWN OF JUPITER ISLAND, FLORIDA

Mayor

Vice Mayor

Commissioner

Commissioner

Commissioner

ATTEST:

Clerk



MEMORANDUM

TO: Mayor and Town Commission

FROM: Stuart Trent, Public Services Director

THROUGH: Robert Garlo, Town Manager

DATE: June 12, 2024

SUBJECT: Sunshine Land Design – Work Authorization – Town Hall Parking Lot Resurfacing

Background:

The Town Hall parking lot is reaching the end of its useful life and while it remains in sound structural condition, it is showing signs of aging such as raveling (loosening of aggregate) and some edge cracking. The Town of Jupiter Island FY 23-24 budget includes \$200K for asphalt resurfacing inclusive of this project.

Staff solicited proposals from contractors for asphalt surfacing and received bids ranging from

Sunshine Land Design has provided a proposal in the amount of \$72,850.00 for full asphalt resurfacing of the parking lot. This proposal is in accordance with the terms and pricing in the piggyback agreement for paving services adopted at the May 3 Town Commission Meeting.

Staff Recommendations:

Staff requests that the Town Commission approve the proposal from Sunshine Land Design, Inc. for resurfacing the Town Hall parking lot in the amount of \$72,850.00. Work is expected to be completed during the summer 2024 construction period.



COMPLETE PROPERTY MAINTENANCE
RESTORATION & CONSTRUCTION SERVICES

3291 SE Lionel Terrace, Stuart, FL 34994
Phone: 772 283 2648 / Fax: 772 283 8944

www.SunshineLandDesign.com

PROPOSAL

TO: Kim McLaughlin
Capital Projects & Development Coordinator
South Martin Regional Utility (SMRU)
Town of Jupiter Island
kmclaughlin@tji.martin.fl.us
(772) 546-6259

PROPOSAL DATE: 5/1/2024

SUBMITTED BY: Brett Panaro
Bpanaro@sunshinelanddesign.com

ENGINEER: n/a
PLAN DATE: n/a
PROPERTY OWNER: _____

JOB DESCRIPTION:

Town of Jupiter Island

Asphalt Milling & Paving

LINE ITEM	ITEM NO.	JOB AS OUTLINED BELOW	QTY	UNITS	ITEM \$	ITEM COST
		RFB2021-3313 INFRASTRUCTURE CONSTRUCTION & MAINTENANCE (AMENDMENT #2)				
1		MOT, LIMITED	2	DAY	\$ 800.00	\$ 1,600.00
2		REMOVAL & RE INSTALLATION OF EXISTING CONCRETE CAR STOPS (FOR MILLING)	60	EA	\$ 25.00	\$ 1,500.00
3	112	1" ASPHALT MILLING	4,400	SY	\$ 6.00	\$ 26,400.00
4	133	SP9.5 ASPHALT, 1" THICK	250	TN	\$ 156.00	\$ 39,000.00
5		PAVEMENT MARKINGS (PARKING STALLS)	1	LS	\$ 3,750.00	\$ 3,750.00
6		THERMOPLASTIC STOP BAR (12")	2	EA	\$ 300.00	\$ 600.00

SIGNAGE IF REQUIRED, BY OTHERS
TREE TRIMMING IF REQUIRED FOR MILLING MACHINE, NOT INCLUDED IN THIS
PROPOSAL

Per Purchase Order

TOTAL:	\$	72,850.00
---------------	-----------	------------------

QUALIFICATIONS:

Sunshine Land Design shall white line all areas, contact all facility owners or required locaters and use due care. Under ground utilities not located or identified may not be covered in the above costs.

This Proposal is good for thirty days.

Payments not made per the above will be subject to all conditions of the Florida lien Law

In the event it is necessary for either party to file any legal action to enforce the terms of this contract the parties agree that venue of such action shall only be in State Court in Martin County Florida.

In the event it is necessary for either party to file legal action to enforce the terms of this contract then the prevailing party shall be entitled to recover reasonable attorney's fees and costs of such action including any appellate or bankruptcy proceedings associated therewith.

OWNER OR OWNER'S REP. ONLY:

ACCEPTANCE SIGNATURE: _____ DATE: _____

PRINT NAME: _____

SUNSHINE LAND DESIGN INC: *Brett Panaro* / Project Manager / Estimator

Date: 5/1/2024



MEMORANDUM

TO: Mayor and Town Commission

FROM: Stuart Trent, Public Services Director

THROUGH: Robert Garlo, Town Manager

DATE: June 12, 2024

SUBJECT: Ferreira Construction Southern Division Co., Inc. –
Infrastructure Construction and Maintenance

Background:

The capital infrastructure needs for the Town, SMRU, and Beach District require periodic bidding of services to qualified contractors. Projects are usually small to medium scale, and quantities do not always result in the prices that would typically be received for larger projects.

Martin County routinely bids services for these types of projects to the open market as a unit price contract with work to be assigned on a task order basis. These types of contracts have previously been adopted by the Town via Piggyback method for other services such as underground utility construction services for SMRU. The piggyback method is an efficient way of adopting prices for contracts that have been recently and competitively bid by others.

Martin County bid their infrastructure contract in 2021 and selected Ferreira Construction as a continuing service provider. Ferreira has a history of providing an excellent work product and has consented to allowing the Town to piggyback their contract with Martin County, honoring all terms, conditions and pricing.

Supporting documents as well as the Town's piggyback adoption contract are attached for review.

Staff Recommendations:

Staff requests that the Town Commission approve the requested piggyback contract for adoption, with work to be ordered and awarded on request. Awards will be presented to the Town Commission approved in accordance with the Town's finance policies and procedures.

From: [John Ciabattari](#)
To: [Kim McLaughlin](#)
Subject: RE: Infrastructure Construction and Maintenance Piggyback contract
Date: Thursday, February 15, 2024 2:57:28 PM

External Email - Use Caution

Please move ahead . Thank You Kim

From: Kim McLaughlin <kmclaugh@tji.martin.fl.us>
Sent: Thursday, February 15, 2024 11:48 AM
To: John Ciabattari <JCiabattari@ferreiraconstruction.com>
Subject: RE: Infrastructure Construction and Maintenance Piggyback contract

Caution: This is an external email. Please be mindful when clicking links or opening attachments.

Good afternoon John,

Just following up on the request below. I need an email consent to move forward from you. Thanks!

Regards,

Kim

From: Kim McLaughlin
Sent: Wednesday, February 7, 2024 12:15 PM
To: 'jciabattari@ferreiraconstruction.com' <jciabattari@ferreiraconstruction.com>
Subject: Infrastructure Construction and Maintenance Piggyback contract

Good afternoon John,

great speaking with you today. South Martin Regional Utility (SMRU) and the Town of Jupiter Island would like to request a piggyback contract to the Martin County Infrastructure Construction and Maintenance contract, RFB2021-3313.

Please let us know if you would agree and we will prepare our documents for signature for approval to our board at the March 2024 meeting.

Let me know if you have any questions.

Regards,

Kim

Kim McLaughlin
Capital Projects & Development Coordinator
South Martin Regional Utility (SMRU)
Town of Jupiter Island
kmclaughlin@tji.martin.fl.us
(772) 546-6259

Mailing Address:

Town of Jupiter Island
2 Bridge Rd
Hobe Sound, FL 33455

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**AMENDMENT TO AGREEMENT BETWEEN COUNTY AND CONTRACTOR
RFB2021-3313**

THIS AMENDMENT #2 made and entered into this 26th day of September in the year 2023, by and between **MARTIN COUNTY**, a political subdivision of Florida, (Hereinafter "County"), 2401 SE Monterey Road, Stuart, Florida 34996 and **FERREIRA CONSTRUCTION SOUTHERN DIVISION CO., INC.** (Hereinafter "Contractor"), 13000 SE Flora Ave. Hobe Sound, FL. 33455.

WITNESSETH

WHEREAS, the **County** and **Contractor** entered into an Agreement for INFRASTRUCTURE CONSTRUCTION & MAINTENANCE on May 25, 2021; and

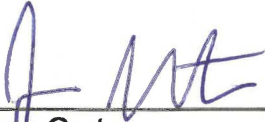
WHEREAS, the **County** and **Contractor** desire to amend the Agreement to increase the prices of Exhibit C due to increased costs of raw material and wages.

NOW THEREFORE, in consideration of the promises, covenants, and mutual benefits which all accrue to the parties hereto in carrying out the terms of this Agreement, it is mutually covenanted and agreed that the contract will be amended as follows:

1. To increase the prices of Exhibit C due to rising costs of raw materials and wages. All new pricing is shown in Exhibit C, Amendment 2.
2. All remaining pricing, terms and conditions of the Agreement not specifically amended herein shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to the Agreement as of the date first set forth above.

REVIEWED BY



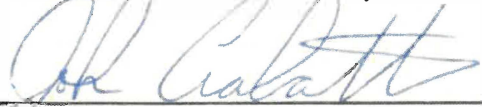
James Gorton
Public Works Director

**BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA**



Don G. Donaldson, P.E.
County Administrator

**FERREIRA CONSTRUCTION
SOUTHERN DIVISION CO., INC.**



John Ciabattari
Vice President

**APPROVED AS TO FORM AND LEGAL
SUFFICIENCY**



Sarah W. Woods
County Attorney

EXHIBIT C

**RFB2021-3313
INFRASTRUCTURE CONSTRUCTION & MAINTENANCE
AMENDMENT #2**

ITEM NO.	DESCRIPTION	EST QTY	UNIT	UNIT PRICE	TOTAL
MATERIALS (FURNISH & INSTALL)					
1	12" x 18" Elliptical RCP	1,000	LF	\$ 72.50	\$ 72,500.00
2	14" x 23" Elliptical RCP	500	LF	\$ 81.10	\$ 40,550.00
3	19" x 30" Elliptical RCP	200	LF	\$ 106.76	\$ 21,352.00
4	24" x 38" Elliptical RCP	200	LF	\$ 137.52	\$ 27,504.00
5	29" x 45" Elliptical RCP	100	LF	\$ 199.58	\$ 19,958.00
6	34" x 53" Elliptical RCP	100	LF	\$ 245.10	\$ 24,510.00
7	38" x 60" Elliptical RCP	100	LF	\$ 261.50	\$ 26,150.00
8	Mitered End Section (12" x 18" Elliptical RCP)	20	EA	\$ 1,982.05	\$ 39,641.00
9	Mitered End Section (14" x 23" Elliptical RCP)	16	EA	\$ 2,042.10	\$ 32,673.60
10	Mitered End Section (19" x 30" Elliptical RCP)	6	EA	\$ 2,172.15	\$ 13,032.90
11	Mitered End Section (24" x 38" Elliptical RCP)	6	EA	\$ 2,343.20	\$ 14,059.20
12	Mitered End Section (29" x 45" Elliptical RCP)	6	EA	\$ 3,772.90	\$ 22,637.40
13	Mitered End Section (34" x 53" Elliptical RCP)	2	EA	\$ 4,323.20	\$ 8,646.40
14	Mitered End Section (38" x 60" Elliptical RCP)	2	EA	\$ 4,873.45	\$ 9,746.90
15	15" RCP	1,000	LF	\$ 58.76	\$ 58,760.00
16	18" RCP	1,000	LF	\$ 66.70	\$ 66,700.00
17	24" RCP	1,000	LF	\$ 79.80	\$ 79,800.00
18	30" RCP	100	LF	\$ 116.17	\$ 11,617.00
19	36" RCP	200	LF	\$ 149.64	\$ 29,928.00
20	48" RCP	200	LF	\$ 208.82	\$ 41,764.00
21	54" RCP	100	LF	\$ 266.00	\$ 26,600.00
22	60" RCP	100	LF	\$ 305.00	\$ 30,500.00
23	66" RCP	100	LF	\$ 356.00	\$ 35,600.00
24	72" RCP	100	LF	\$ 453.60	\$ 45,360.00
25	78" RCP	100	LF	\$ 640.95	\$ 64,095.00
26	84" RCP	100	LF	\$ 640.95	\$ 64,095.00
27	Mitered End Section (15" RCP)	30	EA	\$ 1,902.00	\$ 57,060.00
28	Mitered End Section (18" RCP)	30	EA	\$ 2,065.30	\$ 61,959.00
29	Mitered End Section (24" RCP)	30	EA	\$ 2,365.35	\$ 70,960.50
30	Mitered End Section (30" RCP)	8	EA	\$ 3,468.50	\$ 27,748.00
31	Mitered End Section (36" RCP)	10	EA	\$ 3,149.05	\$ 31,490.50
32	Mitered End Section (48" RCP)	10	EA	\$ 5,680.10	\$ 56,801.00
33	Mitered End Section (54" RCP)	2	EA	\$ 7,543.80	\$ 15,087.60
34	Mitered End Section (60" RCP)	2	EA	\$ 9,063.80	\$ 18,127.60
35	Mitered End Section (66" RCP)	2	EA	\$ 10,597.65	\$ 21,195.30
36	Mitered End Section (72" RCP)	2	EA	\$ 12,020.85	\$ 24,041.70
37	Mitered End Section (78" RCP)	2	EA	\$ 21,317.30	\$ 42,634.60
38	Mitered End Section (84" RCP)	2	EA	\$ 21,425.40	\$ 42,850.80
39	Corrugated Aluminum Pipe (CAP), 15"	200	LF	\$ 54.85	\$ 10,970.00
40	Corrugated Aluminum Pipe (CAP), 18"	200	LF	\$ 59.00	\$ 11,800.00
41	Corrugated Aluminum Pipe (CAP), 24"	200	LF	\$ 70.85	\$ 14,170.00
42	Corrugated Aluminum Pipe (CAP), 30"	200	LF	\$ 109.11	\$ 21,822.00
43	Corrugated Aluminum Pipe (CAP), 36"	200	LF	\$ 122.76	\$ 24,552.00
44	Mitered End Section (15" CAP)	6	EA	\$ 1,819.60	\$ 10,917.60
45	Mitered End Section (18" CAP)	6	EA	\$ 1,819.60	\$ 10,917.60
46	Mitered End Section (24" CAP)	6	EA	\$ 1,966.10	\$ 11,796.60
47	Mitered End Section (30" CAP)	6	EA	\$ 1,599.10	\$ 9,594.60
48	Mitered End Section (36" CAP)	6	EA	\$ 2,526.50	\$ 15,159.00
49	15" HDPE, Perforated Pipe	50	LF	\$ 87.65	\$ 4,382.50
50	15" HDPE	200	LF	\$ 52.70	\$ 10,540.00
51	18" HDPE	200	LF	\$ 62.25	\$ 12,450.00
52	24" HDPE	100	LF	\$ 76.40	\$ 7,640.00
53	CAP Ultra Flo liner for 15" pipe	500	LF	\$ 109.35	\$ 54,675.00
54	CAP Ultra Flo liner for 18" pipe	500	LF	\$ 114.40	\$ 57,200.00
55	CAP Ultra Flo liner for 24" pipe	500	LF	\$ 124.05	\$ 62,025.00
56	CAP Ultra Flo liner for 30" pipe	100	LF	\$ 160.75	\$ 16,075.00
57	CAP Ultra Flo liner for 36" pipe	200	LF	\$ 172.00	\$ 34,400.00
58	CAP Ultra Flo liner for 42" pipe	200	LF	\$ 217.00	\$ 43,400.00
59	CAP Ultra Flo liner for 48" pipe	100	LF	\$ 239.90	\$ 23,990.00
60	CAP Ultra Flo liner for 54" pipe	100	LF	\$ 271.20	\$ 27,120.00
61	CAP Ultra Flo liner for 60" pipe	50	LF	\$ 306.85	\$ 15,342.50
62	CAP Ultra Flo liner for 66" pipe	50	LF	\$ 322.10	\$ 16,105.00

RFB2021-3313
INFRASTRUCTURE CONSTRUCTION & MAINTENANCE
AMENDMENT #2

ITEM NO.	DESCRIPTION	EST QTY	UNIT	UNIT PRICE	TOTAL
63	CAP Ultra Flo liner for 72" pipe	100	LF	\$ 337.65	\$ 33,765.00
64	CAP Ultra Flo liner for 78" pipe	50	LF	\$ 389.75	\$ 19,487.50
65	CAP Ultra Flo liner for 84" pipe	50	LF	\$ 408.50	\$ 20,425.00
66	Grout (pumped to fill void between liner and pipe)	250	CY	\$ 258.00	\$ 64,500.00
67	Cure in place liner for 15" pipe	500	LF	\$ 105.20	\$ 52,600.00
68	Cure in place liner for 18" pipe	500	LF	\$ 116.90	\$ 58,450.00
69	Cure in place liner for 24" pipe	500	LF	\$ 128.55	\$ 64,275.00
70	Cure in place liner for 30" pipe	100	LF	\$ 163.65	\$ 16,365.00
71	Cure in place liner for 36" pipe	200	LF	\$ 222.05	\$ 44,410.00
72	Cure in place liner for 42" pipe	200	LF	\$ 274.65	\$ 54,930.00
73	Cure in place liner for 48" pipe	100	LF	\$ 321.40	\$ 32,140.00
74	Cure in place liner for 54" pipe	100	LF	\$ 444.15	\$ 44,415.00
75	Cure in place liner for 60" pipe	50	LF	\$ 502.60	\$ 25,130.00
76	Cure in place liner for 66" pipe	50	LF	\$ 724.65	\$ 36,232.50
77	Cure in place liner for 72" pipe	100	LF	\$ 835.70	\$ 83,570.00
78	Cure in place liner for 78" pipe	50	LF	\$ 993.45	\$ 49,672.50
79	Cure in place liner for 84" pipe	50	LF	\$ 1,227.25	\$ 61,362.50
80	Manholes, P-7, <10'	2	EA	\$ 5,690.80	\$ 11,381.60
81	Yard Drain Inlet, 12" Inline Drain ADS 2712AG or Equal With 24" x 24" x 4" Concrete Collar	10	EA	\$ 1,608.40	\$ 16,084.00
82	Manhole Adjustment +/- 1.5', FDOT Standard Plans Index No. 425-001, Brick or Concrete	10	EA	\$ 1,772.80	\$ 17,728.00
83	Manhole Adjustment w/ Rings	10	EA	\$ 1,452.80	\$ 14,528.00
84	Utility Valve Adjustment w/ Rings	10	EA	\$ 1,452.80	\$ 14,528.00
85	Utility Valve Adjustment; Excavate & Raise w/ 12x12 Concrete Pad	10	EA	\$ 1,500.25	\$ 15,002.50
86	Connect Pipe to Existing Inlet - Inlet Connection Modification	25	EA	\$ 1,398.60	\$ 34,965.00
87	Structure Bottom Type P (4' Dia. x 6' Avg. Depth)	4	EA	\$ 3,061.35	\$ 12,245.40
88	Curb Inlet (Type 1 or 3)	2	EA	\$ 8,602.25	\$ 17,204.50
89	Curb Inlet (Type 2 or 4)	2	EA	\$ 8,602.25	\$ 17,204.50
90	Type C Inlet, Average 5'-0" Depth	15	EA	\$ 3,715.10	\$ 55,728.50
91	Type E Inlet, Average 5'-0" Depth	15	EA	\$ 3,985.35	\$ 59,780.25
92	Type H Inlet, < 10', 2 & 3 Grate	15	EA	\$ 10,476.00	\$ 157,140.00
93	Type G Inlet, < 10'	15	EA	\$ 9,725.60	\$ 145,884.00
94	6' x 6' Manhole, < 10'	15	EA	\$ 8,695.15	\$ 130,427.25
95	8' x 8' Manhole, < 10'	15	EA	\$ 12,371.95	\$ 185,579.25
96	Exfiltration Trench, 15", Round, Aluminum, Perforated, Per FDOT Standard Plans Index No. 443-001	200	LF	\$ 188.15	\$ 37,630.00
97	Exfiltration Trench, 18", Round, Aluminum, Perforated, Per FDOT Standard Plans Index No. 443-001	200	LF	\$ 205.25	\$ 41,050.00
98	Exfiltration Trench, 24", Round, Aluminum, Perforated, Per FDOT Standard Plans Index No. 443-001	200	LF	\$ 207.00	\$ 41,400.00
99	#4 Stone	500	TON	\$ 50.00	\$ 25,000.00
100	#57 Stone	500	TON	\$ 47.00	\$ 23,500.00
101	Geotextile Fabric	1,500	SY	\$ 6.40	\$ 9,600.00
102	Staked Silt Fence, Type III	1,500	LF	\$ 3.35	\$ 5,025.00
103	Baled Hay or Straw	50	EA	\$ 14.35	\$ 717.50
104	Floating Turbidity Barrier	500	LF	\$ 11.90	\$ 5,950.00
105	6-12" Riprap Rubble (Up to 100 Tons)	100	TON	\$ 136.10	\$ 13,610.00
106	6-12" Riprap Rubble (101 to 200 Tons)	200	TON	\$ 136.10	\$ 27,220.00
107	12-24" Riprap Rubble (Up to 100 Tons)	100	TON	\$ 140.47	\$ 14,047.00
108	12-24" Riprap Rubble (101 to 200 Tons)	200	TON	\$ 140.47	\$ 28,094.00
109	12-24" Riprap Rubble (Greater Than 200 Tons)	400	TON	\$ 140.47	\$ 56,188.00
110	Roadway Open Cut (Per MC Standard Details R-31A & R-31B)	25	EA	\$ 21,897.30	\$ 547,432.50
111	Roadway Open Cut (Per MC Standard Details R-31A & R-31B); Without 50' Asphalt Overlay	25	EA	\$ 10,285.35	\$ 257,133.75
112	Asphalt Milling (No Pony Miller)	500	SY	\$ 211.55	\$ 105,775.00
113	Asphalt Milling	10	DAY	\$ 15,819.80	\$ 158,198.00
114	Wellpoint Dewatering	500	LF	\$ 45.00	\$ 22,500.00
115	6" Bypass Pump - Mobilization, Full Operation, Demobilization	30	DAY	\$ 1,090.00	\$ 32,700.00
116	8" Bypass Pump - Mobilization, Full Operation, Demobilization	30	DAY	\$ 1,325.00	\$ 39,750.00
117	12" Bypass Pump - Mobilization, Full Operation, Demobilization	30	DAY	\$ 1,891.65	\$ 56,749.50
118	Clearing & Grubbing (Removing Trees, Vegetation, Organic Soil) ≥ 5 Acres Assignments	5	AC	\$ 11,125.00	\$ 55,625.00
119	Clearing & Grubbing (Removing Trees, Vegetation, Organic Soil) < 5 Acres Assignments	20	AC	\$ 11,125.00	\$ 222,500.00

RFB2021-3313
INFRASTRUCTURE CONSTRUCTION & MAINTENANCE
AMENDMENT #2

ITEM NO.	DESCRIPTION	EST QTY	UNIT	UNIT PRICE	TOTAL
120	Remove & Dispose Of Existing Cross-Drain (24" Diameter Typ.)	500	LF	\$ 67.30	\$ 33,650.00
121	Remove & Dispose Of Existing Concrete (Headwalls, Structures, Sidewalks, Driveways, End Sections, etc.)	250	TON	\$ 89.85	\$ 22,462.50
122	Roadway Shoulder / Swale Grading	20,000	SY	\$ 4.10	\$ 82,000.00
123	Concrete End Walls (Typ. Per FDOT Standard Plans Index 430-030)	100	CY	\$ 1,350.67	\$ 135,067.00
124	Embankment / Clean Fill (F&I), Compacted In Place	1,000	CY	\$ 26.00	\$ 26,000.00
125	Regular Excavation (includes removal & disposal)	1,000	CY	\$ 15.75	\$ 15,750.00
126	Bahia Sod (F&I)	5,000	SY	\$ 4.70	\$ 23,500.00
127	Floritam Sod (F&I)	4,000	SY	\$ 8.20	\$ 32,800.00
128	Hydroseed w/FDOT mix (1 acre minimum)	25	AC	\$ 4,675.15	\$ 116,878.75
129	Furnish Operator, Water Truck and Irrigate Sod or Seed Mix	200	HR	\$ 77.16	\$ 15,432.00
130	Roadway Subgrade (LBR 40)	1,250	SY	\$ 21.90	\$ 27,375.00
131	Roadway Base (FDOT Optional Base Group 6)	2,000	SY	\$ 26.10	\$ 52,200.00
132	Type SP-9.5 Asphalt Overlay, placed by Paving Machine, to include RS-1 Tack & Compaction, (1- 1/2" Average Thickness), 550 Tons and over	550	TON	\$ 179.30	\$ 98,615.00
133	Type SP-9.5 Asphalt Overlay, placed by Paving Machine, to include RS-1 Tack & Compaction, 151 to 500 Ton Assignments	250	TON	\$ 190.05	\$ 47,512.50
134	Type SP-9.5 Asphalt Overlay, placed by Paving Machine, to include RS-1 Tack & Compaction, 51 to 150 Ton Assignments	150	TON	\$ 273.50	\$ 41,025.00
135	Type SP-9.5 Asphalt Overlay, placed by Paving Machine, to include RS-1 Tack & Compaction, 10 to 50 Ton Assignments	400	TON	\$ 593.75	\$ 237,500.00
136	Standard Mailbox and/or Standard Traffic Control Sign (Simile Post) Removal & Replacement)	50	EA	\$ 548.30	\$ 27,415.00
137	Flowable fill excavatable /non excavatable - < 5yds	5	YD	\$ 225.00	\$ 1,125.00
138	Concrete Driveway, Fiber Reinforcement, 6" Thick	1,000	SY	\$ 67.84	\$ 67,840.00
139	Concrete Sidewalk with Fiber, 4" Thick	2,000	SY	\$ 56.55	\$ 113,100.00
140	Public Sidewalk Curb Ramps per FDOT Std Plans Index 522-002 with ADA Compliant Detectable Surface (NO Surface Mounted)	1,000	SF	\$ 31.39	\$ 31,390.00
141	Miscellaneous Concrete (Headwalls, Weirs, Retaining Walls) , FDOT Class II Concrete	1,000	CY	\$ 409.10	\$ 409,100.00
142	Installation of 6" Pervious Concrete	500	SY	\$ 95.60	\$ 47,800.00
143	Installation of FDOT Type "A" Curb, By Hand	500	LF	\$ 35.05	\$ 17,525.00
144	Installation of FDOT Type "A" Curb, By Machine	500	LF	\$ 30.40	\$ 15,200.00
145	Installation of FDOT Type "B" Curb, By Hand	500	LF	\$ 35.05	\$ 17,525.00
146	Installation of FDOT Type "B" Curb, By Machine	500	LF	\$ 30.40	\$ 15,200.00
147	Installation of FDOT Type "D" Curb, By Hand	500	LF	\$ 37.05	\$ 18,525.00
148	Installation of FDOT Type "D" Curb, By Machine	500	LF	\$ 35.05	\$ 17,525.00
149	Installation of FDOT Type "E" Curb, By Hand	500	LF	\$ 35.05	\$ 17,525.00
150	Installation of FDOT Type "E" Curb, By Machine	500	LF	\$ 35.05	\$ 17,525.00
151	Installation of FDOT Type "F" Curb, By Hand	500	LF	\$ 37.05	\$ 18,525.00
152	Installation of FDOT Type "F" Curb, By Machine	500	LF	\$ 35.05	\$ 17,525.00
153	Installation of FDOT Valley Gutter, By Hand	500	LF	\$ 31.55	\$ 15,775.00
154	Installation of FDOT Valley Gutter, By Machine	500	LF	\$ 31.55	\$ 15,775.00
155	Installation of FDOT Shoulder Gutter, By Hand	500	LF	\$ 33.50	\$ 16,750.00
156	Installation of FDOT Shoulder Gutter, By Machine	500	LF	\$ 29.50	\$ 14,750.00
157	Shell Rock Parking (4" Coquina Rock Base, 4" Shell)	2,500	SY	\$ 26.66	\$ 66,650.00
158	Paver Bricks (Per Detail)	500	SY	\$ 82.60	\$ 41,300.00
159	Beach Sand - Delivery (Per Specification)	500	TON	\$ 42.00	\$ 21,000.00
160	Post & Rail Fence (Per MC Standard Detail P-60)	350	LF	\$ 26.10	\$ 9,135.00
161	Metal Rolling Cattle Guards (12' x 16')	3	EA	\$ 7,480.25	\$ 22,440.75
162	16' Metal Gate (Per MC Standard Detail P-61)	4	EA	\$ 6,428.35	\$ 25,713.40
163	6' Metal Gate, Single Arm (Per Martin County Standard Detail P-61)	4	EA	\$ 1,741.50	\$ 6,966.00
164	Damaged Guardrail Removal, Remove & Dispose Damaged Panels and Posts	25	LF	\$ 42.00	\$ 1,050.00
165	Guardrail, Standard W-Beam, with Timber Post, Per FDOT Standard Plans Index No. 536-001	25	LF	\$ 35.05	\$ 876.25
166	Guardrail, Standard W-Beam, with Galv. Steel Post, Per FDOT Standard Plans Index No. 536-001	25	LF	\$ 35.05	\$ 876.25
167	Guardrail, Standard Thrie-Beam, with Timber Post, Per FDOT Standard Plans Index No. 536-001	25	LF	\$ 63.10	\$ 1,577.50
168	Guardrail, Standard Thrie-Beam, with Galv. Steel Post, Per FDOT Standard Plans Index No. 536-001	25	LF	\$ 63.10	\$ 1,577.50
169	Guardrail, Flared End Anchorage Assembly, Per FDOT Standard Plans Index No. 536-001	2	EA	\$ 4,418.55	\$ 8,837.10

**RFB2021-3313
INFRASTRUCTURE CONSTRUCTION & MAINTENANCE
AMENDMENT #2**

ITEM NO.	DESCRIPTION	EST QTY	UNIT	UNIT PRICE	TOTAL
170	Pipe Handrail - Guiderail, Aluminum, Per FDOT Standard Plans Index No. 515-070	500	LF	\$ 80.00	\$ 40,000.00
171	Handrail- Aluminum Pedestrian /Bicycle Picket Railing, Per FDOT Standard Plans Index No. 515-062	500	LF	\$ 105.60	\$ 52,800.00
172	FDOT Type A Fence, Per FDOT Standard Plans Index No. 550-001	1,000	LF	\$ 76.75	\$ 76,750.00
173	Directional Bore, 12" to < 18"	300	LF	\$ 222.30	\$ 66,690.00
174	Televise Pipe (includes camera truck and video)	1,000	LF	\$ 7.00	\$ 7,000.00
175	4" Force Main Directional Drill	300	LF	\$ 39.10	\$ 11,730.00
176	4" Force Main Open Cut	1,000	LF	\$ 35.23	\$ 35,230.00
177	3" Force Main Directional Drill	300	LF	\$ 35.60	\$ 10,680.00
178	3" Force Main Open Cut	1,000	LF	\$ 27.00	\$ 27,000.00
179	2" Force Main Directional Drill	500	LF	\$ 25.10	\$ 12,550.00
180	2" Force Main Open Cut	500	LF	\$ 23.10	\$ 11,550.00
181	Grinder Pump Service Connection, Long	20	EA	\$ 7,941.85	\$ 158,837.00
182	Grinder Pump Service Connection, Short	20	EA	\$ 7,941.85	\$ 158,837.00
EQUIPMENT & LABOR					
183	2-Man Survey Crew	100	HR	\$ 261.90	\$ 26,190.00
184	As-Builts / Record Drawings (Man hours for Field & CAD Work)	50	HR	\$ 266.15	\$ 13,307.50
185	Rubber Tire Backhoe (5/8 CY or Larger) With Operator	200	HR	\$ 94.35	\$ 18,870.00
186	Dump Truck (16 CY or Larger) With Operator	200	HR	\$ 98.70	\$ 19,740.00
187	Front End Loader (2-1/2 CY or Larger) With Operator	200	HR	\$ 99.70	\$ 19,940.00
188	Vibratory Roller, Single Drum, 5 Ton or Larger, 54" Minimum Width, With Operator	200	HR	\$ 92.90	\$ 18,580.00
189	Vactor Truck with operator	200	HR	\$ 254.10	\$ 50,820.00
190	Camera truck w/operator	200	HR	\$ 263.00	\$ 52,600.00
TOTAL BID					\$ 8,458,202.40

**AMENDMENT TO AGREEMENT BETWEEN COUNTY AND CONTRACTOR
FOR GOODS AND SERVICES
RFB2021-3313**

THIS AMENDMENT #1 made and entered into this 15th day of May in the year 2023, by and between **MARTIN COUNTY**, a political subdivision of Florida, (Hereinafter "County"), 2401 SE Monterey Road, Stuart, Florida 34996 and **FERREIRA CONSTRUCTION SOUTHERN DIVISION CO., INC.** (Hereinafter "Contractor"), 13000 SE Flora Ave. Hobe Sound, FL. 33455.

WITNESSETH

WHEREAS, the **County** and **Contractor** entered into an Agreement for INFRASTRUCTURE CONSTRUCTION & MAINTENANCE on May 25, 2021; and

WHEREAS, the **County** and **Contractor** desire to amend the Agreement to add unit pricing for the supply and installation of concrete parking stops, pavers, root pruning and stamped asphalt.

NOW THEREFORE, in consideration of the promises, covenants, and mutual benefits which all accrue to the parties hereto in carrying out the terms of this Agreement, it is mutually covenanted and agreed that the contract will be amended as follows:

1. Add unit pricing for the supply and installation of concrete parking stops, pavers, root pruning and stamped asphalt outlined in Exhibit C (Amendment #1).
2. All remaining pricing, terms and conditions of the Agreement not specifically amended herein shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to the Agreement as of the date first set forth above.

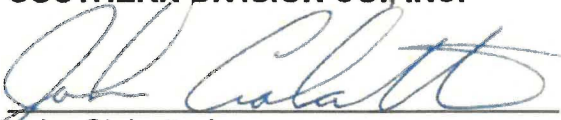
REVIEWED BY


James Gorton
Public Works Director

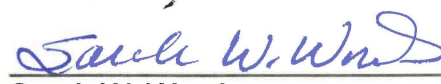
**BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA**


Don G. Donaldson, P.E.
County Administrator

**FERREIRA CONSTRUCTION
SOUTHERN DIVISION CO., INC.**


John Ciabattari
Vice President

**APPROVED AS TO FORM AND LEGAL
SUFFICIENCY**


Sarah W. Woods
County Attorney

RFB2021-3313
INFRASTRUCTURE CONSTRUCTION & MAINTENANCE
AMENDMENT 1
EXHIBIT C

ITEM NO.	DESCRIPTION	EST QTY	UNIT	UNIT PRICE	TOTAL
MATERIALS (FURNISH & INSTALL)					
1	Concrete Parking Stops	5	Each	\$ 132.00	\$ 660.00
2	Paver Remove and Reset	2000	SY	\$ 84.50	\$ 169,000.00
3	Paver Base Replacement and Reset	2000	SY	\$ 72.50	\$ 145,000.00
4	Root Pruning	1000	SF	\$ 55.50	\$ 55,500.00
5	Stamped Asphalt (Crosswalks)	5000	SF	\$ 30.50	\$ 152,500.00

CHECK TOTALS! The County is not responsible for mathematical errors.

INSTRUCTIONS

Bids must be received no later than the date and time stated in the Advertisement. Bids received after that time & date will not be considered.

This form must be returned with bid. Bids on any other form will not be accepted.

Ferreira Construction Southern Division Co., Inc
Company Name

John Ciabattari
Name of Authorized Representative (Print)

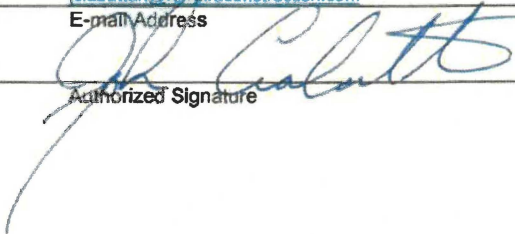
13000 SE Flora Ave
Street Address

Vice President
Title

Hobe Sound, Florida 33455
City, State, Zip

jciabattari@ferreiraconstruction.com
E-mail Address

772-286-5123
Telephone


Authorized Signature

This document may be reproduced upon request in an alternative format by contacting the County ADA Coordinator (772) 320-3131, the County Administration Office (772) 288-5400, Florida Relay 711, or by completing our accessibility feedback form at www.martin.fl.us/accessibility-feedback



AGREEMENT BETWEEN COUNTY AND CONTRACTOR FOR CONSTRUCTION SERVICES

THIS AGREEMENT, effective this 25th day of May in the year, 2021, between:

MARTIN COUNTY, a political subdivision of the State of Florida and through its BOARD OF COUNTY COMMISSIONERS, (hereinafter COUNTY), located at 2401 S.E. Monterey Road, Stuart, FL 34996

AND the CONTRACTOR: Ferreira Construction Southern Division Co., Inc.
(hereinafter CONTRACTOR) 13000 SE Flora Ave.
Hobe Sound, Florida 33455

Contract Name: Infrastructure Construction & Maintenance

Contract Number: RFB2021-3313

Not to Exceed Amount: \$30,000,000.00
(to all vendors combined over maximum 5 years)

Contract Term: Three (3) years plus two (2) 1-year renewal options
Not to exceed 5 years

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ARTICLE 1 DEFINITIONS

1.1 *Defined Terms*

A. Wherever used in the Contract Documents and printed with initial or all capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof.

1. *Actual Costs.*

- a. costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- b. cost of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- c. rental cost of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- d. costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work;
- e. additional cost of field supervision and field office personnel directly attributable to the charge, exclusive of the cost of estimating, contract administration, and purchasing.

2. *Addenda.* Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the Contract Documents.

3. *Agreement.* The written instrument which is evidence of the agreement between COUNTY and CONTRACTOR covering the Work. Also referred to as "Contract".

4. *Bonds.* Performance bond and payment bond and other instruments of security, furnished by the CONTRACTOR and its surety in accordance with the Contract Documents and in accordance with the law of Florida.

5. *Change Order.* A written document which is signed by CONTRACTOR and COUNTY and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

6. *Claim.* Any action, assertion, change order, demand, invoice, lawsuit, or request by COUNTY or CONTRACTOR seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money, property, or services made to any agent, employee, or officer of the County by a third party is not a Claim. Claim does not include tort claims as that term is used in Section 768.28(5), Fla. Stat. as amended from time to time.

7. *Contract Documents.* The Contract Documents establish the rights and obligations of the parties and include the following: Agreement (including Exhibits), Work Order, entire bid package including Advertisement, all Addenda and Instructions to Bidders, CONTRACTOR'S completed Bid Form package, Notice of Award, Notice to Proceed, drawings, specifications, plans, data, studies, surveys, calculations, permit applications, estimates, photographs, reports, approved submittals, and other documents prepared by, through, or under CONTRACTOR that fix, depict and/or describe the size, quality and character of the Project, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and Engineer's written interpretations and

clarifications issued on or after the Effective Date of the Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents.

8. *Contract Price.* The moneys paid to CONTRACTOR under Contract Documents.
9. *Contract Time.* The number of days or the dates stated in the Agreement to: (i) achieve Substantial Completion; and (ii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.
10. *Day.* A calendar day unless noted otherwise.
11. *CONTRACTOR.* The individual or entity with whom COUNTY has entered into the Agreement."
12. *Drawings.* That part of the Contract Documents prepared or approved by an Engineer which graphically shows the scope, extent, and character of the Work to be performed by CONTRACTOR. Shop Drawings and other CONTRACTOR submittals are not Drawings as so defined.
13. *Effective Date of the Agreement.* The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
14. *Field Order.* A written order issued by the Engineer or COUNTY which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
15. *Final Completion or Final Acceptance.* The completion of all Work called for under the Contract Documents, including, but not limited to, satisfactory operation of all equipment (other than COUNTY supplied equipment or facilities or those installed by separate CONTRACTORS); correction of all punch list items to the satisfaction of COUNTY, payment of all trade CONTRACTORS, subcontractors, and materialmen; settlement of all claims, if any; payment and release of all mechanic's, materialmen's, and similar liens; delivery of all guarantees, equipment operation and maintenance manuals, as-built drawings, building certificates, electrical certificates, mechanical certificates, plumbing certificates, and all other required approvals and acceptances by any municipality within Martin County, Martin County itself, the State of Florida or other authorities or agencies having jurisdiction; and removal of all rubbish, tools, scaffolding, and surplus materials and equipment from the Work site.
16. *Notice to Proceed.* A written notice given by COUNTY to CONTRACTOR fixing the date on which the Contract Times will commence to run and on which CONTRACTOR shall start to perform the Work under the Contract Documents.
17. *Public Record.* All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business between the COUNTY and the CONTRACTOR.
18. *Samples.* Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

19. *Shop Drawings.* All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for CONTRACTOR and submitted by CONTRACTOR to illustrate some portion of the Work.

20. *Specifications.* That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

21. *Substantial Completion.* For the purpose of this Agreement, and for the compliance of those procedures, duties and obligations as set forth in the Florida Statutes' "Local Government Prompt Payment Act", the term "Substantial Completion" is defined as that point where the COUNTY is able to enjoy beneficial occupancy of the Work and where the Work has achieved that level of completion such that the COUNTY is able to utilize the entire the Project for its intended purposes, including but not limited to the completion of all specified systems and items relating to life, safety and regulatory use, with the exception of incidental or incomplete items except where a lack of completion of such incidental or incomplete items of the Work will adversely affect the complete operation of other areas of the Work. Additional conditions (if any) needed to achieve Substantial Completion of the Work and which are project specific as set forth in the Exhibits (if any). The Project should be completed to the point that the Work can be utilized for the purposes for which it was intended, as well as the satisfaction of the following requirements: (A) the items that affect operational integrity and function of the Project must be capable of continuous use; (B) all permits and other regulatory requirements must be satisfied; and (C) where required, a Certificate of Occupancy must be issued.

22. *Surety.* The corporate body that is responsible for the CONTRACTOR in connection with the Work as set forth in the Bonds and that is included in the most recent United States Department of the Treasury List of Acceptable Sureties and authorized to issue surety bonds in Florida, and which maintains a surety rating of "A-" or better or equivalent rating by a nationally recognized rating agency.

23. *Underground Facilities.* All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

24. *Work.* Services as defined in each individual Work Order to be paid for in accordance with the unit prices indicated in CONTRACTOR's bid.

25. *Work Order.* A formal document that is dated, serially numbered, and executed by both the COUNTY and the CONTRACTOR in response to COUNTY's request for proposal, by which COUNTY accepts CONTRACTOR's proposal for specific Services and CONTRACTOR indicates a willingness to perform such specific Services under the terms and conditions specified in this AGREEMENT.

26. *Year.* The word "year" means 365 calendar days, including leap days if any.

ARTICLE 2 WORK/PRELIMINARY REQUIREMENTS

2.1 The CONTRACTOR agrees to furnish and complete all authorized and approved work, materials, supplies, tools, furnishings, fixtures, labor, services, equipment, site development, permitting, regulatory matters, environmental mitigation, traffic control, accounting, coordination, and construction of the Project,

more specifically described in the Design Documents, as applicable.

2.2 Commencement of Work and Notices to Proceed. The Date of Commencement of all Work shall be the date indicated in the Notice to Proceed and/or Work Order. Notice to Proceed as to each Work Order shall be issued by the Project Manager after the CONTRACTOR has delivered to the COUNTY the executed Work Order, the Bonds and Insurance Certificates in accordance with the Work Order and AGREEMENT, and the Board has approved this AGREEMENT. No Work shall be performed by the CONTRACTOR or its professionals, subconsultants, or subcontractors, and no irrevocable commitments to vendors shall be made prior to the Date of Commencement, at which time, CONTRACTOR may commence to perform Work.

2.3 Nothing contained in any Work Order shall conflict with the terms of this AGREEMENT, and the terms of this AGREEMENT shall be deemed to be incorporated in each individual Work Order as if fully set forth therein. A Work Order shall contain the following:

- a. A description of the specific Services to be performed, a schedule and amount of compensation to be paid with sufficient detail so as to identify all of the various elements of costs such as, labor rates by classification, hours for each classification, extended price, subcontracted labor (also broken out), material, other direct costs, overhead rate, indirect rate, and profit/fee. The sufficiency of such budget detail is subject to the approval of the COUNTY; and
- b. Any other additional instructions or provisions relating to the specific Services authorized pursuant to each Work Order that do not conflict with the terms of this Agreement.

2.4 Preconstruction Conference(s). If required by the specific services outlined in the Work Order, the CONTRACTOR shall meet with the COUNTY for review and acceptance of the CONTRACTOR'S initial submittals, CPM Schedule, Final Schedule of Values, personnel and Subcontractor list, to review mobilization requirements, to establish procedures for handling shop drawings and other Submittals and Applications for Payment, and to establish a working understanding among the parties as to the Work.

2.5 Assumption of Risks. CONTRACTOR shall become familiar with and prepare for the normal weather conditions existing in Martin County, Florida. Normal weather conditions are expected to impact the Work in numerous ways, including but not limited to, delays during and after periods of rainfall, temporary flooding and ponding, wet ground, high winds and debris. CONTRACTOR'S Contract Price and Project Schedule, and any subsequent approved revisions thereto, shall sufficiently anticipate and include normal weather Days as reflected by 10-year average of historical records produced by the National Weather Service. Additionally, the CONTRACTOR assumes the risk for all costs associated with concealed Site conditions which are foreseeable through the exercise of due diligence. Again, it shall be the obligation of CONTRACTOR to fully investigate the Site and provide sufficient contingency amounts for conditions which are foreseeable.

2.6 Requirement to E-Verify. ***As a condition precedent to entering into this AGREEMENT***, and in compliance with Section 448.095, Fla. Stat., Contractor and its subcontractors shall, register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021.

- A. Contractor shall require each of its subcontractors to provide Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this AGREEMENT.

- B. The COUNTY, Contractor, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Fla. Stat., or the provisions of this section shall terminate the contract with the person or entity.
- C. The COUNTY, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but Contractor otherwise complied, shall promptly notify Contractor and Contractor shall immediately terminate the contract with the subcontractor.
- D. A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), Fla. Stat. Contractor acknowledges that upon termination of this AGREEMENT by the COUNTY for a violation of this section by Contractor, Contractor may not be awarded a public contract for at least one (1) year. Contractor further acknowledges that Contractor is liable for any additional costs incurred by the COUNTY as a result of termination of any contract for a violation of this section.
- E. *Subcontracts.* Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

ARTICLE 3 CONTRACT PRICE; TERM

3.1 The OWNER shall pay the CONTRACTOR for the performance of Work outlined in each individual Work Order issued in accordance with the Contract Documents, the fixed Contract Price outlined in each individual Work Order, based on the unit costs in the Bid. The obligations of the OWNER under this Agreement are subject to the availability of funds lawfully appropriated for the Project by the Board of County Commissioners of Martin County.

3.2 Term. This Agreement shall be in effect from the effective date listed on page 1 of this Agreement. The Contract Term, as stated on page 1 of this Agreement, is for three years.

3.3 The Two 1-Year Renewal Options. As stated on page 1 of this Agreement, there are two 1-year renewal options. Specifically, the COUNTY may, or may not, ***in its sole discretion***, exercise the option of renewing this Agreement for one additional year on or before the end of the Contract Term, and if the County exercises its option of renewing this Agreement for one additional year, at or before the expiration of the additional year, the COUNTY may, or may not, in its sole discretion, exercise the option of renewing this Agreement for another year. Nothing herein shall be construed to mean CONTRACTOR is entitled or has a legal right to a renewal. This Agreement shall expire on the last day of the Contract Term or after the first or second additional year as applicable.

ARTICLE 4 CONTRACTOR RESPONSIBILITIES

4.1 CONTRACTOR represents that it has familiarized itself with, and assumes full responsibility for having familiarized itself with, the nature and extent of the Contract Documents, specifications set forth in each Work Order, Work, locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that may in any manner affect performance of the Work, and represents that it has correlated its study and observations with the requirements of the Contract Documents. CONTRACTOR

also represents that it has studied all surveys and investigation reports of subsurface and latent physical conditions referred to in the Specifications and made such additional surveys and investigations as it deems necessary for the performance of the Work at the Contract Price in accordance with the requirements of the Contract Documents and that it has correlated the results of all such data with the requirements of the Contract Documents.

4.2 The CONTRACTOR shall give all notices and comply with all municipal, local, state and federal laws, ordinances, codes, rules, licenses, and regulations applicable to the Work. If the CONTRACTOR observes that any of the AGREEMENT is contradictory to such laws, rules, and regulations, it shall notify the Project Manager promptly in writing. If the CONTRACTOR performs any Work that it knows or should have known to be contrary to such laws, ordinances, rules, and regulations, it shall bear all related costs.

4.3 CONTRACTOR understands and acknowledges that all documents and materials provided with the RFB and any addenda, are general and preliminary, and that CONTRACTOR shall not rely on the accuracy or completeness thereof. CONTRACTOR acknowledges that its duties hereunder shall not be excused or discharged in any respect based on the incompleteness or inaccuracy of any such documents or materials.

4.4 CONTRACTOR shall be responsible to the COUNTY for acts and omissions of CONTRACTOR and CONTRACTOR'S agents, employees, professionals, subconsultants, subcontractors, and all other parties performing Work by, through and under CONTRACTOR.

4.5 CONTRACTOR shall be responsible for the management, coordination and supervision of all design, permitting, and construction means, methods, techniques, sequences and procedures for completion of the Work.

4.6 The CONTRACTOR agrees to bind specifically every professional, subconsultant and subcontractor to the applicable terms and conditions of the AGREEMENT, for the benefit of the COUNTY.

4.7 CONTRACTOR represents that it is fully experienced and properly qualified to perform the Work under the Contract Documents and that it is properly licensed, equipped, organized and financed to perform such Work.

4.8 CONTRACTOR shall act as an independent CONTRACTOR and not as the agent of COUNTY. The CONTRACTOR shall supervise and direct the Work and shall be solely responsible for the means, methods, techniques, sequences and procedures of construction subject to compliance with the Contract Documents.

4.9 The CONTRACTOR shall employ and maintain a full-time on-site Superintendent who shall have been designated in writing by the CONTRACTOR and pre-approved by the COUNTY. The Superintendent shall be dedicated to this the Project full time and shall have full authority to act on behalf of the CONTRACTOR. The superintendent shall be capable of properly interpreting the Contract Documents and be thoroughly experienced in the type of work being performed. The Superintendent shall have full authority to receive instructions from the Engineer and to execute the orders or directions of the Engineer, including promptly supplying any materials, tools, equipment, labor, and incidentals that may be required. A Superintendent shall be provided regardless of the amount of work sublet. The Superintendent shall speak and understand English, and the CONTRACTOR shall maintain at least one other responsible person who speaks and understands English, on the project during all working hours. All communications given to the Superintendent shall be as binding as if given to the CONTRACTOR. Copies of written communications given to the Superintendent of the CONTRACTOR shall be mailed to the address set forth

in the Agreement for notices. Nothing contained herein shall be construed as modifying the CONTRACTOR's duty of supervision and fiscal management as provided by Florida law. The COUNTY shall have the right of direct removal of any Superintendent of the CONTRACTOR. Any change in the Superintendent of the CONTRACTOR assigned to the Project shall be subject to the COUNTY's prior written approval. The Superintendent shall have full authority to receive instructions from the Owner and/or Engineer, and to execute the orders or directions of the Owner and/or Engineer, including promptly supplying any materials, tools, equipment, labor, and incidentals that may be required. The Superintendent shall provide such superintendence regardless of the amount of work sublet.

4.10 The CONTRACTOR shall perform at least 30% (thirty percent) of the total amount of the Work in-house. The foregoing 30% (thirty percent) is exclusive of general conditions and material ordered for work performed by sublets.

4.11 The CONTRACTOR shall not employ any subcontractor or consultant against whom the COUNTY may have reasonable objection in the County's sole discretion.

4.12 The CONTRACTOR represents to the COUNTY that the CONTRACTOR (and its officers, directors, partners, or shareholders holding ten 10% (ten percent) or more of the outstanding stock of the CONTRACTOR), does not have any financial interest in or with (i.e. is not an officer, director, partner or 10% (ten percent) plus shareholder) any person, entity, subcontractor, consultant, design professional, materialmen, supplier, or any other subcontractor performing the Work or the Project. The CONTRACTOR agrees to obtain prior written consent from the COUNTY before entering into any agreement on this the Project in which it has a common financial interest.

4.13 The CONTRACTOR shall keep on-site one record copy of all Drawings, Specifications, Addenda, Modifications, and Shop Drawings that is annotated to show all changes made during the construction process. Final acceptance of the Work will be withheld until all such modifications have been properly inserted electronically into the design documents, thus creating Record Drawings, and the Record Drawings are accepted by the COUNTY.

[OPTIONAL: The CONTRACTOR shall provide the COUNTY two copies of the Record Drawings verifying the as-built conditions for all installed and constructed components of the Work, including, but not limited to, the surface water management, traffic control, lighting, water distribution, and wastewater collection systems. The Record Drawings, which shall be signed and sealed by a Professional Engineer or Surveyor and Mapper, licensed in the State of Florida, must demonstrate to the Project Manager that the Project components were constructed in substantial conformance with the approved Construction Plans and applicable permits and that the Project will function as designed and intended. The Record Drawings must be certified based on an As-Built Survey prepared in accordance with the Minimum Technical Standards established in Florida Administrative Code (FAC) 5J-17.051 and 5J-17.052. If the Project Manager determines that the as-built conditions of one or more components are not constructed in substantial conformance with the approved Construction Plans or that the Record Drawings do not sufficiently demonstrate conformance with the Construction Plans, one set of the Record Drawings will be returned to the CONTRACTOR that identify the deficient component(s) of the Work. The CONTRACTOR shall correct the component(s) or the Record Drawing in the timeframes set forth in Article 6 of this Agreement. Upon acceptance by the Project Manager, the CONTRACTOR shall provide the COUNTY with one (1) copy of the Record Drawings electronically in AutoCAD® and Adobe Acrobat®. The Adobe Acrobat® file shall be a replica of the signed and sealed Record Drawing.]

4.14 The CONTRACTOR shall, at its expense, attend any and all meetings called by COUNTY to discuss

the Work under the Contract.

4.15 CONTRACTOR shall deliver to the COUNTY both prior to commencing each Work Order and also at the completion of the Project and before receipt of Final Payment, a DVD video of the Project showing the site before Work is commenced, and the site as it progresses on a monthly basis. CONTRACTOR shall identify on the DVD the station numbers as those areas of the Project are taped, as well as the date recorded. The cost of the recording is included in the bid submitted by the CONTRACTOR.

4.16 CONTRACTOR shall not establish and shall not allow its employees to engage in any commercial activities on the site of any Work Order.

4.17 The CONTRACTOR shall, at its expense, arrange for, develop and maintain all utilities in Work areas to meet the requirements of the Contract. Such utilities shall be furnished by CONTRACTOR at no additional cost to the COUNTY, and shall include, but not be limited to, the following: telephone service for the CONTRACTOR'S use; construction power as required at each point of construction; and water as required throughout the construction. Prior to final acceptance of the Work the CONTRACTOR shall, at its expense, satisfactorily remove and dispose of all temporary utilities developed to meet the requirements of the Contract.

4.18 Maintenance of Traffic. The CONTRACTOR shall be responsible for the proper control, maintenance, and detour of traffic in the construction area, at all times during the course of the Work. Contractor shall provide and maintain Maintenance of Traffic (MOT) by a certified Advanced Work Zone Traffic Control officer. All traffic control and maintenance procedures shall be in accordance with the requirements of the Florida Department of Transportation, Martin County, or the local municipality, within their respective area of jurisdiction. It shall be the CONTRACTOR's responsibility, as Bidder, prior to submitting its Bid, to determine the requirements of these agencies so that its Bid reflects all costs to be incurred. No claims for additional payment will be considered for costs incurred in the proper control, maintenance, detour of traffic. The CONTRACTOR shall notify all such agencies and the COUNTY at least 7 (seven) days in advance of any traffic detour. No road closures will be permitted unless approved by the COUNTY. The CONTRACTOR shall notify all such agencies and the COUNTY at least 14 (fourteen) days in advance of any road closure.

4.19 The CONTRACTOR is responsible for adequate NPDES-compliant drainage at all times. Existing functioning storm sewers, gutters, ditches, and other run-off facilities shall not be obstructed. Stabilization measures, as defined by the State of Florida Department of Environmental Protection Generic Permit For Stormwater Discharge from Large and Small Construction Activities, as amended, shall be initiated as soon as practicable, but in no case more than 7 days, in portions of the site where construction activities have temporarily or permanently ceased.

4.20 The CONTRACTOR shall ensure that all fire hydrants on or adjacent to the Project shall be kept accessible and no obstruction shall be placed within fifteen feet of any hydrant.

4.21 The CONTRACTOR shall ensure that heavy equipment is not operated close enough to COUNTY assets or other structures to cause their displacement.

4.22 CONTRACTOR certifies that it and any of its affiliates are not scrutinized companies as identified in Section 287.135, Fla. Stat. In addition, CONTRACTOR agrees to observe the requirements of Section 287.135, Fla. Stat., for applicable sub-agreements entered into for the performance of Work under this Agreement.

ARTICLE 5 PAYMENT

5.1 A Schedule of Values shall be approved by the COUNTY prior to the commencement of the Work. The approved Schedule of Values will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to the COUNTY. Progress payments on account of Unit Price Work will be based on the number of units completed.

5.2 Applications for Payments

- A. The CONTRACTOR shall submit to the COUNTY for review, an Application for Payment filled out and signed by the CONTRACTOR covering the Work completed as of the date of the Application and accompanied by such supporting documentation as required by the Contract Documents. Such supporting documents shall include but not be limited to: (i) a current release from the CONTRACTOR releasing all claims, other than those previously submitted pursuant to Article 10 herein, through the date of the Application for Payment; and (ii) a monthly dated Critical Path Method (CPM) Schedule for the Project. Written consent from the surety in a form acceptable to the County regarding the project or payment may be given in lieu of waivers. Submission of this supporting documentation shall be a condition precedent to the CONTRACTOR's entitlement to receive payment. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that the COUNTY has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect the COUNTY's interest therein, all of which must be satisfactory to the COUNTY.
- B. Beginning with the second Application for Payment, each Application shall include:
 - (i) an affidavit by the CONTRACTOR stating that all previous progress payments received on account of the Work have been applied on account to discharge the CONTRACTOR's legitimate obligations associated with prior Applications for Payment and
 - (ii) a "Conditional Waiver of Right to Claim Against Payment Bond and Martin County" completed by the CONTRACTOR and all subcontractors.
- C. Pursuant to Section 255.078(1), Fla. Stat., the COUNTY will withhold from each progress payment made to the CONTRACTOR the amount of 5% of the payment as retainage. Pursuant to Section 255.078(3), Fla. Stat., the COUNTY may elect not to pay or release any amounts (such as retainage) that are the subject of a good faith dispute, the subject of a claim brought pursuant to Section 255.05, Fla. Stat., or otherwise the subject of a claim or demand by the COUNTY or CONTRACTOR.
- D. The Application for Final Payment shall be made after the CONTRACTOR has, in the opinion of the COUNTY, satisfactorily completed all corrections identified during the Final Inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance certificates of inspection, and other documents.
- E. The Application for Final Payment shall be accompanied (except as previously delivered) by: (i) all documentation called for in the Contract Documents, including but not limited to the evidence

of insurance required; (ii) consent of the surety, if any, to final payment; and (iii) complete and legally effective releases or waivers (satisfactory to the COUNTY) of all Lien rights arising out of or Liens filed in connection with the Work.

- F. In lieu of the releases or waivers of Liens and as approved by the COUNTY, the CONTRACTOR may furnish receipts or releases in full and an affidavit of the CONTRACTOR that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which the COUNTY or the COUNTY's property might in any way be responsible have been paid or otherwise satisfied. If any subcontractor or supplier fails to furnish such a release or receipt in full, the CONTRACTOR may furnish a Bond or other collateral satisfactory to the COUNTY to indemnify the COUNTY against any Lien.

5.3 Review of Applications

- A. The COUNTY's approval of any payment requested in an Application for Payment will constitute a representation by the COUNTY that to the best of the COUNTY's knowledge, information and belief:
- (i) the Work has progressed to the point indicated;
 - (ii) the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price the Work, and to any other qualifications stated in the recommendation); and
 - (iii) the conditions precedent to the CONTRACTOR's being entitled to such payment appear to have been fulfilled in so far as it is the COUNTY's responsibility to observe the Work.
- B. The COUNTY's approval of any payment requested in an Application for Payment will not thereby be deemed to have represented that: (i) inspections made to check the quality or the quantity of the Work performed have been exhaustive, extended to every aspect of the Work, or were detailed inspections of the Work; or (ii) there may not be other matters or issues between the parties that might entitle the CONTRACTOR to be paid additionally by the COUNTY or entitle the COUNTY to withhold payment to the CONTRACTOR.
- C. The COUNTY may reject the payment request or invoice within 20 (twenty) days after the date on which the payment request or invoice is stamped as received by the COUNTY. The rejection must be in writing and must specify the deficiency in the payment request or invoice and the action necessary to make the payment request or invoice proper. In the latter case, the CONTRACTOR may make the necessary corrections and resubmit the Application.
- D. The COUNTY may refuse to make payment of the full amount because:
- (i) claims have been made against the COUNTY on account of the CONTRACTOR's performance or furnishing of the Work;
 - (ii) Liens have been filed in connection with the Work, except where the CONTRACTOR has delivered a specific Bond satisfactory to the COUNTY to secure the satisfaction and discharge of such Liens;

- (iii) there are other items entitling the COUNTY to a set-off against the amount recommended.
- (iv) the Work is defective or the completed Work has been damaged, requiring correction or replacement;
- (v) the Work for which payment is requested cannot be verified;
- (vi) the CONTRACTOR failed to make proper payments to subcontractor(s) for labor, materials or equipment in connection with the Work;
- (vii) the Contract Price has been reduced because of modifications or there is reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Price;
- (viii) the COUNTY has been required to correct defective Work or complete the Work in accordance with the Contract Documents;
- (ix) the CONTRACTOR failed to carry out the Work in accordance with the Contract Documents, or otherwise unsatisfactory prosecution of the Work;
- (x) of any other breach of, default under, violation of, or failure to comply with the provisions of the Contract Documents.

E. If the COUNTY refuses to make payment of the full amount, the COUNTY must give the CONTRACTOR written notice within 10 (ten) days of receipt of invoice stating the reasons for such action and promptly pay the CONTRACTOR any amount remaining after deduction of the amount so withheld. The COUNTY shall promptly pay the CONTRACTOR the amount so withheld, or any adjustment thereto agreed to by the COUNTY and the CONTRACTOR, when the CONTRACTOR corrects the reasons for such action to the COUNTY's satisfaction.

5.4 All payments made to the CONTRACTOR, whether Progress or Final, shall be in strict accordance with the "Local Government Prompt Payment Act" addressing payment, retainage, and punch list procedures for the performance of the Work.

5.5 The CONTRACTOR warrants and guarantees that title to all the Work covered by an Application for Payment, whether incorporated in the Work or not, shall pass to the COUNTY prior to the making of the Application for Payment, free and clear of all liens, claims, security interests, purchase money security interest, chattel paper or encumbrances of any nature whatsoever ("Liens").

5.6 The CONTRACTOR shall promptly pay all subcontractors, laborers, materialmen, and suppliers upon receipt of payment from the COUNTY out of the amount paid to the CONTRACTOR on account of such person's portion of the Work, the amount to which such person is entitled, reflecting percentages actually retained from payments to the CONTRACTOR. The CONTRACTOR shall, by appropriate agreement with each subcontractor or other person, require each subcontractor or other person to make payments to sub-subcontractors in similar manner.

5.7 A Certificate of Payment, a progress payment, or partial or entire use of the Project by the COUNTY shall not constitute acceptance of Work not in accordance with the Contract Documents.

5.8 In accordance with the provisions of §255.05, Florida Statutes, where the CONTRACTOR requires a waiver from laborers, materialmen, subcontractors, or sub-subcontractors (as each such term is defined by §713.01, Florida Statutes) of the right to make a claim against the Payment Bond in exchange for or to

induce payment of a progress payment or a final payment, such waivers shall comply with the form set forth in §255.05, Florida Statutes, as amended from time to time.

5.9 If one or more Notice of Non-Payment is received by the COUNTY, no further payments will be approved until non-payment(s) have been satisfied and a Release of Claim for each Notice of Non-Payment has been submitted to the COUNTY. Upon request, the CONTRACTOR shall furnish acceptable evidence that all such claims or liens have been satisfied. If the CONTRACTOR fails to satisfy the non-payment, the COUNTY may make payment and back-charge the CONTRACTOR for any and all costs associated with such payment.

5.10 If at any time during the progress of the Work, the CONTRACTOR's actual progress is inadequate to meet the requirements of the Agreement, the COUNTY may, but is not required to, notify the CONTRACTOR to implement some or all of the following remedial actions at the sole cost and expense of the CONTRACTOR:

- A. Increase construction manpower in such quantities and crafts as necessary to eliminate the schedule progress deficiency;
- B. Increase the number of working hours per shift, shifts per working day, working days per week, the amount of construction equipment, or any combination of the foregoing to eliminate the schedule progress deficiency;
- C. Reschedule the Work in conformance with the specification requirements.

5.11 Neither such notice by the COUNTY nor the COUNTY's failure to issue such notice shall relieve the CONTRACTOR of its obligation to achieve the quality of the Work and rate of progress required by the Agreement.

ARTICLE 6 TIME OF PERFORMANCE

6.1 TIME IS OF THE ESSENCE FOR EACH WORK ORDER ISSUED UNDER THIS AGREEMENT.

6.1.1 Substantial Completion

The following items, as applicable, shall be completed prior to an inspection for Substantial Completion:

- 1. All general construction completed and the project components shall be clean, and all systems fully functional.
- 2. All mechanical and electrical Work substantially complete, fixtures in place, connected, cleaned and usable.
- 3. All electrical circuits shall be scheduled in panels, and all panels and disconnect switches properly labeled.
- 4. All painting shall be completed; all signs installed.
- 5. All floors, glass and metal Work shall be cleaned.

6. All finish hardware shall be installed, and all doors shall be in good Working order.
7. Project site shall be cleared of the CONTRACTOR'S excess equipment, temporary facilities, trailers, and/or building supplies. All temporary construction shall be removed, and all Sitework completed.
8. All operations and maintenance manuals for all equipment shall have been submitted.
9. Manufacturers certifications and warranties shall be delivered to COUNTY.
10. All operations and maintenance training related literature, software and back-up disks have been provided.
11. All required spare parts, materials, as well as any special measuring devices and tools shall have been provided to COUNTY.
12. All air and water balancing reports shall have been submitted.
13. All keys and blanks shall have been provided.

6.1.2 When CONTRACTOR considers the entire Work Order ready for its intended use CONTRACTOR shall notify COUNTY in writing that the entire Work is substantially complete (except for items specifically listed by CONTRACTOR as incomplete) and request that Engineer issue a certificate of Substantial Completion. Promptly thereafter, COUNTY and CONTRACTOR, and Engineer shall make an inspection of the Work to determine the status of completion. For the purpose of this Contract, and for the compliance of those procedures, duties and obligations as set forth in Section 218.70 and Section 218.735, Florida Statutes the term "Substantial Completion" is defined as that point where COUNTY is able to enjoy beneficial occupancy of the Work and where the Work has achieved that level of completion such that COUNTY is able to utilize the entire Project for its intended purposes, including but not limited to the completion of all specified systems and items relating to life, safety and regulatory use, with the exception of incidental or incomplete items except where a lack of completion of such incidental or incomplete items of Work will adversely affect the complete operation of other areas of the Work. Additional conditions (if any) needed to achieve Substantial Completion of the Work and which are project specific are as set forth in attached Exhibits. If COUNTY and Engineer do not consider the Work substantially complete, Engineer will notify CONTRACTOR in writing giving the reasons therefore. If Engineer considers the Work substantially complete, Engineer will prepare and deliver to COUNTY a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. If Engineer considers the Work substantially complete, then, for construction projects having an estimated cost of less than 10 million dollars:

In addition to Section 218.735, Florida Statutes, punch list procedures to render the Work complete, satisfactory and acceptable are established as follows:

1. Within five (5) days of Substantial Completion of the construction services purchased as defined in the Contract, CONTRACTOR shall schedule a walkthrough with COUNTY ("Initial Walkthrough" a/k/a "IW"). The purpose of the IW is to develop a preliminary checklist ("Checklist") of items to be performed by the CONTRACTOR, based upon observations made jointly between the CONTRACTOR and COUNTY during the IW. The IW is to occur within ten (10) days of Substantial Completion of the Work as defined by the Contract, again predicated

upon the CONTRACTOR'S timely initiation of a request for the IW. At its option, COUNTY may conduct the IW with its Field Inspector.

2. CONTRACTOR shall endeavor to address and complete as many items as possible noted on the Checklist either during the IW itself, or thereafter for a period of fifteen (15) days from the date of the IW.
3. No later than fifteen (15) days following the scheduled IW, CONTRACTOR shall again initiate and request a second walkthrough of the Project with COUNTY. The purpose of this second walkthrough is to identify which items remain to be performed from the IW Checklist and to supplement that list as necessary (based, for example, upon work which may have been damaged as a result of the CONTRACTOR'S performance of completion of items contained on the IW Checklist) and for the purpose of developing a joint Final Punch list.
4. The intent of this section is for COUNTY and the CONTRACTOR to cooperate to develop a Final Punch list to be completed no later than thirty (30) days from the date of reaching Substantial Completion of the construction services purchase as defined in the Contract.
5. In no event may the CONTRACTOR request payment of final retainage under Section 718.735, Florida Statutes until the CONTRACTOR considers the Final Punch list to be 100% complete.
6. CONTRACTOR agrees to complete the Final Punch list items within forty-five (45) days of the date of its issuance by COUNTY.
7. CONTRACTOR acknowledges and agrees that no item contained on the Final Punch list shall be considered a warranty item until such time as (a) the Final Punch list is 100% complete, and (b) COUNTY has been able to operate or utilize the affected punch list item for an additional period of fifteen (15) days.
8. CONTRACTOR acknowledges and agrees that COUNTY may, at its option, during performance of the Work and prior to Substantial Completion, issue lists of identified non-conforming or corrective work for the CONTRACTOR to address. The intent of any such COUNTY generated lists prior to Substantial Completion is to attempt to streamline the punch list process upon achieving Substantial Completion, and to allow for the CONTRACTOR to address needed areas of corrective work as they may be observed by COUNTY during performance of the Work.
9. CONTRACTOR acknowledges and agrees that in calculating 150% of the amount which may be withheld by COUNTY as to any Final Punch list item for which a good faith basis exists as to it being complete, as provided for by Section 218.735, Florida Statutes, COUNTY may include within such percentage calculation its total costs for completing such item of work, including its administrative costs as well as costs to address other services needed or areas of work which may be affected in order to achieve full completion of the Final Punch list item. Such percentage shall in no event relate to the schedule of value associated with such Work activity, but rather total costs are based upon the value (i.e. cost) of completing such Work activity based upon market conditions at the time of Final Punch list completion.

6.1.3 COUNTY shall have the right to exclude CONTRACTOR from the Site after the date of Substantial Completion, but COUNTY shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

6.2 Partial Utilization

A. Use by COUNTY at COUNTY'S option of any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which COUNTY, Engineer, and CONTRACTOR agree constitutes a separately functioning and usable part of the Work that can be used by COUNTY for its intended purpose without significant interference with CONTRACTOR'S performance of the remainder of the Work, may be accomplished prior to Substantial Completion of all the Work subject to the following conditions.

1. COUNTY at any time may request CONTRACTOR in writing to permit COUNTY to use any such part of the Work which COUNTY believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees that such part of the Work is substantially complete, CONTRACTOR will certify to COUNTY and Engineer that such part of the Work is substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work. CONTRACTOR at any time may notify COUNTY and Engineer in writing that CONTRACTOR considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time after either such request, COUNTY, CONTRACTOR, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify COUNTY and CONTRACTOR in writing giving the reasons therefore.

2. No occupancy or separate operation of part of the Work may occur prior to compliance with this Agreement regarding property insurance.

6.3 Final Inspection

A. Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with COUNTY and CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

6.4 Final Payment

A. Application for Payment

1. After CONTRACTOR has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance certificates of inspection, marked-up record documents, and other documents, CONTRACTOR may make application for final payment following the procedure for progress payments and §218.70 et. seq., Fla. Stat.

2. The final Application for Payment shall be accompanied (except as previously delivered) by: (i) all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required (ii) consent of the surety, if any, to final payment; and (iii) complete and legally effective

releases or waivers (satisfactory to COUNTY) of all Lien rights arising out of or Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens and as approved by COUNTY, CONTRACTOR may furnish receipts or releases in full and an affidavit of CONTRACTOR that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which COUNTY or COUNTY'S property might in any way be responsible have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, CONTRACTOR may furnish a Bond or other collateral satisfactory to COUNTY to indemnify COUNTY against any Lien.

B. Review of Application and Acceptance

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and CONTRACTOR'S other obligations under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to COUNTY for payment. At the same time Engineer will also give written notice to COUNTY and CONTRACTOR that the Work is acceptable subject to the provisions of paragraph 14.09. Otherwise, Engineer will return the Application for Payment to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application for Payment.

C. Payment Becomes Due

1. Upon completion of all items on the punch list, final payment is due twenty-five business days after the payment request or invoice is stamped as received by County, Payment on a corrected payment requests, must be paid or rejected on the later of:

- a. Ten (10) business days after the date the corrected payment request or invoice is stamped as received; or
- b. If the governing body is required by ordinance, charter or other law to approve or reject the corrected payment request, the first business day after the next regularly scheduled meeting of the COUNTY held after the corrected payment request is stamped as received.

If a good faith dispute exists as to whether one or more items identified on the list have been completed pursuant to the contract, the COUNTY may continue to withhold an amount not to exceed 150 percent of the total costs to complete such items.

6.5 If Substantial Completion is not obtained at the inspection called by the CONTRACTOR, for reasons that are the fault of the CONTRACTOR, the cost of any subsequent inspections requested by the CONTRACTOR for the purpose of determining Substantial Completion shall be at the cost of the CONTRACTOR and shall be assessed against the final payment application. Punch list items recorded as a result of inspections for Substantial Completion are to be corrected by the CONTRACTOR within the time-frame established.

ARTICLE 7

LIQUIDATED DAMAGES; FORCE MAJEURE

7.1 Upon failure of the CONTRACTOR to Substantially Complete the Agreement within the specified period of time, plus approved time extensions, the CONTRACTOR shall pay to the COUNTY daily liquidated damages in the amount shown on Page 1 of this Agreement to reflect the COUNTY's estimated damages resulting from the delay to Substantial Completion.

7.2 Upon failure of the CONTRACTOR to Finally Complete the Agreement within the specified period of time, plus approved time extensions, the CONTRACTOR shall pay to the COUNTY daily liquidated damages in the amount shown on Page 1 of this Agreement to reflect the COUNTY's estimated damages resulting from the delay to Final Completion.

7.3 Milestones, milestone completion dates, and applicable Liquidated Damages shall be in accordance with the Contract Documents.

7.4 If the milestones are not strictly complied with, then Liquidated Damages will be assessed against the CONTRACTOR, which are agreed upon, and it is further agreed that such Liquidated Damages bear a reasonable relationship to damages to be incurred by the COUNTY, and are not a penalty.

7.5 Force Majeure. A party shall not be liable for any failure of or delay in the performance of this agreement for the period that such failure or delay is beyond the reasonable control of a party, materially affecting the performance of any of its obligations under this agreement, and could not reasonably have been foreseen or provided against, but will not be excused for failure or delay resulting from only general economic conditions or other general market effects. If either party invokes this provision to avoid performance of any obligation under this Agreement and a Court determines that party wrongfully invoked this provision to evade performance of such an obligation, the aggrieved party shall be entitled to its reasonable attorney's fees and costs for obtaining the Court's determination of the same.

ARTICLE 8

CLAIMS FOR ADDITIONAL TIME

8.1 If the CONTRACTOR'S performance of this Contract is delayed: i) which delay is beyond the reasonable control and without the fault or negligence of the CONTRACTOR or its subcontractors; or ii) by changes ordered in the Work, and in either event where such delay or change in the Work affects the critical path, then the Contract Time shall be extended by Change Order as determined by the COUNTY . If the CONTRACTOR wishes to make Claim for an increase in the Contract Time, CONTRACTOR shall provide COUNTY a written notice of claim upon discovering the cause of the alleged delay. Such notice of claim shall include the following information, or else be waived:

1. Nature of the delay or change in the Work;
2. Dates of commencement and cessation of the delay or change in the Work;
3. Activities on the current progress schedule affected by the delay or change in the Work;
4. Identification and demonstration that the delay or change in Work affects the critical path;
5. Identification of the source of delay or change in the Work;

6. Anticipated extent of the delay or change in the Work; and
7. Recommended action to minimize the delay.

8.2 The CONTRACTOR shall not be entitled to any extension of time for delays resulting from any cause unless CONTRACTOR has notified the COUNTY in writing within seven (7) days of commencement of the delay.

8.3 No Damages for Delay; Exclusive Remedy. The CONTRACTOR shall not be entitled to and hereby waives any and all claims for damages which it may suffer by reason of delay, acceleration, loss of efficiency, or other related time or impact-based claims (hereinafter collectively "delay") or for delay attributable to any foreseen or unforeseen condition, or for delays claimed to be the result of active, intentional, knowing, or passive interference by the COUNTY, or its agents, and waives damages that it may suffer by reason of such claims for lost profits, loss or impairment of bonding capacity, destruction of business, extended overhead, supervision, extended, unabsorbed home office overhead; the extension of time granted herein, being the CONTRACTOR's sole remedy, with the exception that in the event of demonstrated critical, compensable, non-concurrent delay suffered by the CONTRACTOR, the CONTRACTOR may claim as its sole and exclusive remedy any associated, extended direct jobsite general conditions expended by the CONTRACTOR (hereinafter "applicable extended general conditions") in a sum not to exceed \$250.00 per each day of delay. Apart from extensions of time or acceleration costs approved by the COUNTY and any applicable extended general conditions, no payment of claim for delay damages shall be made to the CONTRACTOR as compensation for damages for any delays or hindrances from any cause whatsoever in the progress of the Work, whether such delay be avoidable or unavoidable. Notwithstanding anything herein to the contrary, provided the CONTRACTOR has otherwise satisfied the requirements of this Agreement, the CONTRACTOR shall be entitled to an increase in the Contract Price based upon approved general condition, insurance, and bond premium costs resulting from delays for which the COUNTY has approved by Change Order or Construction Change Directive, provided, however, the COUNTY shall not be required to pay such additional amounts for any days following the date on which the CONTRACTOR achieves Final Completion for the appropriate portion of the Work.

8.4 The time during which the CONTRACTOR is delayed in the performance of the Work by the acts or omissions of the COUNTY, acts of God, unusually severe and abnormal climatic conditions or other conditions beyond the CONTRACTOR's control and which the CONTRACTOR could not reasonably have foreseen and provided against, shall be added to the Contract Time stated in the Agreement; provided, however, that no claim by the CONTRACTOR for an extension of time for such delays be considered unless made in accordance with Paragraph 8.1.

8.5 The COUNTY shall not be obligated or liable to the CONTRACTOR for and the CONTRACTOR hereby expressly waives any claims against any damages, costs, or expenses of any nature whatsoever which the CONTRACTOR, its subcontractors or sub-subcontractors may incur as a result of any delays, interferences, suspensions, rescheduling, changes in sequence, congestion, disruptions or the like, arising from or out of any act or omission of the COUNTY, or any of the events referred to in Paragraph 8.4 above, it being understood and agreed that the CONTRACTOR's sole and exclusive remedy in such event shall be an extension of Contract Time, but only if claim is properly made in accordance with Paragraph 8.1.

8.6 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled critical path of construction. Based on 30-Year, National Weather Service historical rainfall averages for Martin County, the

CONTRACTOR shall anticipate the amount of rainfall days affecting the schedule as normal conditions outlined in the following months below:

JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEP	OCT	NOV	DEC
2	2	3	2	3	5	5	6	6	5	3	2

ARTICLE 9 SITE CONDITIONS

9.1 Field Measurements. Before undertaking each part of the construction, the CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. The CONTRACTOR shall promptly report in writing to the COUNTY any conflict, error, or discrepancy that the CONTRACTOR or any of its subcontractors or Suppliers may discover and shall obtain a written interpretation or clarification from the COUNTY before proceeding with any Work affected. The CONTRACTOR shall remain liable to the COUNTY for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents prepared by the CONTRACTOR.

9.2 Differing Site Conditions. The CONTRACTOR shall promptly, and before such conditions are disturbed, notify the COUNTY in writing of: (A) subsurface or latent physical conditions at the site differing materially from those indicated in this Agreement; or (B) unknown physical conditions at the site of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the Work of the character provided for in this Agreement. The COUNTY will promptly investigate the conditions, and if it finds that such conditions do materially so differ and cause an increase or decrease in the CONTRACTOR's cost of, or the time required for, performance of any part of the Work under this Agreement, an equitable adjustment shall be made and the Agreement modified in writing accordingly. The CONTRACTOR's failure to provide notice upon discovery of the differing site condition shall waive any entitlement to such an adjustment in the Contract Price or Contract Time.

9.3 Physical Conditions (Including Underground Facilities). The CONTRACTOR shall have full responsibility for physical conditions, and Underground Facilities owned by the COUNTY or others, as shown or indicated in the Contract Documents. The CONTRACTOR shall have full responsibility for reviewing and checking all such information and data. The COUNTY shall not be responsible for accuracy or completeness of data, plans, and specifications and the CONTRACTOR shall have full responsibility for checking all information and data. If the Contract Documents necessitate amending to order changes in the Work due to Underground Facilities owned by the COUNTY or others, whether they be shown or indicated or newly discovered, the COUNTY shall authorize the required changes in the Work by Change Order. If those Underground Facilities owned by the COUNTY or others cause or will cause delays in the performance or extend completion of all or part of the work, the CONTRACTOR shall absorb all related delay, extension, or acceleration costs, however caused, except that if the COUNTY and the CONTRACTOR agree that the delays require a change in Contract Time, the COUNTY shall authorize the necessary change in Contract Time only to the extent that such delays exceed 30 (thirty) days impact to controlling work items. However, an extension in Contract Time, when and if so granted shall be the CONTRACTOR's sole and exclusive remedy with respect to the COUNTY for any delay, disruption, interference, inefficiency, acceleration, extension or hindrance, and associated costs, however caused, resulting from variance in the location or configuration of Underground Facilities owned by the COUNTY or others as shown or indicated, or from newly discovered Underground Facilities owned by the COUNTY or others.

9.4 Special Requirements for Underground Facilities. The CONTRACTOR shall have full responsibility for the following list. Except as otherwise provided, all costs involved and time required to perform these responsibilities shall be considered as having been included in the Contract Price and in the CONTRACTOR's schedule for the performance of the Work within the Contract Time, even if the Contract Documents need amending to authorize minor deviations or changes in the Work due to those Underground Facilities including utilities.

- A. Field locating any and all Underground Facilities including utilities shown or indicated as to depth and alignment in advance of excavation;
- B. Notifying the COUNTY of any newly discovered Underground Facility and promptly notifying that the COUNTY of that discovery;
- C. Shoring, blocking and protecting Underground Facilities including utilities shown, indicated or discovered;
- D. Coordination, scheduling and sequencing the Work with the COUNTY's of all Underground Facilities shown, indicated or discovered;
- E. Repairing any damage to the satisfaction of the COUNTY, to the extent that the damage was due to the CONTRACTOR's failure to adhere to the requirements, or to the fault or negligence of the CONTRACTOR; and
- F. The safety and protection of any affected the Work, and for repairing any damage done to the work.

9.5 If those Underground Facilities owned by the COUNTY or others cause or will cause delays in the performance or extend completion of all or part of the work, the CONTRACTOR shall absorb all related delay, extension or acceleration costs, however caused, except that if the COUNTY and the CONTRACTOR agree that the delays require a change in Contract Time, the COUNTY shall authorize the necessary change in Contract Time only to the extent that such delays exceed 30 (thirty) days impact to controlling work items. However, an extension in Contract Time, when and if so granted shall be the CONTRACTOR's sole and exclusive remedy with respect to the COUNTY for any delay, disruption, interference, inefficiency, acceleration, extension or hindrance and associated costs, however caused, resulting from variance in the location or configuration of Underground Facilities owned by the COUNTY or others shown or indicated, or from newly discovered Underground Facilities owned by the COUNTY or others.

9.6 Unless it prejudices the Work already excavated and uncovered, the CONTRACTOR shall schedule layout, excavation and uncovering of the Work or Underground Facilities a sufficient time in advance to allow the COUNTY'S design professional's review, and the possible amending or supplementing of the Contract Documents.

ARTICLE 10 INDEMNIFICATION

The CONTRACTOR hereby assumes entire responsibility and liability for any and all damage or injury of any kind or nature whatever (including death resulting therefrom) to all persons, whether employees of any tier of the CONTRACTOR, its SUBCONTRACTS, CONSULTANTS or SUPPLIERS or otherwise, and to all property caused by, resulting from, arising out of or occurring in connection with the execution of the Contract, or in preparation for the work and services under this Contract, or any extension, modification, or

amendment thereto by change order to otherwise.

CONTRACTOR hereby agrees to indemnify and hold harmless MARTIN COUNTY, its BOARD OF COUNTY COMMISSIONERS, and its officers and employees from liabilities, damages, lawsuits, and costs, including but not limited to, reasonable attorney's fees and court costs, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the CONTRACTOR or persons employed or utilized by the CONTRACTOR in the performance of the Construction Contract.

ARTICLE 11 TERMINATION

11.1 Notwithstanding any other provision of this Contract, the CONTRACTOR may be held in default of its contractual obligation under this Contract if the CONTRACTOR:

1. refuses or fails to supply enough properly skilled workers or proper and sufficient materials and equipment;
2. fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the CONTRACTOR and the Subcontractors;
3. disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction;
4. performs Work that does not conform to Work Order requirements;
5. fails to meet the Work Order schedule or fails to make progress on the Work so as to endanger performance of the Work Order;
6. abandons or refuses to proceed with any or all Work; or
7. otherwise breaches, fails to comply fully with, or is in default of any provision of the Contract Documents or Work Order.

11.2 The COUNTY must provide written notice to the CONTRACTOR notifying it that the COUNTY is declaring it in default and providing the CONTRACTOR with three (3) business days after receipt of such written notice of default, to cure such default. In the event that the CONTRACTOR fails to cure the default within the three (3) day default period, the COUNTY may:

1. take possession of the Work site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the CONTRACTOR;
2. accept assignment of subcontracts pursuant to this Agreement; and
3. finish the Work by whatever reasonable method the COUNTY may deem expedient, and charge all completion costs against any monies owed or to be owed to CONTRACTOR, or back charge CONTRACTOR for any and all such completion costs, or
4. terminate the CONTRACTOR and hire a completion CONTRACTOR to finish the Work by whatever reasonable method the COUNTY may deem expedient, and charge all completion costs,

including costs for construction, architectural, engineering, project management, and any other expenses, against any monies owed or to be owed to CONTRACTOR, or back charge CONTRACTOR for any and all such completion costs, or

5. set off any and all such completion costs against any monies then due or to become due on any other projects that the COUNTY has with CONTRACTOR.

11.3 Upon default, CONTRACTOR shall not be entitled to receive further payment until the Work is finished.

11.4 If, after notice of termination, it is determined for any reason that the CONTRACTOR was not in default, or that the delay was excusable under the provisions of the Contract Documents, the rights and obligations of the parties shall be the same as if the notice of termination had been a Termination by the COUNTY for Convenience.

11.5 Pursuant to Section 287.135, Fla. Stat., the COUNTY may immediately terminate this Agreement for cause if the CONTRACTOR, its affiliates, or its subcontractors are found to have submitted a false certification per Section 4.22 of this Agreement; or if the CONTRACTOR, its affiliates, or its subcontractors are placed on any applicable scrutinized companies list or engaged in prohibited contracting activity during the term of this Agreement. As provided in Section 287.135(8), Fla. Stat., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

11.6 Termination by the COUNTY for Convenience. Notwithstanding any other provision to the contrary in the Contract Documents, the COUNTY reserves the right at any time and in its sole and absolute discretion to terminate the services of the CONTRACTOR with respect to the Work by giving written notice to the CONTRACTOR. In such event, the CONTRACTOR shall be entitled to, and the COUNTY shall reimburse the CONTRACTOR for, an equitable portion of the Contract Price based on the portion of the Work completed prior to the effective date of termination and for any other reasonably expended costs attributable to such termination. However, CONTRACTOR shall not be entitled to receive its anticipated profits for any unperformed Work.

ARTICLE 12 SUSPENSION OF WORK

The COUNTY may, without cause, order the CONTRACTOR in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the COUNTY may determine.

ARTICLE 13 CHANGES IN THE WORK

13.1 The COUNTY may, at any time or from time to time, order additions, deletions, or revisions in the Work by requesting a proposal from the CONTRACTOR detailing the proposed additions, deletions, or revisions to the Work. The proposal shall include such details as man-hours, man-hour rates, quantities, quantity unit rates, equipment, equipment unit rates, and mark-ups. The CONTRACTOR shall complete and return the proposal to the COUNTY within 10 (ten) days from receipt thereof. The proposal shall include any increases or decreases in Contract Time or Contract Price and shall include any additional modifications required by virtue of the requested change, whether or not such additional modifications were specifically identified in the request for proposal. The proposal may then be: (A) issued as a Change Order in accordance with the provisions of the Contract Documents; (B) modified and thereafter issued as a Change Order in accordance with the provisions of the Contract Documents; or (C) withdrawn.

13.2 The COUNTY may authorize minor changes or alterations in the Work involving minimal cost or time and not inconsistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order. If the CONTRACTOR believes that any minor change or alterations authorized by the COUNTY entitles it to an increase in the Contract Price or extension of Contract Time, it shall treat the Field Order as a request for proposal and issue a proposal for the change in Contract Price and Contract Time prior to proceeding with the Work covered in the Field Order. The procedures outlined in the Contract Documents shall then be followed. Acceptance of the Final Payment by the CONTRACTOR shall constitute acknowledgment by the CONTRACTOR that all payments due for modifications required under Field Orders have been incorporated into the Final Payment.

13.3 Additional Work performed by the CONTRACTOR without authorization of a written Change Order will not entitle it to an increase in the Contract Price or an extension of the Contract Time.

13.4 It is the CONTRACTOR's responsibility to notify its Surety of any changes affecting the general scope of the Work or change in the Contract Price and the amount of the applicable Bonds shall be adjusted accordingly. The CONTRACTOR shall furnish proof of such adjustment to the COUNTY.

13.5 The COUNTY may, at any time, without notice to the Surety, by Field Order or by properly executed Change Order, make any change in the Work within the general scope of the Contract Documents, including but not limited to changes:

- A. in the Drawings and designs, and Specifications;
- B. in the method or manner of performance of the Work;
- C. directing acceleration in the performance of the Work.

13.6 Except as herein provided, no order, statement, or conduct of the COUNTY shall be treated as a Change Order or Field Order or entitle the CONTRACTOR to an equitable adjustment hereunder.

13.7 No claim by the CONTRACTOR for an equitable adjustment hereunder shall be allowed if asserted after final payment under this Agreement.

13.8 The value of any Work covered by a Field Order, Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways at the sole discretion of the COUNTY:

- A. where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved;
- B. by negotiated lump sum; or
- C. cost plus. If this option is selected, the COUNTY reserves the right to request any and all documentation from the CONTRACTOR in support of its foregoing Actual Costs, and the CONTRACTOR agrees promptly to supply such information.

13.9 For changes in the Work performed by the CONTRACTOR's own forces, the CONTRACTOR shall be entitled to a percentage 10% (ten percent) mark-up for Actual Costs as defined in Section 1.

13.10 For changes in the Work performed by subcontractors: (A) the subcontractor shall be entitled to mark-up the cost of the change(s) by 10% (ten percent); and (B) the CONTRACTOR shall be entitled to mark-up the subcontractor's total by 5% (five percent). The foregoing shall be the maximum amount allowable for subcontractor's and the CONTRACTOR's Actual Costs as defined in Section 1.

ARTICLE 14

MATERIALS, EQUIPMENT AND WORKMANSHIP; SUBSTITUTIONS

14.1 Only new, unused items of recent manufacture, of designated quality, free from defects, will be accepted. Rejected items shall be removed immediately from the Work and replaced with items of specified quality. Failure by COUNTY to order removal of rejected materials and equipment shall not relieve CONTRACTOR from responsibility for quality of the materials supplied nor from any other obligation under the Contract Documents.

14.2 No Work defective in construction or quality, or deficient in meeting any requirement of the Contract Drawings and Specifications will be acceptable regardless of COUNTY'S failure to discover or to point out defects or deficiencies during construction; nor will the presence of field representatives at the Work or the satisfaction of the WORK meeting applicable code requirements relieve CONTRACTOR from responsibility for the quality and securing progress of Work as required by the Contract Documents.

14.3 Prior to proposing any substitute item, CONTRACTOR shall satisfy itself that the item proposed is, in fact, equal or better to that specified, that such item will fit into the space allocated, that such item affords comparable ease of operation, maintenance and service, that the appearance, longevity and suitability for the climate are comparable, and that by reason of cost savings, reduced construction time, or similar demonstrable benefit, the substitution of such item will be in COUNTY'S interest, and will in no way have a detrimental effect upon the Project completion date and schedule.

14.3.1 The burden of proof of equality of a proposed substitution for a specified item shall be upon CONTRACTOR. CONTRACTOR shall support its request with sufficient test data and other means to permit COUNTY to make a fair and equitable decision on the merits of the proposal. CONTRACTOR shall submit drawings, samples, data and certificates and additional information as may be required by the COUNTY for proposed substitute items as required by the Contract Documents.

14.3.2 Any item by a manufacturer other than those specified or of brand name or model number or of generic species other than those specified will be considered a substitution. COUNTY will be the sole judge of whether or not the substitution is equal in quality, utility and economy to that specified.

14.3.3 CONTRACTOR shall allow an additional fifteen (15) days for COUNTY'S review of substitutions. All requests for substitutions with submittal data must be made at least fifty (50) days prior to the time CONTRACTOR must order, purchase or release for manufacture or fabrication. Approval of a substitution shall not relieve CONTRACTOR from responsibility for compliance with all requirements of the Contract. CONTRACTOR shall coordinate the change with all trades and bear the expense for any changes in other parts of the Work caused by any substitutions.

14.3.4 If COUNTY rejects CONTRACTOR'S substitute item on the first submittal, CONTRACTOR may make only one additional request for substitution in the same category. Upon the second request, the CONTRACTOR shall be invoiced the expenses of the COUNTY allocable to the review of such submittal data. The foregoing amounts shall be deducted, as applicable, from the next succeeding partial payment to the CONTRACTOR, or from the final payment.

ARTICLE 15

COMPLIANCE

15.1 All work, labor, materials and equipment provided under each Work order shall be performed in

strict compliance with any and all applicable building and fire, life and safety codes and strictly in accordance with plans and specifications. CONTRACTOR must satisfy itself that the Plans, Drawings and Specifications in fact comply with all applicable codes. CONTRACTOR shall notify COUNTY prior to commencement of Work of any requirement of the plans and specifications not in strict compliance with such codes. There will be no extra payment for compliance to existing codes or any item of interpretation regarding enforcement of existing codes. CONTRACTOR is representing by acceptance of this Agreement that it has thoroughly researched all applicable codes and regulations affecting this Project.

15.2 If, during the term of this Contract, there are any changed or new laws, ordinances or regulations not known or foreseeable at the time of signing this Contract which become effective and which affect the cost or time of performance of the Contract, CONTRACTOR shall immediately notify COUNTY in writing and submit detailed documentation of such effect in terms of both time and cost of performing the Contract. Upon concurrence by COUNTY as to the effect of such changes, an adjustment in the Contract Price and/or time of performance will be made. If any discrepancy or inconsistency should be discovered between the Contract Documents and any law, ordinance, regulation, order or decree, CONTRACTOR shall immediately report the same in writing to COUNTY who will issue such instructions as may be necessary. However, it shall not be grounds for a Change Order that the CONTRACTOR was unaware of or failed to investigate the rules, codes, regulations, statutes, and all ordinances of all applicable governmental agencies having jurisdiction over the Project or the Work.

15.3 CONTRACTOR shall give all notices and at all times comply with all applicable laws, codes, ordinances, rules and regulations in effect during the time of performance of the Work.

15.4 CONTRACTOR shall deliver a product which will meet or exceed the Design Criteria package standards, provide a complete and functional facility including but not limited to all necessary interfaces between this facility and adjacent existing facilities, and/or anticipated future facilities. All built-in equipment, systems, controls, devices and finishes necessary for the efficient use and maintenance of the facility and its related site work, except as otherwise noted and/or clarified herein, shall be included in the Work.

ARTICLE 16 NON-DISCRIMINATION

CONTRACTOR covenants and agrees that the CONTRACTOR shall not discriminate against any employee or applicant for employment to be employed in the performance of the Agreement with the respect to hiring, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment because of age, sex, physical handicaps (except where based on a bona fide occupational qualification) marital status, race, color, religion, national origin or ancestry.

ARTICLE 17 DEFECTIVE WORK

17.1 Rejecting Defective Work. The COUNTY shall have authority to disapprove or reject Work which is "defective" (which term is hereinafter used to describe Work that is unsatisfactory, faulty or defective, or does not conform to the requirements of the Contract Documents or does not meet the requirements of any inspection, test or approval referred to in the Contract Documents, or has been damaged prior to final acceptance). Such parties shall also have authority to require special inspection or testing of the Work as such parties may individually or severally deem necessary, whether or not the Work is fabricated, installed or completed.

17.2 **Correction of Defective Work.** Upon presentation of a Defective Work Notice to the CONTRACTOR or CONTRACTOR'S Project Superintendent, the CONTRACTOR shall meet within twenty-four (24) hours with the COUNTY, and, at the sole option of COUNTY, the COUNTY'S representative, to discuss a work plan and time-line to correct the defective Work. The CONTRACTOR shall have no more than five (5) working days to begin corrective action and repairs in accordance with the agreed upon schedule; provided, however, all repairs to natural gas, telephone, radio, computer security, water, waste water, electric air conditioning services and all emergency services shall be commenced within twelve (12) hours of notification, or by 7:00 a.m. whichever is earlier, and CONTRACTOR shall complete the repairs in an expeditious manner befitting the nature of the deficiency. If the CONTRACTOR refuses to comply with the twenty four (24) hour meeting requirement, or the agreed upon correction schedule, the COUNTY has the right to do any of the following: (1) correct any Work so performed by the CONTRACTOR and deduct the expenses for doing so from the final payment due the CONTRACTOR, or (2) hold back final payment due CONTRACTOR until such time as the Work is completed to the satisfaction of the COUNTY and in compliance with the Contract Documents. The COUNTY shall have the sole discretion to determine if the Work is satisfactory and in compliance with Contract Documents. The foregoing remedies are not exclusive and the COUNTY reserves the right to pursue any and all other remedies it deems applicable.

ARTICLE 18 BONDS AND INSURANCE

18.1 **Payment and Performance Bonds.** The CONTRACTOR shall, upon execution and return of this Agreement to the COUNTY, furnish a Public Payment Bond and a Performance Bond, pursuant to §255.05, Florida Statutes, in at least an amount equal to the Contract Price, for any Agreement over \$200,000 (two hundred thousand dollars), covering the faithful performance of this Agreement and all the CONTRACTOR's faithful performance and payment of all the CONTRACTOR's obligations under the Contract Documents. The Bonds shall be recorded at the Martin County Clerk of the Circuit Court's Office at the CONTRACTOR's expense. The Surety must be included in the most recent United States Department of the Treasury List of Acceptable Sureties, authorized to issue surety bonds in Florida, and which maintains a surety rating of "A-" or better. A complete copy of the fully executed Payment Bond shall be posted in a conspicuous place at the Project site. If the Surety on any Bond furnished by the CONTRACTOR is declared bankrupt, becomes insolvent, its authorization to do business in the State of Florida is terminated, it ceases to be listed on the United States Department of Treasury List of Acceptable Sureties, or its surety rating ceases to be an "A-" or better, the CONTRACTOR shall within 5 (five) days thereafter substitute another Payment Bond, Performance Bond, and Surety, each of which shall be in accordance with the Contract Documents and acceptable to the COUNTY. An action to enforce any claim against a payment bond must be brought within one year from the last furnishing of labor, services, or materials, or as otherwise stated in §95.11 (5)(e), Florida Statutes. An action to enforce any claim against a performance bond must be brought within five years in accordance with §95.11(2)(b), Florida Statutes, and applicable case law.

18.2 Insurance

- A. **Certificate of Insurance.** One certified true copy of the policy or policies must be furnished by the CONTRACTOR to the COUNTY prior to commencement of any demolition, Site Work, Site preparation or construction Work. The Certificate(s) of Insurance must state Martin County and its Board of County Commissioners as an Additional Insured on all policies except the Workers Compensation. The statement "Additional Insured" is to be listed in the Description

Block of the Insurance Certificate along with the Project name. The indication that Martin County Board of County Commissioners is a Certificate Holder is not sufficient for this issue. The Additional Insured endorsement must be attached to the Certificate of Insurance and shall include coverage for Completed Operations under the General Liability policy.

- B. General Insurance Requirements. The CONTRACTOR and, where designated, each of its subcontractors and sub-subcontractors shall obtain and maintain during the full duration of the Work required under this Agreement, and through any period of limitation allowed by law for actions for personal injury, bodily injury, disease, death, property damages and other losses or damages required to be insured hereunder, the following insurance coverages, in the type, amounts, terms and in conformance with the following minimum requirements.

(i) All policies and endorsements shall be issued on Insurance Service Office (ISO) forms or on forms providing broader and no less restrictive coverage. Notwithstanding the foregoing, the form and content of all policies and endorsements must be acceptable to the COUNTY. All insurance carriers must carry an A.M. Best Rating of A:IX or better and coverage should apply on a Primary and Noncontributory basis. At the discretion of the COUNTY, other coverage types and /or specific endorsements may be required depending upon the type and scope of work to be performed. All insurance must be acceptable by and approved by the COUNTY as to form and types of coverage.

(ii) The policy(s) shall provide for 30 (thirty) days prior written notice to the COUNTY, by registered or certified mail, if cancellation or any change that will reduce the coverages required herein.

(iii) The policy(s) shall be written for the Contract Times, commencing with the initial demolition, Site Work and/or Site preparation, and ending at the Final Completion and shall contain an endorsement providing for extension of the policy(s) for up to 2 (two) years. The Products and Completed Operations portions of the General Liability shall extend for a period of 10 (ten) years after the Final Acceptance of the Project by the COUNTY and shall include an "Additional Insured" endorsement.

(iv) All liability policies required herein shall be written on an occurrence basis

(v) The policies shall name the COUNTY, its commissioners and staff as additional insured (including Completed Operations coverage under the General Liability) as their interest may appear under this Agreement.

(vi) All insurers shall agree to waive all rights of subrogation against the COUNTY and each individual member of COUNTY's Board of County Commissioners, Constitutional Officers, or staff.

(vii) It is the responsibility of the CONTRACTOR to ensure any independent contractors and subcontractors utilized on the project also comply with these insurance requirements.

- C. Premiums. The CONTRACTOR shall be solely responsible for payment of all premiums for insurance required under this Agreement and shall be solely responsible for the payment of all deductibles to which such policies are subject.

- D. Specific Insurance Limits

- (i) Workers' Compensation. The CONTRACTOR shall carry Workers' Compensation insurance on behalf of all employees who are required to provide a service under this Agreement, as required by Chapter 440, Florida Statutes, and Employers Liability of limits no less than:

\$ 500,000	each accident
\$ 500,000	disease - policy limit
\$ 500,000	each employee

Should the scope of work performed by the CONTRACTOR qualify its employees for benefits under Federal the Worker's Compensation Statute (i.e. Longshoreman & Harbor the Workers Act or Merchant Marine Act), proof of appropriate Federal Act coverage must be provided.

- (ii) Commercial General Liability, with limits of not less than:

\$ 1,000,000	each occurrence
\$ 1,000,000	personal/advertising injury
\$ 2,000,000	products/completed operations (per project aggregate)
\$ 2,000,000	general aggregate (per project aggregate)
\$ 100,000	fire damage legal (any 1 fire)
\$ 10,000	medical expense (any 1 person)

Coverage to include include bodily injury, property damage liability, personal and advertising injury, products and completed operations, fire damage legal liability and medical expense coverage. Contractual Liability is to be included to cover the hold harmless agreement set forth in the Agreement. Coverage is to extend to independent contractors and fellow employees. XCU coverage is to be included. Coverage is to include a cross liability or severability of interest provision as provided under the standard ISO form separation of insureds clause. There should be no "damage to your work" exclusion for work performed by subcontractors. Policy is to include coverage for pollution release at project location in which the insured is performing non-environmental operations. There shall be no exclusion for mold, silica or respirable dust or bodily injury or property damage arising out of heat, smoke, fumes or ash from a hostile fire. If the project involves environmental exposures, Environmental Impairment Liability coverage shall be maintained.

- (iii) Automobile Liability - \$1,000,000 (one million dollars) Combined Single Limit coverage for all owned, hired, leased and non-owned vehicles.

- (iv) Umbrella Liability - to include the Employers Liability, general liability and automobile in underlying policy schedule, with limits of not less than \$1,000,000 (one million dollars).

- (v) Hazardous Material - if the Work being performed involves hazardous materials, the need to procure appropriate insurance coverage will be addressed in a modification to the Agreement. However, if hazardous materials are identified while carrying out this Agreement, no further the Work is to be performed in the area of the hazardous material until the COUNTY has been consulted as to the need to procure and maintain such coverage.

- E. Waiver of Subrogation. The CONTRACTOR hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then the CONTRACTOR shall

agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent.

ARTICLE 19

PERFORMANCE GUARANTEE AND WARRANTY

19.1 All materials and equipment incorporated into any Work shall be warrantied and guaranteed as new quality and of the highest grade of quality for their intended use. All Work shall be performed in good workmanship and shall be in accordance with all Contract Documents and industry standards. The Work shall be functionally sound, technically proficient, developed with structural integrity, and shall be in compliance with all governing laws, regulations, and applicable codes. The CONTRACTOR warrants all Work against defects for a period of 1 (one) year (unless longer guarantees or warranties are provided for elsewhere in the Agreement or at law, in which case the longer periods of time shall prevail) from the date of Substantial Completion, regardless of whether the Work was performed by the CONTRACTOR or any of its subcontractors.

19.2 If defects are identified during the warranty period, the CONTRACTOR shall repair or replace the defect and cure such defect within 48 (forty-eight) hours of receipt of written notice. The CONTRACTOR warrants such repaired or replaced Work for a period of 1 (one) year from the completion of the warranty work or the warranty period specified, whichever is longer. Should the CONTRACTOR fail to timely cure such defects, the COUNTY may proceed to perform the work at the CONTRACTOR's expense and may back charge the CONTRACTOR for all costs associated with the work.

19.3 The CONTRACTOR agrees to require that all of its subcontractors, suppliers, and materialmen provide warranties in their agreements at least sufficient to satisfy the CONTRACTOR's obligations in this Agreement and the CONTRACTOR shall assign all such warranties to the COUNTY as a condition precedent to the receipt of Final Payment. The CONTRACTOR agrees to defend and indemnify the COUNTY against all fees and costs should the CONTRACTOR fail to obtain the warranty protections required herein.

19.4 For all equipment that has a manufacturer's warranty, the CONTRACTOR shall assign such warranty to the COUNTY. The manufacturer's warranty period shall be concurrent with the CONTRACTOR's warranty to the COUNTY. In the event that the equipment manufacturer or supplier is unwilling to provide such a warranty, the CONTRACTOR shall obtain a 2 (two) year equipment warranty commencing at the time of acceptance of the equipment by the COUNTY.

ARTICLE 20

SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

20.1 Documents and Samples at the Site. From and after commencement of the Construction of the Work, the CONTRACTOR shall maintain at the site one record copy of the Construction Documents and any and all amendments thereto, in good order and marked, to record changes to the Contract Documents as approved during the construction of the Project. In addition, the CONTRACTOR shall maintain at the site approved shop drawings, product data, samples, and similar required submittals. These shall be provided to the COUNTY upon completion of the Work.

20.2 Shop Drawings, Product Data and Samples.

- A. Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate, for those portions of the Work for which submittals are required, the way the CONTRACTOR proposes to conform the construction to the Contract Documents.
- B. The CONTRACTOR shall review and take appropriate action upon Shop Drawings, Product Data, Samples, and similar submittals. The COUNTY shall review Shop Drawings, Product Data, Samples, and similar submittals for compliance with the Design Documents and shall provide comments, if any, within 15 (fifteen) days of receiving such documents.
- C. The CONTRACTOR shall not be relieved of responsibility for the deviations from requirements of the Contract Documents by the COUNTY's approval of Shop Drawings, Product Data, Samples, or similar submittals unless the CONTRACTOR has specifically informed the COUNTY of such deviation at the time of the submittal and the COUNTY has given written approval to the specific deviation. The CONTRACTOR shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals to the COUNTY for approval thereof.

ARTICLE 21

SAFETY

21.1 The CONTRACTOR shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The CONTRACTOR shall take all precautions and follow all procedures for the safety of, and shall provide all protection to prevent injury to, all persons involved in any way in the Work and all other persons, including, without limitation, the employees, agents, guests, visitors, invitees and licensees of the COUNTY and users who may be affected thereby.

21.2 All the Work, whether performed by the CONTRACTOR, its subcontractors, or anyone directly or indirectly employed by any of them, and all equipment, appliance, machinery, materials, tools and like items incorporated or used in the Work, shall be in compliance with, and conform to:

1. all applicable laws, ordinances, rules, regulations and orders of any public, quasi-public or other authority relating to the safety of persons and their protection against injury, specifically including, but in no event limited to, the Federal Occupational Safety and Health Act of 1970 and the Trench Safety Act, as amended and all state, Martin County and, where the Project is located in a municipality, municipal, rules and regulations now or hereinafter in effect; and

2. all codes, rules, regulations and requirements of the COUNTY and its insurance carriers relating thereto. In the event of conflicting requirements, the more stringent shall govern.

21.3 Should the CONTRACTOR fail to provide a safe area for the performance of the Work or any portion thereof, the COUNTY shall have the right, but not the obligation, to suspend Work in the unsafe area. All costs of any nature resulting from the suspension, by whomsoever incurred, shall be borne by the CONTRACTOR.

21.4 The CONTRACTOR shall provide, or cause to be provided, to each worker on the Work site the proper safety equipment for the duties being performed by that worker and will not permit any worker on the Work site who fails or refuses to use the same. The COUNTY shall have the right, but not the obligation,

to order the CONTRACTOR to send a worker home for the day or to discharge a worker for his or her failure to comply with safe practices, with which order the CONTRACTOR shall promptly comply.

21.5 Emergencies. In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the COUNTY, is obligated to act, at its discretion, to prevent threatened damage, injury or loss. If the CONTRACTOR believes that additional Work done by it in an emergency which arose from causes beyond its control entitles it to an increase in the Contract Price or an extension of the Contract Time, it may make a claim therefore as provided in the Contract Documents.

ARTICLE 22

PROTECTION OF WORK AND PROPERTY

22.1 The CONTRACTOR: (A) shall, throughout the performance of the Agreement, maintain adequate and continuous protection of all completed Work and temporary facilities against loss or damage from whatever cause; (B) shall protect the property of the COUNTY and third parties from loss or damage from whatever cause arising out of the performance of the Agreement; and (C) shall comply with the requirements of the COUNTY and its insurance carriers and with all applicable laws, codes, rules and regulations with respect to the prevention of loss or damage to the property. The COUNTY, its insurance carriers or representatives, may, but shall not be required to, make periodic patrols of the Work site as a part of its normal safety, loss control, and security programs. In such event, however, the CONTRACTOR shall not be relieved of its aforesaid responsibilities and the COUNTY shall not assume, nor shall it be deemed to have assumed, any responsibility otherwise imposed upon the CONTRACTOR by this Agreement.

22.2 Before the CONTRACTOR disposes of any existing improvements or equipment which are to be removed as a portion of the Work, and for which disposition is not specifically provided for elsewhere in the Contract Documents, CONTRACTOR shall contact the COUNTY and determine if the removal items are to be salvaged. Items to be salvaged by the COUNTY shall be neatly stockpiled or stored in a neat and acceptable manner at the construction site easily accessible to the COUNTY. Equipment and materials which will not be salvaged by the COUNTY shall become the property of the CONTRACTOR to be removed from the site and disposed of in an acceptable manner. To the extent CONTRACTOR intends to temporarily store materials at a site near or adjacent to the Project site prior to ultimate removal or disposal, CONTRACTOR must first obtain written authorization from the COUNTY, as well as, the property owner.

22.3 Preservation of Trees. Those trees which are designated on the Drawings for preservation shall be carefully protected from damage. The CONTRACTOR shall erect and maintain such protections such as barricades, guards, and enclosures as is necessary for the protection of the trees during all construction operations. CONTRACTOR shall replace any and all trees damaged during construction activities (other than trees specified to be removed) at no expense to the COUNTY.

22.4 Preservation of Private Property. The CONTRACTOR shall exercise extreme care to avoid unnecessary disturbance of private property as applicable. Trees, shrubbery, gardens, lawn and other landscaping that must be removed shall be replaced and replanted to restore the construction easement to the condition existing prior to construction. All soil preparation procedures and replanting operations shall be under the supervision of a nurseryman experienced in such operations. Any vegetation requiring relocation, temporary or otherwise, which is damaged or destroyed, shall be replaced at no cost to the

COUNTY. CONTRACTOR shall replace any and all such vegetation damaged during construction activities (other than vegetation specified to be removed) at no expense to the COUNTY.

22.5 Until final acceptance of the Work by the COUNTY pursuant to this Contract, the CONTRACTOR shall have full and complete charge and care of and, except as otherwise provided in this subparagraph, shall bear all risk of loss of, and injury or damage to, the Work or any portion thereof (specifically including COUNTY -furnished supplies, equipment or other items to be utilized in connection with, or incorporated in, the Work) from any cause whatsoever.

22.6 Existing manholes, fire alarms, etc., shall not be obstructed by CONTRACTOR, unless called for in the Contract Documents. CONTRACTOR is to make no connections to or operate valves on water mains or otherwise interfere with the operation of the water system, without first giving written approval from the appropriate governmental entity.

ARTICLE 23 TESTS AND INSPECTIONS

23.1 If any Work (including the work of others) that is to be inspected, tested, or approved is covered without written concurrence of the COUNTY, it must be uncovered for observation if requested by the COUNTY. Such uncovering shall be at the CONTRACTOR's expense.

23.2 The CONTRACTOR shall be liable for any additional testing or inspections necessitated by defective work performed or materials supplied by the CONTRACTOR or by any of its subcontractors or vendors of any tier.

ARTICLE 24 UTILITY COORDINATION

24.1 The CONTRACTOR shall be responsible for making all necessary arrangements with governmental departments, public utilities, public carriers, service companies and corporations owning or controlling roadways, railways, water, sewer, gas, electrical, cable television, telephone, and telegraph facilities such as pavements, tracks, piping, wires, cables, conduits, poles, guys, etc., including incidental structures connected therewith, that are encountered in the Work in order that such items may be properly shored, supported and protected, or the CONTRACTOR shall be solely responsible for coordinating their relocation. The CONTRACTOR shall give all proper notices, shall comply with requirements of such parties in the performance of its Work, shall permit entrance of such parties on the Work site in order that they may perform their necessary Work, and shall pay all charges and fees made by such parties for this Work. The CONTRACTOR'S attention is called to the fact that there may be delays on the Project due to Work to be done by governmental departments, public utilities, and others in repairing or moving poles, conduits, etc. The CONTRACTOR shall cooperate with the above parties, in every way possible, so that the construction can be completed in the least possible time.

24.2 At all points where the Work constructed by CONTRACTOR connects to existing utilities and services, the actual Work of making the necessary connection to the existing service or utility shall be arranged for by CONTRACTOR at no expense to COUNTY (unless specifically indicated otherwise). Services and utilities included within (but not limited to) this responsibility are roads, ditches, electrical, sewer, mechanical utilities, water, fencing, etc. Connections shall be made at a time that will result in the least possible interference with existing services.

24.3 FPL calls attention to the fact that there may be energized, high voltage electric lines, both overhead and underground, located in the area of this Project. The CONTRACTOR must visually survey the area and take the necessary steps to identify all overhead and underground facilities prior to commencing construction to determine whether the construction of any proposed improvements will bring any person, tool, machinery, equipment, or object closer to FPL's power lines than the OSHA-prescribed limits. If the CONTRACTOR identifies such, it shall re-design the Project to allow for safe construction given the pre-existing power line location, or make arrangements with FPL to, either deenergize and ground its facilities, or relocate them. The CONTRACTOR must do this before allowing any construction near power lines. If it is necessary for the CONTRACTOR and/or subcontractor to operate or handle cranes, digging apparatus, draglines, mobile equipment, or any other equipment, tools or materials in such a manner that they might come closer to underground or overhead power lines than is permitted by local, state or federal regulations, the CONTRACTOR or subcontractor must notify FPL in writing of such planned operation prior to the commencement thereof and make all necessary arrangements with FPL in order to carry out the work in a safe manner. Any work in the vicinity of the electric lines should be suspended until these arrangements are finalized and implemented. The CONTRACTOR shall be required to complete a "Notification of FPL Facilities" form prior to the commencement of the Work.

ARTICLE 25 HAZARDOUS MATERIALS

CONTRACTOR shall obtain all required Federal, State and local permits and licenses and shall be responsible for the safe and proper handling, transporting, storage and use of any explosive or hazardous materials brought onto or encountered within the site, and at its expense, make good any damage caused by its handling, transporting, storage and use. The CONTRACTOR will notify the COUNTY immediately if explosive or hazardous materials are encountered on the Project site. Transporting explosive or hazardous materials onto the site will require prior written approval from the COUNTY. CONTRACTOR shall maintain and post as necessary Material Hazard Data Sheets for all applicable Hazardous Materials used in the course of its work. In the event that hazardous material is improperly handled or stored by the CONTRACTOR, its subcontractors, any sub-subcontractors, or any employee or agent of any of the aforementioned which results in contamination of the site, CONTRACTOR shall immediately notify the COUNTY and the appropriate governmental authority and shall take whatever action is necessary or desirable to remediate the contamination at the CONTRACTOR'S sole cost and expense.

ARTICLE 26 AUDIT

The CONTRACTOR agrees that the COUNTY, or any of its duly authorized representatives, shall have access to and the right to examine any and all books, documents, papers, and records of the CONTRACTOR, and may at its option conduct an audit of the CONTRACTOR's financial books and records concerning this the Project. The CONTRACTOR agrees that payment(s) made under this Agreement shall be subject to reduction for amounts charged thereto, which are found on the basis of audit examination, to constitute non-allowable costs under this Agreement. The CONTRACTOR shall promptly refund by check payable to the COUNTY the amount of such reduction of payments. All required records shall be maintained until the latter of the completion of the audit and all questions arising therefore are resolved, or six (6) years after completion of the Work and issuance of the Final Payment.

ARTICLE 27 PUBLIC RECORDS

27.1 The CONTRACTOR shall comply with the provisions of Chapter 119, Fla. Stat. (Public Records Law), in connection with this Agreement and shall provide access to public records in accordance with §119.0701, Fla. Stat. and more specifically Contractor shall:

27.1.1 Keep and maintain public records required by the County to perform the Agreement.

27.1.2. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Fla. Stat. or as otherwise provided by law.

27.1.3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the CONTRACTOR does not transfer the records to the County.

27.1.4. Upon completion of the Agreement, transfer, at no cost, to the County all public records in possession of the CONTRACTOR or keep and maintain public records required by the County to perform the Agreement. If the CONTRACTOR transfers all public records to the County upon completion of the Agreement, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the Agreement, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

27.2 IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (772) 419-6959, public_records@martin.fl.us, 2401 SE MONTEREY ROAD, STUART, FL 34996.

27.3 Failure to comply with the requirements of this Article shall be deemed a default as defined under the terms of this Agreement and constitute grounds for termination.

ARTICLE 28 ASSIGNMENT

28.1 The COUNTY and the CONTRACTOR each binds itself, its officers, directors, qualifying agents, partners, successors, assigns, and legal representatives to the other party hereto and to the partners, successors, assigns, and legal representatives of such other party in respect to all covenants, agreements, and obligations contained in the Agreement.

28.2 CONTRACTOR shall not assign, transfer, convey or otherwise dispose of the contract or its right,

title or interest in or to the same or any part thereof, or allow legal action to be brought in its name for the benefit of others, without previous written consent of the COUNTY and sureties.

28.3 If for any reason the COUNTY terminates its agreement with the CONTRACTOR, the CONTRACTOR hereby assigns this Agreement to the COUNTY. CONTRACTOR shall include in each of its subcontracts language that requires its Subcontractors to agree to such assignment and to perform their responsibilities and to fully complete the work required by this Contract directly for the COUNTY.

ARTICLE 29 ATTORNEY'S FEES AND COSTS

29.1 In the event the CONTRACTOR defaults in the performance of any of the terms, covenants, and conditions of this Agreement, the CONTRACTOR agrees to pay all damages and costs incurred by the COUNTY in the enforcement of this Agreement, including reasonable attorney's fees, expert fees, court costs, and all expenses, including but not limited to any costs from any state court or federal court proceedings, whether in a trial court or in an appellate court.

29.2 Except as otherwise provided in this Agreement, the parties expressly agree that each party will bear its own attorney's fees and court costs incurred in connection with this Agreement.

ARTICLE 30 NOTICES

Whenever either party desires to give notice to the other, such notice must be in writing in at least one of the following methods:

- (a) Certified United States Mail, postage prepaid, return receipt requested; or
- (b) Overnight courier, such as by FedEx or UPS, with a request for receipt acknowledgment; or
- (c) Hand-delivery to a person authorized to accept delivery of notice with a request for a receipt acknowledgment; or
- (d) Email if and only if agreed to in advance by COUNTY and CONTRACTOR in writing specifying the email addresses, and if so agreed, the email shall a request receipt acknowledgement.

The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

FOR COUNTY:

Martin County Purchasing Division
2401 SE Monterey Rd.
Stuart, FL 34996

WITH A COPY TO:

County Attorney

Martin County
2401 SE Monterey Rd.
Stuart, FL 34996

FOR CONTRACTOR:

Ferreira Construction Southern Division Co., Inc.
13000 SE Flora Ave.
Hobe Sound, Florida 33455

CONTRACTOR shall be required to notify the County, in writing, whenever there is a change in the address of CONTRACTOR (to the place) for which notice is to be sent (giving notice), as required in this section. In the event CONTRACTOR fails to maintain a current address on record with the County as required herein, County shall be deemed to have notified CONTRACTOR by using the last known address on record and County shall not have any responsibility or obligation to investigate the validity of the address that CONTRACTOR has provided. As a result, CONTRACTOR agrees to hold County harmless and defend same for any action or occurrence or non-occurrence as a result of CONTRACTOR not receiving notice due to CONTRACTOR's failure to update its address for notification.

All notices sent in accordance with this section shall be deemed to be effective upon receipt or refusal of same unless otherwise expressly provided in this Agreement.

**ARTICLE 31
RESOLUTION OF CLAIMS AND DISPUTES**

31.1 As a condition precedent to the filing of any legal proceedings, the parties shall endeavor to resolve claim disputes or other matters in question by mediation. Mediation shall be initiated by any party by serving a written request for same on the other party. The party shall, by mutual agreement, select a mediator within 15 (fifteen) days of the date of the request for mediation. If the parties cannot agree on the selection of a mediator then the COUNTY shall select the mediator, who, if selected solely by the COUNTY, shall be a mediator certified by the Supreme Court of Florida. The mediator's fee shall be paid in equal shares by each party to the mediator. If a party fails to comply with this section, including, but not limited to, filing a lawsuit without mediating before filing the lawsuit, the party in violation shall be liable for the reasonable attorneys' fees and costs of the other party in enforcing this provision, and such amounts shall be awarded by the Court.

31.2 Law, Jurisdiction, Venue, Waiver of Jury Trial. This agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Nineteenth Judicial Circuit in and for Martin County, Florida. If any claim arising from, related to or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. BY ENTERING INTO THIS AGREEMENT, THE PARTIES HERETO EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO AN ADVISORY JURY. If a party fails to withdraw a request for jury trial or for an advisory jury in a lawsuit arising out of this agreement after written notice by the other party of a violation of this section, the party making the request for jury trial or advisory jury shall be liable for the reasonable attorneys' fees and court costs of the other party in contesting the request for jury trial or advisory jury, and such amounts shall be awarded by the Court in adjudicating the motion.

31.3 Certified claims. If CONTRACTOR submits a claim seeking an increase in the Contract Price in the amount of ten percent (10%) or more of the Contract Price, an increase in the Contract Time for substantial or final completion by more than thirty (30) days, or both, upon the request of the COUNTY in its sole discretion, CONTRACTOR shall, within thirty (30) days, submit to COUNTY a “certified claim,” that is, a claim made in writing under oath by a person duly authorized by the CONTRACTOR, and shall contain a statement that:

- (i) The claim is made in good faith;
- (ii) The claim's supporting data are accurate and complete to the best of the person's knowledge and belief;
- (iii) The amount of the claim accurately reflects the amount that the claimant believes is due from the COUNTY; and
- (iv) The certifying person is duly authorized by the claimant to certify the claim.

FAILURE TO PROVIDE THE REQUESTED CERTIFICATION WITHIN THE PRESCRIBED PERIOD OF THIRTY (30) DAYS SHALL CONSTITUTE A FORFEITURE OF THE ENTIRE CLAIM.

31.4 False, fraudulent, or inflated claim. If a court finds a certified claim is false, fraudulent, or inflated, whether in whole or in part, CONTRACTOR shall:

- (i) Be liable to the COUNTY for an amount equal to three (3) times the amount of the claim that is false, fraudulent, or inflated;
- (ii) Immediately, fully, and irrevocably forfeit the entire amount of the claim;
- (iii) Be liable to the COUNTY for all costs and fees (including, without limitation, reasonable attorneys’ fees, court costs, expert fees, and consulting fees) incurred by the COUNTY to review, defend, and evaluate the claim; and
- (iv) Be subject to debarment from COUNTY contracting for a period not to exceed five (5) years.

31.5 Innocent claimant, notice. Notwithstanding the foregoing, CONTRACTOR is an innocent claimant and not liable for a false, fraudulent, or inflated claim if CONTRACTOR submitted a certified claim to the COUNTY reasonably believing that such claim was free of any material misstatements, or any exaggerated, inflated, or unsubstantiated assertions or damages and had no reasonable basis to doubt the truth, veracity, or accuracy of such claim at the time it was submitted, and within fifteen (15) days of discovering the falsity of the claim, took immediate steps to modify, correct, or withdraw such claim and provided the COUNTY with immediate written notice thereof.

ARTICLE 32 MISCELLANEOUS

32.1 Taxes. The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The CONTRACTOR shall not be exempt from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the CONTRACTOR authorized to use the COUNTY'S Tax Exemption Number in securing such materials. The CONTRACTOR shall be responsible for payment

of all federal, state, and local taxes and fees applicable to the Work and same shall be included in the Contract Price.

32.2 Pledge of Credit. The CONTRACTOR shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any Agreement, debt, obligation, judgment, lien or any form of indebtedness. The CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of the Agreement.

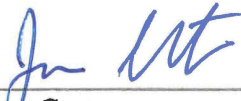
32.3 Entirety of Agreement. All prior and contemporaneous negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein are merged into this Agreement. No modification, amendment or alteration of this Agreement may be made unless made in writing pursuant to the terms of this Agreement.

32.4 Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, then the remaining provisions survive and are fully binding and enforceable.

32.5 Copies. Multiple copies of this Agreement may be fully executed by all parties, each of which shall be deemed to be an original. Faxed, photostatic, or electronically scanned copies of the fully executed Agreement shall be as effective and authentic as the original for any purpose including but not limited to the enforcement of any provision of this Agreement.

IN WITNESS WHEREOF, the COUNTY and the CONTRACTOR have executed this Agreement as of the date first above written.

REVIEWED BY


James Gorton
Public Works Director

**BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA**


Don G. Donaldson, P.E.
Deputy County Administrator

**FERREIRA CONSTRUCTION
SOUTHERN DIVISION CO., INC.**


John Ciabattari
Vice President

**APPROVED AS TO FORM & LEGAL
SUFFICIENCY**


Sarah W. Woods
County Attorney

EXHIBIT A

SCOPE OF SERVICES

A continuing services contract to provide all labor, materials, equipment and services necessary for countywide miscellaneous roadway construction/maintenance projects, miscellaneous drainage construction/maintenance projects, stormwater management facility construction & maintenance activities, trailhead area construction projects, parks facility site construction, and other miscellaneous construction projects as needed.

Liquidated damages shall be determined on a project-by-project basis and identified in the Work Order.

It is the County's intent to award five (5) or more contracts. Proposals shall be requested on a project-by-project basis, based on lowest unit prices and Contractor availability and a Purchase Order sent to the Contractor before any work begins. Items incidental to the project but not included in the attached bid schedule shall be allowed under this contract.

Work Orders \$200,000 or greater (or otherwise indicated)

Payment & Performance Bonds shall be required for all Work Orders \$200,000 or greater (or otherwise indicated) and shall be recorded in the public records of Martin County. A certified copy of completed and recorded bonds must be delivered to and accepted by the County (Attn: Purchasing Division / pur_div@martin.fl.us) prior to commencement of the Work. Bond premiums shall be paid by Contractor. Bonds shall be on the form provided by the County and written through a licensed agency that fulfills the requirements of §287.0935, Fla. Stat.

CONTRACT

The Term of the Contract shall be for a period of three (3) years provided both parties are in agreement and there are no changes to the terms and conditions. Price escalations will be considered at the end of each year and must be documented with written verifications of industry price increases. The County shall reserve the right to terminate the Contract in accordance with the provisions under the Terms & Conditions herein. The contract may be renewed for two (2) additional 1-year terms, at the County's sole discretion, for a total maximum term of five (5) years. The awardee agrees to this condition by signing their bid.

The maximum total value of this contract shall not exceed \$30,000,000 to all vendors over a maximum five (5) year period.

Martin County will not be held to any minimum/maximum quantities or dollars during the term of Contract.

BID FORM NOTES

1. Pay items: pay items to include any costs for administrative, supervision, mobilization, maintenance of traffic, debris removal, pollution, control/abatement and other incidentals necessary for complete installation of each item. Asphalt prices to be FDOT approved design mix, plant mix, in place. These prices are for various projects located within Martin County having normal accessibility.
2. Exfiltration Trench / French Drain pay items are per Standard Plans for Road Construction Index No. 443-001 and shall include all excavation, filter fabric, #4 stone, and pipe.

3. Standard Specifications: unless otherwise specifically noted for a pay item, the governing specifications for this agreement are the latest edition of the FDOT's Standard Plans for Road and Bridge Construction (latest edition).
4. Survey monuments: Permanent county reference points or any other survey monuments public or private damaged during prosecution of the work shall be re-established by a licensed Florida professional land surveyor at Contractor's expense prior to final payment to the Contractor.
5. Pipe joints: all pipe joints shall be wrapped in filter fabric for a minimum of twenty-four (24") inches from the band or joint or bell/spigot as applicable. All pipe joints are to be inspected by County authorized inspectors prior to backfill.
6. Structures: Catch Basins / Manholes – all collars and added sections shall have peel & stick covering joints (overlapping 1' on each side).
7. Maintenance of Traffic: Contractor shall comply with all municipal, county, state and federal laws and regulations in the use of streets and highways for protection of work and public safety. Maintenance of Traffic shall be in accordance with the most restrictive guidelines of the FDOT Standard Plans Index (102-600 thru 102-670), formerly known as the FDOT Design Standards Index (600 series), and the Manual on Uniform Traffic Control Devices (MUTCD) (latest edition). Contractor shall supply a Maintenance of Traffic plan via submittal prior to commencement of work activity as required in section 7.2 or as requested by the Engineer.
8. Material certifications: submittals/Shop Drawings for all proposed materials shall be submitted and approved by the County prior to installation.
9. Payment: verifying contract compliance and release of liens from sub-contractors and material suppliers must be submitted prior to or with the pay request.

PROPOSED PROJECTS:

The following is a list of proposed roadway, drainage, and park capital improvement projects in the next five (5) fiscal years. They are not necessarily in order of work assignment. The actual neighborhood restoration projects contained in this list will be determined by the availability of funds.

Other assignments with a value of less than \$300,000 not listed below may also be conducted under this contract.

Neighborhood Restoration project scope includes, but is not limited to, the replacement of drainage structures, regrading of drainage swales, installation of sewer force main, pavement milling and resurfacing, signage, and replacement of sidewalk and other ancillary items within the neighborhood.

PROJECT NAME	ESTIMATED COST
Beau Rivage Neighborhood Improvements	\$1,600,000
Coral Gardens Neighborhood Restoration	\$1,449,000
Dixie Park Neighborhood Restoration	\$1,184,000
Hobe Hills Neighborhood Restoration	\$1,630,000
Jensen Beach Neighborhood Restoration (Phase II)	\$1,896,000
Leilani Heights Neighborhood Restoration	\$1,492,000
New Monrovia/Cove Ridge Neighborhood Restoration	\$1,523,000
Old Palm City North Neighborhood Restoration	\$1,489,000
Golden Gate Neighborhood Restoration – Phase III Improvements	\$500,000
Savannah Road Sidewalks & Intersection Modifications	\$950,000
Shell Avenue Realignment	\$700,000
South Fork Neighborhood Restoration	\$1,710,000
SPS/Manatee Business Park Restoration	\$1,454,000
Tropic Vista Neighborhood Restoration	\$1,502,000
Zeus Park Neighborhood Restoration	\$1,794,000
Port Salerno Peninsula Neighborhood Improvements	\$1,189,000
SW Cargo Way Extension	\$700,000
Citrus Grove Park Field Expansion	\$1,200,000
Charlie Leighton Park Renovation	\$1,500,000
Citrus Grove Park Field Expansion	\$1,200,000
Pineapple Park Master Plan Improvements	\$600,000
Timer Powers Park Master Plan Improvements	\$600,000
Justin Wilson Master Plan Improvements	\$600,000
IRSP Mansion/Sailing Center Parking Lot	\$650,000
Langford Park Improvements & Sewer Connection	\$600,000
Indian Riverside Park North Parking Lot Expansion	\$1,100,000

EXHIBIT B

SAMPLE WORK ORDER



RFB#

INFRASTRUCTURE CONSTRUCTION & MAINTENANCE

WORK ORDER NO. _____

Pursuant to that certain Contract (“**Contract**”) between Martin County (“**County**”) and _____ (“**Contractor**”) dated _____, **Contractor** hereby agrees to provide the services specified on Exhibit “A”, under the terms and conditions and at a cost of \$_____ all as more specifically described in Exhibit “A”, attached hereto and incorporated by this reference. The terms of the **Contract** shall be deemed to be incorporated in each individual Work Order as if fully set forth herein.

Substantial Completion Time: _____ calendar days

Final Completion Time: _____ calendar days

Liquidated Damages: \$_____ per day

IN WITNESS WHEREOF, the **County** and the **Contractor** have executed this Work Order effective this _____ day of _____ 20_____.

(CONTRACTOR NAME)

**BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA**

(Name)
(Title)

Department Director Name
Title

Work orders \$200,000 or greater (or otherwise indicated)

Payment & Performance Bonds shall be recorded in the public records of Martin County. **A certified copy of completed and recorded bonds must be delivered to and accepted by the County (Attn: Purchasing Division / pur_div@martin.fl.us) prior to commencement of the Work.** Bond premiums shall be paid by Contractor. Bonds shall be on the form provided by the County and written through a licensed agency that fulfills the requirements of §287.0935, Fla. Stat.

EXHIBIT C

RFB2021-3313 INFRASTRUCTURE CONSTRUCTION & MAINTENANCE (ADDENDUM #4)

ITEM NO.	DESCRIPTION	EST QTY	UNIT	UNIT PRICE	TOTAL
MATERIALS (FURNISH & INSTALL)					
1	12" x 18" Elliptical RCP	1,000	LF	\$ 61.65	\$ 61,650.00
2	14" x 23" Elliptical RCP	500	LF	\$ 68.95	\$ 34,475.00
3	19" x 30" Elliptical RCP	200	LF	\$ 90.75	\$ 18,150.00
4	24" x 38" Elliptical RCP	200	LF	\$ 116.90	\$ 23,380.00
5	29" x 45" Elliptical RCP	100	LF	\$ 169.65	\$ 16,965.00
6	34" x 53" Elliptical RCP	100	LF	\$ 221.60	\$ 22,160.00
7	38" x 60" Elliptical RCP	100	LF	\$ 257.10	\$ 25,710.00
8	Mitered End Section (12" x 18" Elliptical RCP)	20	EA	\$ 1,982.05	\$ 39,641.00
9	Mitered End Section (14" x 23" Elliptical RCP)	16	EA	\$ 2,042.10	\$ 32,673.60
10	Mitered End Section (19" x 30" Elliptical RCP)	6	EA	\$ 2,172.15	\$ 13,032.90
11	Mitered End Section (24" x 38" Elliptical RCP)	6	EA	\$ 2,342.20	\$ 14,053.20
12	Mitered End Section (29" x 45" Elliptical RCP)	6	EA	\$ 3,772.90	\$ 22,637.40
13	Mitered End Section (34" x 53" Elliptical RCP)	2	EA	\$ 4,323.20	\$ 8,646.40
14	Mitered End Section (38" x 60" Elliptical RCP)	2	EA	\$ 4,873.45	\$ 9,746.90
15	15" RCP	1,000	LF	\$ 49.95	\$ 49,950.00
16	18" RCP	1,000	LF	\$ 56.70	\$ 56,700.00
17	24" RCP	1,000	LF	\$ 69.70	\$ 69,700.00
18	30" RCP	100	LF	\$ 98.75	\$ 9,875.00
19	36" RCP	200	LF	\$ 127.20	\$ 25,440.00
20	48" RCP	200	LF	\$ 177.50	\$ 35,500.00
21	54" RCP	100	LF	\$ 226.10	\$ 22,610.00
22	60" RCP	100	LF	\$ 293.45	\$ 29,345.00
23	66" RCP	100	LF	\$ 344.55	\$ 34,455.00
24	72" RCP	100	LF	\$ 453.60	\$ 45,360.00
25	78" RCP	100	LF	\$ 640.95	\$ 64,095.00
26	84" RCP	100	LF	\$ 640.95	\$ 64,095.00
27	Mitered End Section (15" RCP)	30	EA	\$ 1,902.00	\$ 57,060.00
28	Mitered End Section (18" RCP)	30	EA	\$ 2,065.30	\$ 61,959.00
29	Mitered End Section (24" RCP)	30	EA	\$ 2,365.35	\$ 70,960.50
30	Mitered End Section (30" RCP)	8	EA	\$ 3,468.50	\$ 27,748.00
31	Mitered End Section (36" RCP)	10	EA	\$ 3,149.05	\$ 31,490.50
32	Mitered End Section (48" RCP)	10	EA	\$ 5,680.10	\$ 56,801.00
33	Mitered End Section (54" RCP)	2	EA	\$ 7,543.80	\$ 15,087.60
34	Mitered End Section (60" RCP)	2	EA	\$ 9,063.80	\$ 18,127.60
35	Mitered End Section (66" RCP)	2	EA	\$ 10,597.65	\$ 21,195.30
36	Mitered End Section (72" RCP)	2	EA	\$ 12,020.85	\$ 24,041.70
37	Mitered End Section (78" RCP)	2	EA	\$ 21,317.30	\$ 42,634.60
38	Mitered End Section (84" RCP)	2	EA	\$ 21,425.40	\$ 42,850.80
39	Corrugated Aluminum Pipe (CAP), 15"	200	LF	\$ 54.85	\$ 10,970.00
40	Corrugated Aluminum Pipe (CAP), 18"	200	LF	\$ 59.00	\$ 11,800.00
41	Corrugated Aluminum Pipe (CAP), 24"	200	LF	\$ 70.85	\$ 14,170.00
42	Corrugated Aluminum Pipe (CAP), 30"	200	LF	\$ 92.75	\$ 18,550.00
43	Corrugated Aluminum Pipe (CAP), 36"	200	LF	\$ 104.35	\$ 20,870.00
44	Mitered End Section (15" CAP)	6	EA	\$ 1,819.60	\$ 10,917.60
45	Mitered End Section (18" CAP)	6	EA	\$ 1,819.60	\$ 10,917.60
46	Mitered End Section (24" CAP)	6	EA	\$ 1,966.10	\$ 11,796.60
47	Mitered End Section (30" CAP)	6	EA	\$ 1,599.10	\$ 9,594.60
48	Mitered End Section (36" CAP)	6	EA	\$ 2,526.50	\$ 15,159.00
49	15" HDPE, Perforated Pipe	50	LF	\$ 87.65	\$ 4,382.50
50	15" HDPE	200	LF	\$ 52.70	\$ 10,540.00
51	18" HDPE	200	LF	\$ 62.25	\$ 12,450.00
52	24" HDPE	100	LF	\$ 76.40	\$ 7,640.00
53	CAP Ultra Flo liner for 15" pipe	500	LF	\$ 109.35	\$ 54,675.00
54	CAP Ultra Flo liner for 18" pipe	500	LF	\$ 114.40	\$ 57,200.00
55	CAP Ultra Flo liner for 24" pipe	500	LF	\$ 124.05	\$ 62,025.00
56	CAP Ultra Flo liner for 30" pipe	100	LF	\$ 160.75	\$ 16,075.00
57	CAP Ultra Flo liner for 36" pipe	200	LF	\$ 172.00	\$ 34,400.00
58	CAP Ultra Flo liner for 42" pipe	200	LF	\$ 217.40	\$ 43,480.00
59	CAP Ultra Flo liner for 48" pipe	100	LF	\$ 239.90	\$ 23,990.00
60	CAP Ultra Flo liner for 54" pipe	100	LF	\$ 271.20	\$ 27,120.00
61	CAP Ultra Flo liner for 60" pipe	50	LF	\$ 306.85	\$ 15,342.50
62	CAP Ultra Flo liner for 66" pipe	50	LF	\$ 322.10	\$ 16,105.00
63	CAP Ultra Flo liner for 72" pipe	100	LF	\$ 337.65	\$ 33,765.00
64	CAP Ultra Flo liner for 78" pipe	50	LF	\$ 389.75	\$ 19,487.50
65	CAP Ultra Flo liner for 84" pipe	50	LF	\$ 408.50	\$ 20,425.00
66	Grout (pumped to fill void between liner and pipe)	250	CY	\$ 212.20	\$ 53,050.00
67	Cure in place liner for 15" pipe	500	LF	\$ 105.20	\$ 52,600.00
68	Cure in place liner for 18" pipe	500	LF	\$ 116.90	\$ 58,450.00
69	Cure in place liner for 24" pipe	500	LF	\$ 128.55	\$ 64,275.00
70	Cure in place liner for 30" pipe	100	LF	\$ 163.65	\$ 16,365.00

RFB2021-3313
INFRASTRUCTURE CONSTRUCTION & MAINTENANCE
(ADDENDUM #4)

ITEM NO.	DESCRIPTION	EST QTY	UNIT	UNIT PRICE	TOTAL
71	Cure in place liner for 36" pipe	200	LF	\$ 222.05	\$ 44,410.00
72	Cure in place liner for 42" pipe	200	LF	\$ 274.65	\$ 54,930.00
73	Cure in place liner for 48" pipe	100	LF	\$ 321.40	\$ 32,140.00
74	Cure in place liner for 54" pipe	100	LF	\$ 444.15	\$ 44,415.00
75	Cure in place liner for 60" pipe	50	LF	\$ 502.60	\$ 25,130.00
76	Cure in place liner for 66" pipe	50	LF	\$ 724.65	\$ 36,232.50
77	Cure in place liner for 72" pipe	100	LF	\$ 835.70	\$ 83,570.00
78	Cure in place liner for 78" pipe	50	LF	\$ 993.45	\$ 49,672.50
79	Cure in place liner for 84" pipe	50	LF	\$ 1,227.25	\$ 61,362.50
80	Manholes, P-7, <10'	2	EA	\$ 5,690.80	\$ 11,381.60
81	Yard Drain Inlet, 12" Inline Drain ADS 2712AG or Equal With 24" x 24" x 4" Concrete Collar	10	EA	\$ 1,608.40	\$ 16,084.00
82	Manhole Adjustment +/- 1.5', FDOT Standard Plans Index No. 425-001, Brick or Concrete	10	EA	\$ 1,772.80	\$ 17,728.00
83	Manhole Adjustment w/ Rings	10	EA	\$ 1,452.80	\$ 14,528.00
84	Utility Valve Adjustment w/ Rings	10	EA	\$ 1,452.80	\$ 14,528.00
85	Utility Valve Adjustment; Excavate & Raise w/ 12x12 Concrete Pad	10	EA	\$ 1,500.25	\$ 15,002.50
86	Connect Pipe to Existing Inlet - Inlet Connection Modification	25	EA	\$ 1,398.60	\$ 34,965.00
87	Structure Bottom Type P (4' Dia. x 6' Avg. Depth)	4	EA	\$ 3,061.35	\$ 12,245.40
88	Curb Inlet (Type 1 or 3)	2	EA	\$ 8,602.25	\$ 17,204.50
89	Curb Inlet (Type 2 or 4)	2	EA	\$ 8,602.25	\$ 17,204.50
90	Type C Inlet, Average 5'-0" Depth	15	EA	\$ 3,715.10	\$ 55,726.50
91	Type E Inlet, Average 5'-0" Depth	15	EA	\$ 3,985.35	\$ 59,780.25
92	Type H Inlet, < 10', 2 & 3 Grate	15	EA	\$ 10,476.00	\$ 157,140.00
93	Type G Inlet, < 10'	15	EA	\$ 9,725.60	\$ 145,884.00
94	6' x 6' Manhole, < 10'	15	EA	\$ 8,695.15	\$ 130,427.25
95	8' x 8' Manhole, < 10'	15	EA	\$ 12,371.95	\$ 185,579.25
96	Exfiltration Trench, 15", Round, Aluminum, Perforated, Per FDOT Standard Plans Index No. 443-001	200	LF	\$ 188.15	\$ 37,630.00
97	Exfiltration Trench, 18", Round, Aluminum, Perforated, Per FDOT Standard Plans Index No. 443-001	200	LF	\$ 205.25	\$ 41,050.00
98	Exfiltration Trench, 24", Round, Aluminum, Perforated, Per FDOT Standard Plans Index No. 443-001	200	LF	\$ 207.00	\$ 41,400.00
99	#4 Stone	500	TON	\$ 42.50	\$ 21,250.00
100	#57 Stone	500	TON	\$ 40.00	\$ 20,000.00
101	Geotextile Fabric	1,500	SY	\$ 6.40	\$ 9,600.00
102	Staked Silt Fence, Type III	1,500	LF	\$ 3.35	\$ 5,025.00
103	Baled Hay or Straw	50	EA	\$ 14.35	\$ 717.50
104	Floating Turbidity Barrier	500	LF	\$ 11.90	\$ 5,950.00
105	6-12" Riprap Rubble (Up to 100 Tons)	100	TON	\$ 119.80	\$ 11,980.00
106	6-12" Riprap Rubble (101 to 200 Tons)	200	TON	\$ 119.80	\$ 23,960.00
107	12-24" Riprap Rubble (Up to 100 Tons)	100	TON	\$ 119.80	\$ 11,980.00
108	12-24" Riprap Rubble (101 to 200 Tons)	200	TON	\$ 119.80	\$ 23,960.00
109	12-24" Riprap Rubble (Greater Than 200 Tons)	400	TON	\$ 114.45	\$ 45,780.00
110	Roadway Open Cut (Per MC Standard Details R-31A & R-31B)	25	EA	\$ 21,897.30	\$ 547,432.50
111	Roadway Open Cut (Per MC Standard Details R-31A & R-31B); Without 50' Asphalt Overlay	25	EA	\$ 10,285.35	\$ 257,133.75
112	Asphalt Milling (No Pony Miller)	500	SY	\$ 211.55	\$ 105,775.00
113	Asphalt Milling	10	DAY	\$ 15,819.60	\$ 158,196.00
114	Wellpoint Dewatering	500	LF	\$ 15.95	\$ 7,975.00
115	6" Bypass Pump - Mobilization, Full Operation, Demobilization	30	DAY	\$ 981.95	\$ 29,458.50
116	8" Bypass Pump - Mobilization, Full Operation, Demobilization	30	DAY	\$ 1,276.70	\$ 38,301.00
117	12" Bypass Pump - Mobilization, Full Operation, Demobilization	30	DAY	\$ 1,891.65	\$ 56,749.50
118	Clearing & Grubbing (Removing Trees, Vegetation, Organic Soil) ≥ 5 Acres Assignments	5	AC	\$ 11,125.00	\$ 55,625.00
119	Clearing & Grubbing (Removing Trees, Vegetation, Organic Soil) < 5 Acres Assignments	20	AC	\$ 11,125.00	\$ 222,500.00
120	Remove & Dispose Of Existing Cross-Drain (24" Diameter Typ.)	500	LF	\$ 67.30	\$ 33,650.00
121	Remove & Dispose Of Existing Concrete (Headwalls, Structures, Sidewalks, Driveways, End Sections, etc.)	250	TON	\$ 89.85	\$ 22,462.50
122	Roadway Shoulder / Swale Grading	20,000	SY	\$ 2.45	\$ 49,000.00
123	Concrete End Walls (Typ. Per FDOT Standard Plans Index 430-030)	100	CY	\$ 1,176.70	\$ 117,670.00
124	Embankment / Clean Fill (F&I), Compacted In Place	1,000	CY	\$ 26.00	\$ 26,000.00
125	Regular Excavation (includes removal & disposal)	1,000	CY	\$ 15.75	\$ 15,750.00
126	Bahia Sod (F&I)	5,000	SY	\$ 4.70	\$ 23,500.00
127	Floritam Sod (F&I)	4,000	SY	\$ 8.20	\$ 32,800.00
128	Hydroseed w/FDOT mix (1 acre minimum)	25	AC	\$ 4,675.15	\$ 116,878.75
129	Furnish Operator, Water Truck and Irrigate Sod or Seed Mix	200	HR	\$ 69.45	\$ 13,890.00
130	Roadway Subgrade (LBR 40)	1,250	SY	\$ 21.90	\$ 27,375.00
131	Roadway Base (FDOT Optional Base Group 6)	2,000	SY	\$ 24.85	\$ 49,700.00

RFB2021-3313
INFRASTRUCTURE CONSTRUCTION & MAINTENANCE
(ADDENDUM #4)

ITEM NO.	DESCRIPTION	EST QTY	UNIT	UNIT PRICE	TOTAL
132	Type SP-9.5 Asphalt Overlay, placed by Paving Machine, to include RS-1 Tack & Compaction, (1- 1/2" Average Thickness), 550 Tons and over	550	TON	\$ 179.30	\$ 98,615.00
133	Type SP-9.5 Asphalt Overlay, placed by Paving Machine, to include RS-1 Tack & Compaction, 151 to 500 Ton Assignments	250	TON	\$ 190.05	\$ 47,512.50
134	Type SP-9.5 Asphalt Overlay, placed by Paving Machine, to include RS-1 Tack & Compaction, 51 to 150 Ton Assignments	150	TON	\$ 273.50	\$ 41,025.00
135	Type SP-9.5 Asphalt Overlay, placed by Paving Machine, to include RS-1 Tack & Compaction, 10 to 50 Ton Assignments	400	TON	\$ 593.75	\$ 237,500.00
136	Standard Mailbox and/or Standard Traffic Control Sign (Simile Post) Removal & Replacement	50	EA	\$ 548.30	\$ 27,415.00
137	Flowable fill excavatable /non excavatable - < 5yds	5	YD	\$ 189.70	\$ 948.50
138	Concrete Driveway, Fiber Reinforcement, 6" Thick	1,000	SY	\$ 63.10	\$ 63,100.00
139	Concrete Sidewalk with Fiber, 4" Thick	2,000	SY	\$ 52.60	\$ 105,200.00
140	Public Sidewalk Curb Ramps per FDOT Std Plans Index 522-002 with ADA Compliant Detectable Surface (NO Surface Mounted)	1,000	SF	\$ 29.20	\$ 29,200.00
141	Miscellaneous Concrete (Headwalls, Weirs, Retaining Walls) , FDOT Class II Concrete	1,000	CY	\$ 409.10	\$ 409,100.00
142	Installation of 6" Pervious Concrete	500	SY	\$ 66.60	\$ 33,300.00
143	Installation of FDOT Type "A" Curb, By Hand	500	LF	\$ 35.05	\$ 17,525.00
144	Installation of FDOT Type "A" Curb, By Machine	500	LF	\$ 30.40	\$ 15,200.00
145	Installation of FDOT Type "B" Curb, By Hand	500	LF	\$ 35.05	\$ 17,525.00
146	Installation of FDOT Type "B" Curb, By Machine	500	LF	\$ 30.40	\$ 15,200.00
147	Installation of FDOT Type "D" Curb, By Hand	500	LF	\$ 35.05	\$ 17,525.00
148	Installation of FDOT Type "D" Curb, By Machine	500	LF	\$ 35.05	\$ 17,525.00
149	Installation of FDOT Type "E" Curb, By Hand	500	LF	\$ 35.05	\$ 17,525.00
150	Installation of FDOT Type "E" Curb, By Machine	500	LF	\$ 35.05	\$ 17,525.00
151	Installation of FDOT Type "F" Curb, By Hand	500	LF	\$ 35.05	\$ 17,525.00
152	Installation of FDOT Type "F" Curb, By Machine	500	LF	\$ 35.05	\$ 17,525.00
153	Installation of FDOT Valley Gutter, By Hand	500	LF	\$ 31.55	\$ 15,775.00
154	Installation of FDOT Valley Gutter, By Machine	500	LF	\$ 31.55	\$ 15,775.00
155	Installation of FDOT Shoulder Gutter, By Hand	500	LF	\$ 11.70	\$ 5,850.00
156	Installation of FDOT Shoulder Gutter, By Machine	500	LF	\$ 11.70	\$ 5,850.00
157	Shell Rock Parking (4" Coquina Rock Base, 4" Shell)	2,500	SY	\$ 22.20	\$ 55,500.00
158	Paver Bricks (Per Detail)	500	SY	\$ 82.60	\$ 41,300.00
159	Beach Sand - Delivery (Per Specification)	500	TON	\$ 35.00	\$ 17,500.00
160	Post & Rail Fence (Per MC Standard Detail P-60)	350	LF	\$ 24.55	\$ 8,592.50
161	Metal Rolling Cattle Guards (12' x 16')	3	EA	\$ 7,480.25	\$ 22,440.75
162	16' Metal Gate (Per MC Standard Detail P-61)	4	EA	\$ 6,428.35	\$ 25,713.40
163	6' Metal Gate, Single Arm (Per Martin County Standard Detail P-61)	4	EA	\$ 1,741.50	\$ 6,966.00
164	Damaged Guardrail Removal, Remove & Dispose Damaged Panels and Posts	25	LF	\$ 32.00	\$ 800.00
165	Guardrail, Standard W-Beam, with Timber Post, Per FDOT Standard Plans Index No. 536-001	25	LF	\$ 35.05	\$ 876.25
166	Guardrail, Standard W-Beam, with Galv. Steel Post, Per FDOT Standard Plans Index No. 536-001	25	LF	\$ 35.05	\$ 876.25
167	Guardrail, Standard Thrie-Beam, with Timber Post, Per FDOT Standard Plans Index No. 536-001	25	LF	\$ 63.10	\$ 1,577.50
168	Guardrail, Standard Thrie-Beam, with Galv. Steel Post, Per FDOT Standard Plans Index No. 536-001	25	LF	\$ 63.10	\$ 1,577.50
169	Guardrail, Flared End Anchorage Assembly, Per FDOT Standard Plans Index No. 536-001	2	EA	\$ 4,418.55	\$ 8,837.10
170	Pipe Handrail - Guiderail, Aluminum, Per FDOT Standard Plans Index No. 515-070	500	LF	\$ 48.15	\$ 24,075.00
171	Handrail- Aluminum Pedestrian /Bicycle Picket Railing, Per FDOT Standard Plans Index No. 515-062	500	LF	\$ 89.75	\$ 44,875.00
172	FDOT Type A Fence, Per FDOT Standard Plans Index No. 550-001	1,000	LF	\$ 76.75	\$ 76,750.00
173	Directional Bore, 12" to < 18"	300	LF	\$ 192.70	\$ 57,810.00
174	Televise Pipe (includes camera truck and video)	1,000	LF	\$ 7.00	\$ 7,000.00
175	4" Force Main Directional Drill	300	LF	\$ 24.85	\$ 7,455.00
176	4" Force Main Open Cut	1,000	LF	\$ 25.05	\$ 25,050.00
177	3" Force Main Directional Drill	300	LF	\$ 16.60	\$ 4,980.00
178	3" Force Main Open Cut	1,000	LF	\$ 21.30	\$ 21,300.00
179	2" Force Main Directional Drill	500	LF	\$ 22.35	\$ 11,175.00
180	2" Force Main Open Cut	500	LF	\$ 21.30	\$ 10,650.00
181	Grinder Pump Service Connection, Long	20	EA	\$ 7,941.85	\$ 158,837.00
182	Grinder Pump Service Connection, Short	20	EA	\$ 7,941.85	\$ 158,837.00
EQUIPMENT & LABOR					
183	2-Man Survey Crew	100	HR	\$ 261.90	\$ 26,190.00
184	As-Builts / Record Drawings (Man hours for Field & CAD Work)	50	HR	\$ 266.15	\$ 13,307.50
185	Rubber Tire Backhoe (5/8 CY or Larger) With Operator	200	HR	\$ 84.35	\$ 16,870.00
186	Dump Truck (16 CY or Larger) With Operator	200	HR	\$ 98.70	\$ 19,740.00

**RFB2021-3313
INFRASTRUCTURE CONSTRUCTION & MAINTENANCE
(ADDENDUM #4)**

ITEM NO.	DESCRIPTION	EST QTY	UNIT	UNIT PRICE	TOTAL
187	Front End Loader (2-1/2 CY or Larger) With Operator	200	HR	\$99.70	\$ 19,940.00 -
188	Vibratory Roller, Single Drum, 5 Ton or Larger, 54" Minimum Width, With Operator	200	HR	\$92.70	\$ 18,580.00 -
189	Vector Truck with operator	200	HR	\$233.75	\$ 46,750.00 -
190	Camera truck w/operator	200	HR	\$263.00	\$ 52,600.00 -
				TOTAL BID	\$ 8,126,061.90 -

CHECK TOTALS! The County is not responsible for mathematical errors.

INSTRUCTIONS

Bids must be received no later than the date and time stated in the Advertisement. Bids received after that time & date will not be considered.

This form must be returned with bid. Bids on any other form will not be accepted.

Ferreira Construction Southern Division Co., Inc

Company Name

John Ciabattari

Name of Authorized Representative (Print)

13000 SE Flora Avenue

Street Address

Vice President

Title

Hobe Sound, FL 33455

City, State, Zip

jcibattari@ferreiracoconstruction.com

E-mail Address

(772) 286-5123

Telephone

Authorized Signature

AGREEMENT

THIS AGREEMENT made this 14th day of May, 2024, by and between the Town of Jupiter Island, Florida, a political subdivision of the State of Florida, hereinafter the “Owner” with an office located at 2 Bridge Road, Hobe Sound, Florida 33455, and **Ferreira Construction Southern Division Co., Inc.**, a Foreign Profit corporation registered to business in Florida, hereinafter “Contractor” with its principal address at **13000 SE Flora Avenue, Hobe Sound, FL 33455**.

WITNESSETH:

WHEREAS, Martin County, Florida (“MCF”) accepted Contractor’s bid for Infrastructure Construction and Maintenance, pursuant to RFB#2021-3313 (“Infrastructure Construction and Maintenance”), by Agreement with an effective date of May 25, 2021, pursuant to a competitive public bidding process by MCF (the “MCF Bid”); and

WHEREAS, the MCF Bid package included formal contract documents binding upon the successful bidder, the “MCF Contract Documents”; and

WHEREAS, the Owner desires to obtain Infrastructure Construction and Maintenance services; and

WHEREAS, as the Infrastructure Construction and Maintenance services involved in the MCF Contract Documents with Contractor are substantially the same as the Infrastructure Construction and Maintenance services desired by Owner, Owner elects to utilize the competitively bid contract process administered by MCF in the MCF Bid, and Owner and Contractor wish to adopt the MCF Contract Documents, with certain minor modifications as further described herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

I. RECITALS

The foregoing recitals are true and are hereby made a part of this Agreement.

II. AMENDMENTS

The MCF Bid and the MCF Contract Documents are incorporated into this Agreement and is deemed to be a part of this Agreement as modified as follows:

1. General. Where provisions of the MCF Bid and the MCF Contract Documents refer to “Martin County” or “County” as the owner/contracting party, replace it with “Town of Jupiter Island, Florida.” Where provisions of the MCF Agreement refer to “Agreement” or

“Contract”, it shall refer to the MCF Agreement as modified by this Agreement. Where the provisions of the MCF Contract Documents refer to the MCF “Purchasing Department”, it shall refer to the Town Director of Engineering and Public Works.

2. Term. The term of this Agreement is three (3) years with two, optional one-year renewals. The Agreement may be renewed for such additional terms as provided in the MCF Contract Documents, upon mutual agreement of both parties.
3. Unit Prices. The unit prices set forth in the MCF Bid and the MCF Contract Documents shall be applicable during the term of this Agreement.
4. Project Purchase Orders.

A. No services provided under this Agreement shall be authorized upon execution of the Agreement. The Owner shall initiate work assignments by providing Contractor with a written “Work Assignments”.

B. Each Work Assignment will set forth, among other things, the following:

- i. The scope of services requested;
- ii. Any deliverables;
- iii. The time and schedule of performance;
- iv. The method and amount of compensation based upon the unit prices set forth in Section 3 above;
- v. Any modifications to this Agreement, if mutually agreed upon by the parties.

C. The services to be rendered by Contractor shall commence subsequent to the execution of each Delivery Request. Contractor’s work shall be performed, completed and submitted to Owner as specified in the Work Assignment.

D. Each Work Assignment will be sequentially numbered and shall be subject to Owner’s approval prior to a Notice-to-Proceed being issued. The terms and conditions of this Agreement shall be incorporated within and made a part of each Work Assignment.

5. Invoices. Applications for payments under the Agreement shall be submitted to the following:

Stuart R. Trent, PE,
Director Public Services
Town of Jupiter Island
2 Bridge Road

Hobe Sound, FL 33455

6. No Other Amendments. Except as set forth herein, the Agreement is not amended. In the event of any conflict between the terms of this Agreement and the terms of the MCF Contract Documents, the terms of this Agreement shall prevail.

III. MISCELLANEOUS

The following miscellaneous provisions are incorporated into this Agreement.

7. Notice. All notices and other communications required in connection with this Agreement shall be in writing unless otherwise specified herein, and any notice or other communication required hereunder shall be faxed and mailed to the address set forth below, and shall be deemed delivered three (3) business days after the deposit of the mailed notice thereof in any main or branch office of the United States Post Office, certified or registered mail, return receipt requested, postage prepaid, properly addressed to the parties respectively as follows:

For notices and communications to the Town:

Stuart R. Trent, PE
Director Public Services
Town of Jupiter Island
2 Bridge Road
Hobe Sound, FL 33455

For notices and communications to Contractor:

John Ciabattari
Vice President
Ferreira Construction Southern Division Co., Inc.
13000 SE Flora Avenue
Hobe Sound, FL 33455
Email: JCiabattari@ferreiraconstruction.com

By notice complying with the foregoing requirements of this section, each party shall have the right to change the address or addressee or both for all future notices and communications to such party, but no notice of a change of address shall be effective until actually received.

8. Captions. The titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference, and such captions in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

9. Severability. If any provision of this Agreement or the application thereof to any person or circumstances shall be held by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remaining provisions of this Agreement and the validity, enforceability, and application of such provisions to other persons or circumstances shall not be impaired thereby, but such remaining provisions of this Agreement shall be interpreted, applied and enforced so as to achieve, as near as may be, the purposes and intent of this Agreement to the greatest extent permitted by applicable law.
10. Waiver. Unless otherwise specifically provided herein, no delay or failure to exercise a right resulting from any breach of this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as may be deemed expedient. Any waiver shall be in writing and signed by the party granting such waiver. In any representation, warranty, or covenant by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach under this Agreement.
11. Conflict of Interest. Contractor represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Florida Statutes 112.311 and as may be amended from time to time. Contractor further represents that no person having any interest shall be employed for said performance.
12. Warranties and Representations. Contractor restates, and makes current to the date of this Agreement, and incorporates in this Agreement. the warranties and representations in the MCF Agreement. Prior to performance of any work under this Agreement and as a condition precedent to this Agreement, Contractor shall provide Owner a current Certificate of Corporate Principal, a current Sworn Statement under Section 287.133(3)(a), Florida Statutes, on Public Entity Crimes, a current Certificate of Liability Insurance, a current State of Florida license certification, and a current Bidder's Qualifications Statement/Statement of Business Organization.
13. Termination. Owner may terminate this Agreement upon seven (7) days written notice to Contractor.
14. Allotment of Deliveries To The Contractor. Owner, through its designated Utility representative, shall, in its sole discretion, issue Delivery Requests to Contractor as deemed in the best interests of Owner. The Agreement in no way guarantees any future Delivery Requests. Owner retains the right to utilize other contractors or otherwise bid and execute procurements. Contractor shall have no right to appeal or challenge Owner's decision regarding distribution of Delivery Requests.

15. Venue. The parties agree to exclusive venue for any disputes arising under this Agreement in the circuit Court in and for Martin County, Florida.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

Authentication

THE TOWN OF JUPITER ISLAND

Town Clerk

(TOWN SEAL)

By: _____

Penelope Townsend
Its Mayor

**Ferreira Construction Southern Division
Co., Inc.**

By: _____

John Ciabattari, Vice President
Its Authorized Representative



MEMORANDUM

TO: Mayor and Town Commission

FROM: Stuart Trent, Public Services Director

THROUGH: Robert Garlo, Town Manager

DATE: June 12, 2024

SUBJECT: Stewart and Stevenson (Florida Detroit Diesel-Allison) - Generator Maintenance and Repair Contract

BACKGROUND:

The Town of Jupiter Island and South Martin Regional Utility (SMRU) own and operate power generators to provide a temporary power supply in the event of service interruption. These generators require maintenance and repair services from time to time. SMRU maintains agreements with service providers to ensure regular maintenance, checkups, and repairs are conducted in a timely fashion and proactively to ensure reliable service when needed.

The contract with the previous service provider, Genserve, was allowed to expire without renewal and the Town pursued a formal bid solicitation for similar services. The solicitation was posted online and in a locally circulated newspaper, as required by the Town's finance policy. The Town received a single response from Stewart and Stevenson FDDA, LLC (DBA Detroit Diesel-Allison), a contractor familiar to staff and who has provided excellent service to the Town and Utility in prior years.

Staff has reviewed the pricing submitted and has compared the cost against typical market values and finds the bid to be complete. It is the recommendation of Staff to award the bidder, Stewart & Stevenson the contract for services. The term of the contract is for one-year with two, optional, one-year renewals.

RECOMMENDATION:

Staff requests that the Commission approve the attached agreement with Stewart and Stevenson FDDA, LLC DBA Florida Detroit Diesel-Allison and allow the Mayor to sign the agreement. Work authorizations, when issued, will be funded through SMRU and Town Generator Maintenance accounts according to department serviced.

INVITATION TO BID

Town of Jupiter Island, Florida
2 Bridge Road
Hobe Sound, FL 33455

ITB Number: **ITB 2024-05**

Project: **Generator Maintenance & Repair Services**

The Town of Jupiter Island, FL ("Town"), through its enterprise fund, South Martin Regional Utility ("SMRU"), is soliciting bids from contractors (referred to as "Contractors" or "Contractors") to perform Generator Maintenance & Services for SMRU ("Project") (the "Invitation to Bid" or "ITB").

NON-MANDATORY FACILITIES TOUR: Monday, May 20, 2024 at SMRU's South Water Treatment Plant - 9650 SE Water Street, Hobe Sound, FL 33455 starting at 10:00 am.

BID SUBMITTAL DEADLINE: 2:00 p.m. Monday, June 3, 2024.

ENVELOPE MUST BE IDENTIFIED AS: ITB 2024-05 Generator Maintenance & Repair Services

Contractor must submit one (1) original, one (1) electronic version and one (1) copy of its Bid to the Town Clerk at the time and date specified.

All Bid packages must be delivered or mailed to:
Town of Jupiter Island Town Clerk
2 Bridge Road Hobe Sound, FL 33455

IMPORTANT: Contact by a Contractor, or anyone representing a Contractor, regarding this ITB with the Town Mayor, any Town Commissioner, Officer, Town employee, other than the Town Clerk and SMRU attorney, is grounds for disqualification. Contact with the Town Clerk or SMRU attorney must be for clarification purposes only.

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BID PACKAGE FORMS

- B1 Bid Cover Sheet
- B2 Bid
- B3 Schedule of Bid Items & Electronic spreadsheet
- B4 Definitions and Scope of Bid Items
- B5 List of References
- B6 Affidavit of Contractor: Re Non-Collusion & Public Entity Crime
- B7 Drug Free Workplace Certification
Copies of License and/or Certifications

DOCUMENTS APPENDIX

1. GENERAL CONDITIONS
2. SAMPLE CONTRACT
FORM
3. ATTACHMENT A –
GENERATOR LIST
4. ATTACHMENT B –
INDIVIDUAL
GENERATOR QUOTES

SECTION 1 – SCOPE OF WORK

The Town through its enterprise fund, SMRU, provides utility services to Jupiter Island and mainland Hobe Sound. These services include but are not limited to: drinking water supply, treatment & distribution, wastewater collection & treatment, reclaimed water distribution. In order to ensure uninterrupted operations during power outages, emergency situations, or natural disasters, SMRU utilizes standby generators at multiple facilities as well as a rolling inventory of portable generators.

At this time, SMRU is requesting qualified bids from CONTRACTORS capable of performing routine generator inspections, maintenance, load bank testing, megging, routine repairs, and emergency repairs & services.

The nature and scope of the work requested in this bid (the “Work”) includes:

- Furnish all permits, labor, equipment, and materials necessary to perform routine generator maintenance and/or repair services (“Services”) for all SMRU generators.
- SERVICES are to be performed during normal business hours and scheduled in advance with the appropriate contact person for each generator.
- SERVICES include priority response to equipment failures during power outages, emergency situations, and/or natural disasters (such as hurricanes); during normal business hours or after-hours.
- The cost of routine SERVICES may not exceed the specified BID price (which must include materials and travel time).
- Repair and/or Emergency SERVICES are to be paid at the appropriate hourly rate and may include travel time and parts markup as specified in the BID.
- CONTRACTOR will facilitate the supply and connection of emergency standby generators in the event that a stationary standby generator is placed or rendered Out of Service. Connection of the standby generator will be paid at the hourly rate in the specified BID price and the cost of the standby generator will be passed directly to SMRU without markup.
- Whenever possible, an itemized quote must be provided to SMRU prior to work authorization for SERVICES (excluding Quarterly/Annual Maintenance & Load Bank Testing).
- CONTRACTOR will utilize manufacturer’s recommended parts, fluids, grease, etc. unless given written approval by SMRU.
- Following the completion of any and all generator work, CONTRACTOR will test the generator for proper functionality, utilizing the switchgear whenever possible, unless otherwise instructed by SMRU.
- Following each service, CONTRACTOR will provide a written report detailing the conditions found and advising further service if necessary.
- CONTRACTOR will identify manufacturer recommended services for each generator and advise SMRU as necessary.
- CONTRACTOR will maintain a complete service history and produce this information upon request.
- Payment for SERVICES will be rendered based on an itemized invoice and accompanying service report: lump sum pricing is not permitted unless otherwise specified within this BID.

SERVICES will be rendered in response to periodic written work authorizations issued by the SMRU on an as needed basis. No assignment, minimum amount of Services, or minimum compensation is

guaranteed under this agreement.

The current generator list is set forth as Attachment A ("Generator List") and is subject to change throughout the term of this agreement as generators are added or replaced.

Individual generator quote sheets are set forth as Attachment B ("Individual Generator Quotes") and details the specific services for each generator.

SMRU is offering a non-mandatory tour of all generators on MONDAY, MAY 20, 2024 at 10:00 am.

The Contractor by submitting its Bid agrees to extend its Services and Individual Generator Quotes quotes to non-SMRU Town generators, which Town generators are listed on Attachment A under Agency (TJI).

SECTION 2 – SCHEDULE

Listed below are the dates, times, and deadlines for various steps of this ITB procurement process..

SMRU may change any of these dates or times, as it deems necessary.

NON-MANDATORY PRE-BID CONFERENCE:	<u>MONDAY, MAY 20, 2024 AT 10:00 AM</u>
REQUEST FOR INFORMATION / QUESTION DEADLINE:	<u>MONDAY, MAY 27, 2024 AT 4:00 PM</u>
BID SUBMITTAL DEADLINE:	<u>MONDAY, JUNE 3, 2024 AT 2:00 PM</u>
ESTIMATED NOTICE OF AWARD:	<u>TUESDAY, JUNE 12, 2024</u>

SECTION 3 – BID CONTACT

Any and all inquiries regarding this ITB or the Work must be directed in writing, by US mail or email to:

South Martin Regional Utility
SMRU Secretary Sabrina Fahrer
9000 SE Athena Street
Hobe Sound, Florida 33455
E-mail: sfahrer@tji.martin.fl.us

With a copy to:

Town of Jupiter Island
Town Clerk
2 Bridge Road
Hobe Sound, FL 33455
E-mail: kkogos@tji.martin.fl.us

SECTION 4 – SPECIAL TERMS

4.1. Non-Mandatory Site Visit and Pre-Bid Conference

A non-mandatory site visit and pre-bid conference is scheduled for MONDAY, MAY 20, 2024 starting at SMRU's South Water Treatment Plant 9650 SE Water St, Hobe Sound, FL, 33455 at 10:00 am, to provide potential Contractors the opportunity to view all generators at their respective locations, and ask questions and receive clarification concerning the project and to emphasize safety factors, hazards, or potential interference of other projects. All questions to be asked via email with answers sent to all Bid participants in an addendum.

Contractors are requested to bring their copy of the Invitation to Bid to the site visit and pre-bid conference.

In accordance with the Americans with Disabilities Act, any person who believes he or she has a disability requiring the use of a special accommodation at either the scheduled site inspection, pre-bid conference or bid opening should contact the Town Clerk at 772-545-0100 at least five (5) days prior to the event to advise of his/her special requirements.

4.3. Schedule of Bid Items & Individual Generator Quotes

The schedule of bid items is meant as the basis for all pricing. In addition to that, individual price quotes must be completed for each generator to account for special circumstances (if any) in order to determine accurate pricing.

4.4. Licenses. The Contractor will be required to have at the time of bid submittal, the following current license(s):

- **State of Florida Electrical License**
- **State of Florida General Contractor License**

4.5. Business Tax Receipt. The Contractor will also be required, at the time of contract execution, to have a business tax receipt or certificate of registration in accordance with the following:

- No person, contractor or subcontractor may conduct business for the Town without a business tax receipt or certificate of registration.
- Any person engaging in any business, occupation or profession within the Town without a permanent business location or branch office in the Town, but holding a valid and currently effective business tax receipt issued by the county or another incorporated municipality, will be issued a certificate of registration upon registering with the business tax official.

SECTION 5 – SUPPLEMENTAL GENERAL CONDITIONS

5.5. Insurance. Please refer to General Condition 13 for insurance requirements, unless a modification to such requirements is listed below:

SECTION 6 – MINIMUM REQUIREMENTS and EVALUATION CRITERIA

Failure to fully and accurately complete the required documentation may result in disqualification of Contractor's Bid. All decisions of SMRU are final.

6.1 Minimum Requirements.

Each Bid must meet the following Minimum Requirements in order to be deemed responsive and to be considered:

Item	Criteria	Minimum Requirement
1.	License	State of Florida Electrical License State of Florida General Contractor License
2.	Representations and Disclosures	The Bid package includes signed Representations and Disclosure form.
3.	Signature	Bid (Form B2) must be signed by the person authorized to bind the company. Note: Sign in blue ink.
4.	Timely Receipt	The Bid package must be received by the Town Clerk prior to the Bid Submittal Deadline

6.2 Evaluation Factors.

Bids will be evaluated based on the following evaluation factors, in determining the best value to SMRU.

1. Ability and commitment to self-perform a minimum of seventy-five percent (75%) of the work on the Project.
2. Contractor's ability to meet time requirements and schedule.
3. Amount of Bid.
4. Adherence to specifications and requirements. Forman/Crew Chief availability and communication capability with SMRU staff.
5. Contractor capacity in terms of personnel, equipment, and workload.
6. Contractor capacity in terms of financial viability and ability to provide required insurance.
7. Evidence of ability to work efficiently and cooperatively with SMRU staff, past performance with SMRU.
8. Compliance with Town Accounting & Financial Policies and Procedures Manual, Purchasing (the "Procurement Code").
9. Impact to local economy in comparison to other proposers.
10. Any suspension or debarment by any government entity; Any prior conviction for bribery, theft, forgery, embezzlement, falsification or destruction of records, antitrust violations,

honest serves fraud or other offense indicating a lack of business integrity or honesty; any prior violation of Town or County ethical standards.

11. Consideration of any other factors specific to the ITB.

12. Such other information as may be obtained.

SECTION 7 - INSTRUCTIONS TO CONTRACTOR

To ensure acceptance of your bid, Contractors must comply with the following instructions:

7.1 No Lobbying

Contractor and its representatives are prohibited from contacting or lobbying the Town Mayor, any Town Commissioner, Town officers and employees, SMRU employees or any consultant or other person authorized on behalf of the Town related or involved with this Invitation to Bid or the Project, other than the Town Clerk and SMRU attorney. Contractor's representatives include, but are not be limited to, the Contractor's employee, partner, officer, director, consultant, lobbyist, attorney or any actual or potential subcontractor or consultant of the Contractor. Contact with the Town Clerk or SMRU attorney may be for clarifications only. Any violation of this condition may result in rejection and/or disqualification of the Contractor.

The "No Lobbying" condition is in effect from the date of publication of the ITB and will terminate at the time SMRU approves execution or executes the contract, rejects all bids, or otherwise takes action which ends the solicitation process.

7.2. How To Submit Bid:

1. One (1) original, one (1) electronic version and five (5) copies of Contractor's bid must be submitted in a sealed envelope, marked on the outside lower left-hand corner of the envelope with the firm name, ITB number, title, and date and hour bids are scheduled to be received. Bids must be mailed or hand-delivered to:
2. Town of Jupiter Island, Florida Town Clerk
2 Bridge Road
Hobe Sound, FL 33455
3. Time is of the essence and any bid received after the Bid Submittal Deadline, whether by mail or otherwise, will be returned unopened and will not be considered. The time of receipt will be determined by the time clock located in the Town Clerk's office. Contractors are responsible for ensuring that their bid is stamped by Town Clerk by the deadline indicated. The Town Clerk will in no way be responsible for delays caused by any occurrence or any third-party courier.
4. Bids submitted by telephone, facsimile or email will not be accepted.
5. Submission of a Bid implies a full understanding of the Invitation to Bid, the General Conditions, the drawings and specifications, any supplemental general conditions or special terms, and the Project and the Work. Any misunderstanding as to such terms by the Contractor will not relieve the Contractor from performance.
6. This Invitation to Bid consists of this document along with all plans, drawings and/or technical specifications related to this procurement, all of which are incorporated herein by this reference.

7.3 **Bid Package.** The Bid Package to be submitted consists of the following documents:

- B1 Bid Cover Sheet
- B2 Bid
- B3 Schedule of Bid Items & Electronic spreadsheet
- B4 Definites and Scope of Bid Items
- B5 Reference List
- B6 Non-Collusion Affidavit
- B7 Drug Free Certification
- Copies of required licenses or registrations

The Bid Package, and all other required documents must be returned for the Bid to be considered.

AVOID BID REJECTION:

Bids may be rejected for noncompliance to requirements after review by SMRU. All bids must be submitted on the provided Bid forms (B1 – B6). Forms B2 and B3 must be signed in ink by an officer authorized to bind the Contractor.

Schedule of bid items must be provided on paper (Form B3) and on electronic spreadsheet provided. All Forms must be fully completed. Failure to complete any form or provide the required signature will be grounds for rejection of the bid.

7.4 **Completion of Bid Package.**

1. It is the responsibility of the Contractor to ensure that all pages of the Bid are included. All Contractors are advised to closely examine this package.
2. All Bids must be submitted on the provided Bid forms (B1 – B6). Bids submitted on Contractor Letterhead or quotation forms will not be accepted.
3. All Bids (Form B2 and B3) must be typed or written in ink and must be signed in ink by an officer or employee having authority to bind the company or firm. Failure to submit a duly signed bid will be cause for rejection of the bid. Please sign in blue ink.

Mandatory: All Bids must include the **Schedule of Bid Items**.

*****IMPORTANT:** The electronic Schedule of Bid items must be submitted with the original paper Bid package by means of a compact disk, flash drive or other digital data storage device. The paper Schedule of Bid Items and the electronic version must be materially consistent and contain the same information. In case of a discrepancy, the signed paper Schedule of Bid Items will prevail. Failure to submit an electronic version of the Schedule of Bid Items will be cause for rejection of the Bid.

7.5 Inquiries and Addenda.

Any and all inquiries regarding this ITB or the Work (other than the Small Business Program) must be directed in writing, by US mail, fax or email to the purchasing contact indicated in Section 3 of this ITB.

All questions or inquiries must be received by the Town Clerk no later than **MAY 27, 2024 at 4:00 pm.**

Any addenda or other modification to the Bid documents will be issued by SMRU prior to the date and time of Bid Submittal Deadline, as a written addenda distributed to all prospective Contractors who have obtained the Bid package directly from SMRU or its authorized representative. Such written addenda or modification will be part of the Bid documents and will be binding upon each Contractor. Each Contractor is required to acknowledge receipt of any and all addenda in writing and submit with their Bid.

No Contractor may rely upon any oral or verbal modification or interpretation in preparing its Bid. No interpretation of the Invitation to Bid will be made for any Contractor, except by written addendum.

7.6 Errors / Corrections

1. **Bids having erasures or corrections must be initialed in ink by the Contractor.** If a correction is necessary, draw a single line through the entered figure and enter the corrected figure above it and initial the correction. Any illegible entries, pencil bids or corrections not initialed may not be accepted.
2. In the event of mathematical extension error(s), the unit price will prevail, and the Contractor's total offer will be corrected accordingly. In the event of addition errors, the extended line item will prevail, and the Contractor's total will be corrected accordingly.
3. Contractors will not be allowed to modify their Bids after the bid opening time and date.
4. Contractor represents that it has taken all necessary steps to ascertain the nature and location of the work and that it has investigated and satisfied itself as to the general and local conditions which can affect the performance of the work, including: (i) conditions relating to access, egress, transportation, debris disposal, parking, and storage of materials; (ii) availability of labor; and (iii) physical conditions at the site. Any failure by Contractor to take these steps will not relieve the Contractor from the responsibility for estimating properly the difficulty and cost of successfully performing the work without additional expense to SMRU.

7.7 Bid Prices.

All bid prices will remain valid for ninety (90) days after the Bid Submittal Deadline or other time stated in this ITB. Prices must be stated in the units specified on the Schedule of Bid Items (Form B3). Contractors may offer a cash discount for prompt payment; however, such discounts should not be considered in the unit price bid unless otherwise specified in special conditions.

7.8 Conflict of Interest.

All Contractors must disclose with their bid the name of any officer, director, or agent

who is also an employee of Town. Further, all Contractors must disclose the name of any Town or SMRU employee who owns, directly or indirectly, interest of ten percent (10%) or more in the Contractor's firm or any of its affiliates.

7.9 Ethics Requirements.

All Contractors and the awarded Contractor must comply with the ethics requirements of the Town Code. No Contractor may employ, directly or indirectly, the mayor, any member of the Town commission or any director or department head of Town. The Town Code prohibits any employee, or member or their immediate family or close personal relation to receive a substantial benefit or profit from any contract entered into with Town, either directly or through any firm of which they are a member, or any corporation of which they are a stockholder, or any business entity in which they have a controlling financial interest. Any affected Town employee may seek a conflict-of-interest opinion from the Town ethics officer prior to the submittal of a bid. Additionally, any employee may seek a legal opinion from the State of Florida Ethics Commission regarding state law conflict of interest provisions.

7.10 Public Entity Crimes.

Pursuant to Fla. Stat. Sec. 287.133, a person or affiliate who has been placed on the convicted vendor list maintained by the State of Florida may not submit a bid to SMRU for thirty-six (36)months following the date of being placed on the convicted vendor list.

7.11 Bid Opening. Bids will be opened by Town staff at a public meeting. At such meeting the name of the Contractor and the total Bid amount will be announced.

7.12. Contract Award.

1. The selection of a Contractor will be based on the best value to SMRU. Best value means the overall value to SMRU in SMRU's sole discretion, as determined by considering the evaluation factors and selection criteria set out in Section 6 of this ITB, regardless of whether the bid is the lowest price overall. If a Contractor submits an alternative bid(s), SMRU reserves the right to select the bid alternate(s) that presents the best overall value to SMRU. The decision of SMRU will be final.
2. SMRU may appoint a Selection Committee to evaluate the Bids and make recommendation of award to the Town Commission sitting as the SMRU Board to award the contract, or the SMRU Board may evaluate the Bids without a Selection Committee. The Town Clerk will notify all Contractors and advertise the Selection Committee meeting in the appropriate media as directed by law. The Selection Committee may address questions to and request clarification from the proposers in attendance.
3. The selected Contractor will be notified in writing of SMRU's intent to award a contract.

7.13 Contract

Within seven (7) days of receipt, the awarded Contractor must execute two (2) copies of the Contract, and provide Town with its certificate(s) of insurance for the contract. Inability to timely meet this requirement may result in SMRU deeming Contractor's Bid abandoned and the Contract not to be in the best interest of SMRU, and SMRU may withdraw the Notice of Award of Contract. SMRU and Contractor will be contractually bound only if and when a written contract between the parties is executed. In the event a contract is not executed with the selected Contractor, SMRU reserves the right to select the next "best value" Contractor and to contract with said

Contractor.

7.14. **Costs.**

All costs incurred by any party in responding to this Invitation to Bid are the sole responsibility of the Contractor.

7.15 **Protest Procedure.**

Protest procedures are provided in the Procurement Code, under "Right to Protest". A protest must be addressed to the Town Clerk, in writing, identifying the protester, the solicitation and the basis for the protest and must be received by the Town Clerk within seven (7) calendar days of the first date that the aggrieved person knew or should have known of the facts giving rise to the protest, but no later than seven (7) calendar days after the issuance of a Notice of Intent to Award. The protest will be considered filed when it is received by the Town Clerk. Failure to file protest in accordance with the Town Procurement Code constitutes a waiver of said protest.

SECTION 8 – OTHER TERMS

8.1 **Town is Document Gatekeeper.**

This ITB is issued directly by Town for SMRU and Town will be the sole distributor of all addenda and/or revisions to these documents. It is the responsibility of the Contractor to confirm the legitimacy of procurement opportunities or notices directly with the Town Clerk. Town is not responsible for any solicitations advertised by subscriptions, publications, websites (other than Town's) or other sources not connected with Town and the Contractor should not rely on such sources for information regarding any solicitation made by Town.

8.2 **Public Records: Proprietary Information**

SMRU is governed by the Sunshine law and the Public Records law of the State of Florida. All Bids must be submitted in sealed form and will remain confidential for the period permitted by the Public Records laws. Thereafter, a Bid package will become the property of Town and will not be returned. Bid packages will become a public record and will be subject to public disclosure consistent with Fla. Stat. Chapter 119. Contractors must claim the applicable exemptions to disclosure provided by law in their Bid package by identifying materials to be protected and must state the reasons why such exclusion from public disclosure is necessary and legal. Such information must be identified accordingly on each and every page of the Bid package where it is present and justification for such exemption provided to Town. Town reserves the right to make any final determination of the applicability of the Public Records Law. No claim of confidentiality or proprietary information in all or any portion of a Bid package will be honored unless a specific exemption from the public records law exists, and it is cited in the Bid package. If a Contractor believes any of the information contained in its Bid package is exempt from the public records law, the Contractor must specifically identify the material which is deemed to be exempt and cite the legal authority for the exemption; otherwise, SMRU will treat all material received as public records.

8.3 **Records Maintenance.**

The Contractor awarded the contract under this ITB must maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least five (5) years after final payment. Town will have access to all records, documents, and information collected and/or maintained by Contractor and its subcontractors, material men and suppliers in the course of the contract. This information must be made accessible at Contractor's local place of business for purposes of inspection, reproduction, and audit without restriction. If records are unavailable locally, Contractor must ensure that all required records are provided to Town at Contractor's expense.

8.4. **Right to Audit.**

Town will have the right to audit Contractor's books and records, at Town's expense, upon prior notice, with regard to work and charges under the contract. Contractor must allow Town or its representative to interview all current or former employees to discuss matters pertinent to the contract. If an audit inspection in accordance with this section discloses overpricing or overcharges (of any nature) by Contractor to Town in excess of one-half of one percent (.5%) of the total contract billings, (1) the reasonable costs of Town's Internal Audit department must be reimbursed to Town by the Contractor and (2) a fifteen (15%) penalty of the overpricing or overcharges will be assessed. Any adjustments and/or payments which must be made as a result of the audit inspection, including any interest, audit costs and penalties must be made by the Contractor within forty-five (45) days from presentation of Town's findings to Contractor. Failure by Contractor to permit such audit will be grounds for termination of the contract.

8.5 **News Releases / Publicity**

News releases, publicity releases, or advertisements relating to this ITB or resulting contract or work authorizations may not be made without prior SMRU approval.

8.6 **Safety and Environmental Laws**

In performing the work, the Contractor must comply with all Occupational Safety and Health Administration (OSHA). State and County Safety and Occupational Health Standards, applicable environmental laws and any other applicable rules, regulations and permits.

8.7 **Acceptance; Rejection; Cancellation.**

Town may issue written addenda regarding this ITB to clarify, comment, correct, supplement, amend or otherwise modify this ITB prior to the Bid Submittal Deadline.

Any or all Bids may be accepted or rejected in whole or in part, with or without cause, when determined by SMRU to be in the best interests of SMRU. Nothing in this ITB is intended to restrict SMRU in any way in the selection of the Contractor/Bid that best meets the needs of SMRU.

Bids may be considered irregular and may be rejected if the Bid: 1) does not strictly conform to the requirements of the Invitation to Bid; 2) is incomplete; 3) any Bid Form is altered; 4) contains additions not called for; 5) is conditional; 6) contains prices that are, in the opinion of Town, unbalanced either in excess or below the reasonable cost analysis values; 7) bids is in excess of the approved budget for the project.

Town reserves the right to waive any non-material irregularities and technicalities, except timeliness and signature requirements.

Town reserves the right to reject the Bid of any Contractor who has previously failed in the performance of an award or to deliver contracts of a similar nature on time or who is not in a position to perform properly under this award. Any Bid received without an authorized signature or past the Bid Submittal Deadline will be rejected.

This ITB is not to be construed as an offer by the Town, SMRU or its advisors. This Invitation to Bid may be withdrawn or cancelled, either before or after the Bid Submittal Deadline, and may or may not be re-bid when determined to be in the best interests of SMRU. Any withdrawal or cancellation of this

Invitation to Bid, either before or after selection of a Contractor, will be without liability or obligation on the part of the SMRU, Town or its employees. Any action taken by Town regarding this ITB, in making an award, withdrawal or cancellation of award, or failure or refusal to make any award, or in any withdrawal or cancellation of this ITB, either before or after issuance of an award, will be without any liability or obligation on the part of SMRU, Town, its employees or its advisors. Neither Town nor its representatives warrant or represent that any award will be made as a result of the issuance of this ITB. Any recipient of this ITB or Contractor who responds hereto fully acknowledges all the provisions of this Discloser and Disclaimer and agrees to be bound by the terms hereof. Any Bid submitted pursuant to this ITB is at the sole risk and responsibility of Contractor.

This ITB is being issued by Town without any warranty or representation, express or implied, as to its content; accuracy or completeness and no Contractor or other party will have recourse to Town if any information herein contained is inaccurate or incomplete. This ITB is made subject to correction of errors or omissions, or withdrawal without notice.

Contractors interested in pursuing this opportunity are urged to make such evaluations as they deem advisable and to reach independent conclusions concerning statements in this ITB and any supplemental materials and drawings, based on their own investigation. Any reliance on the contents of this ITB, or on any other prior communications with Town or Town representatives or advisors will be at Contractor's own risk. Contractors should rely exclusively on their own investigations, interpretations and analyses in connection with this ITB.

8.8 Additional Terms:

Service Disabled Veteran Business Enterprise. When considering two (2) or more qualified bids, and at least one of which is from a certified service-disabled veteran business enterprise, as defined in Fla. Stat. Sect. 295.187, and such bid is equal with respect to all relevant considerations, including price, quality and service, such contract will be awarded to the certified service-disabled veteran business enterprise.

Federal Labor / Employment Laws. In accordance with Fla. Stat. Sect. 255.20, any Contractor may be considered ineligible to bid if the Contractor has been found guilty by a court of any violation of federal labor or employment tax laws regarding subjects such as safety, tax withholding, workers' compensation, reemployment assistance or unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the past 5 years.

Public Entity Crimes Act. In accordance with the Public Entity Crimes Act (Fla. Stat. Sect. 287.133), Contractor and any parent corporations, affiliates, subsidiaries, members, shareholders, partners, officers, directors or executives, and any sub-consultants must not be presently debarred, proposed for debarment or declared ineligible to bid or participate in any federal, state or local government agency projects and are not and have not been placed on the Convicted Vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date of the Bid. Violation of this section may result in termination of any contract awarded and recovery of any monies paid; and may result in debarment from Town/SMRU's competitive procurement activities.

Convicted Vendor List. In accordance with Fla. Stat. Sect. 287.133, Contractor and any parent corporations, affiliates, subsidiaries, members, shareholders, partners, officers, directors or executives, and any sub-consultants must not have been placed on the Convicted Vendor List maintained by the State of Florida within thirty-six (36) months prior to the submittal of the Bid.

Discriminatory Vendor List. In accordance with Fla. Stat. Sect. 287.134, Contractor must not have ever

been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services.

Scrutinized Companies List. Pursuant to Fla. Stat. Sect. 287.135, Contractor must not be listed on the Scrutinized Companies that Boycott Israel List, maintained by the State of Florida, and is not engaged in a boycott of Israel. Contractor further represents that it is not on the Scrutinized Companies with Activities in Sudan List, or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or engages in business activities in Sudan or Cuba. Violation of this section may result in termination of the awarded contract and recovery of all monies paid; and may result in debarment from Town/SMRU competitive procurement activities.

E-Verify. In compliance with Fla. Stat. Sect. 448.095, Contractor must utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of new employees hired by Contractor during the term of the Contract, if awarded. Contractor must require all subcontractors performing services under an awarded Contract to verify the employment eligibility of new employees hired by the subcontractor during the term of the awarded Contract. Contractor must require each of its subcontractors to provide Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor must maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of any contract awarded.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS BID, CONTACT THE TOWN CLERK, WHO IS SMRU'S CUSTODIAN OF PUBLIC RECORDS, AT:

**Office of the Town Clerk
Town of Jupiter Island
2 S.E. Bridge Road
Hobe Sound, Florida 33475
772-545-0100
kkogos@tji.martin.fl.us**

BID PACKAGE COVER SHEET

Project Title: **ITB 2024-05
GENERATOR MAINTENANCE & REPAIR SERVICES**

Contractor Company Name: **Stewart & Stevenson FDDA LLC, dba Florida Detroit Diesel-Allison**

Enclose the following documents:

- ☒ 1. Bid Package Cover Sheet. (B1)
- ☒ 2. Bid (B2) **Must be signed**
- ☒ 3. Schedule of Bid Items (B3) **Paper Form must be signed**
- ☒ 4. Reference List (B4)
- ☒ 5. Affidavit of Prime Contractor re Noncollusion (B5). Be sure to sign and notarize the signature.
- ☒ 6. Drug Free Certification (B6)
- ☒ 7. Copies of licenses, certifications, and registrations

Clearly mark the outside lower left corner of the Envelope with the firm name, Invitation to Bid number and title, and the date and time for the bid closing deadline.

**THIS PAGE AND THE FOLLOWING FORMS ARE TO BE RETURNED WITH YOUR
BID.**

**Submit one (1) original, one (1) electronic version and five (5) photocopies of your Bid
package.**

AVOID BID REJECTION:

All bids must be submitted on the provided Bid forms (B1 – B6).

**Forms B2 and B3 must be signed in ink by an officer authorized to bind the Contractor. All
Forms must be fully completed.**

BID
SOUTH MARTIN REGIONAL UTILITIES: ITB 2024-05

Proposal of: Stewart & Stevenson FDDA LLC, dba Florida Detroit Diesel - Alliso
(Contractor Company Name)

Bid Amount: Seventy thousand eight hundred thirty eight Dollars
(Write Out Dollar Amount Here)

(\$ 70,838.00)

Contractor agrees to furnish, unless otherwise provided, all implements, machinery, equipment, transportation, tools, materials, supplies, labor, and other things necessary for the performance and completion of the work for the amount indicated above.

The undersigned Contractor declares to SMRU that:

1. No Lobbying. Contractor acknowledges that contact by Contractor, or anyone representing Contractor, regarding this ITB or the Project, with the Town Mayor, any Town Commissioner, Officer, Town employee, SMRU employee, other than the Town Clerk or the SMRU attorney, is grounds for disqualification.
2. This Bid is made in good faith, without collusion or fraud and is fair and competitive in all respects.
3. The Contractor has carefully and to his full satisfaction examined ITB 2022-2, including the Scope of Work, Special Terms, Additional Terms, General Conditions, supplemental conditions, technical specifications, and form of bond, if applicable, together with the accompanying drawings and plans, and Contractor has read all addenda issued by the SMRU.
4. Contractor represents that it has taken all necessary steps to ascertain the nature and location of the work and that it has investigated and satisfied itself as to the general and local conditions which can affect the performance of the work, including: (i) the site conditions that may impact its performance, including but not limited to, conditions relating to access, egress, transportation, debris disposal, parking and storage of materials; (ii) availability of labor; and (iii) physical conditions at the site. Any failure by Contractor to take these steps will not relieve the Contractor from the responsibility for estimating properly the difficulty and cost of successfully performing the work without additional expense to Town.
5. Upon receipt of a Notice of Intent to Award the contract the Contractor must: 1) commence obtaining Certificate(s) of Insurance immediately after receiving a Notice of Intent to Award, and 2) immediately obtain a Certificate of Registration for engaging in business from Town, as such documents will be required prior to execution of a Contract.

6. Contractor understands that the contract time starts on the date indicated in the Notice to Proceed.
7. Contractor furthermore agrees that, in case of failure on his part to execute a Contract and provide all required documents within ten (10) calendar days of receipt of the Contract for execution, the Town may withdraw the offer and contract with another Contractor and the check, bond, or other security accompanying his bid and the money payable thereon, will become the property of SMRU, by forfeit as agreed and liquidated damages.
8. The Contractor states that this Bid is the only bid for this Project in which Contractor is interested; and Contractor may not be a subcontractor or subcontractor on this Project.
10. Contractor acknowledges that within ten (10) days of receipt of the fully executed Contract, Contractor will record the required public construction bond with the Clerk of the Court in the Public Records of Martin County and provide a certified copy of the recorded bond to SMRU prior to commencing work and submittal of first invoice.
11. All debris is to be legally disposed of at a licensed disposal site in accordance with Town, County, state, and federal standards.
12. SMRU reserves the right to select and include one or more alternates in the Project and work.
13. The following officer, director or agent of the Contractor is also an employee of Town:

Name

N/A

Address

14. The following employee(s) of Town hold, either directly or indirectly, an interest of 10% or more of Contractor or its affiliates or subsidiaries:

Name

N/A

Address

15. Neither SMRU nor its representatives warrant or represent that any award will be made as a result of the issuance of this ITB. Any recipient of this ITB or Contractor who responds hereto fully acknowledges all the provisions of this Discloser and Disclaimer and agrees to be bound by the terms hereof.
16. Contractor and all affiliates, suppliers, subcontractor, or consultants who will perform the Work have not been placed on the Public Entity Crimes convicted vendor list maintained by the State of Florida within the thirty-six (36) months immediately preceding the date of this Bid.

17. Contractor acknowledges that ADDENDA NO(S).have been RECEIVED and are ATTACHED HERETO and are signed by a duly authorized officer of Contractor.
18. By signing and submitting this Bid, Contractor represents that all Bid Forms are fully complete and accurate.
19. Contractor acknowledges that the Bid may be rejected if all Bid Forms are not fully complete, not accurate or if forms are not signed by properly authorized signatures where required.
20. The undersigned official of Contractor is properly authorized to submit this Bid and to bind the Contractor.

Contractor Company Name: Stewart & Stevenson FDDA LLC, dba Florida Detroit Diesel-Allison

Business Address: (Street, Town, State, Zip Code) _____
3885 Selvitz Road, Fort Pierce, FL 34981

State of Incorporation: Florida

Telephone: (772) 464-6006 Fax: _____

Email: D.Deliz@kirbycorp.com

FEI/EIN # 82-2720177

CONTRACTOR: Robert Gerena

Signature of Official authorized to bind Contractor.

Print Name: Robert Gerena

Title: Generator Service Sales Manager

Date: May 30, 2024

(COPY OF REGISTRATION OR BUSINESS TAX RECEIPT – MUST BE OBTAINED PRIOR TO CONTRACT EXECUTION)

Failure to fully complete and sign this Bid Form may result in rejection of the Bid.

(B3)

SCHEDULE OF BID ITEMS**TOWN OF JUPITER ISLAND SOUTH MARTIN REGIONAL UTILITY: ITB 2024-05****PROJECT TITLE: Generator Maintenance & Repair Services**

Item #	Labor Rates	Unit Price	Unit
1	Standard Labor Rate	195	/HR
2	Overtime/Weekend/Holiday Labor Rate	292.50	/HR
3	Emergency Rate	390	/HR
4	Disaster Emergency Rate	390	/HR

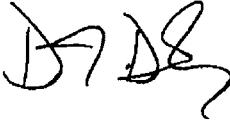
Item #	Generator Rating	Unit Price			Unit
		Quarterly Maintenance	Annual Maintenance	Load Bank (2 HOUR)	
5	kW Rating: 0 – 99 kW	545	1560	1560	EA
6	kW Rating: 100 – 499 kW	691	1800	1800	EA
7	kW Rating: 500 – 749 kW	691	2000	2898	EA
8	kW Rating: 750 – 999 kW	691	2030	3273	EA
9	kW Rating: 1,000 – 1,249 kW	691	2400	3460	EA
10	kW Rating: 1,250 – 1,499 kW	740	3587	3648	EA
11	kW Rating: 1,500 – 1,749 kW	740	3587	3835	EA
12	kW Rating: 1,750 – 2,000 kW	983	3587	4023	EA
13	kW Rating: >2,000 kW	983	3587	4400	EA

ITB 2024-05

David Deliz 
Sales Rep

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	Item #	Description	Unit Price	Unit	Quantity	Extended Total
	14	Fuel Testing	\$ 176	EA	20	\$ 3520
Day Rate	15	Fuel Polishing	\$ 5122 Day Rate	GAL	20,000	
	16	Fuel Treatment (Biocide)	\$ 325	GAL	20,000	\$ 325
per tank	17	Tank Cleaning	\$ 5250 per tank	EA/ GAL	10 EA	
	18	Licensed Electrician Services	NA	HRS	NA	
	19	Certified Welding Services (optional)	NA	HRS	NA	
	20	Unidentified Parts Allowance	NA	LS	\$10,000.00	\$10,000.00
	21	Additional Parts Markup	10	%		
		Total				

David Deliz 
Sales Rep

Bid Items: Definitions and Scope**General Scope**

South Martin Regional Utility provides utility services to Jupiter Island and mainland Hobe Sound. These services include but are not limited to: drinking water supply, treatment & distribution, wastewater collection & treatment, and reclaimed water distribution, etc. In order to ensure uninterrupted operations during power outages, emergency situations, or natural disasters, SMRU utilizes standby generators at multiple facilities as well as a rolling inventory of portable generators.

At this time, SMRU is requesting qualified bids from CONTRACTORS capable of performing routine generator inspections, maintenance, load bank testing, megging, routine repairs, and emergency repairs & services.

The nature and scope of the work requested in this bid (the "Work") includes:

- Furnish all permits, labor, equipment, and materials necessary to perform routine generator maintenance and/or repair services ("Services") for all SMRU generators.
- SERVICES are to be performed during normal business hours and scheduled in advance with the appropriate contact person for each generator.
- SERVICES include priority response to equipment failures during power outages, emergency situations, and/or natural disasters (such as hurricanes); during normal business hours or after-hours.
- Routine SERVICES may not exceed the specified BID price (which must include materials and travel time).
- Repair and/or Emergency SERVICES are to be paid at the appropriate hourly rate and may include travel time and parts markup as specified in the BID.
- CONTRACTOR will facilitate the supply and connection of emergency standby generators in the event that a stationary standby generator is placed or rendered Out of Service. Connection of the standby generator will be paid at the appropriate hourly rate and the cost of the standby generator will be passed directly to SMRU without markup.
- Whenever possible, an itemized quote must be provided to SMRU prior to work authorization for SERVICES (excluding Quarterly/Annual Maintenance & Load Bank Testing).
- CONTRACTOR will utilize manufacturer's recommended parts, fluids, grease, etc. unless given written approval by SMRU.
- Following the completion of any and all generator work, CONTRACTOR will test the generator for proper functionality, utilizing the switchgear whenever possible, unless otherwise instructed by SMRU.
- Following each service, CONTRACTOR will provide a written report detailing the conditions found and advising further service if necessary.
- CONTRACTOR will identify manufacturer recommended services for each generator and advise SMRU as necessary.
- CONTRACTOR will maintain a complete service history and produce this information upon request.
- Payment for SERVICES will be rendered based on an itemized invoice and accompanying service report; lump sum pricing is not permitted unless otherwise specified within this BID.

- **CONTRACTOR** must agree to extend the **SERVICES** and pricing for Town generators at the request of the Town.

SERVICES will be rendered in response to periodic written work authorizations issued by SMRU on an as needed basis. No assignment, minimum amount of Services, or minimum compensation is guaranteed under this agreement.

The current SMRU generator list is set forth as Attachment A ("Generator List") and is subject to change throughout the term of this agreement as generators are added or replaced. The Generator List also included Town generators identified as Agency/TJI.

Individual generator quotes are set forth as Attachment B ("Individual Generator Quotes") and details the specific services for each generator.

General Definitions

Normal Business Hours: Monday – Friday, 8:00am – 5:00pm

Emergency Services: Any situation that would require an immediate response by **CONTRACTOR** in order to maintain proper operation. It is the sole discretion of SMRU to define a service call as an "Emergency." Not all same-day responses are considered "Emergency Services."

State of Emergency: This represents the period of time beginning when the TOWN officially declares a state of emergency and ending when the TOWN lifts said state of emergency.

Quarterly Maintenance: (also referred to as "Minor Inspections" or "Visual Inspections") Simple inspections and system checks performed on a quarterly basis. At minimum, fluid and battery checks are performed and the generator is operated. **CONTRACTOR** must provide an itemized list of what tasks are performed during a "Quarterly Maintenance" event. Following each maintenance event, an itemized checklist is to be provided to SMRU indicating what was done as well as what actions (if any) are recommended. Before leaving the site, the generator must be tested for proper operation (utilizing the switchgear whenever available)

Annual Maintenance: (also referred to as "Major Inspections" or "Tune-Ups") At minimum, all items from the "Quarterly Maintenance" are performed in addition to fluid and filter changes. **CONTRACTOR** must provide an itemized list of what tasks are performed during an "Annual Maintenance" event. The generator must be operated utilizing the switchgear at the end of every Annual Maintenance. Following each maintenance event, an itemized checklist is to be provided to SMRU indicating what was done as well as what actions (if any) are recommended.

Load Bank (Two (2) Hour): Inductive load bank testing increasing at a progressive rate (not to exceed more than twenty-five percent (25%) per step up) in order to determine the generator's ability to perform at its rated power factor. The alternator and generator is commonly megged at this time. Following the completion of this service, a detailed report is to be provided to SMRU indicating what was done as well as what actions (if any) are recommended.

Megging: Inducing a current into the alternator and generator in order to test the insulation. This test is to be performed annually or at the request of SMRU. Megging may be performed as part of the Annual Maintenance checklist, but it is most commonly done as part of the Load Bank Testing. **CONTRACTOR** must specify in their bid documents during what service event the generator will be megged.

Scope of Bid Items

1. **Standard Labor Rate**

This is the dollars per hour pay rate to be charged for all work performed during normal business hours.

2. **Overtime/Weekend/Holiday Labor Rate**

This is the dollars per hour pay rate to be charged for all non-emergency work performed outside of normal business hours.

This pay rate may not be used as a result of CONTRACTOR error (i.e. equipment failure, insufficient parts/fluids, etc.). All afterhours work must be authorized by SMRU.

3. **Emergency Rate**

This is the dollars per hour pay rate to be charged for emergency services requested by SMRU.

4. **Disaster Emergency Rate**

This is the dollars per hour rate to be charged for emergency services requested by SMRU and responded to by CONTRACTOR during a state of emergency (a hurricane for example).

It is the sole discretion of CONTRACTOR to determine if a response is feasible and/or safe during said emergency. Any request not responded to during the state of emergency must be responded to as an emergency as soon as the state of emergency has been lifted. Any response received after the state of emergency has been lifted, regardless of when the request was made, is ineligible for the Disaster Emergency Rate.

5. **kW Rating: 0 – 99 kW**

A standard price to provide quarterly maintenance, annual maintenance, and 2-hour load bank testing on generators of this size.

If additional work is required due to specific conditions of a generator, they are to be accounted for on the "Individual Generator Quote" sheet (Attachment B).

6. **kW Rating: 100 – 499 kW**

A standard price to provide quarterly maintenance, annual maintenance, and 2-hour load bank testing on generators of this size.

If additional work is required due to specific conditions of a generator, they are to be accounted for on the "Individual Generator Quote" sheet (Attachment B).

7. **kW Rating: 500 – 749 kW**

A standard price to provide quarterly maintenance, annual maintenance, and 2-hour load bank testing on generators of this size.

If additional work is required due to specific conditions of a generator, they are to be accounted for on the "Individual Generator Quote" sheet (Attachment B).

8. kW Rating: 750 – 999 kW

A standard price to provide quarterly maintenance, annual maintenance, and 2-hour load bank testing on generators of this size.

If additional work is required due to specific conditions of a generator, they are to be accounted for on the “Individual Generator Quote” sheet (Attachment B).

9. kW Rating: 1,000 – 1,249 kW

A standard price to provide quarterly maintenance, annual maintenance, and 2-hour load bank testing on generators of this size.

If additional work is required due to specific conditions of a generator, they are to be accounted for on the “Individual Generator Quote” sheet (Attachment B).

10. kW Rating: 1,250 – 1,499 kW

A standard price to provide quarterly maintenance, annual maintenance, and 2-hour load bank testing on generators of this size.

If additional work is required due to specific conditions of a generator, they are to be accounted for on the “Individual Generator Quote” sheet (Attachment B).

11. kW Rating: 1,500 – 1,749 kW

A standard price to provide quarterly maintenance, annual maintenance, and 2-hour load bank testing on generators of this size.

If additional work is required due to specific conditions of a generator, they are to be accounted for on the “Individual Generator Quote” sheet (Attachment B).

12. kW Rating: 1,750 – 2,000 kW

A standard price to provide quarterly maintenance, annual maintenance, and 2-hour load bank testing on generators of this size.

If additional work is required due to specific conditions of a generator, they are to be accounted for on the “Individual Generator Quote” sheet (Attachment B).

13. kW Rating: >2,000 kW

A standard price to provide quarterly maintenance, annual maintenance, and 2-hour load bank testing on generators of this size.

If additional work is required due to specific conditions of a generator, they are to be accounted for on the “Individual Generator Quote” sheet (Attachment B).

14. Fuel Testing

A fuel sample is collected from the on-site storage tank and tested for water, microbials, and other contaminants. For every sample collected, CONTRACTOR must submit a report of the findings to SMRU including recommended actions (if any).

15. Fuel Polishing

At the request of SMRU (at its discretion or based on CONTRACTOR recommendation), CONTRACTOR will remove fuel from the on-site storage tank and perform an on-site treatment. The treatment must be no less than 5-micron filtration at a 1,000 Beta ratio resulting in a minimum ninety-nine and nine-tenths (99.9%) efficiency. CONTRACTOR is responsible for site cleanliness, disposal of waste materials, and preventing/containing any and all spills. Fuel loss should be less than one percent (1%) of the total volume filtered.

16. Fuel Treatment (Biocide) (Also referred to as "Algicide")

At the request of SMRU (at their discretion or based on CONTRACTOR recommendation), CONTRACTOR will provide Biocide to treat biological growth in the fuel and/or tank. The quoted price must be stated as the dollar amount to treat a specified volume of fuel (written as \$X.XX per ?? Gallons of fuel).

17. Tank Cleaning

At the request of SMRU (at their discretion or based on CONTRACTOR recommendation), CONTRACTOR will provide fuel tank cleaning services. This typically includes "Fuel Filtering" (to be paid at the BID amount) and removal and disposal of bad fuel, sludge, and/or other debris. CONTRACTOR is responsible for site cleanliness, disposal of waste materials, and preventing/containing any and all spills.

BID's are expected to be based on tank size (specified as price per tank), but a bid alternate based on quantity of waste removed (specified as price per gallon or pound) is acceptable.

18. Licensed Electrician Services

A standard rate for licensed electrical services provided by a licensed electrician.

19. Certified Welding Services (optional)

A standard rate for certified welding services. This bid item is optional but may be represented as the price charged by CONTRACTOR's preferred subcontractor.

20. Unidentified Parts Allowance

The dollar amount set aside by SMRU for miscellaneous parts needed for recommended repairs.

21. Additional Parts Markup

The percent markup CONTRACTOR charges for physical parts (not to exceed ten percent (10%)). Markup may not be applied to parts and materials used for routine maintenance.

(B5)

SOUTH MARTIN REGIONAL UTILITY:

ITB 2024-05

LIST OF REFERENCES

1. Owner's Name & Address: Pratt + Whitney
Project: Generator Preventative Maintenance / Repairs
Contact Person Jason Schroeder
Telephone: () 561-796-2826 Fax: () _____ E-Mail: Jason.schroeder@prattwhitney.com
2. Owner's Name & Address: Florida Power and Light Indianham
Project: Generator Preventative Maintenance / Repairs
Contact Person Paul Lewis
Telephone: () 772-597-7649 Fax: () _____ E-Mail: Stewart.Lewis@fpl.com
3. Owner's Name & Address: Halifax Health Orlando
Project: Generator Preventative maintenance / Repairs
Contact Person Brian Babcock
Telephone: () 386-852-2542 Fax: () _____ E-Mail: Brian.Babcock@halifax.org
4. Owner's Name & Address: Shands Teaching Hospital
Project: Generator Preventative maintenance / Repairs
Contact Person Richard Berger
Telephone: () 352-318-3477 Fax: () _____ Mail: berger.mr@shands.vfl.edu

AFFIDAVIT OF CONTRACTOR
Re Non-collusion and Public Entity Crime

(B6)

State of Florida }
County of Martin }

Robert Gerena, being first duly sworn, disposes and says that:
(Name)

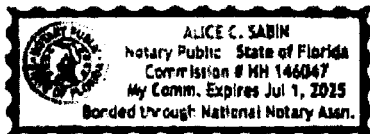
1. I am the Service Sales Manager of Stewart & Stevenson FDDA LLC the
Contractor. (Title) (Name of Company)
2. I am fully informed respecting the preparation and contents of the attached South Martin
Regional Utility; ITB 2024-05 Bid and of all pertinent circumstances respecting such Bid;
3. Such Bid is genuine and is not a collusive or sham Bid;
4. The price or prices quoted in the attached Bid are fair and proper and are not tainted by
any collusion, conspiracy, connivance or unlawful agreement on the part of the Contractor
or any of its agents, representatives, owners, employees, or parties in interest, including this
affiant.
5. Neither the Contractor nor any officer, director, partner, shareholder, employee, member
or agent, who is active in the management of Contractor, or any affiliate or subsidiary of
Contractor has been convicted of a public entity crime or action regarding antitrust, fraud,
theft, bribery, collusion, racketeering, conspiracy or material misrepresentation with
respect to any bid or contract for goods or services to be provided to any public entity, or
has been listed on the state Convicted Vendor List, within thirty-six (36) months prior to
the date of Contractor's Bid.

(Signed) Robert Gerena

(Print Name) Robert Gerena

(Title) Service Sales Manager

ON THIS 31st DAY OF May, 20 24, the foregoing Affidavit of
Contractor was acknowledged before me by Robert Gerena, the of _____, as an act of the
Contractor. He/She is:



- ☒ personally know to me OR
☐ produced the following identification: _____

Notary Public signature: Alice C. Sabin

Print Name: Alice C. Sabin

Commission No. HH 146047

(B7)

SOUTH MARTIN REGIONAL UTILITY: ITB 2024-05

DRUG FREE WORKPLACE CERTIFICATION

The undersigned Contractor, in accordance with Florida Statute 287.087 hereby certifies to South Martin Regional Utility that

Stewart & Stevenson FDDA LLC, dba Florida Detroit Diesel-Allison does:
(Name of Business)

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violation of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business' policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under this bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities, or contractual services that are under bid, the employee will abide by the terms of the statement, and will notify the employer of any conviction of, or plea of guilty, or *nolo contendere* to any violation of Chapter 1893, or of any controlled substance law of the United States, or any State, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance, or rehabilitation program, if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Robert Gerena
Authorized Signature

Robert Gerena
Print Name

May 31, 2024
Date

SAMPLE
SERVICES AGREEMENT FORM

Project: Project No.: ITB No.

Contract No. Contractor: Contractor Address:

Email:

Telephone: () FEI/EIN #

THIS AGREEMENT with an Effective Date, as defined below, by and between the Town of Jupiter Island, ("Owner"), mailing address: 2 Bridge Road, Hobe Sound, FL 33455, and _____, mailing address: _____, Phone number (hereinafter referred to as "Contractor").

RECITALS

A. In response to Owner ITB _____ (the "ITB"), Contractor submitted a bid (the "Bid") for _____ Services ("Services"); and

B. Town has determined that Contractor's unit price quotes for the Services, as set forth in Exhibit "A" attached to this Agreement ("Unit Prices") provides the best value to Town, and Town wishes to accept the Bid and enter into an agreement for Services; and

D. Contractor agrees to perform the Services for Town under the terms and conditions set forth in the ITB, the Bid and this agreement and the attached exhibits (collectively, the "Agreement").

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

I. RECITALS

The foregoing recitals are true and are hereby made a part of this Agreement. Contractor agrees to provide the Services to Owner in accordance with the terms of this Agreement.

1. Term. The term of this Agreement commences on execution of this Agreement by Owner (the "**Effective Date**") and continues for a term of one (1) year. The Agreement may be renewed for two (2) one (1) year renewal terms upon agreement of both parties. Time is of the essence in the performance of this Agreement.

2. Unit Prices. The unit prices set forth in the Bid and attached to this Agreement will be applicable during the term of this Agreement, as adjusted pursuant to the terms of the Contract Documents.

3. Service Requests.

A. No service requests under this Agreement are authorized upon execution of the Agreement. The Owner will initiate requests for service by providing Contractor with a written service request (a "**Service Request**").

6. Agreement Documents. Contractor agrees to complete all work in accordance with the Agreement Documents. The term "Agreement Documents" includes all the terms and conditions and Work requirements contained in this Agreement, on Owner website(s), and the following documents, all of which taken together are incorporated herein and form the Agreement Documents. The Agreement constitutes the entire agreement between Contractor and Owner and supersedes all prior verbal and written agreements, understandings, negotiations and discussions between the parties hereto. The terms and conditions of the ITB is incorporated herein and made a part of this Agreement, together with the Owner's Contractor General Conditions. No verbal agreement or conversation with any officer, agent or employee of Owner either before or after execution of the Agreement will affect or modify any of the terms or obligations contained in any of the documents comprising said Agreement Documents. For convenience sake, all of the Agreement Documents are not be attached to Agreement, but the indicated documents make up the Agreement Documents and are incorporated into the Agreement, regardless of whether they are attached.

7. Captions. The titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference, and such captions in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

8. Severability. If any provision of this Agreement or the application thereof to any person or circumstances is held by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remaining provisions of this Agreement and the validity, enforceability, and application of such provisions to other persons or circumstances will not be impaired thereby, but such remaining provisions of this Agreement will be interpreted, applied and enforced so as to achieve, as near as may be, the purposes and intent of this Agreement to the greatest extent permitted by applicable law.

9. Waiver. Unless otherwise specifically provided herein, no delay or failure to exercise a right resulting from any breach of this Agreement will impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as may be deemed expedient. Any waiver must be in writing and signed by the party granting such waiver. In any representation, warranty, or covenant by the other party, such waiver will be limited to the breach so waived and will not be deemed to waive any other breach under this Agreement.

10. Conflict of Interest. Contractor represents that it presently has no interest and will acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Section 112.311, Florida Statutes, and as may be amended from time to time. Contractor further represents that no person having any interest may be employed for said performance.

11. Warranties and Representations. Contractor restates, and makes current to the date of this Agreement, and incorporates in this Agreement, the warranties and representations in the Contract Documents. Prior to performance of any work under this Agreement and as a condition precedent to this Agreement, Contractor must provide Owner a current Certificate of Corporate Principal, a current Sworn Statement under Section 287.133(3)(a), Florida Statutes, on Public Entity Crimes, a current Certificate of Liability Insurance, a current State of Florida license certification, and a current Contractor's Qualifications Statement/Statement of Business Organization.

12. Termination. Owner may terminate this Agreement upon written notice to Contractor. Contractor's sole remedy upon such termination is to receive payments due under this Agreement for outstanding Service Request performed through the date of termination, which Service Requests terminate with the termination of the Agreement.

13. Allotment of Service Requests to Contractor. Owner, through its designated representative,

may, in its sole discretion, issue Service Requests to Contractor as deemed in the best interests of Owner. The Agreement in no way guarantees any future Service Requests. Owner retains the right to utilize other contractors or otherwise bid and execute procurements. Contractor has no right to appeal or challenge Owner's decision regarding distribution of Service Requests.

14. Choice of Law and Venue. This Agreement will be construed and interpreted under the laws of the State of Florida, without giving effect to principles of conflict of laws, except where specifically pre-empted by Federal law. To the extent Chapter 558, Florida Statutes, is applicable, the parties expressly opt out of the requirements of Chapter 558, Florida Statutes, within the meaning of Section 558.005(1), Florida Statutes. Venue with respect to any state or federal litigation in connection with this Agreement will be exclusively in Martin County, Florida.

15. Limitation of Liability. In no event shall a party to this Agreement be liable for indirect, special, consequential, incidental, or punitive damages, or any damage deemed to be of an indirect or consequential nature, arising out of or related to its performance under this Agreement, whether based upon breach of contract, warranty, negligence and whether grounded in tort, contract, civil law or other theories of liability, including strict liability. The term "consequential damages" shall include, but not be limited to, loss of anticipated profits, loss of use, loss of revenue and cost of capital. Nothing contained in this Agreement is in any way intended to be a waiver of Owner's sovereign immunity or the limitation placed upon Owner's liability as set forth in Section 768.28, Florida Statutes.

16. Availability of Funds. This Agreement is conditioned upon the availability of funds lawfully appropriated and available for the purposes set out herein as determined in the sole discretion of Owner. If funding for this Agreement is in multiple years, funds must be appropriated each year prior to costs being incurred. Nothing in this paragraph will prevent the making of contracts with a term of more than one (1) year, but any contract so made will be executory only for the value of the services to be rendered or paid for in succeeding fiscal years. In the event funds to finance this Agreement become unavailable, Owner may terminate this Agreement upon notice to Contractor.

17. Scrutinized Companies List. Pursuant to Section 787.135, Florida Statutes, Contractor represents that it is not on the Scrutinized Companies that Boycott Israel List, maintained by the State of Florida, and is not engaged in a boycott of Israel. Additionally, if the Agreement Price is \$1,000,000 or more, Contractor represents that neither Contractor nor its principals or owners are listed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engages in business activities in Sudan or Cuba. Violations of this section may result in termination of the Agreement and recovery of all monies paid to Contractor under the Agreement.

18. Federal Labor/Employment Laws. In accordance with Section 255.20, Florida Statutes, Contractor represents that it has not been found guilty by a court of any violation of federal labor or employment tax laws regarding the subjects such as safety, tax withholding, workers' compensation, reemployment assistance of unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws with the past five (5) years.

19. Prohibited Persons. Neither Contractor nor any of its respective officers, directors, shareholders, partners, members or affiliates (including without limitation indirect holders of equity interests in Contractor) is or will be an entity or person(i) that is listed in the Annex t, or is otherwise subject to the provisions of Executive Order 13224 issued on September 24, 2001 ("EO13224"), (ii) whose name appears on the United States Treasury Department's Office of Foreign Assets Control ("OFAC") most current list of "Specifically Designated National and Blocked Persons" (which list may be published from time to time in various mediums including, but not limited to, the OFAC

ACTIVE 697822335v2

website, <http://www.treas.gov/offices/enforcement/ofac/sdn/tl1sdn.pdf>), (iii) who commits, threatens to commit or supports "terrorism". as that term is defined in EO13224, (iv) is subject to sanction of the United States Government or is in violation of any federal, state, municipal or local laws, statutes, codes, ordinances, orders, decrees, rules or regulations relating to terrorism or money laundering, including, without limitation, EO13224, or (v) who is otherwise affiliated with any entity or person listed above (and all parties described in clauses (i) – (v) above are herein referred to as a "Prohibited Person".)

20. E-Verify/Verification of Employment Status. As required by Section 448.095(2)(a), Florida Statutes, Contractor represents to Owner that Contractor has registered with and uses the E-Verify System to verify the work authorization status of all newly hired employees. Contractor must provide documentation of its compliance with this requirement to Owner upon Owner's request. If Contractor enters into a contract with a subcontractor, the subcontractor must provide Contractor with an affidavit that the subcontractor does not employ an unauthorized alien. Contractor must maintain a copy of such affidavit(s) for the duration of the contract. Contractor must provide documentation of its subcontractors' compliance with this requirement to Owner upon Owner's request. Contractor agrees that its violation of this section will be grounds for the unilateral termination of the contract by Owner, which termination is not a breach of contract.

21. Public Records.

IF Contractor HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE TOWN CLERK, WHO IS OWNER'S CUSTODIAN OF PUBLIC RECORDS, AT:

**Office of the Town Clerk
Town of Jupiter Island
2 S.E. Bridge Road
Hobe Sound, Florida 33475
772-545-0100
kkogos@tji.martin.fl.us**

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of date signed by Owner (the "Effective Date).

Authentication

THE TOWN OF JUPITER ISLAND

Town Clerk

(TOWN SEAL)

By: _____

Its Mayor

Date: _____

[CONTRACTOR] Stewart & Stevenson FDDA LLC

By: Robert Gerena

Name: Robert Gerena

Its: Service Sales Manager

Generator Information & Locations

Asset ID	Asset Type	Asset Name	Asset Location	Asset Status	Asset Age	Asset Manufacturer	Asset Model	Asset Serial	Asset Notes	Asset Contact	Asset Phone	Asset Email
1	TR	Public Works	Town Hall	LP	100	General	E172A (08401) / (081015)	1367722-25-25	1367722-25-25	Jason Cepeda	772-546-0172	772-546-0172
2	TR	Public Safety	101 Bunker Hill Rd, Hobo Sound, FL 33455	LP	50	General	1367722-25-25	1367722-25-25	1367722-25-25	Jason Cepeda	772-546-0172	772-546-0172
3	TR	Public Works	12921 SE Sadamir Dr, Hobo Sound, FL 33455	LP	35	General	E920471106	040911-28-28	040911-28-28	Jason Cepeda	772-546-0172	772-546-0172
4	TR	Customer Service	9420 SE Percival Ave, Hobo Sound, FL 33455	LP	40	General	5074327847	311215	311215	Jason Cepeda	772-546-0172	772-546-0172
5	TR	Water	7500 SE Quarry St, Hobo Sound, FL 33475	D	500	CAT	67408704	FTED0841	FTED0841	Steve Uber	772-284-9839	772-284-9839
6	TR	Water	8713 SE Eschwood Way, Hobo Sound, FL 33455	D	150	CAT	CAT705-715-0101370	85510525	85510525	Steve Uber	772-284-9839	772-284-9839
7	TR	Water	9650 SE Water St, Hobo Sound, FL 33455	D	300	CAT	CAT0000902000515	58003305	58003305	Steve Uber	772-284-9839	772-284-9839
8	TR	Water	9641 SE Water St, Hobo Sound, FL 33455	D	500	General	1367722-25-25	1367722-25-25	1367722-25-25	Steve Uber	772-284-9839	772-284-9839
9	TR	Infrastructure	9650 SE Water St, Hobo Sound, FL 33455	D	60	General	1367722-25-25	1367722-25-25	1367722-25-25	Steve Uber	772-284-9839	772-284-9839
10	TR	Infrastructure	8180 SE Case Hwy, Hobo Sound, FL 33475	D	50	General	1367722-25-25	1367722-25-25	1367722-25-25	Steve Uber	772-284-9839	772-284-9839
11	TR	Infrastructure	8180 SE Case Hwy, Hobo Sound, FL 33475	D	50	General	1367722-25-25	1367722-25-25	1367722-25-25	Steve Uber	772-284-9839	772-284-9839
12	TR	Infrastructure	8180 SE Case Hwy, Hobo Sound, FL 33475	D	50	General	1367722-25-25	1367722-25-25	1367722-25-25	Steve Uber	772-284-9839	772-284-9839
13	TR	Infrastructure	8180 SE Case Hwy, Hobo Sound, FL 33475	D	25	General	1367722-25-25	1367722-25-25	1367722-25-25	Steve Uber	772-284-9839	772-284-9839
14	TR	Infrastructure	8180 SE Case Hwy, Hobo Sound, FL 33475	D	400	General	1367722-25-25	1367722-25-25	1367722-25-25	Steve Uber	772-284-9839	772-284-9839



2023 - 2024

St. Lucie County Local Business Tax Receipt

Facilities or machines # Rooms # Seats # Employees #14 Receipt #7310-00930029
Type of business 7538 AUTO REPAIR (AUTO REPAIR SERVICE) Expires SEPTEMBER 30, 2024

DBA name Florida Detroit Diesel-Allison Business Stewart & Stevenson FDDA LLC
Mailing address: Florida Detroit Diesel Business location: 3885 Selvitz Rd
3885 Selvitz Rd Fort Pierce, FL 34981
Fort Pierce, FL 34981

RENEWAL		St Lucie County	MV89966
Original tax:	\$27.55		M13000007132
Penalty:			
Collection cost:			
Total:	\$27.55	Paid 08/01/2023 27.55	0000-20230801-130480

Law requires this Local Business Tax Receipt to be displayed conspicuously at the place of business in such a manner that it can be open to the view of the public and subject to inspection by all duly authorized officers of the county. Upon failure to do so, the local business taxpayer shall be subject to the payment of another Local Business Tax for the same business, profession or occupation.

Pursuant to Florida law, all Local Business Tax Receipts shall be sold by the Tax Collector beginning July 1 of each year and shall expire on September 30 of the succeeding year. Those Local Business Tax Receipts renewed beginning October 1 shall be delinquent and subject to a delinquency penalty of 10 percent for the month of October. An additional 5 percent penalty for each month of delinquency is added until paid, provided that the total delinquency penalty shall not exceed 25 percent of the Local Business Tax for the delinquent establishment.

In addition to the penalty, the Tax Collector is entitled to a collection fee of \$1 to \$5. This fee is based on the amount of Local Business Tax, which will be collected from delinquent taxpayers after September 30 of the business year.

This receipt is a Local Business Tax only. It does not permit the local business taxpayer to violate any existing regulatory or zoning laws of the state, county or city. It also does not exempt the local business taxpayer from any other taxes, licenses or permits that may be required by law.

Pursuant to Florida law, Local Business Taxes are subject to change.

Florida Detroit Diesel
3885 Selvitz Rd
Fort Pierce, FL 34981

Individual Generator Quote

Location [Generator Number] [Generator Short Name] [Generator Address]	Contact Person [Name] [email] [phone number]
--	--

Generator Info

	kW	Make	Serial Number
Generator:	[kW]	[Make]	[Generator Serial Number]
Engine:		[Make]	[Engine Serial Number]

Requested Services			
Qty	Description	Rate	Line Total
3	Quarterly Inspections		\$ -
3	Quarterly Inspection Cost Difference		\$ -
	Explanation:		
1	Annual Inspection		\$ -
1	Annual Inspection Cost Difference		\$ -
	Explanation:		
1	2-Hour Load Bank Test		\$ -
		Total	\$ -

All cost differences must be itemized and explained (additional manhours, parts, fluids, etc.)

Any changes to this amount must be approved by the authorized contact person on a case-by-case basis.

Individual Generator Quote

Location
001 Town Hall 2 SE Bridge Rd, Hobe Sound, FL 33455

Contact Person
Jason Coppock jcoppock@tji.martin.fl.us 772-546-0174

Generator Info

	kW	Make	Serial Number
Generator:	100	Generac	E172A 080403 / 0981025
Engine:		Generac	2074039

Requested Services			
Qty	Description	Rate	Line Total
3	Quarterly Inspections	545	\$ 1635 -
3	Quarterly Inspection Cost Difference		\$ 0 -
	Explanation:		
1	Annual Inspection	195	\$ 1560 -
1	Annual Inspection Cost Difference		\$ 328 -
	Explanation: <i>parts * 328</i>		<i>1888 total</i>
1	2-Hour Load Bank Test		\$ 1560 -
		Total	\$ 5083 -

All cost differences must be itemized and explained (additional manhours, parts, fluids, etc.)
Any changes to this amount must be approved by the authorized contact person on a case-by-case basis.

Individual Generator Quote

Location
010 Portable Generator 8180 SE Dixie Hwy, Hobe Sound, FL 33475

Contact Person
Dave Thomas dthomas@tji.martin.fl.us 772-284-4204

Generator Info

	kW	Make	Serial Number
Generator:	60	Generac	2085226
Engine:	Deere	PE5030H37665	

Requested Services			
Qty	Description	Rate	Line Total
3	Quarterly Inspections	\$45	\$ 1635 -
3	Quarterly Inspection Cost Difference		\$ 0 -
	Explanation:		
1	Annual Inspection	195	\$ 1560 -
1	Annual Inspection Cost Difference		\$ 476 -
	Explanation: parts \$476		2036 total
1	2-Hour Load Bank Test		\$ 1560 -
		Total	\$ 5231 -

All cost differences must be itemized and explained (additional manhours, parts, fluids, etc.)
Any changes to this amount must be approved by the authorized contact person on a case-by-case basis.

ADDENDUM No. 1
SOUTH MARTIN REGIONAL UTILITY/TOWN OF JUPITER ISLAND
GENERATOR MAINTENANCE & REPAIR SERVICES INVITATION TO BID (ITB #2024-05)



May 28, 2024

This addendum is issued as part of the Bidding Documents for the above-referenced project. The changes incorporated in this addendum shall be considered as part of the documents and shall supersede, amend, add to, clarify, or subtract from those conditions shown in the original documents. The bidder shall take care to coordinate modifications contained herein with related project documents and work. The Bidder shall acknowledge receipt of this addendum on the Bid Form by addendum number and date. Failure to do so may subject Bidder to disqualification. The following are questions and requests for information received as of May 27, 2024.

1. Request to include a limitation of liability and waiver provision in the Sample Service Agreement Form.

Response: SMRU's legal team added paragraph #15, Limitation of Liability, to the sample service agreement form. It reads as follows:

"15. Limitation of Liability. In no event shall a party to this Agreement be liable for indirect, special, consequential, incidental, or punitive damages, or any damage deemed to be of an indirect or consequential nature, arising out of or related to its performance under this Agreement, whether based upon breach of contract, warranty, negligence and whether grounded in tort, contract, civil law or other theories of liability, including strict liability. The term "consequential damages" shall include, but not be limited to, loss of anticipated profits, loss of use, loss of revenue and cost of capital. Nothing contained in this Agreement is in any way intended to be a waiver of Owner's sovereign immunity or the limitation placed upon Owner's liability as set forth in Section 768.28, Florida Statutes."

2. Clarification Request – Page 20 Line item 14; Fuel Testing Quantity.

Response: SMRU/TJI have more fuel tanks than what is assigned specifically to the generators. Similarly, there may be instances where tanks need to be tested multiple times. The quantity is an estimate and not a guarantee of work. The unit price is what is most important, and the quantity will be "as needed."

3. Clarification Request – Page 20, Line Items 15 & 16; Fuel Polishing Quantity.

Response: SMRU/TJI have more fuel tanks than what is assigned specifically to the generators. Similarly, there may be instances where tanks need to be tested multiple times. The quantity is an estimate and not a guarantee of work. The unit price is what is most important, and the quantity will be "as needed."

4. Question– Page 20, Line Items 18 & 19; Electrical/Welding Services – Contractor does not have a specific electrician for their work, is it okay to put “N/A”?

Response: *Electrical and Welding services may be listed as N/A.*

5. Questions – Page 20, Line Items 15 & 17; Are daily rates of preferred sublet vendors acceptable as a response?

Response: Yes.

6. Question – What sites have quick connects?

Response: *Only the CRA Lift Station.*

7. Question – Is Automatic Transmit System Maintenance part of this bid?

Response: No.

8. Question - How many diesel tanks are at each site? What capacity?

Response: *NWP – (2) 1,000 gallon ConVault Tanks*

SWP – (2) 1,000 gallon ConVault Tanks

WWTP – (1) 2,000 gallon ConVault Tank

East Wellfield – (1) 2,000 gallon ConVault Tank

West Wellfield – (1) 408 gallon Integrated Tank

9. Question - Is the inventory expected to change in the near future?

Response: *The rolling inventory may change as new items are purchased or older items age out. Nothing is scheduled for replacement during the initial term of this contract.*

MODIFICATIONS TO BID FORMS: No modifications to the bid forms are issued with this addendum.

MODIFICATIONS TO BID SPECIFICATIONS: No modifications to the bid specifications are issued with this addendum.

MODIFICATIONS TO PLANS: No modifications to the plans are issued with this addendum.

ADDITIONAL INFORMATION: No additional information is issued with this addendum. However, the **SAMPLE** Service Agreement was updated to reflect added Limitation of Liability language in paragraph #15.

REQUIRED

Please sign and return this sheet by email to sfahrer@tjl.martin.fl.us, to verify that you have received Addendum No. 1 for Generator Maintenance & Repair Services ITB # 2024-05.

Company: Stewart & Stevenson FDDA LLC DBA Florida Detroit Diesel Allison

By: 

Date: 5-31-2024

David Deliz

To: David McMillian; Alice Sabin
Cc: Robert Gerena
Subject: RE: ITB 2024-05 Inquiry Florida Detroit Diesel-Allison

From: David Deliz <D.Deliz@kirbycorp.com>
Sent: Tuesday, May 28, 2024 2:27 PM
To: David McMillian <David.McMillian@kirbycorp.com>; Alice Sabin <A.Sabin@kirbycorp.com>
Cc: Robert Gerena <R.Gerena@kirbycorp.com>
Subject: FW: ITB 2024-05 Inquiry Florida Detroit Diesel-Allison

Afternoon David,

Please see the following statement made by SMRU regarding submittal, as well as the second sentence mentioned specifically.

"The BID package can still be turned in and the legalities of the contract be ironed out, if/when awarded."

David Deliz
Service Sales Representative
Stewart & Stevenson FDDA, LLC.
Ft. Pierce Onsite Energy Group
Cell: 813-853-2643
d.deliz@kirbycorp.com

From: Sabrina J. Fahrer <sfahrer@tji.martin.fl.us>
Sent: Tuesday, May 28, 2024 2:09 PM
To: David Deliz <D.Deliz@kirbycorp.com>
Subject: RE: ITB 2024-05 Inquiry Florida Detroit Diesel-Allison

CAUTION: External email. Please verify with the sender offline and avoid replying with sensitive information, clicking links, downloading attachments or logging in to unknown sites.

Report Suspicious

Hi David,

I'm still waiting on a response, hopeful to have a response by EOD. The BID package can still be turned in and the legalities of the contract be ironed out, if/when awarded.

But as soon as I have a better idea, I'll absolutely let you know.

Kindest regards,

Sabrina Fahrer

Executive Assistant

South Martin Regional Utility (SMRU)

Town of Jupiter Island

SMRU Office #: 772.546.6259

Sfahrer@tji.martin.fl.us

[Jupiter Island Utilities, FL | Official Website \(southmartinregionalutility.com\)](http://JupiterIslandUtilities.FL/OfficialWebsite(southmartinregionalutility.com))

Mailing Address:

PO Box 395

Hobe Sound, FL 33475

Please Note: Florida has very broad public records laws. Under Florida law, both the content of emails and email addresses are public records, upon request. If you do not want the content of your email or email address released in response to a public records request, do not send electronic mail to this entity. Instead please contact the office by phone.

From: David Deliz <D.Deliz@kirbycorp.com>

Sent: Tuesday, May 28, 2024 1:50 PM

To: Sabrina J. Fahrer <sfahrer@tji.martin.fl.us>

Subject: RE: ITB 2024-05 Inquiry Florida Detroit Diesel-Allison

External Email - Use Caution

Afternoon Sabrina,

Just checking in to see if you had a chance to speak with Legal regarding the addition addendum.

Thank you,

David Deliz

Service Sales Representative

Stewart & Stevenson FDDA, LLC.

Ft. Pierce Onsite Energy Group

Cell: 813-853-2643

d.deliz@kirbycorp.com

From: Sabrina J. Fahrer <sfahrer@tji.martin.fl.us>

Sent: Friday, May 24, 2024 12:44 PM

To: David Deliz <D.Deliz@kirbycorp.com>

Subject: RE: ITB 2024-05 Inquiry Florida Detroit Diesel-Allison

Hi David,

I'll have to go over this with the legal department. The language put in, was language that SMRU was amenable to.

As soon as I have a response, I'll let you know. It might not be until Tuesday though due to the holiday weekend.

Thank you.

Kindest regards,

Sabrina Fahrer

Executive Assistant

South Martin Regional Utility (SMRU)

Town of Jupiter Island

SMRU Office #: 772.546.6259

Sfahrer@tji.martin.fl.us

[Jupiter Island Utilities, FL | Official Website \(southmartinregionalutility.com\)](http://JupiterIslandUtilities.FL/OfficialWebsite(southmartinregionalutility.com))

Mailing Address:

PO Box 395

Hobe Sound, FL 33475

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From: David Deliz <D.Deliz@kirbycorp.com>

Sent: Friday, May 24, 2024 11:49 AM

To: Sabrina J. Fahrer <sfahrer@tji.martin.fl.us>

Subject: ITB 2024-05 Inquiry Florida Detroit Diesel-Allison

External Email - Use Caution

Good Morning Sabrina,

We are requesting for an addendum, the previous addendum did not include our requested cumulative liability cap and were proposing the following alternative language be added as an additional addendum:

Notwithstanding any other provision hereof to the contrary, Contractor's total, cumulative liability arising out of or related to the performance or non-performance of this Agreement shall be limited to \$250,000.00.

Please let me know as soon as you can.

Talk soon!

David Deliz

Service Sales Representative

Stewart & Stevenson FDDA, LLC.

Ft. Pierce Onsite Energy Group

Cell: 813-853-2643

d.deliz@kirbycorp.com

This email was scanned by Bitdefender

David Deliz

From: D.Deliz@kirbycorp.com
To: Sabrina J. Fahrer
Subject: RE: ITB 2024-05 Inquiry Florida Detroit Diesel-Allison

From: Sabrina J. Fahrer <sfahrer@tji.martin.fl.us>
Sent: Tuesday, May 28, 2024 4:11 PM
To: David Deliz <D.Deliz@kirbycorp.com>
Subject: RE: ITB 2024-05 Inquiry Florida Detroit Diesel-Allison

CAUTION: External email. Please verify with the sender offline and avoid replying with sensitive information, clicking links, downloading attachments or logging in to unknown sites.

Report Suspicious

Hi David,

I just heard from my legal department and that this time, they are confirming the response I provided earlier. The question regarding Liability Limitation is a contractual matter and can/will be further discussed when/if awarded the BID and would be resolved at that time. Currently, additional language is not needed to move forward with providing a BID response.

Hopefully this helps. We look forward to receiving Detroit Diesel's BID information.

Thank you.

Kindest regards,

Sabrina Fahrer

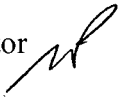
Executive Assistant
South Martin Regional Utility (SMRU)
Town of Jupiter Island
SMRU Office #: 772.546.6259
Sfahrer@tji.martin.fl.us
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MEMORANDUM

TO: The Mayor and Town Commissioners
THRU: Robert Garlo, Town Manager
FROM: Matthew Pazanski, Finance/HR Director 
DATE: May 30, 2024
SUBJECT: 1) Resolution No. 915 – Approving the Retention of Ascensus Trust
2) Approving Retirement Account Administrative Service Agreements

Background

Our employee retirement account servicing companies are going through some consolidation. Our current administrative services company Newport Group was acquired by Ascensus Group LLC, and the change will require updated service agreements and approval of the attached resolution.

Discussion

Attached are three (3) documents for each of the three (3) retirement plans the Town maintains for its employees. The resolution and agreements have been reviewed by town attorneys. The plans include a 401(a) for the Town and SMRU employees and a voluntary 457 plan for all employees.

The documents requiring execution for each of the plans include:

1. Newport Trust Company account application
2. Recordkeeping and Trust services agreement with price reduction
3. Automatic rollover agreement - this is a program whereby Newport manages the terminated account balances under \$7,000 and rolls them over to an IRA.

There is one Master Services Agreement that will require execution as well.

Recommendation

Staff recommends the Town Commission consider a motion to approve Resolution No. 915 and authorize the Town Manager to execute the application and agreements for administrative, custodial and trustee services Ascensus Group LLC and Newport Group.

RESOLUTION NO. 915

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, FLORIDA, RATIFYING AND APPROVING THE RETENTION OF ASCENSUS TRUST OF THE TOWN OF JUPITER ISLAND 401(A) PLAN AND THE TOWN OF JUPITER ISLAND RETIREMENT PLAN FOR THE EMPLOYEES OF THE TOWN-OWNED SOUTH MARTIN REGIONAL UTILITY, ANY NON-DISCRETIONARY TRUST AGREEMENTS, AND OTHER ASSOCIATED DOCUMENTS WITH RESPECT TO EACH SUCH PLAN.

WHEREAS, the Town of Jupiter Island (Town) previously established the Town of Jupiter Island 401(a) Plan (the "General Plan"), the Town of Jupiter Island Retirement Plan for employees of the Town-owned South Martin Regional Utility (the "SMRU Plan"), and the Town's Deferred Compensation Plan (the "457(b) Plan") (referred to together as "the Plans");

WHEREAS, the Town has the power and authority to retain service providers with respect to the Plans; and

WHEREAS, the Town Commission has previously authorized the retention of the Newport Group, Inc. ("Newport") to provide certain administrative services with respect to the Plans; and

WHEREAS, the Town Commission hereby authorizes the migration of the Plans from Matrix Trust benefits platform to Newport's benefits platform with respect to the Plans, and directs the Town Manager to accomplish the same; and

WHEREAS, the Town Commission hereby authorizes the retention of Ascensus Trust ("Ascensus") to act as Newport's sub-custodian for custodial services with respect to the Plans and authorizes the Town Manager to execute such documents or agreements as may be necessary; and

WHEREAS, in connection with the retention of Ascensus to act as sub-custodian and the migration from the Matrix Trust benefit platform to the Newport benefits platform, it was necessary to enter into updated service agreements with Newport with respect to the Plans.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION:

SECTION 1. The Town Commission hereby ratifies and confirms all actions previously taken, or to be taken, by the Mayor and Town Manager, including without limitations the execution of documents, agreements, or other instruments, as he deemed necessary or appropriate to effectuate the migration of the Plans to the Newport BENEFIT platform, and the retention of Ascensus as sub-custodian of the Plans, are hereby ratified and approved.

SECTION 2. The Mayor and the Town Manager be, and each individually hereby is, authorized and directed from time to time to take or cause to be taken such actions and to execute or cause to be executed such documents, agreements or other instruments as shall be necessary or desirable to carry out the intent and purposes of this resolution with respect to the retention of Ascensus and the approval of the migration from the Matrix Trust benefits platform at the meeting of the Commission held on June 12, 2024, and the foregoing resolutions.

SECTION 3. The undersigned further certifies that attached hereto are true copies of the service agreements hereby approved and adopted.

DULY PASSED AND ADOPTED THIS ____ **day of June, 2024.**

Mayor

Vice Mayor

Town Commissioner

Town Commissioner

Town Commissioner

ATTEST:

Town Clerk

#5581388 v1 18270-00002



Master Services Agreement

This **Master Services Agreement ("MSA")** is entered into as of _____, between **Newport Group, Inc.**, a Delaware corporation, ("**Newport**"), and **Town of Jupiter Island**, (the "**Company**").

RECITALS

WHEREAS, Newport provides recordkeeping, administration, consulting and insurance brokerage and policy administration services to tax-qualified, nonqualified and welfare benefit plan sponsors, including public, private and governmental employers, and provides insurance brokerage and policy administration services to corporations, banks, insurance companies and other financial services companies.

WHEREAS, the Company desires to retain Newport to provide one or more of such services to the Company.

NOW THEREFORE, in consideration of their mutual undertakings as set forth in this MSA and the applicable Statements of Work, and for other good and valuable consideration, the parties agree as follows:

1. DEFINITIONS

For purposes of each Agreement, the following terms shall have the meanings assigned below:

- 1.1 "**Affiliate**" means, with respect to a party, an organization that is directly or indirectly owned or controlled by such party, owns or controls such party or is under common ownership or control with such party. Newport Affiliates include Newport Group Securities, Inc., Newport Group Consulting, LLC and Newport Trust Company.
- 1.2 "**Agreement**" means each Statement of Work and this MSA as incorporated by reference into such Statement of Work.
- 1.3 "**Applicable Law**" means the constitutions, statutes, rules, regulations and orders of governmental bodies or regulatory agencies, self-regulatory organizations and all orders and decrees of all courts and arbitrators in proceedings or actions applicable to a party in connection with the performance of its obligations under an Agreement.
- 1.4 "**Authorized Person**" means the person executing a Statement of Work on behalf of the Company or an Affiliate of the Company and any individual designated by the Company in Instructions communicated to Newport. The Company shall notify Newport of any limitations on an Authorized Person's authority. Newport may continue to rely upon designations of Authorized Persons until it receives written notice from the Company to the contrary.
- 1.5 "**Business Day**" means, except as otherwise provided in a Statement of Work, each day on which securities are traded on the New York Stock Exchange.
- 1.6 "**Code**" means the Internal Revenue Code of 1986, and the rules and regulations promulgated thereunder, as amended from time to time.
- 1.7 "**ERISA**" means the Employee Retirement Income Security Act of 1974, and the rules and regulations promulgated thereunder, as amended from time to time.

- 1.8 **"Instructions"** means the Company's written directions and instructions to Newport, including, without limitation, executed Plan documents, Plan administration manuals, written interpretations, policies and procedures, the Instructions described in an applicable Agreement and the designation of Authorized Persons. The transmission of Plan, Participant and financial information from the Company to Newport through agreed-upon transmission protocols, either directly from the Company or indirectly from third parties retained by the Company (including, for example, prior record keepers) shall constitute an instruction to Newport to accept and use such information, subject to Article 6. Instructions from an Authorized Person constitute Instructions from the Company.
- 1.9 **"Losses"** means any damages, losses, costs, judgments, fines, penalties and expenses (including reasonably incurred attorney's fees, defense and investigation costs and disbursements).
- 1.10 **"Participant"** means the participant and his or her beneficiary or beneficiaries, as defined in the Plan.
- 1.11 **"Personal Information"** means, with respect to Company employees and Participants and beneficiaries, an individual's name (either first and last name or first initial and last name) in combination with any one or more of the following data elements: (i) social security number, (ii) driver's license or other government-issued number, (iii) compensation and Plan account number or Plan account or benefit information, in combination with a security code, access code, or password that would permit access to an individual's Plan account. Personal Information does not include any information that is required to be reported in public filings with governmental agencies, is lawfully obtained from publicly available information or that is made available to the general public.
- 1.12 **"Plan"** means, in connection with the Services, the plan or plans identified in the applicable Statement of Work.
- 1.13 **"Services"** means the services that Newport is obligated to provide (or otherwise provides) for or on behalf of the Company under the terms of a Statement of Work.
- 1.14 **"Statement of Work"** means a contract entered into between or among (a) Newport or an Affiliate of Newport, (b) the Company or an Affiliate of the Company and/or (c) a Plan fiduciary, which incorporates the provisions of this MSA by reference and which describes the Services, fees and mutual undertakings of the parties with respect to the Services. A Company Affiliate and/or Plan fiduciary that executes a Statement of Work is bound by the provisions of this MSA applicable to the Company with respect to the engagement set forth in such Statement of Work. The Newport Affiliate executing the Statement of Work is bound by the provisions of this MSA applicable to Newport with respect to the engagement set forth in such Statement of Work.

2. NEWPORT RESPONSIBILITIES

- 2.1 **Statement of Work.** Newport agrees to provide the Services described in the applicable Statement of Work in accordance with the terms thereof. Unless otherwise specified, the Newport Affiliate that executes a Statement of Work is solely responsible for providing the Services described in such Statement of Work and for the Newport obligations under this MSA with respect to such Statement of Work.
- 2.2 **Standard of Care.** Newport will discharge its duties under each Statement of Work in accordance with Applicable Law and in a workmanlike manner and in accordance with commercially reasonable standards. Nothing herein will in any way constitute a waiver or limitation of any rights that the Company may have under any federal or state securities laws based on negligence, which cannot be modified in advance by contract.

3. COMPANY RESPONSIBILITIES

- 3.1 **Statement of Work.** Newport's performance of Services is contingent upon timely performance of the Company's obligations as set forth in the applicable Statement of Work.

- 3.2 **Fees.** The Company agrees to pay Newport's fees as provided in Article 5 and the applicable Statement of Work.
- 3.3 **Provision of Information.** The Company agrees to timely provide Newport with such information, documents and Instructions as may be necessary for Newport to perform the Services. The Company is responsible for ensuring that such information, documentation and Instructions are complete and accurate and shall promptly inform Newport in writing of any changes to the Plan or the Company, or any change in Authorized Persons, that may affect Newport's obligations under an Agreement.
- 3.4 **Review.** The Company agrees to promptly review all reports, statements and other documents prepared and delivered to the Company by Newport and promptly report to Newport any inaccuracies, errors or omissions in such reports, statements and other documents.

4. REPRESENTATIONS, WARRANTIES AND ACKNOWLEDGMENTS

- 4.1 **Representations and Warranties of the Parties.** Each party hereto represents and warrants to the other that: (a) it is a duly organized legal entity having all requisite authority under its organizing documents and Applicable Laws to enter into this MSA and each Agreement and to perform its obligations hereunder; (b) the execution and delivery of this MSA and each Agreement and the performance of the obligations contemplated have been duly and validly authorized by all necessary action, and this MSA and each Agreement constitute a valid and legally binding obligation of such party enforceable in accordance with its terms; (c) the person executing this MSA and each Agreement on its behalf is duly authorized and empowered to execute and deliver the MSA and each Agreement; and (d) it will perform its obligations under each Agreement in accordance with the provisions of Applicable Law.
- 4.2 **Company Instructions and Authorizations; Authority to Appoint Newport.** The Company represents and warrants that (a) its Instructions or authorizations under each Agreement will be made in accordance with the terms of the Plan and the provisions of Applicable Law; and (b) it has the authority under the Plan and other governing instruments and Applicable Law to select Newport as a service provider to the Plan.
- 4.3 **No Fiduciary Status.** Unless expressly provided otherwise in a Statement of Work, the parties acknowledge and agree that, in performing the Services, neither Newport nor any of its Affiliates, employees or agents have been authorized to act as a "fiduciary" (as such term is defined under ERISA and the Investment Advisers Act of 1940, as amended).
- 4.4 **Newport's Capacity as Service Provider.** The Company acknowledges that Newport and its Affiliates are not, and shall not be deemed to be, an insurer, underwriter, or guarantor in connection with: (a) Newport's performance of Services; or (b) Newport's offering of any products pursuant to the terms and conditions of each Agreement.
- 4.5 **Tax, Legal and Accounting Matters.** Newport assumes responsibility for the content of its work product provided to the Company under each Agreement. The parties acknowledge and agree that Newport has not been retained to provide, and is not providing, independent advice with respect to legal, tax or accounting matters affecting the Company or the Plan. Accordingly, the Company may not rely on Newport's positions as independent advice. Specifically, Newport's positions on tax matters may not be relied upon to avoid tax penalties imposed under U.S. tax laws. The Company represents and warrants that it has relied and will rely on its own advisers to determine the appropriate legal, tax and accounting treatment related to the design, implementation and administration of the Plan, insurance policies and investments.

5. COMPENSATION

- 5.1 **Fees.** In consideration for Newport's performance of the Services, the Company agrees to pay the fees and to reimburse Newport for certain expenses, each as set forth herein and in the Fee Schedule appended to the applicable Statement of Work.
- 5.2 **Payment Terms.** Unless provided otherwise in an applicable Statement of Work, Newport will invoice the Company on a quarterly basis for its fees and expenses. The invoice will include recurring fees, billed in advance, and any earned project fees, travel and direct expenses described herein during the previous quarter. Invoices are due upon receipt. Balances not paid within thirty (30) days of the date of the invoice will bear a late charge equal to 1.5% of the outstanding balance for each month or partial month until paid in full. If the Company shall not have disputed, in writing, any portion of an invoice, within thirty (30) days of receipt thereof, such invoice shall be deemed accepted by the Company. In the event any balance is past due in excess of sixty (60) days, Newport reserves the right to discontinue all Services until the account is brought current. If Newport is required to commence collection procedures to collect fees, and prevails, the Company shall be responsible for all expenses incurred by Newport in connection therewith, including attorneys' fees and legal costs. In the event Newport (including any of its Affiliates) is requested or authorized by the Company, or required by government regulation, subpoena, or other legal process (including but in no way limited to government audit) to produce documents, personnel, or otherwise provide assistance in connection with such legal process, the Company agrees to pay Newport's normal and reasonable hourly rates and expenses whether or not Newport is named as a party, and whether or not Newport is still engaged to perform services for the Company.
- 5.3 **Taxes.** Newport is responsible for payment of all applicable taxes with respect to fees paid to Newport. The Company will not pay or withhold taxes on payments due Newport, except to the extent required by Applicable Law.

6. INSTRUCTIONS

- 6.1 **Instructions.** The Company is responsible for ensuring that all information, documents and Instructions provided to Newport are complete and accurate. Newport may rely in all respects, without having to make further inquiry, on the information, documents and Instructions appearing to be from the Company and Authorized Persons and will not be liable for any actions taken upon the Instructions of the Company or such Authorized Person. In the event of incomplete or conflicting Instructions, Newport shall have the right to refuse to comply with such Instruction until it receives complete Instructions or written evidence that the conflict has been resolved to its satisfaction. Newport will not be liable for any errors or omissions made as a result of conflicting, incomplete or incorrect information, documents or Instructions received from the Company or for the failure to act in the absence of Instructions from the Company.
- 6.2 **Errors and Corrections.** The Company shall promptly notify Newport of any errors or omissions in the information, documents or Instructions provided by the Company or any Participant. In the event of any such error, Newport shall work with the Company to resolve the error or omission and make such adjustments as may be necessary or appropriate to correct such error or omission; *provided, however*, that Newport shall not be liable for any damages arising or resulting from such error or for the cost of correcting such errors. Newport may charge a reasonable fee, not to exceed \$125 per hour, for correcting errors in information, documents or Instructions provided by the Company. Newport will be responsible, at its own expense, for correcting any errors resulting from its material breach of this Agreement, gross negligence or willful misconduct in the performance of its obligations under this Agreement.

7. CONFIDENTIALITY

- 7.1 **Confidentiality Obligation.** Each party (in such capacity the "**Receiving Party**") shall keep the Confidential Information (as defined below) of the other party (in such capacity, the "**Disclosing Party**")

confidential. In addition, the Receiving Party shall implement security measures reasonably designed to secure the Confidential Information against loss, theft and unauthorized use, modification or access. The Receiving Party shall have the limited right to use the Confidential Information only for the purpose of fulfilling its commitments and obligations to the Disclosing Party under each Agreement. Except as permitted in the foregoing sentence or by prior written consent of the Disclosing Party, the Receiving Party shall not use, disclose or distribute to any person, firm or entity any Confidential Information and shall not permit any person, firm or entity to use, disclose or distribute any Confidential Information; *provided* that the Receiving Party may disclose or distribute such Confidential Information to the following: (a) its officers, employees and directors who have a business need to know such Confidential Information; and (b) its attorneys, accountants, consultants, agents, independent contractors or professional advisors who (x) have a business need to know such Confidential Information and (y) are subject to fiduciary, professional or written obligations of confidentiality substantially similar to, and no less restrictive than, the obligations set forth herein. Except in connection with the purposes identified above, the Receiving Party shall not copy or otherwise reproduce, or permit to be copied or otherwise reproduced, all or any part of Confidential Information without the prior written consent of the Disclosing Party.

7.2 **Confidential Information.** As used in each Agreement, “**Confidential Information**” means (a) information and reports provided or made available to Newport by the Company or its Affiliates (or any employee, agent or representative thereof) in connection with Newport’s performance of the Services; (b) Personal Information; (c) the terms and conditions of each Agreement; (d) information designated by the Disclosing Party as confidential; (e) information regarding past, present or future business and business activities, financial or technical information; products, services, research and development; processes and techniques; designs; financial planning practices; investment methodologies; and marketing plans; and (f) information and material which, by its nature, should reasonably be construed to be proprietary or confidential.

7.3 **Exceptions.** The term “**Confidential Information**” does not include any information which the Receiving Party can demonstrate (a) is in the public domain through no fault or breach by such Receiving Party of its obligations hereunder; (b) was known by the Receiving Party prior to its disclosure by the Disclosing Party and was not obtained in such circumstances subject to a requirement of confidentiality; or (c) was developed independently of, and without the use of or access to, any Confidential Information exchanged pursuant to each Agreement. The exclusions in this Section shall not apply to Personal Information or otherwise limit Newport’s obligations with respect thereto. Despite the obligations of Section 7.1, the Receiving Party may disclose the Confidential Information of the Disclosing Party to the limited extent such Confidential Information is required to be disclosed by the Receiving Party by Applicable Law or pursuant to an order of any court or administrative body; *provided, that*, with regard to each such disclosure, the Receiving Party shall provide the Disclosing Party with prompt notice of such request or order (to the extent permitted by Applicable Law), shall cooperate reasonably with the Disclosing Party in resisting the disclosure of such Confidential Information via a protective order or other appropriate legal action, and shall not make disclosure pursuant thereto until the Disclosing Party has had a reasonable opportunity to resist such disclosure, unless the Receiving Party is ordered otherwise.

7.4 **Ownership.** All Confidential Information shall be and remain the sole and exclusive property of the Disclosing Party, its Affiliates, or their respective employees, suppliers, or customers, as the case may be. Except as otherwise set forth in each Agreement, neither party acquires any intellectual property rights, including any rights to create derivative works of any Confidential Information, under each Agreement, except the limited right to use such Confidential Information in accordance with each Agreement.

7.5 **Return of Confidential Information.** Upon written request by the Disclosing Party, the Receiving Party shall: (a) return to the Disclosing Party all Confidential Information, all documents or media containing the Confidential Information, and any and all copies or extracts thereof, and/or (b) destroy the Confidential Information, and any and all copies or extracts thereof, and provide the Disclosing Party with written certification of such destruction signed by an authorized representative of the Receiving Party; *provided, however*, that the Receiving Party is entitled to retain copies of such Confidential

Information as it is required to retain pursuant to Applicable Law and that are electronically stored or archived in the ordinary course of business.

- 7.6 **Injunctive Relief.** The parties acknowledge and agree that any breach or threatened breach of Section 7.1 may cause the aggrieved party immediate and irreparable harm for which monetary damages alone will be inadequate compensation. Accordingly, the aggrieved party shall be entitled, in addition to any other remedies available at law or in equity, to immediate injunctive relief without requiring a cure period and without the necessity of posting a bond.

8. DATA PRIVACY AND INFORMATION SECURITY

- 8.1 **Information Security.** Newport will implement policies, procedures and technological measures reasonably designed to maintain the security and privacy of, and prevent the unauthorized disclosure of or access to Personal Information ("**Unauthorized Disclosure**"), which shall at all times provide for security standards not less protective than those set forth in **Exhibit A** hereto.
- 8.2 **Personal Information.** Newport agrees that its collection, use and disclosure of any and all Personal Information is and will be at all times conducted in compliance with all applicable data protection and/or privacy laws, rules and/or regulations. Newport will not use or disclose Personal Information to any third party, other than to its affiliates and third party service providers, without Plan Administrator's written consent, except pursuant to an Instruction from an Authorized Person or as permitted or required by Applicable Law. Any personnel, Subcontractor, Vendor, affiliate, or third party service provider retained by Newport who has access to Personal Information will agree in writing to be bound by obligations of confidentiality consistent with those set forth herein and the information security measures set forth in **Exhibit A**.
- 8.3 **Responsibility for Remediation.** Newport will be responsible for remediation in the event of an Unauthorized Disclosure caused by its or its agents' failure to comply with its obligations under this **Section 8**. Newport will cooperate with the Company in the investigation of an Unauthorized Disclosure and will be responsible for the following costs incurred by Newport for (i) any remediation, mitigation, response or subsequent prevention; (ii) providing any notice of the event to affected individuals (including preparation and delivery of such notice) required by Applicable Law; (iii) providing notice to government agencies, credit bureaus, media and/or other required entities (including preparation and delivery of such notice) as required by Applicable Law; (iv) to the extent required under Applicable Law, providing individuals affected by the event with credit protection services designed to prevent fraud associated with identity theft crimes for such time as is required under Applicable Law; and (v) non-appealable fines or penalties assessed by any governmental authority in connection with the Unauthorized Disclosure ("**Remediation Costs**"). The Remediation Costs set forth in this **Section 8.3** will be deemed direct damages not subject to the limitations set forth in **Section 12.3** of this Agreement.

9. INTELLECTUAL PROPERTY

- 9.1 **License.** Newport grants a limited, non-exclusive, non-transferable, worldwide license to the Company to access and use Newport's websites, technology, databases, copyrighted material and other intellectual property utilized in connection with Newport's delivery of Services. The Participants and beneficiaries in any Plans are granted a limited, non-exclusive, non-transferable, worldwide license to access and use the participant websites provided by Newport under an Agreement. This license is limited to the purposes set forth in each Agreement and may not be used by the Company, Participant or beneficiary for any other purpose.
- 9.2 **Newport as Owner.** Newport represents and warrants to the Company that Newport is the sole owner of Newport intellectual property, that Newport has the legal right to license its intellectual property, and that such intellectual property does not infringe upon the intellectual property rights of any third party. The Company, its employees, Plan Participants and beneficiaries shall have no rights in such intellectual property other than the limited, non-exclusive and non-transferable license granted in Section 9.1.

- 9.3 **Use of Names.** Neither party may use the name, trade name, service marks, trademarks, trade dress or logos of the other party or its Affiliates in marketing materials, publicity releases, advertising or any similar activity without such other party's prior written consent.

10. INSURANCE, AUDIT

- 10.1 **Insurance.** Newport agrees to maintain the insurance coverages as set forth in **Exhibit B**.
- 10.2 **Business Continuation.** Newport hereby represents, warrants and covenants that it (a) has and shall maintain a disaster recovery and business continuation plan that is reasonably designed to minimize disruption in the event of a business interruption affecting the Services or as otherwise required pursuant to a Statement of Work; (b) shall test the operability of such plan at least once every 12 months and revise such plan as necessary to ensure continued operability; (c) shall activate such plan upon the occurrence of any event materially affecting timely receipt of the Services; (d) shall notify the Company as soon as practicable following the occurrence of a business interruption affecting the Services; and (e) shall use commercially reasonable efforts to reinstate the Services as soon as practicable following a business interruption.
- 10.3 **SOC Report.** Each year during the term of this MSA, Newport will cause to be conducted an audit pursuant to Statement on Standards for Attestation Engagements No. 16 (SSAE 16) or any replacement or successor audit standard or process and produce a Service Organization Control Report I Type 2 ("**SOC Report**"). The SOC Report shall be made available to the Company upon request. The scope of the SOC Report will include an examination of the Services provided by Newport and will include a review of the systems and operations of Newport applicable to the Services and Newport's internal controls as they relate to the Services.
- 10.4 **Audit Access.** Once per calendar year, upon reasonable prior written notice to Newport, the Company, at its own expense, will have the right to perform an audit of Newport's operations used to provide Services. The Company may use a third party to perform such audit provided that the Company provides evidence to Newport that such audit firm has agreed to maintain the confidentiality of any Confidential Information consistent with the requirements of this Agreement.
- 10.5 **Employee Screening and Training.** Newport shall, to the extent permitted by Applicable Law, perform the following background screenings on any employee that has access to Company Personal Information: (a) validation of educational experience and proof of license(s), to the extent applicable; (b) validation of employment history; (c) validation of the employee's social security number; (d) screening against the Office of Foreign Assets Control list; (e) screening for any job-related felony conviction, felony charge or conviction, misdemeanor conviction relating to a crime of dishonesty or crimes involving investments or an investment-related business, fraud, theft, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses; (f) review of credit history.

Newport shall require all employees with access to Confidential Information to maintain the confidentiality of such information, consistent with the obligations of Newport under Article 7 hereunder and complete privacy and data protection training on a periodic basis, no less frequently than annually.

11. TERM AND TERMINATION

- 11.1 **Term.** Each Agreement is effective as of the effective date set forth in the applicable Statement of Work and terminates on the third anniversary thereof. This Agreement will automatically renew for successive two (2) year terms unless either party notifies the other of its intention not to renew, no later than one hundred twenty (120) days prior to the end of the current term. Notwithstanding the foregoing, an Agreement may terminate at an earlier date as provided in the applicable Statement of Work or under the provisions of Section 11.2. This MSA terminates upon thirty (30) days' advance notice from one party to the other after all Statements of Work have terminated.

- 11.2 **Termination for Cause.** Either party may terminate an Agreement for cause (a) upon a material breach by a party, which breach remains uncured more than sixty (60) days after written notice thereof is given to the breaching party; or (b) immediately, upon written notice, if any payment due hereunder has not been disputed and remains outstanding sixty (60) or more days after the due date.
- 11.3 **Effects of Termination.** In the event of termination of an Agreement for any reason, the Company agrees to promptly pay or cause to be paid all outstanding fees and expenses due to Newport and Newport will return any unearned fees to the Company or, if applicable, the Plan trust, as directed by the Plan fiduciary. Fees paid in advance will be prorated through the effective date of termination based on a fraction, the numerator of which is the number of days elapsed counting the termination date, and the denominator of which is the number of days in the billing period. The denominator is: (a) for monthly billing periods, 30 days; (b) for quarterly billing periods, 90 days; (c) for annual billing periods, 365 days; and (d) for partial billing periods, the number of days in such partial period. Upon termination of a Statement of Work, all Services described in that Statement of Work shall cease and shall immediately become the responsibility of the Company.
- 11.4 **Transition Services.** In addition to transition assistance provided for under a Statement of Work, Newport shall provide such reasonable assistance and information as the Company may reasonably request to ensure the orderly transition of the Services to another service provider, if applicable, which shall include transitioning Plan records and data in a mutually acceptable file format to any successor provider; *provided, however*, that Newport shall be reasonably compensated for its transition services in accordance Newport's then current Fee Schedule. The Company understands that it is responsible for all charges, debit items or other transactions initiated or authorized by the Company or an Authorized Person, whether arising before or after termination.
- 11.5 **Survival.** The provisions of Article 5 (Compensation), Article 7 (Confidentiality), Article 12 (Indemnification; Limitations on Liability) and Article 13 (General Terms, except Sections 13.1 and 13.2) survive termination.

12. INDEMNITY; LIMITATIONS ON LIABILITY

12.1 Indemnification.

- (a) Newport shall indemnify, defend and hold harmless the Plan, the named fiduciaries for the Plan and the Company for, from and against Losses to which the Plan may become subject to the extent such Losses were the result of Newport's breach of an Agreement.
- (b) The Company and its successors shall indemnify, defend and hold harmless Newport and its Affiliates and each of their respective directors, officers, employees and agents (the "**Newport Parties**") for, from and against any Losses, including but not limited to Losses arising in connection with a regulatory investigation or audit to which any Newport Parties may become subject, (i) arising in any manner out of or in connection with the performance of Newport's obligations under an Agreement; (ii) by reason of any acts taken in good faith in accordance with Instructions, or acts omitted in good faith due to absence of or conflicting Instructions required pursuant to an Agreement from the Company; and (iii) arising out of the actions taken by any other prior, current or successor service provider (other than the Newport Parties), except to the extent such Losses were the result of Newport's breach of an Agreement.

- 12.2 **Indemnification Procedure.** A party seeking indemnification under Article 12 (the "**Indemnified Party**") shall promptly notify the indemnifying party (the "**Indemnifying Party**") of any claim for indemnification and allow the Indemnifying Party to control the defense of such claim; *provided, however*, that the failure to provide timely notice will not relieve the Indemnifying Party from any liability hereunder or otherwise unless such failure materially prejudices the Indemnifying Party's rights. The Indemnifying Party may not settle any claim (a) that involves a remedy other than the payment of money by the Indemnifying Party without the Indemnified Party's prior written consent; and (b) no such compromise or settlement is hereby authorized unless the Indemnified Party obtains

a complete release of liability under such compromise or settlement. In the event the Indemnifying Party fails to promptly assume the defense of the claim or to promptly and reasonably conduct the defense, the Indemnified Party shall have the right to control the defense of the claim, at the sole cost and expense of the Indemnifying Party.

- 12.3 **Limitations on Liability.** Notwithstanding any other provision of this Agreement, in no event will a party (including, in each case, its respective Affiliates and agents) be liable to the other party or any third party for any incidental or consequential damages (including, without limitation, indirect, special, punitive, or exemplary damages for loss of business, loss of profits, loss of goodwill or business reputation, business interruption, loss of data, or loss of business information) arising out of or connected in any way with this Agreement, even if advised of the possibility of such damages and regardless of the nature of the claim asserted. The preceding limitations will not apply to Remediation Costs relating to a violation of the confidentiality obligations under **Section 8.2** hereof.

To the extent permissible under Applicable Law, including but not limited to ERISA, each party's liability under this Agreement will be limited to not more than three (3) times the annual fees payable under the applicable SOW at the time Losses are incurred.

13. GENERAL TERMS

- 13.1 **Use of Third Parties.** Except as may otherwise be provided in a SOW, Newport may retain third party vendors ("**Vendors**") to assist Newport in the performance of its obligations; *provided, however*, that, to the extent such Vendor has access to Confidential Information or Personal Information, such Vendor will have agreed in writing to adhere to confidentiality and data and security obligations no less restrictive than those set forth in this MSA. Upon the Company's request Newport will provide the Company a list of: (i) any Vendors that have access to Personal Information, and (ii) any Vendors retained by Newport to provide certain of the Services exclusively to the Company ("**Subcontractors**"). The foregoing notwithstanding, Newport will remain fully responsible for the performance of the Services and Newport's use of either Vendors or Subcontractors in the performance of Services under this Agreement will not affect Newport's responsibility for its representations, warranties, covenants or undertakings under this Agreement.
- 13.2 **Force Majeure.** Neither Newport nor the Company will be liable for any failure or delay in performance under an Agreement, including any loss or expense resulting in either party's failure to fulfill, or delay in fulfilling, its obligations under such Agreement, where such failure or delay is a result of a cause beyond the reasonable control of the affected party, including, without limitation: strikes, lockouts or other acts of workmen; fire, flood, earthquake, element of nature or acts of God; governmental restrictions or court order; war, riot, civil disorders, rebellions or revolutions; public utility, telephonic, electrical or network failure; accidents; acts of terrorism; third party non-performance (except for non-performance by a party's employees, subcontractors, agents, representatives and/or Affiliates); or unusual trading activity or disruption of trading on any exchange; or any other event that would constitute a *force majeure* (a "**Force Majeure Event**"). The affected party shall promptly notify the other party of the occurrence of the Force Majeure Event. The occurrence of the Force Majeure Event does not excuse, limit, or otherwise affect Newport's obligation to provide either normal recovery procedures or any other disaster recovery services described in an Agreement, except to the extent that such procedures or services are directly affected by such Force Majeure Event.
- 13.3 **Status as Independent Contractors.** Nothing in an Agreement shall cause or be deemed to cause any party (including its officers, directors, or employees) to be an employee, partner, joint venturer, or agent of any other party hereto. The sole relationship of the parties hereto is that of independent contractor.
- 13.4 **Third Party Beneficiaries.** Agreements shall not be construed as granting any rights or benefits to third parties, including, for example, Plan Participants and their beneficiaries, employees, independent contractors, consultants or other agents of the parties.

- 13.5 **Counterparts.** This MSA and each Statement of Work may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts taken together shall constitute one and the same instrument. The parties hereto agree that each Agreement and other documents may be executed by facsimile or digital signature, which will have the same effect as an original signature.
- 13.6 **Amendments and Waivers.** Except as otherwise expressly provided under an Agreement, any provision of such Agreement may be amended or waived only if such amendment or waiver is in writing and is signed, in the case of the amendment, by each party to such Agreement or, in the case of a waiver, by the party against whom the waiver is to be effective. No failure or delay in exercising any rights or privilege hereunder shall operate as a waiver thereof. No waiver of any right or privilege in respect to any occurrence or event on one occasion shall be deemed a waiver of such right or privilege in respect of such occurrence or event on any other occasion.
- 13.7 **Conflict of Terms.** The provisions of this MSA, Statement(s) of Work and the schedules thereto, are intended to be read together as a single contract, applying general rules of contract interpretation. The parties understand that the Statement of Work is intended to govern only the Services and obligations of the parties specifically described therein and, should therefore be construed, where possible, under the rule of contract interpretation giving deference to more specific contract terms. If, after the application of general rules of contract interpretation and Applicable Law, a conflict exists between the MSA and a Statement of Work, unless the Statement of Work (or applicable schedule) expressly provides that it is intended to override the provisions of the MSA, the provisions of the MSA shall control.
- 13.8 **Notices.** Whenever any notice may be or is required to be given hereunder, such notice shall be in writing and sent by United States first class mail, postage prepaid; by facsimile with confirmed delivery; or by overnight delivery service, where receipt is given, and addressed (a) to the Company: to the person and address appearing in Newport's records, provided by the Company for such purposes; and (b) to Newport: Newport Group, Inc., 1350 Treat Boulevard., Suite 300, Walnut Creek, California 94597-7959, Attention: Chief Operating Officer, or such other address as Newport may provide from time to time, with a copy to: Newport Group, Inc., 1350 Treat Boulevard., Suite 300, Walnut Creek, California 94597-7959, Attention: Legal Department.
- 13.9 **Severability.** If any term or provision of an Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of such Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of such Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of such Agreement becomes inconsistent with any present or future law or regulation, that provision shall be superseded or amended to conform to such law and regulation, but the remainder of such Agreement shall remain in full force and effect.
- 13.10 **Construction.** Headings in an Agreement are inserted solely for convenience of reference and will neither constitute a part of such Agreement nor affect its meaning, construction or intent. Whenever used in an Agreement, unless the context indicates otherwise, the singular will include the plural, the plural will include the singular, and the male gender will include the female gender. The words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation," unless otherwise specified. Each Agreement has been negotiated and prepared by the parties and their respective attorneys and, should any provision of an Agreement require judicial interpretation, the court interpreting or construing such provision shall not apply the rule of construction that a document is to be construed more strictly against one party.
- 13.11 **Successors and Assigns.** Each Agreement is binding upon the successors and assigns of the parties hereto. Either party may assign an Agreement to an Affiliate or a successor in interest upon written notice to the other party.

- 13.12 **Entire Agreement.** Each Agreement constitutes the entire agreement between Newport and the Company related to the subject matter thereof and supersedes all prior agreements, proposals or representations, whether written or oral, between the parties relating to the subject matter thereof.
- 13.13 **Choice of Law.** Except to the extent such laws are preempted by federal law, each Agreement, and all claims or causes of action (whether in contract, tort or statute) that may be based upon, arise out of or relate to each Agreement, or the negotiation, execution or performance of each Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with each Agreement or as an inducement to enter into each Agreement), shall be governed by, and enforced in accordance with the internal laws of the State of New York, including its statutes of limitations, without regard to any borrowing statute that would result in the application of the statute of limitations of any other jurisdiction.

IN WITNESS WHEREOF, the parties hereto have caused this MSA to be executed by their duly authorized officers or representatives as of the date first set forth above.

TOWN OF JUPITER ISLAND

Signature

Printed Name

Title

Date

NEWPORT GROUP, INC.



Signature

Rick Irace

Printed Name

Chief Operating Officer, Total Services

and Operations Management

Title

2/26/2024

Date

EXHIBIT A

DATA PRIVACY AND INFORMATION SECURITY

A. OVERVIEW

In the course of providing services to the Company pursuant to the terms of this Agreement, Newport may have access to Personal Information. Any capitalized terms used but not defined in this Exhibit have the meanings given to them elsewhere in this Agreement.

"Data Access" means with respect to any data, to access, use, collect, obtain, maintain, handle, process, copy, record, organize, store, host, transmit, transfer, provide, disclose, make available, generate, dispose, erase or destroy data.

"Data Security Incident" means any breach of security involving Newport, its Vendors or any Subcontractor(s) that results in the unauthorized Data Access or loss of any Personal Information.

"Security Standards" means, as applicable: (a) the standards, practices and guidelines issued by the Center for Internet Security; (b) the standards, practices and guidelines issued by the National Institute for Standards and Technology; and (c) all other applicable industry standards for information security and data privacy, as each may be updated, amended or replaced by the applicable industry body.

"Services" means, collectively, the services, activities, functions and tasks listed or described in this Agreement, and any activities that are an inherent part of the foregoing.

Newport and its personnel shall, at all times, collect, process, transfer, disclose, store, use and otherwise access Personal Information in its possession, custody or control in accordance with the terms of this Exhibit and Applicable Law.

B. GENERAL REQUIREMENTS

1. Data Privacy and Security Programs. Newport's data privacy and security programs will include physical, technical, organizational and administrative measures reasonably designed to protect against and prevent the unauthorized destruction, loss, access to or alteration of Personal Information in Newport's possession, custody or control, including: safeguards and measures that are no less rigorous than the requirements of this Agreement, generally accepted industry standards and those maintained by Newport for its own information of a similar nature to (a) protect the security and confidentiality of Personal Information; (b) protect against any anticipated threats or hazards to the security or integrity of any Personal Information; (c) protect against any Data Security Incident; (d) ensure the proper storage and disposal of Personal Information; and (e) ensure the continued effectiveness of its information security policies and procedures. Subject to the terms of this Exhibit, Newport shall maintain and retain all Personal Information in its possession, custody or control in compliance with Newport's record retention policies, a copy of which is available upon request. In the event that the Company requires Newport to comply with the requirements of a Company initiated legal hold to preserve relevant information in Newport's possession, custody or control for the purposes of anticipated litigation ("Company Legal Hold"), the Company will provide Newport with written notice of (i) the Company Legal Hold, (ii) the specific information to which the Company Legal Hold applies, and (iii) the time for the Company Legal Hold to be complied with by Newport, and Newport shall comply with the requirements of such notice upon receipt.

2. Information Security Policies. Newport maintains rigorous policies and practices to protect the security of its systems, as detailed in Newport's IT and Security Governance Policy, which outlines the physical, technical, organizational and administrative measures by which it protects Personal Information. These standards are applied uniformly across Newport's operations and are based on generally accepted

industry security standards. Newport will provide the Company with a current copy of such policy upon request.

3. Data Privacy Policy. Newport collects Personal Information for the purpose of providing the Services required under this Agreement and as described in its Privacy Policy. Newport will not use any Personal Information collected except as set forth in the Privacy Policy, a current copy of which is available at www.newportgroup.com or will be provided to the Company upon request.

4. Third Parties and Vendor Mangement. Newport requires that its Vendors and Subcontractors that have access to, use or disclose Personal Information (a) maintain data security and privacy programs which are at least as stringent as Newport's own programs in the aggregate with respect to the service to which such third party has been engaged, and in accordance with generally accepted industry standards; and (b) comply with terms substantially similar to (and no less protective of Personal Information than) the terms set forth in this Exhibit. Newport maintains a vendor management program for all Vendors and Subcontractors having access to Personal Information to assess such parties' compliance with such requirements. Newport's vendor management program provides for (i) initial due diligence to identify inherent third party risks, (ii) ongoing monitoring for service quality, (iii) ongoing due diligence of operations and controls, including IT security policies, risk controls, regulatory compliance and financial strength, (iv) tracking of any issues identified and (v) annual audit of such program. A copy of Newport's vendor management policy is available upon request.

5. On Boarding Process.

a. Background Checks. Newport requires that new hires be subjected to a comprehensive pre-employment background check, which currently includes, among other things, (a) validation of educational experience and proof of license(s), to the extent applicable; (b) a seven-year employment check; (c) validation of a social security number; (d) a ten-year criminal history check; (e) screening against the Office of Foreign Assets Control list; and (g) to the extent permitted by Applicable Law, review of credit history.

Newport will maintain and enforce its policies regarding the background checking of its employees at its expense. Upon the Company's request, Newport will provide the Company with a summary of such policies.

b. Confidentiality Agreements. Newport requires that non-disclosure/confidentiality agreements be signed by all new employees within 30 days of hire. All Newport employees performing Services will, at all times, be party to and bound by then-in-effect non-disclosure/confidentiality agreements.

c. Training. Newport requires annual employee training on data security and privacy, including Newport's Information Security and Data Privacy Policies and, periodic training to help employees understand, be aware of, identify, prevent and avoid emerging risks.

d. Monitoring. Newport monitors all of its employees for compliance with its security and privacy program and policy requirements and appropriate disciplinary measures are taken, up to and including termination, for failure to adhere to these requirements.

C. SECURITY MEASURES

1. Physical Security. Newport maintains security controls for entry points, holding areas, telecommunications areas, and cabling areas that contain information processing systems or media containing Personal Information. Security controls may include, but are not limited to:

a. Access control and restriction by use of a defined security perimeter, appropriate security barriers, security cameras, entry controls and authentication controls, and maintenance of access logs in accordance with Newport's policy;

- b. Where Newport ID cards are deployed, a requirement for all personnel, vendors, contractors and visitors to wear some form of visible identification to identify themselves as employees, contractors, vendors, or visitors;
- c. A clear desk/clear screen policy;
- d. An automatic idle-lock for unattended equipment;
- e. A requirement for visitors to sign in to Newport's premises and to be escorted at all times; and
- f. Where technically feasible and commercially reasonable, cameras and CCTVs.

2. Network Security Controls. Newport maintains the following network security controls and safeguards:

- a. Defense-in-depth design with perimeter routers, network switches and firewall devices and default deny-all policy to protect Internet presence;
- b. Least privilege and authenticated access for network users and equipment;
- c. Control of internet access by proxies;
- d. Two-factor authentication for remote access with a non-reusable password;
- e. Intrusion detection system to monitor and respond to potential intrusions;
- f. Real-time network event logging and investigation using a security information event management tool;
- g. Content filtering and website blocking using approved lists;
- h. Limitations on wireless access to the network;
- i. Policies and standards for wireless network devices;
- j. Prohibitions on bridging of wireless and other networks, including the corporate network; and
- k. Detection and disassociation of rogue wireless access points.

3. Platform Security Controls. Newport maintains the following platform security controls and safeguards:

- a. Maintenance of configuration/hardening standards;
- b. Control of changes through an internal change control process;
- c. Prohibition on installing unauthorized hardware and software;
- d. Where technically feasible, automatic session timeouts after periods of inactivity;
- e. Removal of vendor-supplied defaults (accounts, passwords and roles) during installation;
- f. Removal of services and devices that are not required by valid business needs;
- g. Use of an anti-virus program with timely updates;
- h. Non-privileged account access on workstations and laptops; and
- i. Full disk encryption and active firewall installation on laptops.

4. Application Security Controls. Newport maintains the following application security controls and safeguards:

- a. Defense-in-depth with the use of n-tier architecture for separation and protection of data;
- b. A secure software development life cycle (SSDLC) for application development that includes training, development, testing and ongoing assessments;
- c. Documentation, review, testing and approval before changes are implemented into production;
- d. Identification, testing and remediation of application vulnerabilities and patches in a timely manner; and
- e. A prohibition on using production data in development and testing environments.

5. Data and Asset Management. Newport maintains the following data and asset management security controls and safeguards:

- a. Technical, administrative and physical safeguards;
- b. Regular backups and storage of Personal Information;
- c. Encryption of any Personal Information transmitted over public networks and on removable media;
- d. Use of a data loss prevention technologies for restricting the unauthorized transfer of sensitive data, such as social security numbers or other national identification numbers;
- e. Use of an inventory program to control the installation, ownership and movement of hardware, software and communications equipment;
- f. Encryption, sanitization, destruction, or purging of all physical media containing Personal Information in accordance with Newport's record retention policy to ensure that residual magnetic, optical, electrical, or other representation of data has been deleted, and is not recoverable; and
- g. Logical separation of Personal Information of any Newport client from other Newport clients.

6. Access Control and Management. Newport maintains the following access control and management security controls and safeguards:

- a. Monitoring and logging access and use of Newport systems that contain Personal Information, including, but not limited to logging of access attempts to Newport systems that contain Personal Information;
- b. Periodic review and validation of role-based access to Personal Information and prompt removal of unnecessary access;
- c. Unique logon ID and passwords;
- d. Strong passwords with minimum length, complexity and expiration requirements;
- e. Disabling access after a limited number of failed login attempts; and
- f. Rejection of previously used passwords.

7. Vulnerability and Patch Management. Newport takes the following measures designed to identify and mitigate vulnerabilities that threaten Newport's ability to enforce the confidentiality, integrity, and availability of Personal Information:

- a. A vulnerability monitoring process that provides alerts or notifications of new fixes available, and the resulting timeframe for remediation;
- b. Regular scanning to identify and remediate vulnerabilities promptly;
- c. Classification of vulnerabilities based on severity to allow for remediation based on predetermined service level expectations; and
- d. Penetration tests on applicable Newport environments, including perimeter vulnerability testing, internal infrastructure vulnerability testing, and application testing.

D. DATA SECURITY INCIDENT NOTIFICATION & RESPONSE

1. Notification. If Newport confirms or is notified of any Data Security Incident, Newport will as soon as reasonably possible, but in any event within two (2) business days after confirmation or notification thereof, notify the Company of such Data Security Incident.

2. Incident Management. In the event of a Data Security Incident, Newport will (i) reasonably investigate the impact of such Data Security Incident; (ii) identify the root cause of such Data Security Incident; (iii) take reasonable measures to remedy the Data Security Incident; (iv) take reasonable measures to prevent a reoccurrence of such Data Security Incident; and (v) provide such other information and assistance as the Company may reasonably request in connection with the Data Security Incident.

3. Incident Reporting. Upon the Company's request, Newport will provide the following information: (i) the nature of the Data Security Incident; (ii) the Personal Information used or disclosed in the Data Security Incident (including, as applicable, the number of persons affected and, to the extent possible, the identities of the affected persons); (iii) the measures Newport has taken or will take to remediate or mitigate the effect of such Data Security Incident; and (iv) any corrective action Newport has taken or will take to prevent future similar Data Security Incidents from occurring.

4. Incident Remediation. In the event of a Data Security Incident, Newport will be responsible for taking reasonable and appropriate measures as required by Applicable Law to remediate the Data Security Incident and will be responsible for all reasonable costs incurred by Newport arising from or related to such Data Security Incident as set forth in the Agreement.

EXHIBIT B

INSURANCE

Newport shall maintain insurance coverages with carriers with an A.M. Best Insurance Rating of A-:VIII or better and licensed to do business in the states where Newport's Services are performed with limits of at least the following:

Commercial General Liability	Each Occurrence: \$1,000,000 General Aggregate: \$2,000,000
Umbrella Liability	Each Occurrence: \$10,000,000 Aggregate: \$10,000,000
Automobile Liability	\$1,000,000
Workers Compensation	\$1,000,000
E&O (includes Cyber Liability)	\$10,000,000

Upon request, Newport shall provide evidence of the above coverage to the Company.

Town of Jupiter Island 401(a) Plan



ACCOUNT APPLICATION

I. ACCOUNT TYPE

Newport Trust Company, LLC ("NTC") is to establish the following type of account:

☒ Nondiscretionary (Directed) Trustee

☐ Nondiscretionary (Directed) Custodian

II. PLAN INFORMATION

Plan Name: Town of Jupiter Island 401(a) Plan

Plan Type: ☐ 401(k) ☐ Profit Sharing Only ☐ 403(b) ☐ 457(b) ☐ 457(f) ☐ ESOP ☐ Traditional Defined Benefit
☐ Cash Balance Defined Benefit ☐ Non-qualified deferred compensation plan ☐ nonelecting church plan
☒ Other, specify 401(a)

If 457(b) or 457(f) selected, is the Plan sponsored by a tax-exempt entity? ☐ Yes ☐ No

Plan ID: (to be completed by NTC) NG00N74 Plan Year End: 9/30 Plan Inception Date: 10/1/2009

Participant Directed Plan: ☒ Yes ☐ No Asset Size: \$ 5,995,651

Current Recordkeeper Entity: Newport Group Current TPA Entity: Newport Group

III. PLAN SPONSOR INFORMATION

Plan Sponsor: Town of Jupiter Island NAICS Code: _____

Entity Type: (i.e., C or S Corp, LLC, Partnership) Govt agency Fiscal Year end: 9/30 EIN: 59-6011135

Street Address: 2 Bridge Road City/State/Zip: Hobe Sound, FL 33455

Sponsor Telephone: _____ Fax: _____

Main Contact Name: _____ Email: _____

Please identify the individual authorized to sign Agreements on behalf of Plan Sponsor

Main Contact's Title (i.e., President, CEO, Member, Partner): _____

Day-to-Day Contact Name: _____ Email: _____

IV. PLAN ADMINISTRATOR

Plan Sponsor is Plan Administrator: ☒ Yes – Skip to V. ☐ No – Complete the remainder of this section.

A. Plan Administrator Name: _____ EIN: _____

Main Contact Name: _____ Email: _____

Please identify the individual authorized to sign Agreements on behalf of Plan Administrator.

Day-to Day Contact Name: _____ Email: _____

Street Address: _____ City/State/Zip: _____

Telephone: _____ Fax: _____ Email: _____

V. THIRD PARTY ADMINISTRATOR ("TPA") INFORMATION

Newport Group, Inc. is Third Party Administrator: ☒ Yes – Skip to VI. ☐ No – Complete the remainder of this section.

TPA Firm Name: _____ Contact Name: _____

Street Address: _____ City/State/Zip: _____

Telephone: _____ Fax: _____ Email: _____

VI. INVESTMENT ADVISOR INFORMATION

The Plan Sponsor may choose to designate an investment advisor for the Plan. Please mark the appropriate selection below:

Is an Investment Advisor(s) designated for the Plan:

☒ Yes – Complete an Advisor Information and Authorization Form.

☐ No – Skip to VII.

*Please complete an Advisor Information and Authorization Form for **each** Investment Advisor for the Plan and attach to this Application.*

An Advisor Information and Authorization Form should be completed for each advisor prior to providing investment direction to Newport Trust Company, LLC.

VII. BROKER/DEALER INFORMATION

The Plan Sponsor or the Plan Administrator may choose to designate a broker/dealer for the Plan. Please mark the appropriate selection below and provide the broker/dealer information if necessary:

Is a Broker/Dealer designated for the Plan: ☐ Yes – Complete the remainder of this section. ☐ No – Skip to VIII.

A. Dealer Name: _____ Dealer Number: _____ Branch Number: _____

Representative Name: _____ Representative Number: _____

Branch Address: _____ City/State/Zip: _____

Telephone: _____ Fax: _____ Email: _____

VIII. ADDITIONAL PLAN AND PARTICIPANT INFORMATION

Current Trustee(s) contact: _____ Phone: _____ Email: _____

Current Custodian contact: _____ Phone: _____ Email: _____

Current Recordkeeper contact: _____ Phone: _____ Email: _____

Current TPA contact: _____ Phone: _____ Email: _____

Asset Transfer (choose one): ☐ In-cash ☐ In-kind ☐ In-cash/In-kind ☐ No current assets

Number of Eligible Participants: _____ Number of Participants: _____ Participant Loans: ☐ Yes ☐ No

Periodic Payments: ☐ Yes ☐ No Number of Participant Payments (if applicable): _____

Expected date of first payroll deposit or asset transfer to Newport Trust Company, LLC: _____

Indicate when contributions will be made:

Match: ☐ Periodic ☐ Year-End ☐ N/A

Profit Sharing: ☐ Periodic ☐ Year-End ☐ N/A

Other: ☐ Periodic ☐ Year-End ☐ N/A (Describe): _____

IX. INVESTMENT SELECTION

Please indicate which of the following investments are currently assets of the Plan or will be assets of the Plan. You may be required to complete additional documents for the investments selected.

☒ **MUTUAL FUNDS**

Please contact your Recordkeeper/TPA for specific information on allowable funds.

☒ **COLLECTIVE INVESTMENT FUNDS**

Please contact your Recordkeeper/TPA for specific information on allowable funds.

☒ **STABLE VALUE FUNDS**

Please contact your Recordkeeper/TPA for specific information on allowable funds.

☐ **EMPLOYER STOCK**

Employer Stock must be reviewed and approved by NTC prior to inclusion in the Plan's account. Purchases and sales of approved securities can be submitted no more frequently than once per day. NTC will process such instructions within a reasonable period of time after NTC's receipt of instructions. NTC will not make any inquiry into the prudence, appropriateness or liability with respect to the acceptance, distribution, collection, tabulation or remittance of proxies and accompanying materials and other shareholder communications issued with respect to Employer Stock.

☐ **UNITIZED EMPLOYER STOCK**

Please complete Appendix A

☐ **GUARANTEED INVESTMENT CONTRACTS**

Guaranteed Investment Contracts ("GICs") must be reviewed and approved by NTC prior to inclusion in the Plan's account. If approved, NTC must be named as the owner and beneficiary of any GIC. Purchases and sales of GICs will be processed within a reasonable period after NTC's receipt of instructions.

☒ **PARTICIPANT LOANS**

NTC will not make any inquiry into the appropriateness or legality of any Participant loan or any Participant loan payment.

☐ **SELF-DIRECTED BROKERAGE ACCOUNT**

Requires completion of appropriate SDBA documentation.

☐ **UNITIZED MANAGED ACCOUNTS**

Unitized Managed Accounts must be authorized by the Plan Administrator or Recordkeeper/TPA, designated to NTC in writing and acknowledged by the Investment Advisor. The underlying investments of a Unitized Managed Account may include only funds on the NTC - approved fund list and other assets as applicable to the specific UMA program selected and which are pre-approved by NTC. Unitized Managed Account purchases and liquidations will be processed within a reasonable period after NTC's receipt of instructions.

Please complete Appendix B

☐ **EXCHANGED TRADED FUNDS (ETFs)**

Exchanged Traded Funds (ETFs) must be reviewed and approved by NTC prior to inclusion in the Plan's Account.

Please complete Appendix C

☐ **UNITIZED MODEL FUNDS**

All unitized investment funds must be reviewed and approved by NTC prior to inclusion in the Plan's Account

Please complete Appendix D

☐ LIFE INSURANCE/GROUP ANNUITY CONTRACTS

Group annuity contracts (both fixed and variable) issued by commercial insurance companies will be purchased or sold by NTC within a reasonable period after its receipt of written instructions, along with the annuity application. NTC must be named as the owner and beneficiary of any annuity policy. All annuity contracts must be reviewed and approved by NTC prior to inclusion in the Plan's account.

Please complete Appendix I

☒ DEFAULT FUND/INVESTMENT

Please complete the remainder of this section if the Plan will have a default fund or investment

Name of Default Fund/Investment (if applicable): Great Gray Trust T. Rowe Price target date series

Is this fund/investment a Qualified Default Investment Alternative (QDIA)? ☒ Yes ☐ No

***Please note that the cash account equivalent in your investment menu will be the fund to which all forfeitures are allocated.*

X. AUTHORIZED SIGNERS

In accordance with the provisions of the trust or custodial agreement between NTC and the Plan Sponsor and Plan Administrator for the above-named Plan, NTC and its affiliates may accept and act upon instructions on behalf of the Plan received from the Authorized Persons or Parties as set forth in the Authorized Signers Form.

ACCOUNT OPENING DOCUMENT REQUIREMENTS

In addition to completing the signatures contained herein and Exhibits and Appendices hereto, please provide the following documents:

1. Authorized Signers Attachment to this Application
2. Most Current Asset Statement
3. Plan Document Requirements:
 - Copy of executed Plan Document
 - Adoption Agreement and base plan document (*required for prototype plans*)
 - IRS Determination Letter (*for customized or non-standard plans only*)
4. Customer Identification Program Requirements (*for Tax-exempt 457(b) or 457(f) plans, non-qualified deferred compensation plans and nonelecting church plans only*):
 - IRS Form W-9 AND
 - Proof of Entity Status (i.e., certified articles of incorporation, government-issued business license, Secretary of State filing, partnership agreement, etc.)

NTC may request or require additional documents, including documents required to accept certain investments.

SIGNATURE

Plan Sponsor and/or Plan Administrator represents and warrants that all information provided in this Application, including required supplemental documentation (together, the "Information"), is true and correct and that Plan Sponsor will immediately notify NTC of and correct any errors in the Information provided. Plan Sponsor shall immediately notify NTC in writing of any changes to the Information provided herein and NTC may rely on the Information until it receives written notice of such change. The Plan Sponsor shall indemnify and hold harmless NTC and its affiliates and their officers, directors, employees, and agents from any loss or liabilities (including attorneys' fees) arising out of its reliance or action taken in reliance upon any Information provided hereunder, except to the extent such losses or liabilities are a result of the gross negligence of NTC or its affiliates.

Plan Sponsor and/or Plan Administrator further represents and warrants that the undersigned has the authority to open this account and to execute this Agreement.

By executing this Application, the Plan Sponsor and Plan Administrator agree to its terms.

NOTE: Please sign in both signature blocks, even if the Plan Sponsor and Plan Administrator are the same.

PLAN SPONSOR

Signature  _____

Printed Name: _____

Title: _____

Date: _____

PLAN ADMINISTRATOR

Signature  _____

Printed Name: _____

Title: _____

Date: _____

Newport Trust Company, LLC Automatic Rollover Agreement

This Automatic Rollover Agreement ("**Agreement**") is entered into as of _____ ("**Effective Date**"), by and between Newport Trust Company, LLC, a New Hampshire chartered trust company ("**Newport**"), and Town of Jupiter Island ("**Company**") (each a "**Party**" and collectively the "**Parties**").

RECITALS

Company is the sponsor of and a named fiduciary with respect to the **Town of Jupiter Island 401(a) Plan** ("**Plan**"), and is the entity with authority to appoint service providers for the Plan. Company hereby retains Newport to serve as the individual retirement plan provider for the Plan in connection with the Automatic Rollover of Mandatory Distributions, as defined below, in accordance with the terms and conditions set forth herein. The Parties intend that this Agreement satisfy the fiduciary safe harbors set forth in Sections 2550.404a-2 and 2550.404a-3 of Department of Labor regulations. The terms of this Agreement shall be enforceable by each individual for whom an Automatic Rollover IRA has been established hereunder.

1. DEFINITIONS

For purposes of the Agreement, the following terms, when capitalized, have the meaning set forth below:

- 1.1 **Authorized Person** means the person executing this Agreement on behalf of the Company and any individual designated by the Company in Instructions communicated to Newport. The Company shall notify Newport of any limitations on an Authorized Person's authority. Newport may continue to rely upon designations of Authorized Persons until it receives written notice from the Company to the contrary and has a reasonable period of time to act upon such notice.
- 1.2 **Automatic Rollover** means the rollover of a Mandatory Distribution at the direction of the Company.
- 1.3 **Automatic Rollover IRA** means an individual retirement account described in Code Section 408(a) established by Newport to hold an Automatic Rollover.
- 1.4 **Code** means the Internal Revenue Code of 1986, and the rules and regulations promulgated thereunder, as amended from time to time.
- 1.5 **Confidential Information** means (a) information and reports provided or made available to Newport by Company or an Authorized Person (or any employee, agent or representative thereof) in connection with this Agreement; (b) Personal Information; (c) the terms and conditions of this Agreement; (d) information designated by the Disclosing Party as confidential; (e) information regarding past, present or future business and business activities, financial or technical information; products, services, research and development; processes and techniques; designs; financial planning practices; investment methodologies; and marketing plans; and (f) information and material which, by its nature, should reasonably be construed to be proprietary or confidential. Except with respect to Personal Information, Confidential Information does not include any information which the Receiving Party can demonstrate (a) is in the public domain through no fault or breach by such Receiving Party of its obligations hereunder; (b) was known by the Receiving Party prior to its disclosure by the Disclosing Party and was not obtained in such circumstances subject to a requirement of confidentiality; or (c) was developed independently of, and without the use of or access to, any Confidential Information exchanged pursuant to each Agreement.
- 1.6 **Disclosing Party** has the meaning provided in Paragraph 6.1 of this Agreement.
- 1.7 **ERISA** means the Employee Retirement Income Security Act of 1974, and the rules and regulations promulgated thereunder, as amended from time to time.

1.8 **Indemnified Parties** has the meaning provided in Section 7 of this Agreement.

1.9 **Instructions** means the Company's written directions and instructions to Newport, including, without limitation, the designation of Authorized Persons. The transmission of Plan, participant and financial information from the Company to Newport through agreed-upon transmission protocols, either directly from the Company or indirectly from third parties retained by the Company (including, for example, the Plan's administrator or recordkeeper) shall constitute an instruction to Newport to accept and use such information. Instructions from an Authorized Person constitute Instructions from the Company. All Instructions to establish Automatic Rollover IRAs shall be provided to Newport in a format acceptable to Newport via electronic files or as otherwise agreed to by the Parties.

1.10 **Investment Option** means the investment vehicle into which the corpus of each Automatic Rollover IRA is invested. The Investment Option shall be the Goldman Sachs FS Government Money Market Fund.

1.11 **IRA Account Holder** means the individual for whom an Automatic Rollover IRA has been established.

1.12 **IRA Custodial Account Agreement** means the Traditional Individual Retirement Custodial Account Agreement or the Roth Individual Retirement Custodial Account Agreement, as applicable, governing the operation of the Automatic Rollover IRA established on behalf of a Participant. A copy of the IRA Custodial Account Agreement and the disclosure statement required under Treasury Regulation Section 1.408-6 will be provided to Company upon request.

1.13 **Mandatory Distributions** means distributions that the Plan requires to be made without the Participant's consent (i) while the Plan is ongoing, to a terminated or other Participant whose vested accrued benefit does not exceed \$5,000 or such lesser limit as set forth in the Plan, and (ii) in the event the Plan is terminated, to any Participant entitled to a distribution in connection with said termination, provided that, in either case, the Participant does not affirmatively elect to have the distribution paid directly to an eligible retirement plan and does not elect to receive the distribution directly.

1.14 **Participant** means each participant who receives a Mandatory Distribution from the Plan.

1.15 **Personal Information** means, with respect to Company employees and Plan Participants, an individual's name (either first and last name or first initial and last name) in combination with any one or more of the following data elements: (i) social security number, (ii) driver's license or other government-issued number, (iii) compensation and plan account number or plan account or benefit information, in combination with a security code, access code, or password that would permit access to an individual's plan account. Personal Information does not include any information that is required to be reported in public filings with governmental agencies, is lawfully obtained from publicly available information or that is made available to the general public.

1.16 **Receiving Party** has the meaning provided in Paragraph 6.1 of this Agreement.

2. COMPANY APPOINTMENT AND DIRECTION

Company hereby appoints Newport to serve as custodian of Automatic Rollover IRAs established in connection with Mandatory Distributions from the Plan. Company directs Newport to establish such IRAs upon notification from Company or an Authorized Person of one or more Mandatory Distributions, and to invest the corpus of each such IRA in the Investment Option. Except as otherwise agreed to by the Parties, notification shall be in the form of electronic files containing all information necessary to establish an Automatic Rollover IRA on behalf of a Participant, including but not limited to the Participant's name, date of birth, tax identification number, and the most recent mailing address for the Participant contained in the records of the Plan. Newport will have no obligation to verify the accuracy of the information provided by Company.

Upon receipt of confirmation from Newport that an Automatic Rollover IRA has been established, Company will cause the direct rollover of the Mandatory Distribution from the Plan to the Automatic Rollover IRA identified by Newport. All amounts transferred to Newport by Company shall be remitted in the form of cash; in-kind rollovers shall not be remitted. Company is responsible for payment of all fees and charges necessary to permit the delivery of information and funds between the Plan's administrator or recordkeeper, the Plan, and Newport.

Notification from Company of one or more Mandatory Distributions and receipt of the corresponding rollover amounts will serve as Company's authorization and direction to establish an Automatic Rollover IRA for each individual identified in such Instructions. Company shall promptly notify Newport of any errors in the information transmitted and shall direct Newport with respect to actions to correct such errors.

Newport may rely on any Instructions received and reasonably believed by it to be from the Company or an Authorized Person and shall be fully indemnified by Company for any action taken or omitted by it in reliance upon receipt of such Instructions.

3. NEWPORT RESPONSIBILITIES

Upon receipt of sufficient Instructions, Newport will establish an Automatic Rollover IRA on behalf of individuals identified in such Instructions. Newport will provide Company with the Automatic Rollover IRA identifying information and confirmation that it is prepared to receive a transfer of assets from the Plan. Upon receipt of the assets, Newport will invest the assets in the Investment Option; provided, that Newport may hold the assets uninvested in cash until the Participant's right to revoke the Automatic Rollover IRA have expired. Newport will perform the following services with respect to each Automatic Rollover IRA:

- 3.1 Provide each individual for whom an Automatic Rollover IRA was established an IRA Custodial Account Agreement and an IRA disclosure statement as required by Treasury Regulation Section 1.408-6. The IRA Custodial Account Agreement and disclosure statement may be provided electronically in conjunction with a notice to the IRA Account Holder that will be sent first class mail to the mailing address provided to Newport by Company. Newport shall have no obligation to search for or ascertain the whereabouts of the IRA Account Holder.
- 3.2 Update the Automatic Rollover IRA information with any corrected or updated information as provided by the IRA Account Holder from time to time.
- 3.3 Provide those services described in the IRA Custodial Account Agreement.

The services provided hereunder shall be subject to the general terms and conditions of the IRA Custodial Account Agreement.

4. FEES AND EXPENSES

Each Automatic Rollover IRA will be subject to the fees and expenses set forth in Schedule A attached to this Agreement. Such fees and expenses may change from time to time, but will not exceed fees and expenses that would be charged by Newport for a comparable individual retirement account established for reasons other than the receipt of an Automatic Rollover.

5. RERESENTATIONS AND WARRANTIES

Company represents and warrants that:

- 5.1 This Agreement has been duly authorized, executed and delivered by and constitutes a valid and binding agreement of the Company. Neither the execution nor delivery of this Agreement nor the transactions contemplated hereby, will result in any breach of a charter, bylaw, partnership agreement, order, law, rule or regulation to which Company is a party or that is otherwise applicable to Company.
- 5.2 The Plan is a qualified plan under Code Section 401(a), a plan that meets the requirements of Code Section 403(b), or an eligible governmental plan under Code Section 457(b), and includes Mandatory Distribution and Automatic Rollover provisions that permit Automatic Rollovers to Newport in accordance with the terms of this Agreement.
- 5.3 If the Plan is ongoing, Participants have been furnished with a summary plan description, or a summary of material modifications, that describes the Plan's Automatic Rollover provisions and the explanation required under Section 2550.404a-2(c)(4) or 2550.404a-3(e), as applicable, of Department of Labor regulations. If the Plan is or is being terminated, Company or its designee has furnished Participants with a notice in accordance with Department of Labor regulation Section 2550.404a-3(e), and Company or its designate has taken all steps required under Department of Labor regulation Section 2550.404a-3(e)(2)(ii) to locate Participants whose notices have been returned as undeliverable.
- 5.4 Company has determined that the Investment Option (i) is designed to preserve principal and provide a reasonable rate of return consistent with liquidity, and (ii) seeks to maintain, over the term of the investment, the dollar value that is equal

to the amount invested in the Investment Option, except insofar as fees and expenses may be charged to such Automatic Rollover IRA in accordance with the terms hereof and the IRA Custodial Account Agreement.

- 5.5 Company has received rate of return information with respect to the Investment Option, and the fee disclosure set forth in Schedule A, all of which are attached hereto or previously have been provided to Company by Newport.
- 5.6 The Investment Option is the only option available under Automatic Rollover IRAs established pursuant to this Agreement, and the respective IRA Account Holders will incur annual maintenance fees, as well as other administrative fees if any such IRA Account Holder requests a distribution from or directs the transfer of the corpus of his or her Automatic Rollover IRA to another IRA provider or eligible retirement plan. Once an IRA Account Holder takes ownership of the Automatic Rollover IRA, the terms of the IRA Custodial Account Agreement govern the investment options then available to him or her.
- 5.7 The selection of Newport to serve as custodian of the Automatic Rollover IRAs will not result in a prohibited transaction under ERISA Section 406.
- 5.8 All information provided to Newport in connection with the establishment of an Automatic Rollover IRA shall be the most recent and accurate information available to the Plan and the Company, and each individual for whom the Company directs an Automatic Rollover of a Mandatory Distribution has not elected to receive the distribution directly (or, in the case of a Plan that is or is being terminated, did not elect a form of distribution within 30 days of receiving the notice referenced in Paragraph 5.3).
- 5.9 Company acknowledges and understands that if the IRA Account Holder has not designated a beneficiary at the time of his or her death, or no such designated beneficiaries are living, the balance of the Automatic Rollover IRA will be paid to the IRA Account Holder's surviving spouse or, if none, the IRA Account Holder's estate.

Newport represents and warrants that:

- 5.10 This Agreement has been duly authorized, executed and delivered by Newport and constitutes a valid and binding agreement of Newport. Neither the execution nor delivery of this Agreement nor the transactions contemplated hereby will result in any breach of any charter, bylaw, order, law, rule or regulation to which Newport is a party or which is otherwise applicable to Newport.
- 5.11 The Automatic Rollover IRA fees and expenses described in Schedule A to this Agreement shall at all times be comparable to fees and expenses for similar individual retirement accounts provided by Newport for reasons other than the receipt of a Mandatory Distributions.
- 5.12 Newport is a state-regulated bank whose deposits are insured by the Federal Deposit Insurance Corporation/the Investment Option is an investment company registered under the Investment Company Act of 1940.

Except as expressly set forth in this Agreement, the Parties do not make any other representations or warranty and specifically disclaim all other representations or warranties, express or implied, including, without limitation, any implied warranties of merchantability and fitness for a particular purpose. The Parties acknowledge and agree that neither Newport nor any of its affiliates, employees, or agents is acting as a "fiduciary" (as such term is defined under ERISA) with respect to the Plan or its assets in providing the services contemplated by this Agreement.

6. CONFIDENTIALITY

- 6.1 Confidentiality Obligation. Each Party (in such capacity the "**Receiving Party**") shall keep the Confidential Information of the other Party (in such capacity, the "**Disclosing Party**") confidential. In addition, the Receiving Party shall implement security measures reasonably designed to secure the Confidential Information against loss, theft and unauthorized use, modification or access. The Receiving Party shall have the limited right to use the Confidential Information only for the purpose of fulfilling its commitments and obligations to the Disclosing Party under this Agreement. Except as permitted in the foregoing sentence or by prior written consent of the Disclosing Party, the Receiving Party shall not use, disclose or distribute to any person, firm or entity any Confidential Information and shall not permit any person, firm or entity to use, disclose or distribute any Confidential Information; provided that the Receiving Party may disclose or distribute such Confidential Information to the following: (a) its officers, employees and directors who have a business need to know such Confidential Information; and (b) its attorneys, accountants, consultants, agents, independent contractors or professional advisors who (x) have a business need to know such Confidential Information and (y) are subject to fiduciary, professional or written obligations of confidentiality substantially similar to, and no less restrictive than, the obligations set forth herein. Except in connection with the purposes identified above, the Receiving Party shall not copy or otherwise reproduce, or permit to be copied or otherwise reproduced, all or any part of Confidential Information without the prior written consent of the Disclosing Party. Notwithstanding the preceding, the Receiving Party may disclose the Confidential

Information of the Disclosing Party to the limited extent such Confidential Information is required to be disclosed by the Receiving Party by applicable law or pursuant to an order of any court or administrative body; provided, that, with regard to each such disclosure, the Receiving Party shall provide the Disclosing Party with prompt notice of such request or order (to the extent permitted by applicable law), shall cooperate reasonably with the Disclosing Party in resisting the disclosure of such Confidential Information via a protective order or other appropriate legal action, and shall not make disclosure pursuant thereto until the Disclosing Party has had a reasonable opportunity to resist such disclosure, unless the Receiving Party is ordered otherwise.

- 6.2 Ownership. All Confidential Information shall be and remain the sole and exclusive property of the Disclosing Party, its affiliates, or their respective employees, suppliers, or customers, as the case may be. Except as otherwise set forth in this Agreement, neither Party acquires any intellectual property, including any rights to create derivative works of any Confidential Information, under the Agreement, except the limited right to use such Confidential Information in accordance with the Agreement.
- 6.3 Return of Confidential Information. Upon written request by the Disclosing Party, the Receiving Party shall: (a) return to the Disclosing Party all Confidential Information, all documents or media containing the Confidential Information, and any and all copies or extracts thereof, and/or (b) destroy the Confidential Information, and any and all copies or extracts thereof, and provide the Disclosing Party with written certification of such destruction signed by an authorized representative of the Receiving Party; provided, however, that the Receiving Party is entitled to retain copies of such Confidential Information to the extent required by applicable law and that are electronically stored or archived in the ordinary course of business.
- 6.4 Injunctive Relief. The Parties acknowledge and agree that any breach or threatened breach of Paragraph 6.1 may cause the aggrieved Party immediate and irreparable harm for which monetary damages alone will be inadequate compensation. Accordingly, the aggrieved Party shall be entitled, in addition to any other remedies available at law or in equity, to immediate injunctive relief without requiring a cure period and without the necessity of posting a bond.

7. INDEMNIFICATION

Company agrees to indemnify, defend and hold Newport and its affiliates, and their respective directors, manager, officers, employees, agents and other representatives ("**Indemnified Parties**") harmless from any and all losses, costs, excise taxes, expenses, fees, liabilities, damages, and claims of any nature whatsoever, including but not limited to legal expenses, court costs, reasonable legal fees, costs of or associated with enforcement actions, investigations, suits, and regulatory or other actions and appeals thereof resulting from (i) their reasonable reliance upon any certificate, notice, confirmation, or Instruction, purporting to have been delivered by Company or an Authorized Person; (ii) any loss or diminution of the value of the Automatic Rollover IRA resulting from changes in the market value of its assets; (iii) reliance, or action taken in reasonable reliance, on Instructions from Company or an Authorized Person; (iv) any act or failure to act by Company; (v) any prohibited transaction or disqualification of the Plan, including, but not limited to, a prohibited transaction or plan disqualification that is caused by any action taken or not taken by Newport in reasonable reliance on Instructions from Company; or (vi) any other act Newport takes in good faith hereunder that arises under this Agreement or the administration of the Automatic Rollover IRA pursuant hereto.

Newport shall not be liable to Company for any act, omission, or determination made in connection with this Agreement except for its gross negligence or willful misconduct. Without limiting the generality of the foregoing, Newport shall not be liable for any losses arising from its compliance with Instructions from Company or an Authorized Person, or executing, failing to execute, failing to timely execute or for any mistake in the execution of any Instructions, unless such action or inaction is by reason of the gross negligence or willful misconduct of Newport. Newport shall not be responsible for losses caused directly or indirectly by conditions beyond its reasonable control or that could not be avoided by the exercise of due care, including, but not limited to an act of God, any mechanical failure, war, natural disaster, government restrictions or changes, exchange, market rulings, strikes, interruptions of communications or data processing services, or disruptions in orderly trading on any exchange or market. The Parties acknowledge that unforeseen circumstances may temporarily prevent or prohibit Newport from performing its services. If Newport is not able to perform its related services for a period of more than three (3) Business Days, Newport shall notify the Plan Sponsor in writing.

8. TERM; TERMINATION; AMENDMENT

This Agreement is effective as of the Effective Date and shall continue in full force and effect until terminated. This Agreement may be amended by Newport, provided written notice of such amendment is sent to Company at least thirty (30) days prior to the effective date of any such amendment. This Agreement may be terminated by either Party at any time upon sixty (60) days' prior written notice to the address of record of the other Party. The provisions of Sections 5, 6 and 7 shall survive the termination of this Agreement.

9. USA PATRIOT ACT NOTIFICATION

The following notification is provided to Company pursuant to Section 326 of the USA PATRIOT Act of 2001, 31 U.S.C. Section 5318:

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person or entity that opens an account, including any deposit account, treasury management account, loan, other extension of credit, or other financial services product. When Company opens an Automatic Rollover IRA account for a Participant, Newport will ask for such individual's name, taxpayer identification number, residential address, date of birth, and other information that will allow Newport to identify the Participant. Newport may also ask, if the participant is an individual, to see or review a copy of his or her driver's license or other identifying documents.

10. MISCELLANEOUS

- 10.1 **Governing Law.** This Agreement shall be governed by and construed in accordance with and enforced pursuant to the laws of Delaware, without regard to its principles of conflicts of law, except to the extent preempted by federal law.
- 10.2 **Notices.** Whenever any notice may be or is required to be given hereunder, such notice shall be in writing and sent by United States first class mail, postage prepaid; by facsimile with confirmed delivery; or by overnight delivery service, where receipt is given, and addressed (a) to the Company: to the person and address appearing in Newport's records, provided by the Company for such purposes; and (b) to Newport Trust Company, LLC: Newport Trust Company, LLC, c/o Newport Group, Inc., ATTN: Newport Trust Company, LLC, 45 South 7th Street, Suite 2208, Minneapolis, MN 55402, Facsimile Number: 916-605-4024, or such other address as Newport may provide from time to time, with a copy to Newport Group, Inc., 200 Dryden Road, Dresher, PA, 19025, Attention: Legal Department.
- 10.3 **Use of Third Parties.** Newport may retain third party vendors ("subcontractors") to assist it in the performance of its obligations hereunder; provided, however, that to the extent such subcontractor has access to Confidential Information or Personal Information, such subcontractor shall have agreed in writing to adhere to confidentiality obligations no less restrictive than those set forth in this Agreement. The use of subcontractors shall not affect Newport's responsibility for its representations, warranties, covenants or undertakings under this Agreement, and at all times Newport shall remain responsible for its performance obligations hereunder.
- 10.4 **Status as Independent Contractors.** Nothing in this Agreement shall cause or be deemed to cause any Party (including its officers, directors, or employees) to be an employee, partner, joint venturer, or agent of the other Party. The sole relationship of the parties hereto is that of independent contractor.
- 10.5 **Third Party Beneficiaries.** Except with respect to a Participant's right to enforce the terms of this Agreement, as provided in the Recitals, this Agreement shall not be construed as granting any rights or benefits to third parties, including, for example, employees, independent contractors, consultants or other agents of the Parties.
- 10.6 **Successors and Assigns.** This Agreement is binding upon the successors and assigns of the Parties hereto. Either Party may assign the Agreement to an affiliate or a successor in interest upon advance written notice to the other Party.
- 10.7 **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of the Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of the Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of the Agreement becomes inconsistent with any present or future law or regulation, that provision shall be superseded or amended to conform to such law and regulation, but the remainder of the Agreement

shall remain in full force and effect.

- 10.8 Construction. Headings in this Agreement are inserted solely for convenience of reference and will neither constitute a part of the Agreement nor affect its meaning, construction or intent. Whenever used in this Agreement, unless the context indicates otherwise, the singular will include the plural, the plural will include the singular, and the male gender will include the female gender. The words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation," unless otherwise specified. This Agreement has been negotiated and prepared by the Parties and their respective attorneys and, should any provision of this Agreement require judicial interpretation, the court interpreting or construing such provision shall not apply the rule of construction that a document is to be construed more strictly against one Party.
- 10.9 Complete Agreement. This Agreement constitutes the entire agreement between Newport and the Company related to the subject matter hereof and supersedes all prior agreements, proposals or representations, whether written or oral, between the Parties relating to the subject matter hereof.
- 10.10 Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts taken together shall constitute one and the same instrument. The Parties hereto agree that this Agreement may be executed by facsimile or digital signature, which will have the same effect as an original signature.
- 10.11 Waivers. No failure or delay in exercising any rights or privilege hereunder shall operate as a waiver thereof. No waiver of any right or privilege in respect to any occurrence or event on one occasion shall be deemed a waiver of such right or privilege in respect of such occurrence or event on any other occasion.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized officers as of the Effective Date.

TOWN OF JUPITER ISLAND

NEWPORT TRUST COMPANY, LLC

Signature

Signature

Printed Name

Printed Name

Title

Trust Officer
Title

Date

Date

Schedule A
Automatic Rollover IRA Fees

Account Fees

Annual IRA Account Fee (incurred quarterly in arrears)	\$35
Account Termination Fee	\$25

Service Fees

Check Distributions	\$25 each
Overnight Delivery	\$30 each
Late/Stop Payment/Returned Checks	\$25 each

Goldman Sachs FS Government Svc FOSXX

Benchmark
Morningstar USD 1M Cash TR USD

7-Day SEC Yield %
4.73

Overall Morningstar Rating™

Morningstar Return

Morningstar Risk

Investment Objective & Strategy

From investment's prospectus

The investment seeks to maximize current income to the extent consistent with the preservation of capital and the maintenance of liquidity by investing exclusively in high quality money market instruments.

The fund pursues its investment objective by investing only in "government securities," as such term is defined in or interpreted under the Investment Company Act of 1940, as amended ("Investment Company Act"), and repurchase agreements collateralized by such securities. "government securities" generally are securities issued or guaranteed by the United States or certain U.S. government agencies or instrumentalities ("U.S. government securities").

Fees and Expenses as of 03-30-23

Prospectus Net Expense Ratio	0.68%
Prospectus Gross Expense Ratio	0.68%
Maximum Sales Charge	—
12b-1 Fee	0.25%
Redemption Fee/Term	—

Waiver Data	Type	Exp. Date	%
—	—	—	—

Operations and Management

Fund Inception Date	05-16-95
Portfolio Manager(s)	Management Team
Name of Issuer	Goldman Sachs
Telephone	800-621-2550
Web Site	www.goldmansachsfunds.com

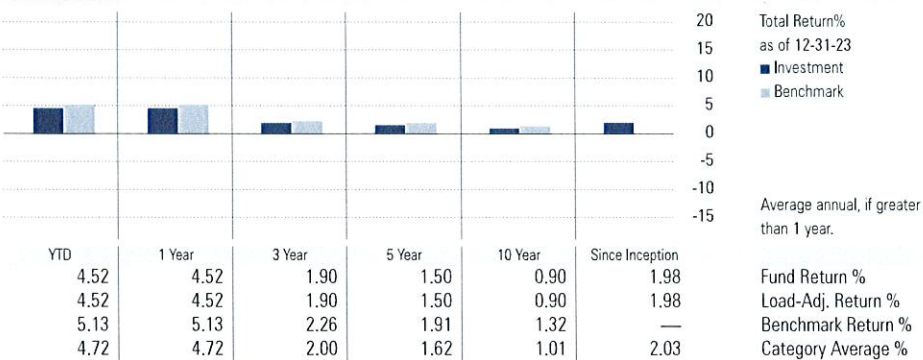
Benchmark Description: Morningstar USD 1M Cash TR USD

The index measures the performance of a synthetic asset carrying an interest rate equal to the average of the one month lending bid/offer rates in the US market. Interest income is accrued during the month and the proceeds are rolled into a new synthetic asset at each monthly rebalancing. It is market value weighted. The index does not incorporate Environmental, Social, or Governance (ESG) criteria.

Category Description: Money Market-Taxable

These portfolios invest in short-term money market securities in order to provide a level of current income that is consistent with the preservation of capital. These funds do not designate themselves as Prime in Form N-MFP.

Performance



Quarter End Returns as of 12-31-23

	YTD	1 Year	3 Year	5 Year	10 Year	Since Inception
Fund Return %	4.52	4.52	1.90	1.50	0.90	1.98
Standardized Return %	4.52	4.52	1.90	1.50	0.90	1.98

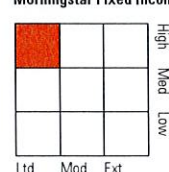
Performance Disclosure: The performance data quoted represents past performance and does not guarantee future results. The investment return and principal value of an investment will fluctuate; thus an investor's shares, when redeemed, may be worth more or less than their original cost.

Portfolio Analysis as of 12-31-23

Composition as of 12-31-23



Morningstar Fixed Income Style Box™ as of 12-31-23



Principal Risks as of 11-30-23

Credit and Counterparty, Loss of Money, Not FDIC Insured, Interest Rate, Market/Market Volatility, Restricted/Illiquid Securities, U.S. Government Obligations, Shareholder Activity, Money Market

Money Market Fund Disclosure

Government Money Market Funds that have chosen not to rely on the ability to impose liquidity fees and suspend redemptions:

You could lose money by investing in the fund. Although the fund seeks to preserve the value of your investment at \$1.00 per share, it cannot guarantee it will do so. An investment in the fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. The fund's sponsor has no legal obligation to provide financial support to the fund, and you should not expect that the sponsor will provide financial support to the fund at any time.

Liquidity Fee: No

Redemption Gate: No

Disclosure

The performance data given represents past performance and should not be considered indicative of future results. Principal value and investment return will fluctuate, so that an investor's shares when redeemed may be worth more or less than the original investment. Fund portfolio statistics change over time. The fund is not FDIC-insured, may lose value and is not guaranteed by a bank or other financial institution.

Performance

Total return reflects performance without adjusting for sales charges or the effects of taxation, but is adjusted to reflect all actual ongoing fund expenses and assumes reinvestment of dividends and capital gains. If adjusted, sales charges would reduce the performance quoted.

The fund's performance is compared with that of an index. The index is an unmanaged portfolio of specified securities and the index does not reflect any initial or ongoing expenses. The Best Fit Index is the index that the fund has the highest correlation with. A fund's portfolio may differ significantly from the securities in the index. The index is chosen by Morningstar.

Best and Worst 3 Month Performance

Morningstar calculates best and worst 3-month period (in percentage) in-house on a monthly basis.

Best 3-month Period: The highest total return the stock has posted in a consecutive three-month period over the trailing 15 years, or if a fund does not have 15 years of history, it will go back as far as the inception date.

Worst 3-month Period: The lowest total return the stock has posted in a consecutive three-month period over the trailing 15 years, or if a fund does not have 15 years of history, it will go back as far as the inception date.

Growth of \$10,000 Graph

The Growth of \$10,000 graph shows a fund's performance based on how \$10,000 invested in the fund would have grown over time. The returns used in the graph are not load-adjusted. The growth of \$10,000 begins at the date of the fund's inception, or the first year listed on the graph, whichever is appropriate. Located alongside the fund's graph line is a line that represents the growth of \$10,000 in an index. The inclusion of the index allows investors to compare the performance of the fund with the performance of a benchmark index.

Morningstar Rating™

The Morningstar Rating™ for funds, or "star rating", is calculated for managed products (including mutual funds, variable annuity and variable life subaccounts, exchange-traded funds, closed-end funds, and separate accounts) with at least a three-year history. Exchange-traded funds and open-ended mutual funds are considered a single population for comparative purposes. It is calculated based on a Morningstar Risk-Adjusted Return measure that accounts for variation in a managed product's monthly excess performance, placing more emphasis on downward variations and rewarding consistent performance. The Morningstar Rating does not include any adjustment for sales loads. The top 10% of products in each product category receive 5 stars, the next 22.5% receive 4 stars, the next 35% receive 3 stars,

the next 22.5% receive 2 stars, and the bottom 10% receive 1 star. The Overall Morningstar Rating for a managed product is derived from a weighted average of the performance figures associated with its three-, five-, and 10-year (if applicable) Morningstar Rating metrics. The weights are: 100% three-year rating for 36-59 months of total returns, 60% five-year rating/40% three-year rating for 60-119 months of total returns, and 50% 10-year rating/30% five-year rating/20% three-year rating for 120 or more months of total returns. While the 10-year overall star rating formula seems to give the most weight to the 10-year period, the most recent three-year period actually has the greatest impact because it is included in all three rating periods. For private funds, the Morningstar Rating presented is hypothetical, because Morningstar does not independently analyze private funds. Rather, the rating is assigned as a means to compare these funds with the universe of mutual funds that Morningstar rates. The evaluation of this investment does not affect the retail mutual fund data published by Morningstar.

Morningstar Return

The Morningstar Return rates a fund's performance relative to other managed products in its Morningstar Category. It is an assessment of a product's excess return over a risk-free rate (the return of the 90-day Treasury Bill) in comparison with the products in its Morningstar category. In each Morningstar category, the top 10% of products earn a High Morningstar Return (High), the next 22.5% Above Average (+ Avg), the middle 35% Average (Avg), the next 22.5% Below Average (- Ave), and the bottom 10% Low (Low). Morningstar Return is measured for up to three time periods (three, five, and 10 years). These separate measures are then weighted and averaged to produce an overall measure for the product. Products with less than three years of performance history are not rated.

Morningstar Risk

Morningstar Risk evaluates a fund's downside volatility relative to that of other products in its Morningstar Category. It is an assessment of the variations in monthly returns, with an emphasis on downside variations, in comparison with the products in its Morningstar category. In each Morningstar category, the 10% of products with the lowest measured risk are described as Low Risk (Low), the next 22.5% Below Average (-Avg), the middle 35% Average (Avg), the next 22.5% Above Average (+Avg), and the top 10% High (High). Morningstar Risk is measured for up to three time periods (three, five, and 10 years). These separate measures are then weighted and averaged to produce an overall measure for the product. Products with less than three years of performance history are not rated.

Risk Measures

R-squared reflects the percentage of a fund's movements that are explained by movements in its benchmark index, showing the degree of correlation between the fund and the benchmark.

Beta is a measure of a fund's sensitivity to market movements. A portfolio with a beta greater than 1 is more volatile than the market, and a portfolio with a beta less than 1 is less volatile than the market.

Alpha measures the difference between a fund's actual returns and its expected performance, given its level of risk

(as measured by beta).

Sharpe ratio uses standard deviation and excess return to determine reward per unit of risk.

Standard deviation is a statistical measure of the volatility of the fund's returns.

Mean represents the annualized three-year geometric return.

Morningstar Style Box™

The Morningstar Style Box™ reveals a fund's investment strategy as of the date noted on this report.

For equity funds, the vertical axis shows the market capitalization of the long stocks owned, and the horizontal axis shows the investment style (value, blend, or growth.) A darkened cell in the style box matrix indicates the weighted average style of the portfolio.

For portfolios holding fixed-income investments, a Fixed Income Style Box is calculated. The vertical axis shows the credit quality based on credit ratings and the horizontal axis shows interest-rate sensitivity as measured by effective duration. There are three credit categories - "High", "Medium", and "Low"; and there are three interest rate sensitivity categories - "Limited", "Moderate", and "Extensive"; resulting in nine possible combinations. As in the Equity Style Box, the combination of credit and interest rate sensitivity for a portfolio is represented by a darkened square in the matrix. Morningstar uses credit rating information from credit rating agencies (CRAs) that have been designated Nationally Recognized Statistical Rating Organizations (NRSROs) by the Securities and Exchange Commission (SEC) in the United States. For a list of all NRSROs, please visit <https://www.sec.gov/ocf/ocf-current-nrsros.html>. Additionally, Morningstar will use credit ratings from CRAs which have been recognized by foreign regulatory institutions that are deemed the equivalent of the NRSRO designation. To determine the rating applicable to a holding and the subsequent holding weighted value of a portfolio two methods may be employed. First is a common methodology approach where if a case exists such that two CRAs have rated a holding, the lower rating of the two should be applied; if three or more CRAs have rated a holding, the median rating should be applied; and in cases where there are more than two ratings and a median rating cannot be determined, the lower of the two middle ratings should be applied.

Alternatively, if there is more than one rating available an average can be calculated from all and applied.

Please Note: Morningstar, Inc. is not an NRSRO nor does it issue a credit rating on the fund. Credit ratings for any security held in a portfolio can change over time.

Morningstar uses the credit rating information to calculate a weighted-average credit quality value for the portfolio. This value is based only upon those holdings which are considered to be classified as "fixed income", such as government, corporate, or securitized issues. Other types of holdings such as equities and many, though not all, types of derivatives are excluded. The weighted-average credit quality value is

Disclosure

represented by a rating symbol which corresponds to the long-term rating symbol schemas employed by most CRAs. Note that this value is not explicitly published but instead serves as an input in the Style Box calculation. This symbol is then used to map to a Style Box credit quality category of "low," "medium," or "high". Funds with a "low" credit quality category are those whose weighted-average credit quality is determined to be equivalent to the commonly used High Yield classification, meaning a rating below "BBB", portfolios assigned to the "high" credit category have either a "AAA" or "AA+" average credit quality value, while "medium" are those with an average rating of "AA-" inclusive to "BBB-". It is expected and intended that the majority of portfolios will be assigned a credit category of "medium".

For assignment to an interest-rate sensitivity category, Morningstar uses the average effective duration of the portfolio. From this value there are three distinct methodologies employed to determine assignment to category. Portfolio which are assigned to Morningstar municipal-bond categories employ static breakpoints between categories. These breakpoints are: "Limited" equal to 4.5 years or less, "Moderate" equal to 4.5 years to less than 7 years; and "Extensive" equal to more than 7 years. For portfolios assigned to Morningstar categories other than U.S. Taxable, including all domiciled outside the United States, static duration breakpoints are also used: "Limited" equals less than or equal to 3.5 years, "Moderate" equals greater than 3.5 years but less than or equal to 6 years, and "Extensive" is assigned to portfolios with effective durations of more than 6 years.

Note: Interest-rate sensitivity for non-U.S. domiciled portfolios (excluding those in Morningstar convertible categories) may be assigned using average modified duration when average effective duration is not available.

For portfolios Morningstar classifies as U.S. Taxable Fixed-Income, interest-rate sensitivity category assignment is based on the effective duration of the Morningstar Core Bond Index (MCBI). The classification assignment is dynamically determined relative to the benchmark index value. A "Limited" category will be assigned to portfolios whose average effective duration is between 25% to 75% of MCBI average effective duration, where the average effective duration is between 75% to 125% of the MCBI the portfolio will be classified as "Moderate", and those portfolios with an average effective duration value 125% or greater of the average effective duration of the MCBI will be classified as "Extensive".

Investment Risk

Foreign Securities Funds/Emerging Markets Funds: The investor should note that funds that invest in foreign securities involve special additional risks. These risks include, but are not limited to, currency risk, political risk, and risk associated with varying accounting standards. Investing in emerging markets may accentuate these risks.

Specialty/Sector Funds: The investor should note that funds that invest exclusively in one sector or industry involve additional risks. The lack of industry diversification subjects the investor to increased industry-specific risks.

Non-Diversified Funds: The investor should note that funds

that invest more of their assets in a single issuer involve additional risks, including share price fluctuations, because of the increased concentration of investments.

Small Cap Funds: The investor should note that funds that invest in stocks of small companies involve additional risks. Smaller companies typically have a higher risk of failure, and are not as well established as larger blue-chip companies. Historically, smaller-company stocks have experienced a greater degree of market volatility than the overall market average.

Mid Cap Funds: The investor should note that funds that invest in companies with market capitalizations below \$10 billion involve additional risks. The securities of these companies may be more volatile and less liquid than the securities of larger companies.

High-Yield Bond Funds: The investor should note that funds that invest in lower-rated debt securities (commonly referred to as junk bonds) involve additional risks because of the lower credit quality of the securities in the portfolio. The investor should be aware of the possible higher level of volatility, and increased risk of default.

Tax-Free Municipal Bond Funds: The investor should note that the income from tax-free municipal bond funds may be subject to state and local taxation and the Alternative Minimum Tax.

Statement of Work

Recordkeeping Only

This **Statement of Work** is entered on _____ (**"Effective Date"**), between **Town of Jupiter Island ("Company")** and **Newport Group, Inc. ("Newport Group")**. The terms of the Master Services Agreement (**"MSA"**) between Company and Newport Group, dated as of the same date, are incorporated by reference, except as modified below. Capitalized terms not defined in this Statement of Work have the meaning given in the MSA.

RECITALS

Company, as the plan sponsor for the **Town of Jupiter Island 401(a) Plan** (the **"Plan"**) hereby retains Newport Group to provide recordkeeping services for the Plan (**"Services"**) in accordance with the terms and conditions set forth herein.

In consideration of their mutual undertakings set forth below, the parties agree as follows:

1. SERVICES TO BE PERFORMED

Newport Group agrees to perform the following Services for the duration of this Statement of Work.

1.1 Conversion and Implementation Services

- (a) Where applicable, Newport Group will coordinate the transfer of Plan data and documentation from the prior record keeper and administrator to Newport Group's recordkeeping platform.
- (b) Newport Group will coordinate the transfer of trust assets from the prior trustee/custodian to the successor trustee/custodian, as authorized by Company.
- (c) Newport Group will prepare blackout notices for Company to deliver to participants, as applicable.
- (d) Newport Group will provide Company with appropriate payroll processing training.

Trading may commence by the end of the 7th Business Day following the date Newport Group receives all necessary Plan information and documentation by 1 p.m. ET. All information and documentation will be delivered to Newport Group electronically in a form acceptable to it. In the event the broker of record information needs to be verified, trading will be made available as soon as administratively feasible.

Newport Group will accept historical and other Plan information received as correct and complete, and will not audit such information for accuracy, compliance with government requirements or consistency.

1.2 Plan Document Services

- (a) If Company elects to use a Newport Group-sponsored plan document, Newport Group will prepare drafts of the plan document and summary plan description for review and approval by Company during the conversion process.
- (b) If Company elects to use a Newport Group-sponsored plan document, Newport Group will, for an additional fee, provide drafts of discretionary amendments and related summaries of material modifications as requested by an Authorized Person for review and approval by Company.
- (c) Newport Group will maintain current favorable Internal Revenue Service ("IRS") opinion/approval letters on the Newport Group-sponsored plan document.
- (d) Newport Group will assist Company in reviewing Plan provisions and may propose changes in Plan design based on Company's objectives as communicated to Newport Group or as required by IRS interim amendments or restatements.

1.3 Communication/Enrollment Services

- (a) Newport Group will prepare and provide to Company drafts of automatic enrollment notices as applicable.
- (b) Upon request and for an additional fee, Newport Group will prepare and provide to Company drafts of such other participant communications as may be required pursuant to the Plan or Applicable Law.

Company is responsible for distributing any such notices and communication materials to participants and other parties unless it requests Newport Group to distribute such notices and communications on its behalf for an additional fee. Company will review and approve all employee communications and enrollment materials. Company agrees that it will promptly provide (or cause a third party to provide) Newport Group with such participant information as it may require in order to perform this service.

Newport Group prepares participant communication material and reports based on information that is reasonably available in the marketplace and/or provided by Company and other service providers. Where available, Newport Group will deliver such material electronically.

1.4 Recordkeeping Services

- (a) **Coordination with Plan Auditors.** To the extent applicable, and for Plan years for which Newport Group is engaged as recordkeeper, Newport Group will provide standard Plan reports directly to the Plan auditors and will respond to auditor questions regarding information related to such standard reports. Company hereby authorizes Newport Group to provide such reports and information directly to the Plan auditors. The time required to provide additional information requested by the auditors will be charged at the hourly rate set forth in the Fee Schedule attached hereto, and notice of such charges will be provided to Company.

(b) **Missing Persons.** Upon request, and for an additional fee, Newport Group will assist Company in locating missing participants and take action as directed by Company or an Authorized Person with respect to benefits for missing participants.

(c) **Distribution Processing.** Newport Group will process distributions in accordance with instructions from an Authorized Person, which may include pre-approval of specific types of distributions meeting agreed criteria. Newport Group will provide instructions to the Plan trustee or custodian, as applicable, regarding tax withholding and reporting. Newport Group is not responsible for remitting taxes withheld or filing tax forms. Company is responsible for timely reporting of separations of service and is responsible for non-compliance if such reporting is not provided. Company is responsible for maintaining current participant addresses.

Distributions will be processed (requested by participant and approved by Company or an Authorized Person) through the Website except where spousal consent is required, an in-kind distribution is being requested, or Newport Group is otherwise not able to process the distribution via the Website. Where paperless distributions are not available, Newport Group will provide the appropriate documentation to enable the distribution process.

Newport Group will not be responsible for processing any distribution request that is incomplete. Newport Group will have no obligation to inquire as to the validity or accuracy of any distribution.

Non-periodic distributions will be made by check; periodic distributions may be made by ACH or check, as requested by the participant. All direct rollovers will be made by check and mailed to the participant for delivery to the rollover institution.

Newport Group will process stale (returned or unclaimed) checks in accordance with its standard procedures regarding stale dated and returned checks. If Company directs that a stop payment be placed on a check, Company will instruct Newport either to credit the proceeds back to the Participant's account or reissue the check or ACH or wire the proceeds.

(i) **Optional Unforeseeable Emergency Withdrawal Service.** If the Plan document allows participants to take unforeseeable emergency withdrawals, Newport Group will, upon request and for an additional fee, assist Company in determining eligibility for unforeseeable emergency withdrawals and approving or denying withdrawal requests. If Company does not request such assistance, Newport Group's Services will be limited to processing the unforeseeable emergency withdrawal in accordance with instructions from an Authorized Person. Company is responsible for suspending deferrals and other contributions during the suspension period, as applicable.

(ii) **Optional Domestic Relations Order Services.** Newport Group's Services will be limited to processing domestic relations orders in accordance with instructions from an Authorized Person.

(d) **Loan Processing.** Newport Group will process loans in accordance with the Plan document and instructions from an Authorized Person. Loans will be processed

(requested by participant and approved by Company or an Authorized Person) through the Website except where spousal consent is required, the loan is a residential loan, or Newport Group is otherwise not able to process the loan via the Website. Where paperless loans are not available, Newport Group will provide the appropriate documentation to enable the loan process.

Complete loan requests received by 3 p.m. ET will be processed and the funds will be issued to have the loan proceeds mailed within three Business Days, provided that the trades have settled and funds have been received. Newport Group will not be responsible for processing any loan request that is incomplete. Newport Group will have no obligation to inquire as to the validity or accuracy of any loan.

Following the processing of a loan, Newport Group will post necessary information to the Website to enable Company to commence loan repayments through payroll deductions. Company is responsible for initiating payroll deductions for such loans. Newport Group will issue a quarterly report to notify Company upon the occurrence of a late payment and of loan defaults. Loans will be offset or treated as a deemed distribution solely at the direction of Company.

- (e) **Participant Investment Accounts.** Newport Group will establish and maintain records for each participant's account under the Plan (including appropriate sub-accounts reflecting investment options and contribution classifications). Newport Group will facilitate the investment of contributions and other receipts and post transactions and investment gains and losses to participant accounts.
- (i) **Investment Purchases, Sales or Exchanges.** Newport Group will instruct the Plan custodian to buy, sell or exchange securities or other investments in accordance with, and upon receipt of, instructions electronically transmitted via the Website, VRU or otherwise provided to Newport Group in writing by Company, an Authorized Person or a participant.

On each Business Day, Newport Group will transmit instructions to the custodian for the investment exchanges, transfers, and changes in investment directions for contributions and existing account balances which are submitted on the recordkeeping system before 4 p.m. ET (or such other deadline established by Newport Group, Company, broker or market specialist for the day). Directions received on or after 4 p.m. ET (or such other deadline established by Newport Group, Company, broker or market specialist for the day) will generally be processed the next Business Day.

Newport Group is not responsible for directions that have been properly processed and timely transmitted to the custodian. Newport Group may specify the manner in which investment directions will be provided to Newport Group, including, without limitation, through Newport Group's internet interface or through Newport Group's VRU system, and Newport Group will not be responsible for investment directions provided through other means. Newport Group will have no authority or responsibility for executing the purchase or sale of securities or other assets held in the Plan trust.

- (ii) **Changes in Investment Options or Related Systems.** The addition, change or deletion of funds offered under the Plan (including fund swaps/changes, fund line-up changes, model changes/maintenance and rebalances, and corporate actions services), or changes affecting the systems through which existing or new funds are offered, will be processed by Newport Group based on information received from Company. Newport Group will prepare all necessary fund addition, change or deletion forms and any applicable blackout notices and/or fund disclosures. Changes must be communicated to Newport Group upon at least ninety (90) Business Days' advance written notice, unless otherwise agreed to by Newport.

Provided advance written notice has been provided, the addition, change or deletion of funds offered under the Plan will become effective and available for trading by the end of the 5th Business Day after Newport Group's receipt of all necessary information and documentation and expiration of all applicable regulatory and Newport or fund-mandated notice periods. In the event that a fund is not currently traded by Newport Group or the Plan's custodian, and for changes affecting systems through which existing or new funds are offered, the fund or change will be made available as soon as administratively feasible.

Company is responsible for, and Newport Group will have no obligation for, reviewing all requirements and restrictions imposed by the mutual fund and for verifying that Company will meet any such requirements or restrictions.

Newport Group will make Plan-level in-kind transfers if directed by Company.

- (f) Contributions and Loan Repayments. Newport Group will process participant and Company contributions and loan repayments and credit such amounts to participant investment accounts.

On a daily basis, Newport Group will accept and process payroll files that reconcile to the payroll deposit received for investment by the Plan's trustee or custodian, via the Website. Payroll and deposit information must be provided in the format and field order required by Newport Group. Subject to any requirements imposed by the Plan's trustee or custodian, contributions may be made by ACH pull from Company's designated account, or by wire.

ACH pull deposit requests received in good order by the Plan's trustee or custodian by 1:30 p.m. ET on a Business Day will be processed by Newport Group that day. ACH pull deposit requests received in good order by the Plan's trustee or custodian after 1:30 p.m. ET will be processed by Newport Group the next Business Day.

Contributions that reconcile to deposits will be credited to individual participant accounts each Business Day, typically on the same Business Day according to then current procedures. Contributions will not be processed until Newport Group has received participant allocation information. Contributions for participants for whom no investment direction has been provided to Newport Group will be allocated to the Plan's default investment, as selected by Company.

Company is responsible for ensuring that participant contribution/deferral elections and loan repayments are properly implemented through Company's payroll system and that funds (including participant elective deferrals) are remitted to the Plan trust when required by Applicable Law.

- (g) Daily Valuation. Newport Group will calculate the value of each participant's account based on the prior Business Day's values as reported by the Plan's custodian.
- (h) Participant Reporting. Newport Group will prepare pension benefit statements each calendar quarter for participants, beneficiaries and alternate payees with an account balance during such quarter.
- (i) Company Reports. Upon request by Company, and for an additional fee, Newport Group will prepare customized reports as agreed to by Newport Group in its sole discretion.

1.5 Participant and Company Support. Newport Group will maintain and provide a toll-free automated telephone answering system ("VRU") that participants can use to obtain general Plan and account information and to request changes to investment and deferral elections. Newport Group will maintain staff to support participant inquiries in English and Spanish each Business Day between the hours of 8 a.m. to 8 p.m. ET. Other languages may be available upon request. Newport Group will also maintain a Website that Company and participants can use to access Plan and account information, request distributions and loans when available, make changes to investment and contribution elections when available, and provide Instructions as needed.

Access to and use of the Website is subject to the terms and conditions of such Website, and each user thereof must comply with all user enrollment and security procedures established by Newport Group (or its agents) from time to time.

To confirm identity of an authorized VRU or Website user, Newport Group requires users to provide Newport Group issued credentials. Newport Group will not be liable for any Losses incurred by Company, participant or other party for responding to an inquiry or processing instructions from a user of the VRU or Website that has confirmed identity using Newport Group issued credentials. A user of the Website is responsible for verifying the accuracy and receipt of all data or information that such user transmits via the Website. Company shall advise its users to promptly notify Company of any errors or inaccuracies in data or information on the Website.

2. COMPANY'S RESPONSIBILITIES

Company agrees to do the following:

2.1 Implementation.

- (a) **Plan Documents.** Company agrees to provide Newport Group with copies of current executed Plan and trust documents including all amendments thereto, and the most recent IRS determination, opinion, or advisory letter for the Plan. Company will notify

Newport Group in advance of any changes to the interpretation or administration of the Plan and its related trust, and to provide notification to Newport Group of any substitution of the Plan's trustee.

Company agrees to provide Newport Group written notice of any amendments to the Plan at least 30 days prior to the effective date thereof, or such longer period as may be required by Newport Group. Newport Group will notify Company of any restrictions on Newport Group's ability to administer the Plan as a result of such amendments and shall further notify Company of any changes to the Services and fees as a result of such amendments.

Newport Group is not responsible for maintaining the tax-qualified status of any plan documentation except as specifically provided in this Statement of Work.

- (b) **Implementation Data.** Company will provide to Newport Group the information required to implement the Plan or convert the Plan to Newport Group's recordkeeping systems. Such information will include eligible employee and participant census data, account data, and any related implementation or conversion data for the participant population as may be required by Newport Group and shall be provided in an electronic format acceptable to Newport Group. Newport Group shall have no duty to inquire as to the accuracy of the information provided by Company and is entitled to rely on such information in carrying out its duties under this Statement of Work.
- (c) **Ticker Symbols** Company will provide Newport Group with applicable identifying symbols and numbers (e.g., ticker symbols and CUSIP numbers) of the securities to be initially held in the Plan's trust account no fewer than twenty (20) Business Days prior to the desired account opening date.

2.2 Payroll Administration. Company hereby acknowledges that it is responsible for the implementation and administration of participant deferrals, contributions and loan repayments through its payroll system, including, without limitation, compliance with all federal, state and local employment (income and FICA/FUTA) tax withholding and reporting requirements with respect to such amounts. Company agrees to provide Newport Group, in an electronic format acceptable to Newport Group, with the amount of participant deferrals, contributions and loan repayments for each payroll period, and with the amounts of any pay period allocations of Company contributions among participants for such payroll period, in order to allow Newport Group to update participant accounts.

2.3 Reports. Company agrees to promptly review all reports prepared and delivered to Company by Newport Group. If Company shall not, within sixty (60) days after the date of any such report, notify Newport Group in writing of any inaccuracies or errors in the report, such report shall be deemed complete, accurate and duly approved by Company. Notwithstanding the foregoing, Newport Group will make every effort to correct any inaccuracies or errors in any report within sixty (60) days after the date Newport Group receives written notification from Company of such inaccuracies or errors.

2.4 [Reserved]

2.5 Information and Data. Company agrees that it will promptly provide (or cause a third party to provide) Newport Group with such information as it may reasonably request from time to time to perform the Services, including:

- (a) Copies of current signed Plan and trust documents and all amendments
- (b) Current Plan records
- (d) Notification of an eligible employee's initial eligibility to participate in the Plan
- (e) Service history
- (f) Current signed benefit elections for participants requesting payments
- (g) Notification of any upcoming merger, acquisition, spinoff, divestiture, or other corporate transaction
- (h) Notification of any change in Authorized Persons
- (i) Accurate population of payroll data files uploaded for each payroll cycle that contains the following information for all employees:
 - (i) Social security numbers
 - (ii) Full name
 - (iii) Birth date
 - (iv) Hire date
 - (v) Termination date
 - (vi) Rehire date
 - (vii) Pay period and year to date hours worked
 - (viii) Contribution amounts by source
 - (ix) Loan repayments
 - (x) Pay period and year to date compensation
 - (xi) Last known employee physical mailing addresses (not P.O. box)
 - (xii) Participant Company email addresses
 - (xiii) Other information as requested by Newport Group.

Company is responsible for ensuring that such information, documentation and instructions are complete and accurate and shall promptly inform Newport Group in writing of any changes to the Plan or Company that may affect Newport Group's obligations under this Statement of Work.

3. Company's Representations, Warranties and Acknowledgments

Company makes the following representations and warranties in addition to those set forth in the MSA:

- 3.1** Company (a) is an eligible employer under Code Section 457(b); (b) has the authority to act on behalf of the Plan; (d) has the authority and responsibility under the terms of the Plan; and (e) has the authority under the terms of the Plan to retain Newport Group to provide the Services to the Plan.
- 3.2** Company represents that the Plan and its related trust as applicable are intended to qualify as tax-exempt under Sections 401(a), 403(b), 457(b) and 501(a) of the Code, as applicable, and it will operate and administer the Plan and its related trust, and take all

necessary actions and pay such expenses as needed to ensure the Plan's compliance both in form and operation with the provisions of Applicable Law. Company also represents that the Plan is not subject to the Internal Revenue Code of Puerto Rico.

- 3.3** Company has reviewed the terms and conditions of this Statement of Work and understands the nature of the Services to be performed by Newport Group and the fees Newport Group will charge for such Services. Based on such review, Company has determined that the fees are reasonable for the Services to be rendered.
- 3.4** Company understands and agrees that Newport Group shall have (i) no discretionary authority with respect to the investment of Plan assets or the administration of the Plan and (ii) no authority to interpret Plan documents, and that the sole duty of Newport Group in its role as recordkeeper is to assist Company in the performance of the Services as described herein.
- 3.5** Company acknowledges and agrees that it is responsible for the following:
- (a) Making any discretionary decision with respect to the operation of the Plan, including, without limitation, interpretation of Plan provisions, reasonableness of fees charged to the Plan, evaluation of claims made by Participants for benefits under the Plan and the investment of Plan assets;
 - (b) The selection and monitoring of the Plan's service providers, including accountants, actuaries, administrators, advisors, attorneys, custodians, financial advisors and/or trustees;
 - (c) Providing investment advice or investment management services;
 - (d) Ensuring that all funds required to be contributed to the Plan are contributed when required for tax deductibility, minimum funding standards and compliance with Applicable Law;
 - (e) Defending any legal proceeding brought by third parties against the Plan or Company or for the defense of any Plan audit by the IRS or any other government agency with respect to the Plan. Newport Group may be engaged for an additional fee to assist Company.

4. Fee Compensation

Fees for the Services are described in a schedule attached to this Statement of Work, and may include applicable revenue sharing for the Plan. Should any balance be past due in excess of sixty (60) days, Company irrevocably authorizes Newport Group to deduct from Plan assets any balance due to the extent permitted by the Plan and Applicable Law. Any such deductions will be allocated among all participants in the Plan in accordance with the terms of the Plan. To the extent that any such payments are made out of Plan assets, Company acknowledges and agrees that such payments are made at Company's direction. Company agrees to take all necessary actions and pay expenses related to maintaining the Plan as contemplated by this Statement of Work, in compliance with the Applicable Law.

5. TERM; AMENDMENT/TERMINATION

This Statement of Work is effective on the Effective Date and shall continue in effect until terminated by either party upon not less than ninety (90) days' advance written notice. Newport Group may amend this Statement of Work, including the Fee Schedule, at any time upon sixty (60) days' prior written notice to Company. In the event Company does not object to the amendment within thirty (30) days of delivery thereof, Company will be deemed to have accepted the amended Statement of Work.

In Witness Whereof, the parties have signed this Statement of Work effective as of the Effective Date.

Town of Jupiter Island

Newport Group, Inc.

By: _____

By:  _____

Printed Name: _____

Printed Name: Rick Irace

Title: _____

Title: Chief Operating Officer, Total Services
and Operations Management

Date: _____

Date: 2/26/2024

FEE SCHEDULE

RECORDKEEPING

PER PARTICIPANT	\$50
BASE FEE	\$1,250

TRUST AND CUSTODY

5 bps

TRANSACTIONS

Distribution (non-periodic)	\$60
Periodic Install Payments	\$12.50 per payment
Hardship Distribution	\$150
Force Out Administration Fee	\$20 per Participant
Loan Setup (new or takeover)	\$125
Annual Loan Maintenance	\$0
Self-Directed Brokerage Account Setup	\$75 per account
Self-Directed Brokerage Account	\$200 annually per account

PARTICIPANT MAILINGS AND ANNUAL NOTICES

Printed Participant Notice Mailings	\$50 initial setup plus \$1 per Participant
Printed Quarterly Participant Statement (includes annual 404(a)(5) disclosure)	\$1 each
Printed Quick Start Enrollment Guide	\$2 each
<i>Hard Copy Full Enrollment Booklet is available at \$5 each</i>	
Outgoing Bank Wire or other Electronic Transfers	\$10 per transfer
Overnight Delivery	\$30 per occurrence
Stop Payment/Reissue Fee	\$30 per occurrence
Plan Termination or Deconversion	\$1,000

DOCUMENT MAINTENANCE SERVICES

Major Sponsor-Requested Plan Amendments (e.g. name change, two or more minor Amendments, etc.)	\$500
Minor Sponsor-Requested Plan Amendments (e.g. address, trustee changes, etc.)	\$200

Revenue and Service Fee Authorization

1. Revenue Crediting Election. Select **one** of the following options to elect how revenue sharing funds will be applied:

- ☒ **Revenue Holding Account.** Newport will establish a RHA in the name of the Plan for the purposes of collecting revenue sharing funds. Funds will be used to pay Newport fees and other appropriate plan expenses as directed by the Company.
- ☐ **Plan Assets.** Newport will credit revenue sharing funds to Plan Participant accounts in proportion to Participant account balances after the revenue sharing funds have been collected.

2. Fee Payment Election. Select **one** of the following options to elect how fees are to be applied:

- ☐ **Plan Assets Pro Rata.** Fees will be paid from Plan assets in proportion to Plan Participant account balances.
- ☐ **Company Paid.** Fees will be paid directly by the Company.

- ☒ **Customized Fee Payment Election.** In the following table, indicate for each fee type the payment source by marking an "X" in the appropriate column. If you fail to make an election under one of these options, the default will be for the remaining balance of fees to be charged to the Plan on a pro rata basis.

An election must be made under columns (A) - (C) and may only include one option for each fee type.			
Fee Type	(A) Plan Assets Pro Rata	(B) Plan Assets Per Capita	(C) Company
Recordkeeping Participant Fees			X (*see below)
Base Fee			X
Trust and Custody Fees			X
Participant Mailings and Notices			X
Transaction Fees			
Describe any other fee payment elections below:			
(e.g. utilize forfeitures to pay fees, etc.)			
*Terminated participants pay their own per participant fee.			

Additional Terms and Conditions

Recordkeeping and Trust and Custody Services Fees

Fees listed are annual fees. Per Participant fees will be billed monthly in arrears and will be based upon the number of Participants on the last business days of the prior month. All other fees will be billed quarterly in arrears. Trust and custody fees will be based on total plan asset values on the last business day of the prior quarter. Plans electing to use ETFs will be charged an additional 5 bps on total assets in the plan. Base Fee includes up to 30 fund options; target date lineup is one fund option. Each additional fund is \$250 per year.

Transaction Fees

Transaction fees will be charged to the applicable Participant unless otherwise elected by the Company. SDBA fees apply to linked brokerage accounts only. Additional fees may apply for manual and unlinked SDBA accounts. Additional fees may be charged by the SDBA provider; participant accounts will be debited for any brokerage commissions or other fees related to trades placed through SDBA.

Document Maintenance Services

All Document Maintenance Service Fees will be charged to the Company. IRS required amendments and restatements will be quoted separately. Consulting Services include assistance with mergers, acquisitions, and spin-offs, preparation of DOL DFVCP and VFCP and IRS streamlined EPCRS filings.

Revenue Sharing

The Plan's investment line-up may include mutual funds and other investments that pay 12b-1, shareholder servicing fees and other fees ("revenue sharing funds"). To the extent the Company selects these investments as part of the Plan's investment line-up, Newport will collect and pass through to a Revenue Holding Account (RHA) or Plan Assets, as elected above, one hundred percent (100%) of the revenue sharing funds it collects.

Other Terms and Conditions

The Company is responsible for any out-of-pocket expenses Newport may incur on the Company's behalf, including but not limited to, messenger service fees, overnight delivery fees, filing fees and travel expenses.

The Company agrees to be responsible for Newport's normal and reasonable hourly rate and expenses in the event Newport is requested or required to perform additional services including, but not limited to, correction of errors (other than errors caused by Newport), response to subpoena or other legal process, or participation in legal proceeding, irrespective of whether Newport is still engaged to perform Services.

The Company agrees it is solely responsible for assessing and concluding that remuneration paid to any and all third party service providers is reasonable under ERISA and other applicable laws, rules and regulations, and that the use of Plan assets to pay such

providers is consistent with all applicable laws. The Company hereby acknowledges that it has been advised to consult with its legal counsel regarding this direction.

This Fee Schedule and Plan Sponsor Notice Regarding Services, Service Fees, and Investment Fees and Expenses (the "Plan Sponsor Notice") together are intended to satisfy the fee disclosure requirements set forth in Department of Labor regulation Section 2550.408b-2(c)(1). The Company represents and warrants that the fee and compensation information specified herein was provided to the Company and the Company had a reasonable opportunity to review and ask questions with respect to such information before entering into the SOW and MSA.

The Company has reviewed this Fee Schedule, the Plan Sponsor Notice, the SOW and the MSA, and understands the nature and amounts of the Fees and indirect compensation disclosed therein, and has determined that Newport is receiving reasonable compensation for the Services.

Defined terms used and not otherwise defined herein shall have the meanings set forth in the MSA and SOW.

IN WITNESS WHEREOF, the parties hereto have caused this Plan Fee Schedule to be executed by their duly authorized officers or representatives as of the date specified below.

Company: Town of Jupiter Island
By: _____
Signature: _____
Title: _____
Name: _____
Date: _____

Newport:
(NOTE: No handwritten changes will be accepted by Newport)

By: 
Signature: _____
Title: Chief Operating Officer, Total Services and Operations Management
Name: Rick Irace
Date: 2/26/2024

Trust Agreement

THIS TRUST AGREEMENT (the "**Agreement**") is entered into as of the _____ by and between the entity named on the signature page hereof (the "**Company**") and Newport Trust Company, LLC (the "**Trustee**"), a New Hampshire State chartered trust company.

WHEREAS, the Company has adopted the **Town of Jupiter Island 401(a) Plan** (the "**Plan**") for the benefit of its employees; and

WHEREAS, the Company desires to appoint the Trustee as a nondiscretionary, directed trustee of the Plan, and the Trustee desires to serve in such capacity.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

The use of defined terms in this Agreement have the following meanings:

- 1.1 "**Affiliate**" means, with respect to a party, an organization that is directly or indirectly owned or controlled by such party, owns or controls such party or is under common ownership or control with such party.
- 1.2 "**Applicable Law**" means the constitutions, statutes, rules, regulations and orders of governmental bodies or regulatory agencies, self-regulatory organizations and all orders and decrees of all courts and arbitrators in proceedings or actions applicable to a party in connection with the performance of its obligations under this Agreement, including but not limited to ERISA.
- 1.3 "**Authorized Person**" means the person or persons identified in a certificate of incumbency delivered to the Trustee by the Company pursuant to authorization of the Company's Board of Directors. The Trustee will be entitled to rely on any direction or notice from the Authorized Person(s) specified in such incumbency certificate until it receives written notice to the contrary.
- 1.4 "**Code**" means the Internal Revenue Code of 1986, and the rules and regulations promulgated thereunder, as amended from time to time.
- 1.5 "**Company**" means the entity named on the signature page hereof.
- 1.6 "**Contracts**" means, collectively, life insurance policies, group annuities, guaranteed investment contracts, bank investment contracts or similar vehicles permitted under the Plan.
- 1.7 "**Directions**" (and its derivatives, including "Direct") means the Company's, Plan Administrator's or other Authorized Person's written directions and instructions to the Trustee.
- 1.8 "**Employer Securities**" means "qualifying employer securities" (as defined in Section 407 of ERISA), which may include any qualifying employer securities received as a result of any exchange or conversion of, or dividend received on, Employer Securities.
- 1.9 "**ERISA**" means the Employee Retirement Income Security Act of 1974, and the rules and regulations promulgated thereunder, as amended from time to time.

- 1.10 **"Investment Manager"** means an "investment manager" as defined in Section 3(38) of ERISA appointed by the Company in accordance with **Section 7.2** of this Agreement. Instructions from the Investment Manager constitute Instructions from an Authorized Person.
- 1.11 **"Participant"** means the participant and his or her beneficiary or beneficiaries, as defined in the Plan.
- 1.12 **"Participant Directed Account"** means the portion of the Trust over which a Participant has investment direction authority, to the extent permitted under the Plan.
- 1.13 **"Personal Information"** means, with respect to Company employees and Participants, any information that relates to an identified or identifiable natural person which is protected by Applicable Law.
- 1.14 **"Plan Administrator"** means the Company or the person, persons or entity appointed by the Company in accordance with **Article V** to act as a "plan administrator" (as such term is defined in ERISA).
- 1.15 **"Trustee"** means Newport Trust Company, LLC and any duly appointed successor trustee or trustees acting hereunder.
- 1.16 **"Unauthorized Disclosure"** means an unauthorized release of, or access to, Company Confidential Information, to or by any person obtaining or reasonably believed to have obtained such Company Confidential Information, or access to such Company Confidential Information, from or through the Trustee or any of its agents.

2. THE TRUST

- 2.1 **Establishment of Trust.** The Company hereby establishes with the Trustee a trust consisting of such sums of money and such other assets acceptable to the Trustee in its sole discretion as shall from time to time be actually delivered to the Trustee under the Plan, together with the earnings and profits thereon, less any payments or distributions that are made by the Trustee as provided herein (the "**Trust**"). The Plan, this Agreement, and the Trust created hereby are intended to meet the applicable requirements of ERISA and Sections 401(a) and 501(a) of the Code. The Company will be responsible for ensuring the continued qualification of the Plan and exemption of the Trust.
- 2.2 **Superseding Effect of the Agreement.** This Agreement restates, replaces or amends any existing trust agreement covering assets held or to be held in the Trust.
- 2.3 **Exclusive Use.** Except as may otherwise be permitted by Applicable Law, at no time prior to the satisfaction of all liabilities with respect to the Participants will any part of the corpus or income of the Trust be used for, or diverted to, purposes other than for the exclusive benefit of the Participants and for defraying the reasonable expenses of administering the Plan.
- 2.4 Except as may be required under Applicable Law, Trustee shall have no duty or responsibility not expressly set forth in this Trust Agreement. By way of example, but without limiting the matters subject to the foregoing sentence, the Trustee shall have no responsibility with respect to the administration or interpretation of the Plan, payment of Plan benefits other than from the assets of the Trust, the calculation of tax to be withheld, reported and/or paid to taxing authorities and (if applicable pursuant to the fee schedule) withholding, remitting, or reporting to taxing authorities of taxes other than from payments to Participants made by the Trustee with Trust assets, and other than as directed by the Company, or maintaining participant records with respect to the Plan.

3. REPRESENTATIONS AND WARRANTIES

- 3.1 **Representations and Warranties of the Parties.** Each party hereto represents and warrants to the other that: (a) it is a duly organized legal entity having all requisite authority under its organizing documents and Applicable Laws to enter into this Agreement and to perform its obligations hereunder; (b) the execution and delivery of this Agreement and the performance of the obligations contemplated hereunder have been duly and validly authorized by all necessary action, and this Agreement constitutes a valid and legally binding obligation of such party enforceable in accordance with its terms; (c) the person executing this Agreement on its behalf is duly authorized and empowered to execute and deliver this Agreement; and (d) it will perform its obligations under this Agreement in accordance with the provisions of Applicable Law.
- 3.2 **Additional Company Representations and Warranties.** The Company hereby represents and warrants that: (a) the terms of the Plan provide for the creation of a trust and the appointment of a trustee and one or more Investment Managers; (b) it either has responsibility as a “named fiduciary” as defined in Section 402(a)(2) of ERISA or has properly delegated the responsibility to a Plan fiduciary, other than the Trustee, for determining the correctness, amount and timing of contributions and for the collection of contributions; (c) the Company is the “plan sponsor” of the Plan as defined in Section 3(16)(b) of ERISA and has the authority to act for all related participating employers, if any, designated under the Plan; and (d) the terms of the Plan do not impose any duties or obligations upon the Trustee that are not contained in, or are inconsistent with, this Agreement.

4. STANDARD OF CONDUCT

- 4.1 The Trustee shall discharge its duties hereunder solely in the interest of the Participants and for the exclusive purpose of providing benefits to Participants and for defraying reasonable expenses of administering the Plan. The Trustee shall perform all of its duties with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, or in accordance with such other standard as may, from time to time, be required by Applicable Law, and in accordance with the Plan and this Agreement, insofar as they are consistent with ERISA.
- 4.2 Except as may be authorized by Applicable Law, the Trustee shall not maintain the indicia of ownership in any assets of the Trust outside of the jurisdiction of the District Courts of the United States.

5. PLAN ADMINISTRATOR

- 5.1 The Company shall appoint in writing a Plan Administrator. If no such person, persons or entity is so designated, such term will mean the Company.
- 5.2 The Plan Administrator may delegate any or all of the duties, responsibilities, or authority imposed upon or granted to the Plan Administrator under the Plan or this Agreement to one or more Authorized Persons to the extent permitted by the Plan document and Applicable Law and shall promptly notify the Trustee in writing of any such delegation and any limits or changes in such Authorized Person's authority.

- 5.3 The Plan Administrator will have exclusive responsibility for management of the Trust and the direction of the investment of the Trust, except as provided pursuant to **Section 7.2** and **Section 7.6**.

6. ADMINISTRATION AND OPERATION OF TRUST

6.1 Contributions and Distributions.

- (a) **Receipt of Contributions.** The Trustee shall hold in the Trust all amounts received by the Trustee and designated as contributions to the Trust, except to the extent required by Applicable Law or as otherwise provided pursuant to Section 6.1(b). All contributions so received, together with any income or other amount realized by the Trust, will be invested and administered by the Trustee in accordance with the terms of this Agreement. The Plan Administrator is responsible for enforcing collection from the Company of any contributions to the Trust and to determine the correctness of the amount and timing of any contribution. The Trustee will have no responsibility for enforcing the collection from the Company of any contribution to the Trust or for determining the correctness of the amount or timing of any contribution or the sufficiency of the Trust. The Trustee may rely upon the determination of the Plan Administrator that all assets received by it are properly contributed or transferred to the Trust in accordance with the provisions of the Plan.
- (b) **Unacceptable Assets.** The Company shall place any assets which are unacceptable to the Trustee with another trustee under a separate trust agreement or may retain such assets in any other "appropriate account" as defined in Section 401(f) of the Code. The Trustee will have no responsibility for such assets.
- (c) **Returns to Company.** The Trustee will return contributions to the Company upon proper Directions. The Company is solely responsible for ensuring that a Direction to return any amount to the Company meets the requirements of Applicable Law.
- (d) **Distributions.** Upon receipt of Directions, the Trustee shall make payments from the Trust to or for the benefit of Participants, in such manner, amounts and times, and for such purposes as may be specified in such Directions, or for the payment of fees and expenses pursuant to **Article 10** of this Agreement. The parties acknowledge and agree that the Trustee is not responsible for determining the accuracy or appropriateness of any such distribution or for making any distribution out of the Trust in excess of the available funds in the Trust.

- 6.2 **Participant Loans.** If the Plan permits loans to eligible Participants, the Trustee will make distributions to Participants in accordance with Directions and receive payments thereon. The parties acknowledge and agree that Plan Administrator or its designee is responsible for the administration of such loans, including but not limited to determining the terms of Participant loans, approving loans, providing appropriate disclosures under Applicable Law, collection of payments and the enforcement of Participant notes. The Trustee's sole responsibility with respect to loans shall be to make distributions to Participants in accordance with Instructions and to receive payments thereon.

- 6.3 **Proxies.** All voting rights with respect to assets held in the Trust, including shares of Employer Securities, shall be exercised by the Trustee only as Directed by the Plan Administrator, or as required by Applicable Law. The Plan Administrator shall have the responsibility for Directing the Trustee as to voting such shares under the terms of the Plan or under an agreement between a named fiduciary of the Plan and an Investment Manager, in which case such Investment Manager

shall have such responsibility. In no event will the Trustee be responsible for the voting or tendering of shares of securities held in the Trust or for ascertaining or monitoring whether or how proxies are voted or whether the proper number of proxies is received.

7. INVESTMENT OF TRUST

- 7.1 **No Discretion.** The Plan Administrator, as the named fiduciary for the Plan, is responsible for determining the diversification policy with respect to the investment of Plan assets, for monitoring adherence to such policy, and for advising the Trustee with respect to its compliance with any investment limitations contained in the Plan. The Trustee will have no discretionary control over, or any other discretion regarding, the investment of the Trust. The Company hereby Directs the Trustee to act solely in accordance with Directions from the Company, Plan Administrator or Investment Manager with respect to the investment of the assets held in the Trust. To the full extent permitted by Applicable Law, the Trustee will have (a) no duty to inquire whether such Directions conform to the Plan or Applicable Law, including, but not limited to Section 404(c) of ERISA; and (b) no liability or responsibility for following any such Direction, or for failing to act in the absence of such Direction.
- 7.2 **Investment Manager.** The Company may, through Direction, appoint an Investment Manager to direct investment of the Trust in whole or in part. Each appointment of any person as an Investment Manager will constitute the representation and warranty to the Trustee by the Company that the Company has determined that such person either is, and so long as such appointment is effective remains (a) registered as an investment advisor under the Investment Advisors Act of 1940; (b) a bank as defined in the Investment Advisers Act of 1940, as amended; or (c) an insurance company qualified to perform the services hereinafter described under the laws of more than one State.
- 7.3 **Permitted Investments.** The Trust may be invested in such property of any character, real or personal, as an Authorized Person may Instruct, as the Trustee may accept from time to time (individually and collectively, "**Permitted Investments**"). In the event the Trustee has not received investment Directions, the Plan Administrator will be deemed to have Directed the Trustee to invest in the Plan's Qualified Default Investment Alternative, if a fund has been designated as such, or the cash investment option available to the Plan which cash investment option may include a savings instrument or deposit account of the Trustee, its Affiliates or subcontractors, which bears a reasonable rate of interest. The Company hereby authorizes the Trustee to hold a reasonable portion of the Trust in cash pending payment of current expenses or benefits from the Trust, or pending the consummation of transactions entered into on behalf of the Trust, without liability to the Trust for interest thereon.
- 7.4 **Prohibited Transactions.** The Company understands that certain transactions are prohibited for tax-exempt retirement plans under ERISA and under Code Section 4975. The Company will not direct the purchase or sale of any Trust asset to or from a "disqualified person" as defined in Code Section 4975(e), or a "party-in-interest" as defined in ERISA Section 3(14), or in any other way direct an investment or other transaction that would be deemed a non-exempt "prohibited transaction" with respect to the Plan under Applicable Law. The Trustee will have no duty to determine whether any transaction is, or has the potential to be, a "prohibited transaction."
- 7.5 **Investment Powers.** The Trustee to take any of the following nondiscretionary investment powers upon receipt of Directions:
- (a) To invest and reinvest all or a portion of the assets comprising the Trust in Permitted Investments.

- (b) To deposit or invest all or any part of the assets of the Trust in savings accounts or certificates of deposit or other deposits in a bank or savings and loan association or other depository institution, including the Trustee or any of its Affiliates, provided that with respect to such deposits with the Trustee or an Affiliate, the deposits will bear a reasonable interest rate.
- (c) To invest and reinvest all or any portion of the assets comprising the Trust in any group trust fund which at the time of the investment provides for the pooling of the assets of plans qualified under Section 401(a) of the Code. This authorization applies solely to a group trust fund exempt from taxation under Section 501(a) of the Code and the trust agreement which satisfies the requirements of Revenue Ruling 81-100. The provisions of the group trust fund agreement, as amended from time to time, are incorporated by reference within this Agreement. The provisions of the group trust fund will govern any investment of Plan assets in that fund. The Plan Administrator must specify, in a form acceptable to the Trustee, to which group trust fund(s) this authorization applies.
- (d) To sell, exchange, convey, transfer or otherwise dispose of, any securities or property held by it, by private contract or public auction, with or without notice or advertisement of any kind, and no person dealing with the Trustee will be bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety of any such sale or other disposition.
- (e) To purchase or sell, write or issue, puts, calls or other options, covered or uncovered, to enter into financial futures contracts, forward placement contracts and standby contracts and, in connection therewith, to deposit, hold or pledge assets of the Trust.
- (f) To execute any securities transactions and to perform any other services required to be provided by a registered broker dealer through the Trustee's Affiliate brokers, at the Affiliate's normal rates of compensation and without diminution of the compensation payable to the Trustee hereunder, provided such transactions are executed in accordance with Applicable Law.
- (g) To give general or special proxies or powers of attorney with or without powers of substitution; to exercise any conversion privileges, voting rights, subscription rights, rights to participate in voting trusts with other stockholders, or other options, and to make payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith; to abandon any property determined by it to be worthless; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities and other property held as part of the Trust.
- (h) To lend securities or enter into repurchase agreements, to extend the time of payment of any obligation owing to the Trust, and to borrow money for the purposes of the Trust from others, excluding the Trustee in its corporate capacity and excluding any other "party in interest" (as defined in Section 3(14) of ERISA); provided, however, the Trustee may agree to an arrangement to borrow from a party in interest upon such terms and conditions as it may deem acceptable. Any such loan will be upon such terms and conditions as the Company or Plan Administrator may deem comply with the requirements of Applicable Law and, for the sum so borrowed or advanced, the Trustee may issue a promissory note and secure the repayment thereof by creating a lien upon assets of the Trust.

- (i) To contest, settle, abandon or compromise claims, demands, debts or damages due or owing to or from the Trust, to commence, settle, compromise or defend suits or legal or administrative proceedings, and to represent the Trust in suits and legal and administrative proceedings; provided, however, the Trustee will have no duty to begin or maintain any legal or administrative proceeding unless it has been indemnified by the Company to its satisfaction for its counsel fees, costs, disbursements, and all other expenses and liabilities to which it may be subjected as a consequence of beginning or maintaining such legal or administrative proceeding.
- (j) To make, execute, acknowledge and deliver documents of transfer and conveyance and other instruments that may be necessary or appropriate to carry out the powers granted herein.

7.6 Participant Directed Accounts. The Plan Administrator shall Direct the Trustee regarding the investment of its Participant Directed Account. Participant-directed investments are limited to those investments permitted under the Plan. A Participant's beneficiary, upon the death of a Participant, or an alternate payee, in the event of a qualified domestic relations order, shall provide investment Directions through the Plan Administrator and such beneficiary or alternate payee will assume all rights and responsibilities for the Participant's Participant Directed investments. The exercise of investment direction by a Participant will not cause such Participant to be a fiduciary solely by reason of its exercise, and neither the Trustee nor any other fiduciary of the Plan will be liable for any loss, or by reason of any breach, that results from the exercise of investment direction by a Participant.

7.7 Employer Securities. If permitted pursuant to the Plan, the Trust may be invested in Employer Securities to the extent necessary to comply with investment Directions under this Agreement. The Trustee will have no responsibility for determining whether any Employer Security is a "qualifying employer security" or whether any acquisition or disposition of Employer Securities is consistent with Applicable Law, including (without limitation) the prohibited transaction restrictions of ERISA and the exemptions to those restrictions. The Trustee shall acquire and dispose of such securities in open market transactions or in such other manner as Instructed. If the Trust consists of Employer Securities that are not traded on a recognizable market, or the information necessary to ascertain the fair market value is not readily available, the Plan Administrator shall provide to the Trustee the value of such securities for all purposes under the Plan and this Agreement, and the Trustee will be entitled to rely upon the value of such Employer Security provided by the Plan Administrator. If the Plan Administrator fails or refuses to Direct the Trustee on the value of such Employer Security, the Trustee, in its sole discretion, may engage an independent appraiser to determine the fair market value of such Employer Security and will be entitled to rely upon the value placed upon such Employer Security by the independent appraiser. Any expenses with respect to such appraisal will be a charge against the Trust and may be paid from the Trust as provided in this Agreement. The Company will be responsible for the preparation and filing of all reports required under federal or state securities laws with respect to the Trust's ownership of Employer Securities, and shall immediately notify the Trustee in writing of any requirement to stop purchases or sales of Employer Securities pending the filing of any report.

7.8 Contracts. If the Plan permits investment in Contracts, the following provisions will apply with respect to any Contracts that become part of the Trust.

- (a) The Trustee will have no obligation to take any action with respect to any Contract, including to pay any premium on any Contract, except upon Instructions from the Plan Administrator or Authorized Person; *provided, however*, that the Trustee may (although will not be obligated to) make such payment in order to avoid the lapse of such Contract and the Trustee will not be liable for the application of any part of the Trust made solely

for this purpose in the absence of specific Directions. Contract premiums, assessments, dues, charges and interest may be paid only from cash available in the Trust. The Trustee will not be liable for losses arising out of the lapse in such Contract unless such lapse is due to the Trustee's breach of fiduciary duty.

- (b) The Trustee will have no responsibility or liability with respect to the selection or monitoring of the issuers of such Contracts. The Trustee is not responsible for (i) the form, genuineness, validity, sufficiency or effect of any Contract, (ii) the failure of any issuing company to make payments provided by any Contract (iii) the action of any person that may delay payment or render a Contract null and void or unenforceable in whole or in part, or (iv) the fact that for any reason whatsoever any Contract may lapse or otherwise be uncollectible.
- (c) Any company issuing a Contract may deal with the Trustee as owner of any Contract issued by such company and held in the Trust, without inquiry as to the authority of the Trustee to so act, and may accept and rely upon any written notice, Instruction, direction, certificate or other communication signed by the Trustee, and will incur no liability or responsibility by so doing. Any sums paid by an issuing company under any of the terms of a Contract issued by it, either to the Trustee, or, in accordance with the direction of the Trustee, to any other person or persons designated in such Contract as the person or persons to whom such payment will be made, will constitute a full and complete discharge of the liability to pay such sums, and the issuing company shall have no obligation to look into the terms of this Agreement.

8. ADMINISTRATIVE POWERS

- 8.1 **Limitations.** The Trustee has no responsibility or liability for the administration of the Plan, such as the determination of matters relating to the eligibility of any employee to become a Participant or remain a Participant, the amount of benefits which a Participant is entitled to receive, whether or to what extent any asset or item of income or expense should be allocated to a Participant's individual account, whether a distribution to a Participant is appropriate, whether the Plan is being administered in a discriminatory manner, the selection of investments to be offered under the Plan, the size and type of any insurance policy to be purchased from any insurer for any Participant, the filing of the annual Form 5500s on behalf of the Plan, or similar matters.
- 8.2 **Trustee's Administrative Powers.** The Trustee shall have the following administrative powers with respect to the Trust, which it may exercise in its sole discretion:
 - (a) Provided the Trustee is a bank or trust company that is subject to supervision by the United States or a State, or a nominee of such bank or trust company, to hold the assets constituting the Trust in its own name or in custody in the name of a nominee and under such conditions of custody and safekeeping as the Trustee shall deem appropriate for the type of trust assets and shall collect all interest, dividends and other income thereon; *provided, however,* that the Trustee is not required to maintain physical custody of stock certificates or other indicia of ownership of any type of asset representing assets within the Trust, and the Trustee may deposit or hold assets of the Trust in a custodial account, provided that such account is maintained in the name of the Trustee.
 - (b) To hold such investments for safekeeping or to deposit such securities, or cause them to be deposited, in a clearing system established to settle transfers of securities and cause them to be held in the nominee name of such clearing system.

- (c) To engage the services of, and to delegate duties, powers and responsibilities to, such agents, representatives, advisers, counsel and accountants which the Trustee considers necessary or appropriate, any of whom may be an Affiliate of such person, and as a part of its expenses under **Article 10** of this Agreement and to the extent permissible by ERISA, to pay their reasonable expenses and compensation.
- (d) To engage a custodian to perform certain custodial duties and responsibilities for the Trust, including maintaining physical control of the Trust assets, providing record maintenance and producing statements on such assets.
- (e) To do all such acts, and exercise all such rights and privileges, although not specifically mentioned unless specifically prohibited by the Company or Plan Administrator, which shall be reasonably required in the performance of the Trustee's duties hereunder, and to perform all inherent, implied, and statutory powers now or subsequently provided by Applicable Law.

9. RECORDS AND ACCOUNTS

- 9.1 **Records.** The Trustee shall maintain true, accurate, and detailed accounts of all investments, receipts, disbursements and other transactions hereunder. All accounts, books, and records relating thereto shall be open to inspection and may be audited from time to time by any person designated by the Plan Administrator during the Trustee's regular business hours as mutually agreed to in writing by the parties.
- 9.2 **Written Accounts.** As soon as reasonably practical after the close of each Plan year, and within ninety (90) days after the removal or resignation of the Trustee, the Trustee shall render to the Company a written statement of account of all investments, receipts and disbursements, and all other financial transactions relating to the Trust, including the value of the assets held by the trust. Upon the expiration of ninety (90) days from the date of filing such account, the Trustee shall be released and discharged from all liability as to all items and matters included in such accounting as if settled by the decree of a court of competent jurisdiction, except with respect to any such action or transaction to which the Company shall, within such ninety (90) day period, file written objections with the Trustee. The liability of the Trustee to persons other than the Company or Plan Administrator shall be limited to actions under ERISA brought within the period permitted by Applicable Law for bringing of such action. Nothing herein contained, however, shall be deemed to diminish the right of the Trustee to have its accounts judicially settled by a court of competent jurisdiction.
- 9.3 **Valuation.** The valuation date of the Trust shall be the last day of each Plan year, and such other dates agreed to in writing by the Plan Administrator and the Trustee. The assets of the Trust shall be valued as of each valuation date at fair market value as determined by the Trustee based upon sources of information as it may deem reliable. The reasonable costs incurred in establishing values of the Trust shall be a charge against the Trust, unless paid by the Company.

10. COMPENSATION AND EXPENSES

- 10.1 **Compensation.** The Trustee shall receive compensation for the performance of its services in accordance with the fee agreement attached hereto as Exhibit A. Such compensation shall constitute a charge against the Trust, unless the Company elects to pay all or any part of such compensation. The Company expressly acknowledges and agrees that the Trustee may retain as additional compensation for its services any earnings (which are determined daily and which the Trustee expects will be generated at the prevailing federal funds rate) with respect to any cash held uninvested pursuant to **Section 7.3**, including moneys during the period between the time

the moneys are received by the Trustee and actually forwarded to implement investment Instructions, and distributions between the time a disbursement is issued and presented for payment.

- 10.2 **Payment Terms.** The Company will be invoiced on a quarterly basis for its fees and expenses. The invoice will include recurring fees, billed in advance, and any earned project fees, travel and direct expenses described herein during the previous quarter. Invoices are due upon receipt. Balances not paid within sixty (60) days of the date of the invoice will bear a late charge equal to 1.5% of the outstanding balance for each month or partial month until paid in full. If the Company shall not have disputed, in writing, any portion of an invoice, within sixty (60) days of receipt thereof, such invoice shall be deemed accepted by the Company. Should any balance be past due in excess of sixty (60) days, Company hereby Directs and irrevocably authorizes the Trustee to deduct from Plan assets any balance due to the extent permitted by the Plan and Applicable Law. Any such deductions will be allocated among all Participants in the Plan in accordance with the terms of the Plan.
- 10.3 **408(b)(2) Disclosure.** The Trustee shall provide the Plan Sponsor with such information related to the Trustee's compensation as it may reasonably request or as otherwise may be required by Applicable Law in order to enable the Plan Sponsor to comply with applicable reporting and disclosure requirements of ERISA.
- 10.4 **Expenses.** Expenses for legal, accounting and all other proper charges and disbursements of the Trustee incurred in connection with the administration of the Trust shall constitute a charge against the Trust in the same manner as the Trustee's compensation under **Section 10.1**, and will be invoiced in accordance with **Section 10.2**. In the event the Trustee (including any of its Affiliates) is requested or authorized by the Company, or required by government regulation, subpoena, or other legal process (including but in no way limited to government audit) to produce documents, personnel, or otherwise provide assistance in connection with such legal process, the Company agrees to pay the Trustee's normal and reasonable hourly rates and expenses whether or not the Trustee is named as a party, and whether or not the Trustee is still engaged to perform services for the Company.
- 10.5 **Taxes.** All taxes that may be levied or assessed under existing or future laws upon or in respect of the Trust or the income thereof shall be a charge against the Trust. The Plan Administrator shall timely file all federal, state, and local tax and information returns relating to the Plan and the Trust. The Plan Administrator shall be responsible for withholding any tax which by any present or future law is required to be withheld from any payment under the Plan, except with respect to payments made by the Trustee pursuant to Section 2.4 hereof. The Trustee is not responsible for preparation of any tax-related return or report including, but not limited to, the Form 5500 Annual Return/Report of Employee Benefit Plan.
- 10.6 **Withdrawal from Trust.** The Trustee may withdraw from the Trust amounts sufficient to pay any proper charge against the Trust. The Company shall be responsible for payment of any deficiency. To the extent permitted by Applicable Law, the Company may reimburse the Trust for any charges paid from the Trust.

11. DIRECTIONS

- 11.1 **Directions.** The Company is responsible for ensuring that all information, documents and Directions provided to the Trustee are complete and accurate. The Trustee may rely in all respects, without having to make further inquiry, on the information, documents and Directions appearing to be from the Plan Administrator and will not be liable for any actions taken upon the Directions of the Plan Administrator. In the event of incomplete or conflicting Directions, the

Trustee shall have the right to refuse to comply with such Direction until it receives complete Directions or written evidence that the conflict has been resolved to its satisfaction. The Trustee will not be liable for any errors or omissions made as a result of conflicting, incomplete or incorrect information, documents or Directions received from the Plan Administrator.

- 11.2 **Errors and Corrections.** The Company shall promptly notify the Trustee of any errors or omissions in the information, documents or Directions provided by the Company, Authorized Person or a Participant. In the event of any such error, the Trustee shall work with the Company to resolve the error or omission and make such adjustments as may be necessary or appropriate to correct such error or omission; *provided, however*, that in no event will the Trustee be liable for any damages arising or resulting from such error or for the cost of correcting such errors.

12. CONFIDENTIALITY

- 12.1 **Confidentiality Obligation.** Each party (in such capacity the "Receiving Party") shall keep the Confidential Information (as defined below) of the other party (in such capacity, the "Disclosing Party") confidential. In addition, the Receiving Party shall implement security measures reasonably designed to secure the Confidential Information against loss, theft and unauthorized use, modification or access. The Receiving Party will have the limited right to use the Confidential Information only for the purpose of fulfilling its commitments and obligations to the Disclosing Party under this Agreement. Except as permitted in the foregoing sentence or by prior written consent of the Disclosing Party, the Receiving Party will not use, disclose, copy, reproduce or distribute to any person, firm or entity any Confidential Information and will not permit any person, firm or entity to use, disclose, copy, reproduce or distribute any Confidential Information; provided that the Receiving Party may disclose or distribute such Confidential Information to the following: (a) its officers, employees and directors who have a business need to know such Confidential Information; and (b) its attorneys, accountants, consultants, agents, independent contractors or professional advisors who (x) have a business need to know such Confidential Information and (y) are subject to fiduciary, professional or written obligations of confidentiality substantially similar to, and no less restrictive than, the obligations set forth herein.
- 12.2 **Confidential Information.** As used in this Agreement, "Confidential Information" means (a) information and reports provided or made available to the Trustee by the Company or its Affiliates; (b) Personal Information; (c) information designated by the Disclosing Party as confidential; and (d) information and material which, by its nature, should reasonably and customarily be construed to be proprietary or confidential.
- 12.3 **Exceptions.** The term "Confidential Information" does not include any information which the Receiving Party can demonstrate (a) is in the public domain through no fault or breach by such Receiving Party of its obligations hereunder; (b) was known by the Receiving Party prior to its disclosure by the Disclosing Party and was not obtained in such circumstances subject to a requirement of confidentiality; or (c) was developed independently of, and without the use of or access to, any Confidential Information exchanged pursuant to this Agreement. The exclusions in this Section 12.3 will not apply to Personal Information or otherwise limit the Trustee's obligations with respect thereto.
- 12.4 **Ownership.** All Confidential Information will be and remain the sole and exclusive property of the Disclosing Party, its Affiliates, or their respective employees, suppliers, or customers, as the case may be. Neither party acquires any intellectual property rights, including any rights to create derivative works of any Confidential Information, under this Agreement, except the limited right to use such Confidential Information in accordance with this Agreement.

- 12.5 **Permitted Disclosure.** The Receiving Party may disclose the Confidential Information of the Disclosing Party to the limited extent such Confidential Information is required to be disclosed under Applicable Law or pursuant to an order of any court or administrative body; provided, that, with regard to each such disclosure, the Receiving Party shall provide the Disclosing Party with prompt notice of such request or order (to the extent permitted by Applicable Law), shall, at Disclosing Party's option and sole expense, cooperate reasonably with the Disclosing Party in resisting the disclosure of such Confidential Information via a protective order or other appropriate legal action. In the event that such protective order or other remedy is not obtained after commercially reasonable efforts, the Receiving Party may, without liability under this Section, furnish that portion of the Confidential Information that it is requested or required to be disclosed. Notwithstanding the foregoing, the Receiving Party is not required to notify the Disclosing Party if disclosure of the Confidential Information is made to a regulatory agency, self-regulatory organization or governmental agency in the course of such authority's routine examinations or inspections not targeted at the Disclosing Party and any such disclosure will be permitted.
- 12.6 **Return of Confidential Information.** Upon written request by the Disclosing Party, the Receiving Party shall: (a) return to the Disclosing Party all Confidential Information, all documents or media containing the Confidential Information, and any and all copies or extracts thereof, and/or (b) destroy the Confidential Information, and any and all copies or extracts thereof, and provide the Disclosing Party with written certification of such destruction signed by an authorized representative of the Receiving Party; provided, however, that the Receiving Party is entitled to retain copies of such Confidential Information as it is required to retain pursuant to Applicable Law and that are electronically stored or archived in the ordinary course of business.
- 12.7 **Injunctive Relief.** The parties acknowledge and agree that any breach or threatened breach of Section 12.1 may cause the aggrieved party immediate and irreparable harm for which monetary damages alone will be inadequate compensation. Accordingly, the aggrieved party will be entitled, in addition to any other remedies available at law or in equity, to seek injunctive relief without requiring a cure period and without the necessity of posting a bond.

13. DATA SECURITY AND INFORMATION SECURITY

- 13.1 **Personal Information.** The Trustee agrees that its collection, use and disclosure of any and all Personal Information is and will be at all times conducted in compliance with all applicable data protection and/or privacy laws, rules and/or regulations. The Trustee will not use or disclose Personal Information to any third party, other than to its affiliates and third party service providers, without Plan Administrator's written consent, except pursuant to a Direction from an Authorized Person or as permitted or required by Applicable Law. Any personnel, Subcontractor, Vendor, affiliate, or third party service provider retained by the Trustee who has access to Personal Information will agree in writing to be bound by obligations of confidentiality consistent with those set forth herein and the information security measures set forth in **Exhibit B**.
- 13.2 **Responsibility for Remediation.** The Trustee will be responsible for remediation in the event of an Unauthorized Disclosure caused by its or its agents' failure to comply with its obligations under this Section 13. The Trustee will cooperate with the Company in the investigation of an Unauthorized Disclosure and will be responsible for the following costs incurred by the Trustee for (i) any remediation, mitigation, response or subsequent prevention; (ii) providing any notice of the event to affected individuals (including preparation and delivery of such notice) required by Applicable Law; (iii) providing notice to government agencies, credit bureaus, media and/or other required entities (including preparation and delivery of such notice) as required by Applicable Law; (iv) to the extent required under Applicable Law, providing individuals affected by the event with credit protection services designed to prevent fraud associated with identity theft crimes for such time as is required under Applicable Law; and (v) non-appealable fines or penalties

assessed by any governmental authority in connection with the Unauthorized Disclosure ("Remediation Costs"). The Remediation Costs set forth in this Section 13.2 will be deemed direct damages not subject to the limitations set forth in Section 17.4 of this Agreement.

14. INSURANCE, AUDIT

- 14.1 **Insurance.** The Trustee agrees to maintain insurance coverages with the coverages and policy limits set forth in **Exhibit C**. Upon request, the Trustee will provide the Company with evidence of the foregoing coverages.
- 14.2 **SOC Report.** Each year during the term of this MSA, the Trustee will cause to be conducted an audit of its operations, internal controls and security systems applicable to the Services pursuant to Statement on Standards for Attestation Engagements No. 18 (SSAE 18), or any replacement or successor audit standard or process established by the American Institute of Certified Public Accountants, and produce a Service Organization Control Report I Type 2 ("**SOC Report**"). The SOC Report will be made available to the Company upon request.
- 14.3 **Audit Access.** Once per calendar year, upon reasonable prior written notice to the Trustee, the Company, at its own expense, will have the right to perform an audit of the Trustee's operations used to provide Services. The Company may use a third party to perform such audit provided that the Company provides evidence to the Trustee that such audit firm has agreed to maintain the confidentiality of any Confidential Information consistent with the requirements of this Agreement.

15. REMOVAL OR RESIGNATION OF TRUSTEE; APPOINTMENT OF SUCCESSOR

- 15.1 **Removal or Resignation of Trustee.** The Company may remove the Trustee, with or without cause, upon at least sixty (60) days' prior written notice to the Trustee and the Trustee may resign at any time upon sixty (60) days' written notice to the Company.
- 15.2 **Successor.** Upon removal or resignation of the Trustee, the Company shall appoint a successor trustee who shall have substantially the same powers and duties as those conferred upon the Trustee hereunder. The appointment of a successor trustee shall be by written instrument delivered to the Trustee. Upon the failure of Company to appoint, or the failure of the effectiveness of the appointment by Company of, a successor trustee within sixty (60) days, the Trustee may apply to any court of competent jurisdiction for the appointment of a successor trustee, the costs of which shall be borne by the Trust unless Company otherwise agrees to pay such costs. Upon the successor trustee's acceptance of its appointment as successor trustee, the Trustee shall assign, transfer and pay over to such successor trustee the funds and other property then constituting the Trust; *provided, however*, that the Trustee may reserve such sum of money as it may deem reasonable for payment of its fees and expenses in connection with the settlement of its account or for the payment of all taxes that may be lawfully assessed upon or in respect of the Trust or the income thereof for the period prior to the removal or resignation of the Trustee, or otherwise. Any balance of the amount so reserved remaining after the payment of all such fees, expenses and taxes shall be paid over to the successor trustee.
- 15.3 **Termination of Liability.** When the assets comprising the Trust have been transferred and delivered to the successor trustee, and the accounts of the Trustee have been settled pursuant to **Section 15.2**, the Trustee shall be released and discharged from all further accountability or liability for the Trust and shall not be responsible in any way for the further disposition of the Trust or any part thereof.

16. AMENDMENT AND TERMINATION

- 16.1 **Amendment.** Any amendment to this Agreement shall be in writing and signed by both parties, except that any amendment required to comply with applicable law may be made unilaterally by either party upon sixty (60) days' prior notice to the other.
- 16.2 **Termination of Plan.** The term "Plan" as used herein shall include any amendment, whether made before or after the effective date of the execution of this Agreement, *provided* that any such amendment shall not alter the responsibilities or powers of the Trustee without the Trustee's prior written consent. In the event of the termination of the Plan, the Trustee shall dispose of the Trust in accordance with the written direction of the Company to the extent consistent with the terms of the Plan.

17. INDEMNIFICATION AND LIMITATIONS ON LIABILITY

- 17.1 **Indemnification.** Each party agrees to indemnify and hold harmless the other from and against any damages, losses, costs, judgments, fines, penalties and expenses, including without limitation, reasonably incurred attorneys' fees and disbursements, investigation costs, and costs of collection procedures for outstanding fees (collectively, "**Losses**") actually incurred in connection with any claim or regulatory proceeding, to the extent caused by the indemnifying party's negligence, willful misconduct, or breach of fiduciary duty in performing its obligations hereunder.
- 17.2 Notwithstanding the foregoing, the Company agrees that the Trustee shall not be liable for any loss or expense arising from any act or omission of another fiduciary under the Plan except to the extent required pursuant to Section 405(a) of ERISA, and will indemnify the Trustee from and against any Losses asserted against the Trustee in connection with (i) any acts taken in accordance with Directions, or acts omitted due to the absence of or conflicting Directions, from the Company, any Authorized Person or other third party retained by the Company to provide services related to the Plan or Trust, including but not limited to prior or successor trustees, investment managers or any other authorized agent thereof, and (ii) the Trustee's performance of the services under this Agreement, except to the extent such Losses were the result of the Trustee's negligence, or willful misconduct or breach of fiduciary duty hereunder. For purposes of this **Article 17**, any reference to the Company shall be deemed to include indemnification for the Plan and for the Company's respective directors, officers, employees and Affiliates. Any reference to the Trustee shall be deemed to include indemnification for its respective directors, officers, employees, agents and Affiliates.
- 17.3 **Indemnification Procedure.** A party seeking indemnification under **Article 17** (the "**Indemnified Party**") shall promptly notify the indemnifying party (the "**Indemnifying Party**") of any claim for indemnification and allow the Indemnifying Party to control the defense of such claim; *provided, however*, that the failure to provide timely notice will not relieve the Indemnifying Party from any liability hereunder or otherwise unless such failure materially prejudices the Indemnifying Party's rights. The Indemnifying Party may not settle any claim (a) that involves a remedy other than the payment of money by the Indemnifying Party without the Indemnified Party's prior written consent; and (b) no such compromise or settlement is hereby authorized unless the Indemnified Party obtains a complete release of liability under such compromise or settlement. In the event the Indemnifying Party fails to promptly assume the defense of the claim or to promptly and reasonably conduct the defense, the Indemnified Party shall have the right to control the defense of the claim, at the sole cost and expense of the Indemnifying Party.
- 17.4 **LIMITATIONS ON LIABILITY.** Notwithstanding any other provision of this Agreement, in no event will a party (including, in each case, their respective Affiliates and agents) be liable to the other party or any third party for any incidental or consequential damages (including, without limitation, indirect, special, punitive, or exemplary damages for loss of business, loss of profits, loss of goodwill or business reputation, business interruption, loss of data, or loss of business

information) arising out of or connected in any way with this Agreement, even if advised of the possibility of such damages and regardless of the nature of the claim asserted. The preceding limitations shall not apply to Remediation Costs relating to a violation of the confidentiality obligations under **Section 13.2** hereof.

18. USA PATRIOT ACT NOTIFICATION

- 18.1 The following notification is provided to Company pursuant to Section 326 of the USA Patriot Act of 2001, 31 USC Section 5318:

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each Person or entity that opens an account, including any deposit account, treasury management account, loan, other extension of credit, or other financial services product. What this means for the Company: When Company opens an account, if the Company is an individual, the Trustee will ask for the Company's name, taxpayer identification number, residential address, date of birth, and other information that will allow the Trustee to identify Company, and, if Company is not an individual, Trustee will ask for the Company's official name, taxpayer identification number, business address, and other information that will allow the Trustee to identify the Company. The Trustee may also ask, if the Company is an individual, to see a valid driver's license or other identifying documents, and, if the Company is not an individual, to see the Company's legal organizational documents or other identifying documents.

19. GENERAL

- 19.1 **Effective Date.** This Agreement shall be effective as of the later of the date hereof or the first date on which the assets are transferred to the Trust.
- 19.2 **Conflict with Plan.** The rights, duties, responsibilities, obligations and liabilities of the Trustee are as set forth in this Agreement, and no provisions of the Plan or any other document shall be deemed to affect such rights, duties, responsibilities, obligations and liabilities. If there is a conflict between provisions of the Plan and this Agreement with respect to any subject involving the Trustee, including but not limited to the responsibility, authority or powers of the Trustee, the provisions of this Agreement shall be controlling. Notwithstanding the foregoing, if the Plan document has been pre-approved as a prototype or volume submitter document by the Internal Revenue Service, and if there is a conflict between the trust provisions of the Plan document and this Agreement, the trust provisions of the Plan shall be controlling.
- 19.3 **Bond Not Required.** Except as required under ERISA Section 412, the Trustee shall not be required to furnish any bond or security for the performance of its powers and duties hereunder.
- 19.4 **Bankruptcy.** The Trustee shall have no duty, in the event of the Company's bankruptcy or insolvency, to take any action until directed to do so by the bankruptcy trustee or a court that has jurisdiction over Plan assets.
- 19.5 **Use of Third Parties.** The Trustee may retain third party vendors ("Vendors") to assist it in performance of its obligations; *provided, however*, that, to the extent such Vendor has access to Confidential Information or Personal Information, such Vendor will have agreed in writing to adhere to confidentiality and data and security obligations no less restrictive than those set forth herein. Upon the Company's request, the Trustee will provide the Company a list of: (i) any Vendors that have access to Personal Information, and (ii) any Vendors retained by the Trustee to provide certain of the services exclusively to the Company ("**Subcontractors**"). The use of

either Vendors or Subcontractors shall not affect the Trustee's responsibility for its representations, warranties, covenants or undertakings under this Agreement.

- 19.6 **Business Continuation.** Trustee hereby represents, warrants and covenants that it (a) has and will maintain a disaster recovery and business continuation plan that is reasonably designed to minimize disruption in the event of a business interruption affecting the services; (b) will test the operability of such plan at least once every twelve (12) months and revise such plan as necessary to ensure continued operability; (c) will activate such plan upon the occurrence of any event materially affecting timely delivery of the services; (d) will notify the Company as soon as practicable following the occurrence of a business interruption affecting the services; and (e) will use commercially reasonable efforts to reinstate the services as soon as practicable following a business interruption.
- 19.7 **Force Majeure.** Neither the Trustee nor the Company will be liable for any failure or delay in performance under this Agreement, including any loss or expense resulting in either party's failure to fulfill, or delay in fulfilling, its obligations under this Agreement, where such failure or delay is a result of a cause beyond the reasonable control of the affected party (a "**Force Majeure Event**"). The affected party shall promptly notify the other party of the occurrence of the Force Majeure Event. The occurrence of the Force Majeure Event does not excuse, limit, or otherwise affect the Trustee's obligation to provide either normal recovery procedures or any other disaster recovery services described in this Agreement, except to the extent that such procedures or services are directly affected by such Force Majeure Event.
- 19.8 **Status as Independent Contractors.** Nothing in this Agreement shall cause or be deemed to cause any party (including its officers, directors, or employees) to be an employee, partner, joint venturer, or agent of any other party hereto. The sole relationship of the parties hereto is that of independent contractor.
- 19.9 **Third Party Beneficiaries.** This Agreement shall not be construed as granting any rights or benefits to third parties, including, for example, plan Participants and their beneficiaries, employees, independent contractors, consultants or other agents of the parties
- 19.10 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and no other counterpart need be produced. The parties hereto agree that this Agreement and other documents may be executed by facsimile or digital signature, which will have the same effect as an original signature.
- 19.11 **Amendments and Waivers.** Except as otherwise expressly provided under this Agreement, any provision of this Agreement may be amended or waived only if such amendment or waiver is in writing and is signed, in the case of the amendment, by each party to this Agreement or, in the case of a waiver, by the party against whom the waiver is to be effective. No failure or delay in exercising any rights or privilege hereunder shall operate as a waiver thereof. No waiver of any right or privilege in respect to any occurrence or event on one occasion shall be deemed a waiver of such right or privilege in respect of such occurrence or event on any other occasion.
- 19.12 **Notices.** Whenever any notice may be or is required to be given hereunder, such notice shall be in writing and sent by United States first class mail, postage prepaid; by facsimile with confirmed delivery; or by overnight delivery service, where receipt is given, and addressed (a) to the Company: to the person and address appearing in Newport Group's records, provided by the Company for such purposes, and (b) to the Trustee: Newport Trust Company, LLC, 7651 Universal Road, Baxter, MN 56425, NTC@newportgroup.com, or such other address as the Trustee may provide from time to time, with a copy to Newport Group: Newport Group, Inc., 200 Dryden Road, Dresher, PA 19025, Attention: Legal Department.

- 19.13 **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement becomes inconsistent with any present or future law or regulation, that provision shall be superseded or amended to conform to such law and regulation, but the remainder of this Agreement shall remain in full force and effect.
- 19.14 **Construction.** Headings in this Agreement are inserted solely for convenience of reference and will neither constitute a part of this Agreement nor affect its meaning, construction or intent. Whenever used in this Agreement, unless the context indicates otherwise, the singular will include the plural, the plural will include the singular, and the male gender will include the female gender. The words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation," unless otherwise specified. The Agreement has been negotiated and prepared by the parties and their respective attorneys and, should any provision of an Agreement require judicial interpretation, the court interpreting or construing such provision shall not apply the rule of construction that a document is to be construed more strictly against one party.
- 19.15 **Non-Assignability of Interest.** No benefit to which a Participant or beneficiary or an alternate payee is or may become entitled under the Plan shall at any time be subject in any manner to alienation or encumbrance, nor be resorted to, appropriated or seized in any proceeding at law, in equity or otherwise. No Participant or other person entitled to receive a benefit under the Plan shall, except as specifically provided in such Plan, have power in any manner to transfer, assign, alienate or in any way encumber such benefit under such Plan, or any part thereof, and any attempt to do so shall be void.
- 19.16 **Successors and Assigns.** This Agreement is binding upon the successors and assigns of the parties hereto.
- 19.17 **Entire Agreement.** This Agreement, including all documentation submitted in connection with the engagement of the Trustee, including any fee schedules, contains the entire understanding between the parties relating to the subject matter hereof, and supersedes all prior agreements or understandings between the parties relating to the subject matter hereof, whether written or oral, express or implied.
- 19.18 **Choice of Law.** This Agreement shall be governed by the laws of Delaware, without regard to principles of conflicts of law, except to the extent such laws are preempted by federal law.
- 19.19 **Waiver of Jury Trial.** The parties hereby expressly waive the right to a jury trial in the resolution of any dispute or claim relating, directly or indirectly, to the terms of this Agreement.
- 19.20 **Survival.** The following provisions shall survive termination of this Agreement: **Article 3** (Representations and Warranties), **Article 10** (Compensation and Expenses), **Article 12** (Confidentiality), **Section 13.1** (Personal Information) **Section 15.2** (Successor), **Section 15.3** (Termination of Liability), **Article 17** (Indemnification and Limitations on Liability) and **Article 19** (General).

[signatures on following page]

IN WITNESS WHEREOF, the Company and Trustee have caused this Trust Agreement to be executed by their respective duly authorized officers on the date or dates shown below.

TOWN OF JUPITER ISLAND

NEWPORT TRUST COMPANY, LLC

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: Trust Officer

Date: _____

Date: _____

Exhibit A

FEE AGREEMENT

The fees of Newport Trust Company, LLC ("NTC") are set forth in the Fee Schedule included with the Master Services Agreement between the Plan Sponsor and Newport Group, Inc.

1. It is agreed that any interest earned on cash balances maintained by NTC on behalf of the Plan, while awaiting instructions, shall accrue to the benefit of NTC. Plan Sponsor expressly acknowledges and agrees that NTC may retain as additional compensation for its services any earnings (generally determined daily and calculated on the basis of the then-current Federal Funds Rate) with respect to (a) amounts credited to non-interest bearing cash accounts; (b) moneys during the period between the time the moneys are received by NTC and actually forwarded to the investment provider; and (c) distributions between the time a distribution check is requested and the distribution check is presented for payment.

Moneys shall be invested as soon as practicable following receipt of the moneys and investment instructions, but not later than two business days following receipt of both the moneys and the investment instructions. Distribution checks shall be prepared and mailed within seven (7) to ten (10) business days, following receipt of a request received in good order by 3 p.m. ET for a distribution check, provided that trades have settled and funds have been received.

2. NTC fees do not include any brokerage or other sub-custodian commissions. They also do not include mutual fund sales charges/loads or brokerage commission of any other broker-dealer or mutual fund family. Any waiver of mutual fund sales charges/loads at the plan level is only based on the qualifications set forth in the fund's prospectus, as well as the completion by the plan sponsor of appropriate documentation if required by the fund's sponsor. NTC fees also do not include any fees charged by an Investment Manager/Consultant.

3. Annual Market Value fees cover:

Custody of Standard Assets and the services as described in NTC's agreement with the Plan Sponsor.

- Receipt of Plan Contributions
- Mutual Fund daily pricing and trade execution
- Dividend/Income Posting
- Electronically delivered annual trust report and additional statements upon request
- Mutual Fund revenue-sharing invoicing and collection
- Compliance with applicable fee disclosure requirements

4. Additional fees may be charged for:

- Extraordinary services for which other compensation is not expressly stated
- Checks received with insufficient funds
- Administration of special assets including transaction and outgoing wire charges for special assets
- Overnights

5. NTC reserves the right to periodically review the fees charged for acceptability based on the time/effort required to service the account, and to propose to the client changes in the fee agreement if needed. If fees are not paid within 60 days, NTC reserves the right to charge interest on the outstanding balance in the amount of 1.5% per month and/or deduct the outstanding amount directly from the account.

Exhibit B

PRIVACY AND SECURITY REQUIREMENTS

Definitions

"Newport" means Newport Trust Company, LLC, or an affiliated entity named in the Agreement.

"Affected Computing Device" means Newport's (and Subprocessors', if applicable) hardware and/or software used to access, Process, store, or transmit any Protected Information.

"Applicable Privacy Law" means applicable data privacy, data protection, and cybersecurity laws, rules and regulations, including (a) the California Consumer Privacy Act, as amended by the California Privacy Rights Act and any binding regulations promulgated thereunder ("CPRA"); (b) the Gramm-Leach-Bliley Act; and (c) any other U.S. personal data protection laws and guidance or statutory codes of practice issued by any relevant regulatory authority, in each case, as amended from time to time, including (but not limited to) the Colorado Privacy Act, the Virginia Consumer Data Protection Act, the Connecticut Data Protection Act, and the Utah Consumer Privacy Act.

"Client" refers to the Company, as set forth in the Agreement.

"Data Subject" means an identified or identifiable natural person who can be identified, directly or indirectly by an identifier such as a name.

"Protected Information" means any information that relates to or describes an individual, and/or any data that is linked or linkable to an individual that is protected under any Applicable Privacy Law.

"Process", "Processing" or "Processed" means any operation or set of operations, as defined in Applicable Privacy Law, performed upon Protected Information whether or not by automatic means, including collecting, recording, organizing, storing, adapting or altering, retrieving, consulting, using, disclosing, making available, aligning, combining, blocking, erasing and/or destroying Protected Information.

"Security Breach" means a breach of Newport's security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Protected Information in Newport's possession, custody; or as otherwise defined by Applicable Privacy Law. Security Breaches do not include unsuccessful attempts or activities that do not compromise the security of Protected information, including unsuccessful log-in attempts, pings, port scans, denial of service attacks, or other network attacks on firewalls or networked systems.

"Subprocessor" means any third party engaged by Newport to Process Protected Information on behalf of Newport in order to service the Client.

"Trusted Device" means an Affected Computing Device that is relied upon by Newport or Subprocessor(s) to enforce or comply with a specified security policy. Each Trusted Device will be uniquely associated with a specific individual user and configured to meet the applicable security requirements set forth in this Exhibit.

Unless otherwise defined herein, capitalized terms will have the meanings assigned to them in the Agreement.

Introduction

In order to prevent unauthorized use, access, modification, or disruption to or of the Protected Information, Newport will implement the information security measures described in this Exhibit. Newport will ensure that it has the requisite expertise to adhere to and maintain the security requirements set forth herein. Newport will notify Client as soon as practicable after becoming aware of Newport's inability to meet its privacy and security obligations under this Exhibit.

Organizational Security

Subprocessor Relationship. Newport is permitted to share Protected Information with Subprocessor(s) who require such access in connection with the performance of Services under the Agreement, subject to obligations of confidentiality and non-disclosure as set forth in the Agreement. In order to protect the confidentiality, integrity and availability of Protected Information, and in order to ensure that consistent security measures are applied to Protected Information by agents of Newport, Newport will ensure that its Subprocessor(s) implement and maintain security requirements (i.e., flow-downs) substantially similar to the ones contained in this Exhibit. Newport will regularly monitor and review Subprocessor service delivery to verify and reinforce adherence to the security controls and practices.

Background Investigations

Newport's on-boarding procedures for individuals who have access to Protected Information includes an industry standard background investigation, which at minimum will consist of the following:

- a. national criminal database search;
- b. credit background check;
- c. criminal history search from all counties that the individual has lived in;
- d. Office of Foreign Assets Control (OFAC) check;
- e. SSN, date of birth, and address verification; and
- f. employment and educational verification.

Access Control

1. Access to Affected Computing Devices will be configured with the concept of "Least Privilege" enforced, and access will be granted only to individuals who require it in order to perform Services.
2. Administrative privileges to all Affected Computing Devices that access Protected Information, will: (i) be limited to the minimum number of staff required to provide the Services, and (ii) conform to industry standard practices for privilege elevation, periodic access reviews, and monitoring.
3. Access to Affected Computing Devices will be granted in-line with formally documented user administration protocols utilizing automated technologies that ensure that:
 - a. All users granted access to Affected Computing Devices will be formally approved by Newport's management; and
 - b. Granting, removal, or modification of access to Affected Computing Devices (as appropriate) is reviewed at regularly scheduled intervals (at least annually, except for administrative access which will be reviewed and updated quarterly) by Newport's Risk team.
4. All Affected Computing Devices will (a) require a unique user identifier and a password or passphrase to authenticate at the time of login; and (b) be configured to automatic session timeouts requiring users to authenticate after a period of inactivity.

5. Newport will maintain technical controls designed to ensure passwords are resistant to password guessing and cracking. Standards will include a minimum length of at least 14 characters, complexity, reuse restrictions, required periodic changes, and account lockouts upon multiple failed attempts.
6. Newport will authenticate credentials that grant access to Protected Information from Affected Computing Devices and promptly disable, delete, or remove such Affected Computing Devices from access control lists, security groups, database tables, or similar systems, once access is no longer required or authorized.
7. When accessing Protected Information, Newport will implement network protection mechanisms in line with industry standard practices, including firewalls and Intrusion Detection Systems (IDS) or Intrusion Prevention Systems (IPS) for Internet-facing networks.

Logging and Monitoring

1. All Affected Computing Devices will be configured to log auditable events, which includes all actions performed with administrative privileges and security alerts.
2. Automated alerting based on defined events will be configured for Affected Computing Devices. Where automated alerting is not feasible, regular manual review of audit/event logs on Affected Computing Devices will occur to detect suspicious activity and/or security incidents.
3. Network intrusion detection systems (NIDS) and host-based intrusion detection systems (HIDS) will be configured in accordance with industry standards, continuously monitored, and updated as necessary.
4. Newport will only access Protected Information using Trusted Devices or devices provided by Client.
5. Newport will analyze system logs for suspicious activity. System logs will detect unauthorized changes to Affected Computing Devices, and system administrators will conduct regular integrity assessments by performing network scans.

Patching and Configuration Management

1. Newport will maintain a validation methodology designed to ensure that security patches and/or updates are implemented across all Affected Computing Devices in a timely manner, consistent with industry standard practices, and are tested prior to being implemented in a production environment.
2. Newport will follow industry standard practices when implementing lockdown procedures on all Affected Computing Devices in order to enable hardening, to the extent practicable for operational functionality.
3. Newport will routinely review its compliance with security configuration standards with respect to the Affected Computing Devices.
4. For software products utilized to perform Services under the Agreement, Newport's policy is to (a) maintain supported version updates, (b) promptly implement applicable security patches or comparable mitigation actions, and (c) implement any patches for critical vulnerabilities within 30 days of the applicable patch release.

Storage, Backup, Restoration, and Media Protection

1. In order to protect the confidentiality and integrity of Protected Information, Newport will ensure that its servers, enterprise data storage devices, backup tapes or media, and all other Affected Computing Devices used to support network communications with Client are located in a secure and restricted

location. Only authorized individuals will have access to server rooms and/or storage areas containing media that houses Protected Information.

2. All backup media, including tapes, sent off-site that contain Protected Information will be encrypted using industry standard practices.
3. In instances when Client requests in writing that Newport destroy or dispose of the Protected Information, subject to the terms of the Agreement, Newport will utilize secure and proper disposal or destruction methods, in line with industry standard practices. Notwithstanding the foregoing, Newport will be permitted to retain copies of any Protected Information consistent with its document retention policies or as required by applicable law, regulation, or professional standards. Any Protected Information so kept will be maintained in accordance with Newport's obligations under this Exhibit (notwithstanding the expiration or termination of this Exhibit or the Agreement).
4. Newport will ensure that it maintains a Business Continuity Plan and a Disaster Recovery Plan with respect to Protected Information in connection with provision of Services pursuant to the Agreement. Newport will review and test said plans annually.

Physical and Environmental Protections

1. Newport will maintain physical access controls within its facilities requiring all visitors to be verified, by presenting their government issued identification, and supervised while on premises.
2. Data centers that house Client's Protected Information will be stored in an access control environment and/or building. Data centers will have working security cameras, and all access control lists for the data centers will be kept current.
3. Newport will ensure that its data centers adhere to environmental controls that meet industry standard practices, including: (i) power equipment and power cabling to protect against damage and destruction; (ii) emergency lighting and facility failover power; and (iii) fire suppression and detection, water damage controls, and temperature and humidity controls.

Vulnerability Management

1. Newport will maintain a vulnerability management and assessment program in accordance with industry standard practices. This program will also define scan frequency of Affected Computing Devices and describe mitigation timeframes for discovered vulnerabilities.
2. Newport will perform routine vulnerability scans of their external (e.g., Internet) accessible network, servers, applications, and databases on a scheduled frequency, but at least quarterly. The scan results will be analyzed, vulnerabilities identified, and remediated within a timeframe appropriate given the level of risk involved.
3. Newport will engage, at its expense, an independent security firm to perform annual comprehensive penetration testing and security evaluations of external applications, as well as internal and external networks used to Process Protected Information. Newport will implement security controls and practices to mitigate risks identified during such assessments.
4. Newport will maintain an asset inventory of all Affected Computing Devices that Process Protected Information. Said inventory will be reviewed on a regular interval to ensure that all Affected Computing Devices are included in the scope of reoccurring vulnerability scans and comprehensive penetration testing.

Encryption and Remote Access

1. Newport will utilize multi-factor authentication solution for systems that allow external connections to Affected Computing Devices.
2. When Protected Information is being accessed or transmitted over the Internet or via a public switched network (a/k/a Data-in-Motion), the communications session will utilize a secure and industry accepted transport mechanism such as VPN, Secure FTP, Secure Copy, Secure Shell, or HTTPS using TLS industry standard encryption.
3. All Affected Computing Devices that store Protected Information (a/k/a Data-at-Rest) will utilize industry standard encryption to safeguard Protected Information.
4. If and when remotely connecting to the network to Process Client's Protected Information, Newport will use Trusted Devices that are configured with security software (e.g., VPN, anti-virus, anti-malware, encryption) and protected against corruption, loss, or disclosure.

Mobile Computing Devices

Portable Affected Computing Devices (e.g., smartphones or tablet computers) will: (1) be configured to adhere to the applicable security controls set forth in this Exhibit, (2) not be rooted or jailbroken, and (3) be configured to accept commands to remotely wipe Protected Information.

Cloud Service Delivery

Newport will utilize multi-factor authentication when accessing administrator consoles. Systems storing Protected Information will not be contained within the public virtual private cloud (VPC). When Protected Information is being accessed or transmitted over the Internet or via a public switched network, the communications session will utilize industry standard encryption in transit.

Malware Protection and Endpoint Detection and Response (EDR)

Newport will implement and utilize anti-virus, anti-spyware, and Endpoint Detection and Response (EDR) software to protect Affected Computing Devices against malicious software (e.g., Trojan horses, viruses, worms) and malicious processes. Such software will be configured to receive regular updates to provide protection against newly discovered threats.

Denial of Service Protection

Newport will maintain a security architecture that is designed and tested to defend against Distributed Denial of Service (DDOS) attacks.

Security Awareness and Training

Before being granted access to Protected Information, Newport personnel are required to have successfully completed a security awareness and privacy training (along with an annual refresher training thereafter).

Policies, Procedures, and Documentation

For the duration of the Agreement, and for as long as Newport has access to any Protected Information, Newport will maintain written information security policies and procedures commensurate with the type and scope of Services being provided to Client. No more than once a year, Client may request in writing a summary of Newport's information security and privacy policies.

Data Loss Prevention

Newport will maintain an approach to data loss prevention in-line with industry standards and security standard practices to mitigate the risk of unauthorized disclosure of Protected Information from Affected Computing Devices.

Segregation of Duties

Newport will safeguard Protected Information by employing industry standard practices, techniques and/or technologies to provide for segregation of duties (i.e., distributing access or control over Protected Information to multiple individuals), in order to mitigate risk of insider threats.

Data Privacy Compliance

In the event Newport Processes Protected Information from Client, the following provisions apply:

1. Newport will comply with Applicable Privacy Law in the Processing of Protected Information and will only Process Protected Information for the limited purposes of providing the Services outlined in the Agreement or in accordance with Client's instructions, and as may subsequently be agreed between the parties in writing.
2. The parties agree that the categories of Protected Information Processed by Newport during the term of the Agreement may change based on the Services being provided. The parties anticipate Processing Sensitive Data, which may include: Social Security number, driver's license number, state identification card number, passport number, account log-in, financial account number, precise geolocation, personal information concerning a consumer's health (mental or physical), or personal information of children under the age of 16.
3. Newport will only Process Protected Information for the duration of the Agreement, unless otherwise agreed upon in writing or required by Applicable Law.
4. Unless Newport is required by law to retain Protected Information, Newport will, promptly following receipt of written direction from Client, either (a) return a complete copy of Protected Information to Client by secure file transfer in such format as mutually agreed upon by the parties; or (b) delete Client's Protected Information from its systems. When deleting Protected Information, Newport will utilize secure and proper disposal or destruction methods, in line with industry standard practices in accordance with the procedures outlined in this Exhibit.
5. Newport will not "sell" or "share" personal information to any third party and shall not retain, use or disclose any Protected Information except as necessary for the specific purpose of performing the Services for Client pursuant to the Agreement, or as otherwise set forth in the Agreement or permitted by the CPRA. Further, Newport shall not combine Client's Protected Information with Protected Information it receives from or on behalf of another person or persons, or collects from Newport's own interactions with an individual, except as specifically instructed by Client in writing or allowed under Applicable Privacy Law. The terms in this Section 5 shall have the meaning ascribed to it in Section 1798.140 of the CPRA. Newport certifies that it understands the restrictions in this Section 5 and will comply with them.
6. Without prejudice to any existing contractual arrangements between the parties, Newport will treat all Protected Information as confidential and will inform its employees, agents and any Subprocessors engaged in Processing the Protected Information of the confidential nature of the Protected Information. Newport will ensure that all such persons or parties have signed an appropriate confidentiality

agreement, are otherwise bound to a duty of confidentiality, or are under an appropriate statutory obligation of confidentiality.

7. As required by Applicable Privacy Law, Client may audit Newport's compliance with its obligations under this Exhibit up to once per year in accordance with Section 14.3 of the Agreement. Newport will contribute to such audits by providing Client with the information and assistance that Newport considers appropriate in the circumstances and reasonably necessary to conduct the audit. To request an audit, Client must submit a proposed audit plan in writing to Newport at least two weeks in advance of the proposed audit date and any third-party auditor must sign a customary non-disclosure agreement mutually acceptable to the parties providing for the confidential treatment of all information exchanged in connection with the audit and any reports regarding the results or findings thereof. The proposed audit plan must describe the proposed scope, duration, and start date of the audit. Newport will review the proposed audit plan and provide Client with any concerns or questions (for example, any request for information that could compromise Newport security, privacy, employment or other relevant policies). Newport will work cooperatively with Client to agree on a final audit plan. Nothing in this Section shall require Newport to breach any duties of confidentiality. If the controls or measures to be assessed in the requested audit are addressed in an SOC 2 Type 2, ISO, NIST or similar audit report performed by a qualified third-party auditor, Client agrees to accept such report in lieu of requesting an audit of such controls or measures. The audit must be conducted during regular business hours, subject to the agreed-upon final audit plan and Newport's safety, security or other relevant policies, and may not unreasonably interfere with Newport's business activities. Any audits are at Client's sole expense. Client shall reimburse Newport for any time expended by Newport and any third parties in connection with any audits or inspections under this Section at Newport's then-current professional services rates, which shall be made available to Client upon request. Client will be responsible for any fees charged by any auditor appointed by Client to execute any such audit.
8. Newport will promptly redirect any Data Subject requests to Client. Newport will implement and maintain reasonable and appropriate technical measures that will allow Data Subjects to exercise their Data Subject rights under Applicable Privacy Law. Newport shall not be responsible for any decisions made by Client with regard to a Data Subject request.
9. During the term of the Agreement, Newport will maintain appropriate technical and organizational security measures (as set forth in this Exhibit) to protect Protected Information against accidental or unlawful destruction or accidental loss, damage, alteration or unauthorized disclosure.
10. Upon written request and when required by Applicable Privacy Law, Newport will provide reasonable cooperation and assistance to Client in ensuring Newport's compliance with data security obligations, as well as in carrying out appropriate data protection impact assessments or similar activities. Newport will also cooperate and provide reasonable assistance or information needed for Client pertaining to requests by the regulatory authorities.
11. Client hereby authorizes Newport to appoint Subprocessors. Where required by Applicable Privacy Law, Newport shall provide Client with prior notice of any additional or replacement Subprocessors. Within five (5) days after being notified, Client must notify Newport in writing of any reasonable objection it has to such Subprocessors. In the event Client provides a reasonable objection, Newport will use commercially reasonable efforts to make a change in Processing under the Agreement to avoid Processing of Protected Information by such Subprocessors. If Newport is unable to make available such change within a reasonable period of time Client may, by providing written notice to Newport, terminate the specific Services provided under the Agreement in respect only to those Services which cannot be provided by Newport without the use of the objected-to Subprocessors. Newport will remain liable for any Processing of Protected Information by each such Subprocessor as if it had undertaken such Processing itself. Newport will contractually impose data protection obligations on its Subprocessors that are no less onerous than those imposed on Newport under this Exhibit.

12. Newport shall notify Client in the event Newport makes a determination that it can no longer meet its obligations under Applicable Privacy Law.

Security Event, Privacy Breach or Cyberattack Response

If Newport becomes aware of a Security Breach, Newport will promptly notify Client, unless Newport is specifically requested by law enforcement not to do so, in which event Newport will notify Client as promptly as permissible.

Newport will notify Client by emailing Client's business contact. Such written notification will include: (1) nature and impact of the event, in reasonable detail; (2) actions already taken by Newport; (3) Newport's assessment of the risks to Newport and Client; and (4) corrective and other response measures to be taken by Newport as set forth in Section 13 of the Agreement.

Newport will continue to promptly provide appropriate status reports to Client regarding the resolution of the event and prevention of future events; and cooperate with Client, as reasonably requested by Client, to further investigate and resolve the event.

Indemnification and Limitation of Liability

Any claims brought under, or in connection with, this Exhibit, shall be subject to the exclusions and limitations of liability set forth in the Agreement.

Exhibit C INSURANCE

Newport shall maintain insurance coverages with carriers with an A.M. Best Insurance Rating of A-:VIII or better and licensed to do business in the states where Newport's Services are performed with limits of at least the following:

Commercial General Liability	Each Occurrence: \$1,000,000 General Aggregate: \$2,000,000
Umbrella Liability	Each Occurrence: \$10,000,000 Aggregate: \$10,000,000
Financial Institution Bond	Each Occurrence: \$5,000,000 General Aggregate: \$10,000,000
Automobile Liability	\$1,000,000
Workers Compensation	\$1,000,000
E&O	\$10,000,000
Cyber Liability	\$10,000,000

**ADOPTING RESOLUTION
FOR
TOWN OF JUPITER ISLAND**

The undersigned authorized representative of Town of Jupiter Island (the "Employer") hereby certifies that the following resolutions were duly adopted by the Employer on _____, and that such resolutions have not been modified or rescinded as of the date hereof.

WHEREAS, Town of Jupiter Island 401(a) Plan (the "Plan and Trust") expressly provides the right to amend said Plan and Trust; and

WHEREAS, Employer desires to amend the Plan and Trust in order to appoint Newport Trust Company, LLC ("Newport") as nondiscretionary Trustee of the Plan and Trust subject to their acceptance; and

WHEREAS, Employer desires to remove and/or accept the resignation of the current trustee(s) of the Plan and Trust; and

NOW THEREFORE BE IT RESOLVED, that Newport is appointed to act as a non-discretionary Trustee of the trust established as part of the Plan and Trust and is authorized to hold the assets of the trust under the terms of the Trust Agreement entered into with Newport; and

RESOLVED FURTHER, that the removal and resignation of the current trustee(s) of the Plan and Trust is hereby accepted, effective as of the final transfer of assets to Newport; and

RESOLVED FURTHER, that the foregoing resolutions shall be void ab initio and shall have no force or effect in the event the Employer is notified by Newport or any of its affiliates that the Employer has failed to timely perform any material actions needed to permit Newport to commence serving as Trustee of the Plan; and

RESOLVED FURTHER, that the proper representatives of the Employer be, and hereby are, authorized and directed to execute such instruments and to perform such other acts as they, in their discretion, deem necessary or desirable to carry out these resolutions.

TOWN OF JUPITER ISLAND

By: _____

Date: _____

Name: _____

Title: _____

AUTHORIZED SIGNERS

Plan Name: Town of Jupiter Island 401(a) Plan (the "Plan")

Name:	Name:
Signature:	Signature:
Corporate Title:	Corporate Title:
Date:	Date:
Email:	Email:
Capacity: ☒ Plan Sponsor	Capacity: ☒ Plan Administrator (may be same as Sponsor)
Name:	Name:
Signature:	Signature:
Corporate Title:	Corporate Title:
Date:	Date:
Email:	Email:
Capacity: ☐ Plan Sponsor ☐ Plan Administrator	Capacity: ☐ Plan Sponsor ☐ Plan Administrator
Name:	Name:
Signature:	Signature:
Corporate Title:	Corporate Title:
Date:	Date:
Email:	Email:
Capacity: ☐ Plan Sponsor ☐ Plan Administrator	Capacity: ☐ Plan Sponsor ☐ Plan Administrator ☐ Approval of Participant Level Transactions ONLY (i.e. hardship distributions, loans, etc.)

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Town of Jupiter Island
Deferred Compensation Plan (457b)



ACCOUNT APPLICATION

I. ACCOUNT TYPE

Newport Trust Company, LLC ("NTC") is to establish the following type of account:

☒ Nondiscretionary (Directed) Trustee ☐ Nondiscretionary (Directed) Custodian

II. PLAN INFORMATION

Plan Name: Town of Jupiter Island Deferred Compensation Plan (457b)

Plan Type: ☐ 401(k) ☐ Profit Sharing Only ☐ 403(b) ☒ 457(b) ☐ 457(f) ☐ ESOP ☐ Traditional Defined Benefit
☐ Cash Balance Defined Benefit ☐ Non-qualified deferred compensation plan ☐ nonelecting church plan
☐ Other, specify _____

If 457(b) or 457(f) selected, is the Plan sponsored by a tax-exempt entity? ☐ Yes ☐ No

Plan ID: (to be completed by NTC) NG00N75 Plan Year End: 9/30 Plan Inception Date: 10/1/2009

Participant Directed Plan: ☒ Yes ☐ No Asset Size: \$ 6,370,970

Current Recordkeeper Entity: Newport Group Current TPA Entity: Newport Group

III. PLAN SPONSOR INFORMATION

Plan Sponsor: Town of Jupiter Island NAICS Code: _____

Entity Type: (i.e., C or S Corp, LLC, Partnership) Govt agency Fiscal Year end: 9/30 EIN: 59-6011135

Street Address: 2 Bridge Road City/State/Zip: Hobe Sound, FL 33455

Sponsor Telephone: _____ Fax: _____

Main Contact Name: _____ Email: _____

Please identify the individual authorized to sign Agreements on behalf of Plan Sponsor

Main Contact's Title (i.e., President, CEO, Member, Partner): _____

Day-to-Day Contact Name: _____ Email: _____

IV. PLAN ADMINISTRATOR

Plan Sponsor is Plan Administrator: ☒ Yes – Skip to V. ☐ No – Complete the remainder of this section.

A. Plan Administrator Name: _____ EIN: _____

Main Contact Name: _____ Email: _____

Please identify the individual authorized to sign Agreements on behalf of Plan Administrator.

Day-to Day Contact Name: _____ Email: _____

Street Address: _____ City/State/Zip: _____

Telephone: _____ Fax: _____ Email: _____

V. THIRD PARTY ADMINISTRATOR ("TPA") INFORMATION

Newport Group, Inc. is Third Party Administrator: ☐ Yes – Skip to VI. ☐ No – Complete the remainder of this section.

TPA Firm Name: _____ Contact Name: _____

Street Address: _____ City/State/Zip: _____

Telephone: _____ Fax: _____ Email: _____

VI. INVESTMENT ADVISOR INFORMATION

The Plan Sponsor may choose to designate an investment advisor for the Plan. Please mark the appropriate selection below:

Is an Investment Advisor(s) designated for the Plan:

☒ Yes – Complete an Advisor Information and Authorization Form.

☐ No – Skip to VII.

*Please complete an Advisor Information and Authorization Form for **each** Investment Advisor for the Plan and attach to this Application.*

An Advisor Information and Authorization Form should be completed for each advisor prior to providing investment direction to Newport Trust Company, LLC.

VII. BROKER/DEALER INFORMATION

The Plan Sponsor or the Plan Administrator may choose to designate a broker/dealer for the Plan. Please mark the appropriate selection below and provide the broker/dealer information if necessary:

Is a Broker/Dealer designated for the Plan: ☐ Yes – Complete the remainder of this section. ☐ No – Skip to VIII.

A. Dealer Name: _____ Dealer Number: _____ Branch Number: _____

Representative Name: _____ Representative Number: _____

Branch Address: _____ City/State/Zip: _____

Telephone: _____ Fax: _____ Email: _____

VIII. ADDITIONAL PLAN AND PARTICIPANT INFORMATION

Current Trustee(s) contact: _____ Phone: _____ Email: _____

Current Custodian contact: _____ Phone: _____ Email: _____

Current Recordkeeper contact: _____ Phone: _____ Email: _____

Current TPA contact: _____ Phone: _____ Email: _____

Asset Transfer (choose one): ☐ In-cash ☐ In-kind ☐ In-cash/In-kind ☐ No current assets

Number of Eligible Participants: _____ Number of Participants: _____ Participant Loans: ☐ Yes ☐ No

Periodic Payments: ☐ Yes ☐ No Number of Participant Payments (if applicable): _____

Expected date of first payroll deposit or asset transfer to Newport Trust Company, LLC: _____

Indicate when contributions will be made:

Match: ☐ Periodic ☐ Year-End ☐ N/A

Profit Sharing: ☐ Periodic ☐ Year-End ☐ N/A

Other: ☐ Periodic ☐ Year-End ☐ N/A (Describe): _____

IX. INVESTMENT SELECTION

Please indicate which of the following investments are currently assets of the Plan or will be assets of the Plan. You may be required to complete additional documents for the investments selected.

☒ **MUTUAL FUNDS**

Please contact your Recordkeeper/TPA for specific information on allowable funds.

☒ **COLLECTIVE INVESTMENT FUNDS**

Please contact your Recordkeeper/TPA for specific information on allowable funds.

☒ **STABLE VALUE FUNDS**

Please contact your Recordkeeper/TPA for specific information on allowable funds.

☐ **EMPLOYER STOCK**

Employer Stock must be reviewed and approved by NTC prior to inclusion in the Plan's account. Purchases and sales of approved securities can be submitted no more frequently than once per day. NTC will process such instructions within a reasonable period of time after NTC's receipt of instructions. NTC will not make any inquiry into the prudence, appropriateness or liability with respect to the acceptance, distribution, collection, tabulation or remittance of proxies and accompanying materials and other shareholder communications issued with respect to Employer Stock.

☐ **UNITIZED EMPLOYER STOCK**

Please complete Appendix A

☐ **GUARANTEED INVESTMENT CONTRACTS**

Guaranteed Investment Contracts ("GICs") must be reviewed and approved by NTC prior to inclusion in the Plan's account. If approved, NTC must be named as the owner and beneficiary of any GIC. Purchases and sales of GICs will be processed within a reasonable period after NTC's receipt of instructions.

☒ **PARTICIPANT LOANS**

NTC will not make any inquiry into the appropriateness or legality of any Participant loan or any Participant loan payment.

☐ **SELF-DIRECTED BROKERAGE ACCOUNT**

Requires completion of appropriate SDBA documentation.

☐ **UNITIZED MANAGED ACCOUNTS**

Unitized Managed Accounts must be authorized by the Plan Administrator or Recordkeeper/TPA, designated to NTC in writing and acknowledged by the Investment Advisor. The underlying investments of a Unitized Managed Account may include only funds on the NTC - approved fund list and other assets as applicable to the specific UMA program selected and which are pre-approved by NTC. Unitized Managed Account purchases and liquidations will be processed within a reasonable period after NTC's receipt of instructions.

Please complete Appendix B

☐ **EXCHANGED TRADED FUNDS (ETFs)**

Exchanged Traded Funds (ETFs) must be reviewed and approved by NTC prior to inclusion in the Plan's Account.

Please complete Appendix C

☐ **UNITIZED MODEL FUNDS**

All unitized investment funds must be reviewed and approved by NTC prior to inclusion in the Plan's Account

Please complete Appendix D

☐ LIFE INSURANCE/GROUP ANNUITY CONTRACTS

Group annuity contracts (both fixed and variable) issued by commercial insurance companies will be purchased or sold by NTC within a reasonable period after its receipt of written instructions, along with the annuity application. NTC must be named as the owner and beneficiary of any annuity policy. All annuity contracts must be reviewed and approved by NTC prior to inclusion in the Plan's account.

Please complete Appendix I

☒ DEFAULT FUND/INVESTMENT

Please complete the remainder of this section if the Plan will have a default fund or investment

Name of Default Fund/Investment (if applicable): Great Gray Trust T. Rowe Price target date series

Is this fund/investment a Qualified Default Investment Alternative (QDIA)? ☐ Yes ☐ No

***Please note that the cash account equivalent in your investment menu will be the fund to which all forfeitures are allocated.*

X. AUTHORIZED SIGNERS

In accordance with the provisions of the trust or custodial agreement between NTC and the Plan Sponsor and Plan Administrator for the above-named Plan, NTC and its affiliates may accept and act upon instructions on behalf of the Plan received from the Authorized Persons or Parties as set forth in the Authorized Signers Form.

ACCOUNT OPENING DOCUMENT REQUIREMENTS

In addition to completing the signatures contained herein and Exhibits and Appendices hereto, please provide the following documents:

1. Authorized Signers Attachment to this Application
2. Most Current Asset Statement
3. Plan Document Requirements:
 - Copy of executed Plan Document
 - Adoption Agreement and base plan document (*required for prototype plans*)
 - IRS Determination Letter (*for customized or non-standard plans only*)
4. Customer Identification Program Requirements (*for Tax-exempt 457(b) or 457(f) plans, non-qualified deferred compensation plans and nonelecting church plans only*):
 - IRS Form W-9 AND
 - Proof of Entity Status (i.e., certified articles of incorporation, government-issued business license, Secretary of State filing, partnership agreement, etc.)

NTC may request or require additional documents, including documents required to accept certain investments.

SIGNATURE

Plan Sponsor and/or Plan Administrator represents and warrants that all information provided in this Application, including required supplemental documentation (together, the "Information"), is true and correct and that Plan Sponsor will immediately notify NTC of and correct any errors in the Information provided. Plan Sponsor shall immediately notify NTC in writing of any changes to the Information provided herein and NTC may rely on the Information until it receives written notice of such change. The Plan Sponsor shall indemnify and hold harmless NTC and its affiliates and their officers, directors, employees, and agents from any loss or liabilities (including attorneys' fees) arising out of its reliance or action taken in reliance upon any Information provided hereunder, except to the extent such losses or liabilities are a result of the gross negligence of NTC or its affiliates.

Plan Sponsor and/or Plan Administrator further represents and warrants that the undersigned has the authority to open this account and to execute this Agreement.

By executing this Application, the Plan Sponsor and Plan Administrator agree to its terms.

NOTE: Please sign in both signature blocks, even if the Plan Sponsor and Plan Administrator are the same.

PLAN SPONSOR

Signature **X** _____

Printed Name: _____

Title: _____

Date: _____

PLAN ADMINISTRATOR

Signature **X** _____

Printed Name: _____

Title: _____

Date: _____

Newport Trust Company, LLC Automatic Rollover Agreement

This Automatic Rollover Agreement ("**Agreement**") is entered into as of _____ ("**Effective Date**"), by and between Newport Trust Company, LLC, a New Hampshire chartered trust company ("**Newport**"), and **Town of Jupiter Island ("Company")** (each a "**Party**" and collectively the "**Parties**").

RECITALS

Company is the sponsor of and a named fiduciary with respect to the **Town of Jupiter Island Deferred Compensation Plan (457b)** ("**Plan**"), and is the entity with authority to appoint service providers for the Plan. Company hereby retains Newport to serve as the individual retirement plan provider for the Plan in connection with the Automatic Rollover of Mandatory Distributions, as defined below, in accordance with the terms and conditions set forth herein. The Parties intend that this Agreement satisfy the fiduciary safe harbors set forth in Sections 2550.404a-2 and 2550.404a-3 of Department of Labor regulations. The terms of this Agreement shall be enforceable by each individual for whom an Automatic Rollover IRA has been established hereunder.

1. DEFINITIONS

For purposes of the Agreement, the following terms, when capitalized, have the meaning set forth below:

- 1.1 **Authorized Person** means the person executing this Agreement on behalf of the Company and any individual designated by the Company in Instructions communicated to Newport. The Company shall notify Newport of any limitations on an Authorized Person's authority. Newport may continue to rely upon designations of Authorized Persons until it receives written notice from the Company to the contrary and has a reasonable period of time to act upon such notice.
- 1.2 **Automatic Rollover** means the rollover of a Mandatory Distribution at the direction of the Company.
- 1.3 **Automatic Rollover IRA** means an individual retirement account described in Code Section 408(a) established by Newport to hold an Automatic Rollover.
- 1.4 **Code** means the Internal Revenue Code of 1986, and the rules and regulations promulgated thereunder, as amended from time to time.
- 1.5 **Confidential Information** means (a) information and reports provided or made available to Newport by Company or an Authorized Person (or any employee, agent or representative thereof) in connection with this Agreement; (b) Personal Information; (c) the terms and conditions of this Agreement; (d) information designated by the Disclosing Party as confidential; (e) information regarding past, present or future business and business activities, financial or technical information; products, services, research and development; processes and techniques; designs; financial planning practices; investment methodologies; and marketing plans; and (f) information and material which, by its nature, should reasonably be construed to be proprietary or confidential. Except with respect to Personal Information, Confidential Information does not include any information which the Receiving Party can demonstrate (a) is in the public domain through no fault or breach by such Receiving Party of its obligations hereunder; (b) was known by the Receiving Party prior to its disclosure by the Disclosing Party and was not obtained in such circumstances subject to a requirement of confidentiality; or (c) was developed independently of, and without the use of or access to, any Confidential Information exchanged pursuant to each Agreement.
- 1.6 **Disclosing Party** has the meaning provided in Paragraph 6.1 of this Agreement.

thereunder, as amended from time to time.

1.8 **Indemnified Parties** has the meaning provided in Section 7 of this Agreement.

1.9 **Instructions** means the Company's written directions and instructions to Newport, including, without limitation, the designation of Authorized Persons. The transmission of Plan, participant and financial information from the Company to Newport through agreed-upon transmission protocols, either directly from the Company or indirectly from third parties retained by the Company (including, for example, the Plan's administrator or recordkeeper) shall constitute an instruction to Newport to accept and use such information. Instructions from an Authorized Person constitute Instructions from the Company. All Instructions to establish Automatic Rollover IRAs shall be provided to Newport in a format acceptable to Newport via electronic files or as otherwise agreed to by the Parties.

1.10 **Investment Option** means the investment vehicle into which the corpus of each Automatic Rollover IRA is invested. The Investment Option shall be the Goldman Sachs FS Government Money Market Fund.

1.11 **IRA Account Holder** means the individual for whom an Automatic Rollover IRA has been established.

1.12 **IRA Custodial Account Agreement** means the Traditional Individual Retirement Custodial Account Agreement or the Roth Individual Retirement Custodial Account Agreement, as applicable, governing the operation of the Automatic Rollover IRA established on behalf of a Participant. A copy of the IRA Custodial Account Agreement and the disclosure statement required under Treasury Regulation Section 1.408-6 will be provided to Company upon request.

1.13 **Mandatory Distributions** means distributions that the Plan requires to be made without the Participant's consent (i) while the Plan is ongoing, to a terminated or other Participant whose vested accrued benefit does not exceed \$5,000 or such lesser limit as set forth in the Plan, and (ii) in the event the Plan is terminated, to any Participant entitled to a distribution in connection with said termination, provided that, in either case, the Participant does not affirmatively elect to have the distribution paid directly to an eligible retirement plan and does not elect to receive the distribution directly.

1.14 **Participant** means each participant who receives a Mandatory Distribution from the Plan.

1.15 **Personal Information** means, with respect to Company employees and Plan Participants, an individual's name (either first and last name or first initial and last name) in combination with any one or more of the following data elements: (i) social security number, (ii) driver's license or other government-issued number, (iii) compensation and plan account number or plan account or benefit information, in combination with a security code, access code, or password that would permit access to an individual's plan account. Personal Information does not include any information that is required to be reported in public filings with governmental agencies, is lawfully obtained from publicly available information or that is made available to the general public.

1.16 **Receiving Party** has the meaning provided in Paragraph 6.1 of this Agreement.

2. COMPANY APPOINTMENT AND DIRECTION

Company hereby appoints Newport to serve as custodian of Automatic Rollover IRAs established in connection with Mandatory Distributions from the Plan. Company directs Newport to establish such IRAs upon notification from Company or an Authorized Person of one or more Mandatory Distributions, and to invest the corpus of each such IRA in the Investment Option. Except as otherwise agreed to by the Parties, notification shall be in the form of electronic files containing all information necessary to establish an Automatic Rollover IRA on behalf of a Participant, including but not limited to the Participant's name, date of birth, tax identification number, and the most recent mailing address for the Participant contained in the records of the Plan. Newport will have no obligation to verify the accuracy of the information provided by Company.

Upon receipt of confirmation from Newport that an Automatic Rollover IRA has been established, Company will cause the direct rollover of the Mandatory Distribution from the Plan to the Automatic Rollover IRA identified by Newport. All amounts transferred to Newport by Company shall be remitted in the form of cash; in-kind rollovers shall not be remitted. Company is responsible for payment of all fees and charges necessary to permit the delivery of information and funds between the Plan's administrator or recordkeeper, the Plan, and Newport.

Notification from Company of one or more Mandatory Distributions and receipt of the corresponding rollover amounts will serve as Company's authorization and direction to establish an Automatic Rollover IRA for each individual identified in such Instructions. Company shall promptly notify Newport of any errors in the information transmitted and shall direct Newport with respect to actions to correct such errors.

Newport may rely on any Instructions received and reasonably believed by it to be from the Company or an Authorized Person and shall be fully indemnified by Company for any action taken or omitted by it in reliance upon receipt of such Instructions.

3. NEWPORT RESPONSIBILITIES

Upon receipt of sufficient Instructions, Newport will establish an Automatic Rollover IRA on behalf of individuals identified in such Instructions. Newport will provide Company with the Automatic Rollover IRA identifying information and confirmation that it is prepared to receive a transfer of assets from the Plan. Upon receipt of the assets, Newport will invest the assets in the Investment Option; provided, that Newport may hold the assets uninvested in cash until the Participant's right to revoke the Automatic Rollover IRA have expired. Newport will perform the following services with respect to each Automatic Rollover IRA:

- 3.1 Provide each individual for whom an Automatic Rollover IRA was established an IRA Custodial Account Agreement and an IRA disclosure statement as required by Treasury Regulation Section 1.408-6. The IRA Custodial Account Agreement and disclosure statement may be provided electronically in conjunction with a notice to the IRA Account Holder that will be sent first class mail to the mailing address provided to Newport by Company. Newport shall have no obligation to search for or ascertain the whereabouts of the IRA Account Holder.
- 3.2 Update the Automatic Rollover IRA information with any corrected or updated information as provided by the IRA Account Holder from time to time.
- 3.3 Provide those services described in the IRA Custodial Account Agreement.

The services provided hereunder shall be subject to the general terms and conditions of the IRA Custodial Account Agreement.

4. FEES AND EXPENSES

Each Automatic Rollover IRA will be subject to the fees and expenses set forth in Schedule A attached to this Agreement. Such fees and expenses may change from time to time, but will not exceed fees and expenses that would be charged by Newport for a comparable individual retirement account established for reasons other than the receipt of an Automatic Rollover.

5. REPRESENTATIONS AND WARRANTIES

Company represents and warrants that:

- 5.1 This Agreement has been duly authorized, executed and delivered by and constitutes a valid and binding agreement of the Company. Neither the execution nor delivery of this Agreement nor the transactions contemplated hereby, will result in any breach of a charter, bylaw, partnership agreement, order, law, rule or regulation to which Company is a party or that is otherwise applicable to Company.
- 5.2 The Plan is a qualified plan under Code Section 401(a), a plan that meets the requirements of Code Section 403(b), or an eligible governmental plan under Code Section 457(b), and includes Mandatory Distribution and Automatic Rollover provisions that permit Automatic Rollovers to Newport in accordance with the terms of this Agreement.
- 5.3 If the Plan is ongoing, Participants have been furnished with a summary plan description, or a summary of material modifications, that describes the Plan's Automatic Rollover provisions and the explanation required under Section 2550.404a-2(c)(4) or 2550.404a-3(e), as applicable, of Department of Labor regulations. If the Plan is or is being terminated, Company or its designee has furnished Participants with a notice in accordance with Department of Labor regulation Section 2550.404a-3(e), and Company or its designate has taken all steps required under Department of Labor regulation Section 2550.404a-3(e)(2)(ii) to locate Participants whose notices have been returned as undeliverable.
- 5.4 Company has determined that the Investment Option (i) is designed to preserve principal and provide a reasonable rate of return consistent with liquidity, and (ii) seeks to maintain, over the term of the investment, the dollar value that is equal

to the amount invested in the Investment Option, except insofar as fees and expenses may be charged to such Automatic Rollover IRA in accordance with the terms hereof and the IRA Custodial Account Agreement.

- 5.5 Company has received rate of return information with respect to the Investment Option, and the fee disclosure set forth in Schedule A, all of which are attached hereto or previously have been provided to Company by Newport.
- 5.6 The Investment Option is the only option available under Automatic Rollover IRAs established pursuant to this Agreement, and the respective IRA Account Holders will incur annual maintenance fees, as well as other administrative fees if any such IRA Account Holder requests a distribution from or directs the transfer of the corpus of his or her Automatic Rollover IRA to another IRA provider or eligible retirement plan. Once an IRA Account Holder takes ownership of the Automatic Rollover IRA, the terms of the IRA Custodial Account Agreement govern the investment options then available to him or her.
- 5.7 The selection of Newport to serve as custodian of the Automatic Rollover IRAs will not result in a prohibited transaction under ERISA Section 406.
- 5.8 All information provided to Newport in connection with the establishment of an Automatic Rollover IRA shall be the most recent and accurate information available to the Plan and the Company, and each individual for whom the Company directs an Automatic Rollover of a Mandatory Distribution has not elected to receive the distribution directly (or, in the case of a Plan that is or is being terminated, did not elect a form of distribution within 30 days of receiving the notice referenced in Paragraph 5.3).
- 5.9 Company acknowledges and understands that if the IRA Account Holder has not designated a beneficiary at the time of his or her death, or no such designated beneficiaries are living, the balance of the Automatic Rollover IRA will be paid to the IRA Account Holder's surviving spouse or, if none, the IRA Account Holder's estate.

Newport represents and warrants that:

- 5.10 This Agreement has been duly authorized, executed and delivered by Newport and constitutes a valid and binding agreement of Newport. Neither the execution nor delivery of this Agreement nor the transactions contemplated hereby will result in any breach of any charter, bylaw, order, law, rule or regulation to which Newport is a party or which is otherwise applicable to Newport.
- 5.11 The Automatic Rollover IRA fees and expenses described in Schedule A to this Agreement shall at all times be comparable to fees and expenses for similar individual retirement accounts provided by Newport for reasons other than the receipt of a Mandatory Distributions.
- 5.12 Newport is a state-regulated bank whose deposits are insured by the Federal Deposit Insurance Corporation/the Investment Option is an investment company registered under the Investment Company Act of 1940.

Except as expressly set forth in this Agreement, the Parties do not make any other representations or warranty and specifically disclaim all other representations or warranties, express or implied, including, without limitation, any implied warranties of merchantability and fitness for a particular purpose. The Parties acknowledge and agree that neither Newport nor any of its affiliates, employees, or agents is acting as a "fiduciary" (as such term is defined under ERISA) with respect to the Plan or its assets in providing the services contemplated by this Agreement.

6. CONFIDENTIALITY

- 6.1 Confidentiality Obligation. Each Party (in such capacity the "**Receiving Party**") shall keep the Confidential Information of the other Party (in such capacity, the "**Disclosing Party**") confidential. In addition, the Receiving Party shall implement security measures reasonably designed to secure the Confidential Information against loss, theft and unauthorized use, modification or access. The Receiving Party shall have the limited right to use the Confidential Information only for the purpose of fulfilling its commitments and obligations to the Disclosing Party under this Agreement. Except as permitted in the foregoing sentence or by prior written consent of the Disclosing Party, the Receiving Party shall not use, disclose or distribute to any person, firm or entity any Confidential Information and shall not permit any person, firm or entity to use, disclose or distribute any Confidential Information; provided that the Receiving Party may disclose or distribute such Confidential Information to the following: (a) its officers, employees and directors who have a business need to know such Confidential Information; and (b) its attorneys, accountants, consultants, agents, independent contractors or professional advisors who (x) have a business need to know such Confidential Information and (y) are subject to fiduciary, professional or written obligations of confidentiality substantially similar to, and no less restrictive than, the obligations set forth herein. Except in connection with the purposes identified above, the Receiving Party shall not copy or otherwise reproduce, or permit to be copied or otherwise reproduced, all or any part of Confidential Information without the prior written consent of the Disclosing Party. Notwithstanding the preceding, the Receiving Party may disclose the Confidential

Information of the Disclosing Party to the limited extent such Confidential Information is required to be disclosed by the Receiving Party by applicable law or pursuant to an order of any court or administrative body; provided, that, with regard to each such disclosure, the Receiving Party shall provide the Disclosing Party with prompt notice of such request or order (to the extent permitted by applicable law), shall cooperate reasonably with the Disclosing Party in resisting the disclosure of such Confidential Information via a protective order or other appropriate legal action, and shall not make disclosure pursuant thereto until the Disclosing Party has had a reasonable opportunity to resist such disclosure, unless the Receiving Party is ordered otherwise.

- 6.2 Ownership. All Confidential Information shall be and remain the sole and exclusive property of the Disclosing Party, its affiliates, or their respective employees, suppliers, or customers, as the case may be. Except as otherwise set forth in this Agreement, neither Party acquires any intellectual property, including any rights to create derivative works of any Confidential Information, under the Agreement, except the limited right to use such Confidential Information in accordance with the Agreement.
- 6.3 Return of Confidential Information. Upon written request by the Disclosing Party, the Receiving Party shall: (a) return to the Disclosing Party all Confidential Information, all documents or media containing the Confidential Information, and any and all copies or extracts thereof, and/or (b) destroy the Confidential Information, and any and all copies or extracts thereof, and provide the Disclosing Party with written certification of such destruction signed by an authorized representative of the Receiving Party; provided, however, that the Receiving Party is entitled to retain copies of such Confidential Information to the extent required by applicable law and that are electronically stored or archived in the ordinary course of business.
- 6.4 Injunctive Relief. The Parties acknowledge and agree that any breach or threatened breach of Paragraph 6.1 may cause the aggrieved Party immediate and irreparable harm for which monetary damages alone will be inadequate compensation. Accordingly, the aggrieved Party shall be entitled, in addition to any other remedies available at law or in equity, to immediate injunctive relief without requiring a cure period and without the necessity of posting a bond.

7. INDEMNIFICATION

Company agrees to indemnify, defend and hold Newport and its affiliates, and their respective directors, manager, officers, employees, agents and other representatives ("**Indemnified Parties**") harmless from any and all losses, costs, excise taxes, expenses, fees, liabilities, damages, and claims of any nature whatsoever, including but not limited to legal expenses, court costs, reasonable legal fees, costs of or associated with enforcement actions, investigations, suits, and regulatory or other actions and appeals thereof resulting from (i) their reasonable reliance upon any certificate, notice, confirmation, or Instruction, purporting to have been delivered by Company or an Authorized Person; (ii) any loss or diminution of the value of the Automatic Rollover IRA resulting from changes in the market value of its assets; (iii) reliance, or action taken in reasonable reliance, on Instructions from Company or an Authorized Person; (iv) any act or failure to act by Company; (v) any prohibited transaction or disqualification of the Plan, including, but not limited to, a prohibited transaction or plan disqualification that is caused by any action taken or not taken by Newport in reasonable reliance on Instructions from Company; or (vi) any other act Newport takes in good faith hereunder that arises under this Agreement or the administration of the Automatic Rollover IRA pursuant hereto.

Newport shall not be liable to Company for any act, omission, or determination made in connection with this Agreement except for its gross negligence or willful misconduct. Without limiting the generality of the foregoing, Newport shall not be liable for any losses arising from its compliance with Instructions from Company or an Authorized Person, or executing, failing to execute, failing to timely execute or for any mistake in the execution of any Instructions, unless such action or inaction is by reason of the gross negligence or willful misconduct of Newport. Newport shall not be responsible for losses caused directly or indirectly by conditions beyond its reasonable control or that could not be avoided by the exercise of due care, including, but not limited to an act of God, any mechanical failure, war, natural disaster, government restrictions or changes, exchange, market rulings, strikes, interruptions of communications or data processing services, or disruptions in orderly trading on any exchange or market. The Parties acknowledge that unforeseen circumstances may temporarily prevent or prohibit Newport from performing its services. If Newport is not able to perform its related services for a period of more than three (3) Business Days, Newport shall notify the Plan Sponsor in writing.

8. TERM; TERMINATION; AMENDMENT

This Agreement is effective as of the Effective Date and shall continue in full force and effect until terminated. This Agreement may be amended by Newport, provided written notice of such amendment is sent to Company at least thirty (30) days prior to the effective date of any such amendment. This Agreement may be terminated by either Party at any time upon sixty (60) days' prior written notice to the address of record of the other Party. The provisions of Sections 5, 6 and 7 shall survive the termination of this Agreement.

9. USA PATRIOT ACT NOTIFICATION

The following notification is provided to Company pursuant to Section 326 of the USA PATRIOT Act of 2001, 31 U.S.C. Section 5318:

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person or entity that opens an account, including any deposit account, treasury management account, loan, other extension of credit, or other financial services product. When Company opens an Automatic Rollover IRA account for a Participant, Newport will ask for such individual's name, taxpayer identification number, residential address, date of birth, and other information that will allow Newport to identify the Participant. Newport may also ask, if the participant is an individual, to see or review a copy of his or her driver's license or other identifying documents.

10. MISCELLANEOUS

- 10.1 **Governing Law.** This Agreement shall be governed by and construed in accordance with and enforced pursuant to the laws of Delaware, without regard to its principles of conflicts of law, except to the extent preempted by federal law.
- 10.2 **Notices.** Whenever any notice may be or is required to be given hereunder, such notice shall be in writing and sent by United States first class mail, postage prepaid; by facsimile with confirmed delivery; or by overnight delivery service, where receipt is given, and addressed (a) to the Company: to the person and address appearing in Newport's records, provided by the Company for such purposes; and (b) to Newport Trust Company, LLC: Newport Trust Company, LLC, c/o Newport Group, Inc., ATTN: Newport Trust Company, LLC, 45 South 7th Street, Suite 2208, Minneapolis, MN 55402, Facsimile Number: 916-605-4024, or such other address as Newport may provide from time to time, with a copy to Newport Group, Inc., 200 Dryden Road, Dresher, PA, 19025, Attention: Legal Department.
- 10.3 **Use of Third Parties.** Newport may retain third party vendors ("subcontractors") to assist it in the performance of its obligations hereunder; provided, however, that to the extent such subcontractor has access to Confidential Information or Personal Information, such subcontractor shall have agreed in writing to adhere to confidentiality obligations no less restrictive than those set forth in this Agreement. The use of subcontractors shall not affect Newport's responsibility for its representations, warranties, covenants or undertakings under this Agreement, and at all times Newport shall remain responsible for its performance obligations hereunder.
- 10.4 **Status as Independent Contractors.** Nothing in this Agreement shall cause or be deemed to cause any Party (including its officers, directors, or employees) to be an employee, partner, joint venturer, or agent of the other Party. The sole relationship of the parties hereto is that of independent contractor.
- 10.5 **Third Party Beneficiaries.** Except with respect to a Participant's right to enforce the terms of this Agreement, as provided in the Recitals, this Agreement shall not be construed as granting any rights or benefits to third parties, including, for example, employees, independent contractors, consultants or other agents of the Parties.
- 10.6 **Successors and Assigns.** This Agreement is binding upon the successors and assigns of the Parties hereto. Either Party may assign the Agreement to an affiliate or a successor in interest upon advance written notice to the other Party.
- 10.7 **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of the Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of the Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of the Agreement becomes inconsistent with any present or future law or regulation, that provision shall be superseded or amended to conform to such law and regulation, but the remainder of the Agreement

shall remain in full force and effect.

- 10.8 Construction. Headings in this Agreement are inserted solely for convenience of reference and will neither constitute a part of the Agreement nor affect its meaning, construction or intent. Whenever used in this Agreement, unless the context indicates otherwise, the singular will include the plural, the plural will include the singular, and the male gender will include the female gender. The words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation," unless otherwise specified. This Agreement has been negotiated and prepared by the Parties and their respective attorneys and, should any provision of this Agreement require judicial interpretation, the court interpreting or construing such provision shall not apply the rule of construction that a document is to be construed more strictly against one Party.
- 10.9 Complete Agreement. This Agreement constitutes the entire agreement between Newport and the Company related to the subject matter hereof and supersedes all prior agreements, proposals or representations, whether written or oral, between the Parties relating to the subject matter hereof.
- 10.10 Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts taken together shall constitute one and the same instrument. The Parties hereto agree that this Agreement may be executed by facsimile or digital signature, which will have the same effect as an original signature.
- 10.11 Waivers. No failure or delay in exercising any rights or privilege hereunder shall operate as a waiver thereof. No waiver of any right or privilege in respect to any occurrence or event on one occasion shall be deemed a waiver of such right or privilege in respect of such occurrence or event on any other occasion.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized officers as of the Effective Date.

TOWN OF JUPITER ISLAND

NEWPORT TRUST COMPANY, LLC

Signature

Signature

Printed Name

Printed Name

Title

Trust Officer
Title

Date

Date

Schedule A
Automatic Rollover IRA Fees

Account Fees

Annual IRA Account Fee (incurred quarterly in arrears)	\$35
Account Termination Fee	\$25

Service Fees

Check Distributions	\$25 each
Overnight Delivery	\$30 each
Late/Stop Payment/Returned Checks	\$25 each

Goldman Sachs FS Government Svc FOSXX

Benchmark
Morningstar USD 1M Cash TR USD

7-Day SEC Yield %
4.73

Overall Morningstar Rating™

Morningstar Return

Morningstar Risk

Investment Objective & Strategy

From investment's prospectus

The investment seeks to maximize current income to the extent consistent with the preservation of capital and the maintenance of liquidity by investing exclusively in high quality money market instruments.

The fund pursues its investment objective by investing only in "government securities," as such term is defined in or interpreted under the Investment Company Act of 1940, as amended ("Investment Company Act"), and repurchase agreements collateralized by such securities. "government securities" generally are securities issued or guaranteed by the United States or certain U.S. government agencies or instrumentalities ("U.S. government securities").

Fees and Expenses as of 03-30-23

Prospectus Net Expense Ratio	0.68%
Prospectus Gross Expense Ratio	0.68%
Maximum Sales Charge	—
12b-1 Fee	0.25%
Redemption Fee/Term	—

Waiver Data	Type	Exp. Date	%
—	—	—	—

Operations and Management

Fund Inception Date	05-16-95
Portfolio Manager(s)	Management Team
Name of Issuer	Goldman Sachs
Telephone	800-621-2550
Web Site	www.goldmansachsfunds.com

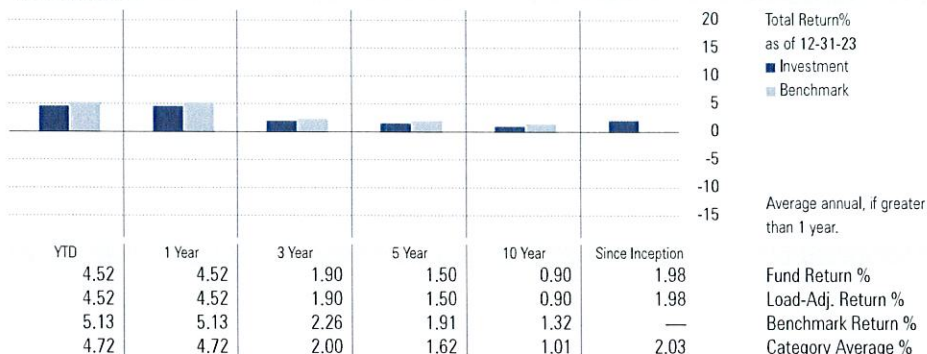
Benchmark Description: Morningstar USD 1M Cash TR USD

The index measures the performance of a synthetic asset carrying an interest rate equal to the average of the one month lending bid/offer rates in the US market. Interest income is accrued during the month and the proceeds are rolled into a new synthetic asset at each monthly rebalancing. It is market value weighted. The index does not incorporate Environmental, Social, or Governance (ESG) criteria.

Category Description: Money Market-Taxable

These portfolios invest in short-term money market securities in order to provide a level of current income that is consistent with the preservation of capital. These funds do not designate themselves as Prime in Form N-MFP.

Performance



Portfolio Analysis as of 12-31-23

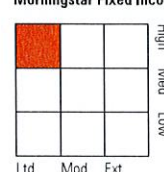
Composition as of 12-31-23



U.S. Stocks	0.0
Non-U.S. Stocks	0.0
Bonds	0.0
Cash	100.0
Other	0.0

% Assets

Morningstar Fixed Income Style Box™ as of 12-31-23



Principal Risks as of 11-30-23

Credit and Counterparty, Loss of Money, Not FDIC Insured, Interest Rate, Market/Market Volatility, Restricted/Illiquid Securities, U.S. Government Obligations, Shareholder Activity, Money Market

Money Market Fund Disclosure

Government Money Market Funds that have chosen not to rely on the ability to impose liquidity fees and suspend redemptions:

You could lose money by investing in the fund. Although the fund seeks to preserve the value of your investment at \$1.00 per share, it cannot guarantee it will do so. An investment in the fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. The fund's sponsor has no legal obligation to provide financial support to the fund, and you should not expect that the sponsor will provide financial support to the fund at any time.

Liquidity Fee: No

Redemption Gate: No

Disclosure

The performance data given represents past performance and should not be considered indicative of future results. Principal value and investment return will fluctuate, so that an investor's shares when redeemed may be worth more or less than the original investment. Fund portfolio statistics change over time. The fund is not FDIC-insured, may lose value and is not guaranteed by a bank or other financial institution.

Performance

Total return reflects performance without adjusting for sales charges or the effects of taxation, but is adjusted to reflect all actual ongoing fund expenses and assumes reinvestment of dividends and capital gains. If adjusted, sales charges would reduce the performance quoted.

The fund's performance is compared with that of an index. The index is an unmanaged portfolio of specified securities and the index does not reflect any initial or ongoing expenses. The Best Fit Index is the index that the fund has the highest correlation with. A fund's portfolio may differ significantly from the securities in the index. The index is chosen by Morningstar.

Best and Worst 3 Month Performance

Morningstar calculates best and worst 3-month period (in percentage) in-house on a monthly basis.

Best 3-month Period: The highest total return the stock has posted in a consecutive three-month period over the trailing 15 years, or if a fund does not have 15 years of history, it will go back as far as the inception date.

Worst 3-month Period: The lowest total return the stock has posted in a consecutive three-month period over the trailing 15 years, or if a fund does not have 15 years of history, it will go back as far as the inception date.

Growth of \$10,000 Graph

The Growth of \$10,000 graph shows a fund's performance based on how \$10,000 invested in the fund would have grown over time. The returns used in the graph are not load-adjusted. The growth of \$10,000 begins at the date of the fund's inception, or the first year listed on the graph, whichever is appropriate. Located alongside the fund's graph line is a line that represents the growth of \$10,000 in an index. The inclusion of the index allows investors to compare the performance of the fund with the performance of a benchmark index.

Morningstar Rating™

The Morningstar Rating™ for funds, or "star rating", is calculated for managed products (including mutual funds, variable annuity and variable life subaccounts, exchange-traded funds, closed-end funds, and separate accounts) with at least a three-year history. Exchange-traded funds and open-ended mutual funds are considered a single population for comparative purposes. It is calculated based on a Morningstar Risk-Adjusted Return measure that accounts for variation in a managed product's monthly excess performance, placing more emphasis on downward variations and rewarding consistent performance. The Morningstar Rating does not include any adjustment for sales loads. The top 10% of products in each product category receive 5 stars, the next 22.5% receive 4 stars, the next 35% receive 3 stars,

the next 22.5% receive 2 stars, and the bottom 10% receive 1 star. The Overall Morningstar Rating for a managed product is derived from a weighted average of the performance figures associated with its three-, five-, and 10-year (if applicable) Morningstar Rating metrics. The weights are: 100% three-year rating for 36-59 months of total returns, 60% five-year rating/40% three-year rating for 60-119 months of total returns, and 50% 10-year rating/30% five-year rating/20% three-year rating for 120 or more months of total returns. While the 10-year overall star rating formula seems to give the most weight to the 10-year period, the most recent three-year period actually has the greatest impact because it is included in all three rating periods. For private funds, the Morningstar Rating presented is hypothetical, because Morningstar does not independently analyze private funds. Rather, the rating is assigned as a means to compare these funds with the universe of mutual funds that Morningstar rates. The evaluation of this investment does not affect the retail mutual fund data published by Morningstar.

Morningstar Return

The Morningstar Return rates a fund's performance relative to other managed products in its Morningstar Category. It is an assessment of a product's excess return over a risk-free rate (the return of the 90-day Treasury Bill) in comparison with the products in its Morningstar category. In each Morningstar category, the top 10% of products earn a High Morningstar Return (High), the next 22.5% Above Average (+ Avg), the middle 35% Average (Avg), the next 22.5% Below Average (- Avg), and the bottom 10% Low (Low). Morningstar Return is measured for up to three time periods (three, five, and 10 years). These separate measures are then weighted and averaged to produce an overall measure for the product. Products with less than three years of performance history are not rated.

Morningstar Risk

Morningstar Risk evaluates a fund's downside volatility relative to that of other products in its Morningstar Category. It is an assessment of the variations in monthly returns, with an emphasis on downside variations, in comparison with the products in its Morningstar category. In each Morningstar category, the 10% of products with the lowest measured risk are described as Low Risk (Low), the next 22.5% Below Average (- Avg), the middle 35% Average (Avg), the next 22.5% Above Average (+ Avg), and the top 10% High (High). Morningstar Risk is measured for up to three time periods (three, five, and 10 years). These separate measures are then weighted and averaged to produce an overall measure for the product. Products with less than three years of performance history are not rated.

Risk Measures

R-squared reflects the percentage of a fund's movements that are explained by movements in its benchmark index, showing the degree of correlation between the fund and the benchmark.

Beta is a measure of a fund's sensitivity to market movements. A portfolio with a beta greater than 1 is more volatile than the market, and a portfolio with a beta less than 1 is less volatile than the market.

Alpha measures the difference between a fund's actual returns and its expected performance, given its level of risk

(as measured by beta).

Sharpe ratio uses standard deviation and excess return to determine reward per unit of risk.

Standard deviation is a statistical measure of the volatility of the fund's returns.

Mean represents the annualized three-year geometric return.

Morningstar Style Box™

The Morningstar Style Box™ reveals a fund's investment strategy as of the date noted on this report.

For equity funds, the vertical axis shows the market capitalization of the long stocks owned, and the horizontal axis shows the investment style (value, blend, or growth.) A darkened cell in the style box matrix indicates the weighted average style of the portfolio.

For portfolios holding fixed-income investments, a Fixed Income Style Box is calculated. The vertical axis shows the credit quality based on credit ratings and the horizontal axis shows interest-rate sensitivity as measured by effective duration. There are three credit categories - "High", "Medium", and "Low"; and there are three interest rate sensitivity categories - "Limited", "Moderate", and "Extensive"; resulting in nine possible combinations. As in the Equity Style Box, the combination of credit and interest rate sensitivity for a portfolio is represented by a darkened square in the matrix. Morningstar uses credit rating information from credit rating agencies (CRAs) that have been designated Nationally Recognized Statistical Rating Organizations (NRSROs) by the Securities and Exchange Commission (SEC) in the United States. For a list of all NRSROs, please visit <https://www.sec.gov/ocf/ocf-current-nrsros.html>. Additionally, Morningstar will use credit ratings from CRAs which have been recognized by foreign regulatory institutions that are deemed the equivalent of the NRSRO designation. To determine the rating applicable to a holding and the subsequent holding weighted value of a portfolio two methods may be employed. First is a common methodology approach where if a case exists such that two CRAs have rated a holding, the lower rating of the two should be applied; if three or more CRAs have rated a holding, the median rating should be applied; and in cases where there are more than two ratings and a median rating cannot be determined, the lower of the two middle ratings should be applied.

Alternatively, if there is more than one rating available an average can be calculated from all and applied.

Please Note: Morningstar, Inc. is not an NRSRO nor does it issue a credit rating on the fund. Credit ratings for any security held in a portfolio can change over time.

Morningstar uses the credit rating information to calculate a weighted-average credit quality value for the portfolio. This value is based only upon those holdings which are considered to be classified as "fixed income", such as government, corporate, or securitized issues. Other types of holdings such as equities and many, though not all, types of derivatives are excluded. The weighted-average credit quality value is

Disclosure

represented by a rating symbol which corresponds to the long-term rating symbol schemas employed by most CRAs. Note that this value is not explicitly published but instead serves as an input in the Style Box calculation. This symbol is then used to map to a Style Box credit quality category of "low," "medium," or "high". Funds with a "low" credit quality category are those whose weighted-average credit quality is determined to be equivalent to the commonly used High Yield classification, meaning a rating below "BBB", portfolios assigned to the "high" credit category have either a "AAA" or "AA+" average credit quality value, while "medium" are those with an average rating of "AA-" inclusive to "BBB-". It is expected and intended that the majority of portfolios will be assigned a credit category of "medium".

For assignment to an interest-rate sensitivity category, Morningstar uses the average effective duration of the portfolio. From this value there are three distinct methodologies employed to determine assignment to category. Portfolio which are assigned to Morningstar municipal-bond categories employ static breakpoints between categories. These breakpoints are: "Limited" equal to 4.5 years or less, "Moderate" equal to 4.5 years to less than 7 years; and "Extensive" equal to more than 7 years. For portfolios assigned to Morningstar categories other than U.S. Taxable, including all domiciled outside the United States, static duration breakpoints are also used: "Limited" equals less than or equal to 3.5 years, "Moderate" equals greater than 3.5 years but less than or equal to 6 years, and "Extensive" is assigned to portfolios with effective durations of more than 6 years.

Note: Interest-rate sensitivity for non-U.S. domiciled portfolios (excluding those in Morningstar convertible categories) may be assigned using average modified duration when average effective duration is not available.

For portfolios Morningstar classifies as U.S. Taxable Fixed-Income, interest-rate sensitivity category assignment is based on the effective duration of the Morningstar Core Bond Index (MCBI). The classification assignment is dynamically determined relative to the benchmark index value. A "Limited" category will be assigned to portfolios whose average effective duration is between 25% to 75% of MCBI average effective duration, where the average effective duration is between 75% to 125% of the MCBI the portfolio will be classified as "Moderate", and those portfolios with an average effective duration value 125% or greater of the average effective duration of the MCBI will be classified as "Extensive".

Investment Risk

Foreign Securities Funds/Emerging Markets Funds: The investor should note that funds that invest in foreign securities involve special additional risks. These risks include, but are not limited to, currency risk, political risk, and risk associated with varying accounting standards. Investing in emerging markets may accentuate these risks.

Specialty/Sector Funds: The investor should note that funds that invest exclusively in one sector or industry involve additional risks. The lack of industry diversification subjects the investor to increased industry-specific risks.

Non-Diversified Funds: The investor should note that funds

that invest more of their assets in a single issuer involve additional risks, including share price fluctuations, because of the increased concentration of investments.

Small Cap Funds: The investor should note that funds that invest in stocks of small companies involve additional risks. Smaller companies typically have a higher risk of failure, and are not as well established as larger blue-chip companies. Historically, smaller-company stocks have experienced a greater degree of market volatility than the overall market average.

Mid Cap Funds: The investor should note that funds that invest in companies with market capitalizations below \$10 billion involve additional risks. The securities of these companies may be more volatile and less liquid than the securities of larger companies.

High-Yield Bond Funds: The investor should note that funds that invest in lower-rated debt securities (commonly referred to as junk bonds) involve additional risks because of the lower credit quality of the securities in the portfolio. The investor should be aware of the possible higher level of volatility, and increased risk of default.

Tax-Free Municipal Bond Funds: The investor should note that the income from tax-free municipal bond funds may be subject to state and local taxation and the Alternative Minimum Tax.

Statement of Work

Recordkeeping Only

This **Statement of Work** is entered on _____ (**"Effective Date"**), between **Town of Jupiter Island ("Company")** and **Newport Group, Inc. ("Newport Group")**. The terms of the Master Services Agreement (**"MSA"**) between Company and Newport Group, dated as of the same date, are incorporated by reference, except as modified below. Capitalized terms not defined in this Statement of Work have the meaning given in the MSA.

RECITALS

Company, as the plan sponsor for the **Town of Jupiter Island Deferred Compensation Plan (457b)** (the **"Plan"**) hereby retains Newport Group to provide recordkeeping services for the Plan (**"Services"**) in accordance with the terms and conditions set forth herein.

In consideration of their mutual undertakings set forth below, the parties agree as follows:

1. SERVICES TO BE PERFORMED

Newport Group agrees to perform the following Services for the duration of this Statement of Work.

1.1 Conversion and Implementation Services

- (a) Where applicable, Newport Group will coordinate the transfer of Plan data and documentation from the prior record keeper and administrator to Newport Group's recordkeeping platform.
- (b) Newport Group will coordinate the transfer of trust assets from the prior trustee/custodian to the successor trustee/custodian, as authorized by Company.
- (c) Newport Group will prepare blackout notices for Company to deliver to participants, as applicable.
- (d) Newport Group will provide Company with appropriate payroll processing training.

Trading may commence by the end of the 7th Business Day following the date Newport Group receives all necessary Plan information and documentation by 1 p.m. ET. All information and documentation will be delivered to Newport Group electronically in a form acceptable to it. In the event the broker of record information needs to be verified, trading will be made available as soon as administratively feasible.

Newport Group will accept historical and other Plan information received as correct and complete, and will not audit such information for accuracy, compliance with government requirements or consistency.

1.2 Plan Document Services

- (a) If Company elects to use a Newport Group-sponsored plan document, Newport Group will prepare drafts of the plan document and summary plan description for review and approval by Company during the conversion process.
- (b) If Company elects to use a Newport Group-sponsored plan document, Newport Group will, for an additional fee, provide drafts of discretionary amendments and related summaries of material modifications as requested by an Authorized Person for review and approval by Company.
- (c) Newport Group will assist Company in reviewing Plan provisions and may propose changes in Plan design based on Company's objectives as communicated to Newport Group or as required by IRS guidance.

1.3 Communication/Enrollment Services

- (a) Newport Group will prepare and provide to Company drafts of automatic enrollment notices as applicable.
- (b) Upon request and for an additional fee, Newport Group will prepare and provide to Company drafts of such other participant communications as may be required pursuant to the Plan or Applicable Law.

Company is responsible for distributing any such notices and communication materials to participants and other parties unless it requests Newport Group to distribute such notices and communications on its behalf for an additional fee. Company will review and approve all employee communications and enrollment materials. Company agrees that it will promptly provide (or cause a third party to provide) Newport Group with such participant information as it may require in order to perform this service.

Newport Group prepares participant communication material and reports based on information that is reasonably available in the marketplace and/or provided by Company and other service providers. Where available, Newport Group will deliver such material electronically.

1.4 Recordkeeping Services

- (a) **Coordination with Plan Auditors.** To the extent applicable, and for Plan years for which Newport Group is engaged as recordkeeper, Newport Group will provide standard Plan reports directly to the Plan auditors and will respond to auditor questions regarding information related to such standard reports. Company hereby authorizes Newport Group to provide such reports and information directly to the Plan auditors. The time required to provide additional information requested by the auditors will be charged at the hourly rate set forth in the Fee Schedule attached hereto, and notice of such charges will be provided to Company.
- (b) **Missing Persons.** Upon request, and for an additional fee, Newport Group will assist Company in locating missing participants and take action as directed by Company or an Authorized Person with respect to benefits for missing participants.

- (c) **Distribution Processing.** Newport Group will process distributions in accordance with instructions from an Authorized Person, which may include pre-approval of specific types of distributions meeting agreed criteria. Newport Group will provide instructions to the Plan trustee or custodian, as applicable, regarding tax withholding and reporting. Newport Group is not responsible for remitting taxes withheld or filing tax forms. Company is responsible for timely reporting of separations of service and is responsible for non-compliance if such reporting is not provided. Company is responsible for maintaining current participant addresses.

Distributions will be processed (requested by participant and approved by Company or an Authorized Person) through the Website except where spousal consent is required, an in-kind distribution is being requested, or Newport Group is otherwise not able to process the distribution via the Website. Where paperless distributions are not available, Newport Group will provide the appropriate documentation to enable the distribution process.

Newport Group will not be responsible for processing any distribution request that is incomplete. Newport Group will have no obligation to inquire as to the validity or accuracy of any distribution.

Non-periodic distributions will be made by check; periodic distributions may be made by ACH or check, as requested by the participant. All direct rollovers will be made by check and mailed to the participant for delivery to the rollover institution.

Newport Group will process stale (returned or unclaimed) checks in accordance with its standard procedures regarding stale dated and returned checks. If Company directs that a stop payment be placed on a check, Company will instruct Newport either to credit the proceeds back to the Participant's account or reissue the check or ACH or wire the proceeds.

- (i) **Optional Unforeseeable Emergency Withdrawal Service.** If the Plan document allows participants to take unforeseeable emergency withdrawals, Newport Group will, upon request and for an additional fee, assist Company in determining eligibility for unforeseeable emergency withdrawals and approving or denying withdrawal requests. If Company does not request such assistance, Newport Group's Services will be limited to processing the unforeseeable emergency withdrawal in accordance with instructions from an Authorized Person. Company is responsible for suspending deferrals and other contributions during the suspension period, as applicable.
- (ii) **Optional Domestic Relations Order Services.** Newport Group's Services will be limited to processing domestic relations orders in accordance with instructions from an Authorized Person.
- (d) **Loan Processing.** Newport Group will process loans in accordance with the Plan document and instructions from an Authorized Person. Loans will be processed (requested by participant and approved by Company or an Authorized Person) through the Website except where spousal consent is required, the loan is a residential loan, or Newport Group is otherwise not able to process the loan via the Website. Where

paperless loans are not available, Newport Group will provide the appropriate documentation to enable the loan process.

Complete loan requests received by 3 p.m. ET will be processed and the funds will be issued to have the loan proceeds mailed within three Business Days, provided that the trades have settled and funds have been received. Newport Group will not be responsible for processing any loan request that is incomplete. Newport Group will have no obligation to inquire as to the validity or accuracy of any loan.

Following the processing of a loan, Newport Group will post necessary information to the Website to enable Company to commence loan repayments through payroll deductions. Company is responsible for initiating payroll deductions for such loans. Newport Group will issue a quarterly report to notify Company upon the occurrence of a late payment and of loan defaults. Loans will be offset or treated as a deemed distribution solely at the direction of Company.

(e) **Participant Investment Accounts.** Newport Group will establish and maintain records for each participant's account under the Plan (including appropriate sub-accounts reflecting investment options and contribution classifications). Newport Group will facilitate the investment of contributions and other receipts and post transactions and investment gains and losses to participant accounts.

(i) **Investment Purchases, Sales or Exchanges.** Newport Group will instruct the Plan custodian to buy, sell or exchange securities or other investments in accordance with, and upon receipt of, instructions electronically transmitted via the Website, VRU or otherwise provided to Newport Group in writing by Company, an Authorized Person or a participant.

On each Business Day, Newport Group will transmit instructions to the custodian for the investment exchanges, transfers, and changes in investment directions for contributions and existing account balances which are submitted on the recordkeeping system before 4 p.m. ET (or such other deadline established by Newport Group, Company, broker or market specialist for the day). Directions received on or after 4 p.m. ET (or such other deadline established by Newport Group, Company, broker or market specialist for the day) will generally be processed the next Business Day.

Newport Group is not responsible for directions that have been properly processed and timely transmitted to the custodian. Newport Group may specify the manner in which investment directions will be provided to Newport Group, including, without limitation, through Newport Group's internet interface or through Newport Group's VRU system, and Newport Group will not be responsible for investment directions provided through other means. Newport Group will have no authority or responsibility for executing the purchase or sale of securities or other assets held in the Plan trust.

(ii) **Changes in Investment Options or Related Systems.** The addition, change or deletion of funds offered under the Plan (including fund swaps/changes, fund line-up changes, model changes/maintenance and rebalances, and corporate actions

services), or changes affecting the systems through which existing or new funds are offered, will be processed by Newport Group based on information received from Company. Newport Group will prepare all necessary fund addition, change or deletion forms and any applicable blackout notices and/or fund disclosures. Changes must be communicated to Newport Group upon at least ninety (90) Business Days' advance written notice, unless otherwise agreed to by Newport.

Provided advance written notice has been provided, the addition, change or deletion of funds offered under the Plan will become effective and available for trading by the end of the 5th Business Day after Newport Group's receipt of all necessary information and documentation and expiration of all applicable regulatory and Newport or fund-mandated notice periods. In the event that a fund is not currently traded by Newport Group or the Plan's custodian, and for changes affecting systems through which existing or new funds are offered, the fund or change will be made available as soon as administratively feasible.

Company is responsible for, and Newport Group will have no obligation for, reviewing all requirements and restrictions imposed by the mutual fund and for verifying that Company will meet any such requirements or restrictions.

Newport Group will make Plan-level in-kind transfers if directed by Company.

- (f) Contributions and Loan Repayments. Newport Group will process participant and Company contributions and loan repayments and credit such amounts to participant investment accounts.

On a daily basis, Newport Group will accept and process payroll files that reconcile to the payroll deposit received for investment by the Plan's trustee or custodian, via the Website. Payroll and deposit information must be provided in the format and field order required by Newport Group. Subject to any requirements imposed by the Plan's trustee or custodian, contributions may be made by ACH pull from Company's designated account, or by wire.

ACH pull deposit requests received in good order by the Plan's trustee or custodian by 1:30 p.m. ET on a Business Day will be processed by Newport Group that day. ACH pull deposit requests received in good order by the Plan's trustee or custodian after 1:30 p.m. ET will be processed by Newport Group the next Business Day.

Contributions that reconcile to deposits will be credited to individual participant accounts each Business Day, typically on the same Business Day according to then current procedures. Contributions will not be processed until Newport Group has received participant allocation information. Contributions for participants for whom no investment direction has been provided to Newport Group will be allocated to the Plan's default investment, as selected by Company.

Company is responsible for ensuring that participant contribution/deferral elections and loan repayments are properly implemented through Company's payroll system and that funds (including participant elective deferrals) are remitted to the Plan trust when required by Applicable Law.

- (g) Daily Valuation. Newport Group will calculate the value of each participant's account based on the prior Business Day's values as reported by the Plan's custodian.
- (h) Participant Reporting. Newport Group will prepare pension benefit statements each calendar quarter for participants, beneficiaries and alternate payees with an account balance during such quarter.
- (i) Company Reports. Upon request by Company, and for an additional fee, Newport Group will prepare customized reports as agreed to by Newport Group in its sole discretion.

1.5 Participant and Company Support. Newport Group will maintain and provide a toll-free automated telephone answering system ("VRU") that participants can use to obtain general Plan and account information and to request changes to investment and deferral elections. Newport Group will maintain staff to support participant inquiries in English and Spanish each Business Day between the hours of 8 a.m. to 8 p.m. ET. Other languages may be available upon request. Newport Group will also maintain a Website that Company and participants can use to access Plan and account information, request distributions and loans when available, make changes to investment and contribution elections when available, and provide Instructions as needed.

Access to and use of the Website is subject to the terms and conditions of such Website, and each user thereof must comply with all user enrollment and security procedures established by Newport Group (or its agents) from time to time.

To confirm identity of an authorized VRU or Website user, Newport Group requires users to provide Newport Group issued credentials. Newport Group will not be liable for any Losses incurred by Company, participant or other party for responding to an inquiry or processing instructions from a user of the VRU or Website that has confirmed identity using Newport Group issued credentials. A user of the Website is responsible for verifying the accuracy and receipt of all data or information that such user transmits via the Website. Company shall advise its users to promptly notify Company of any errors or inaccuracies in data or information on the Website.

2. COMPANY'S RESPONSIBILITIES

Company agrees to do the following:

2.1 Implementation.

- (a) **Plan Documents.** Company agrees to provide Newport Group with copies of current executed Plan and trust documents including all amendments thereto, and the most recent IRS determination, opinion, or advisory letter for the Plan. Company will notify Newport Group in advance of any changes to the interpretation or administration of the Plan and its related trust, and to provide notification to Newport Group of any substitution of the Plan's trustee.

Company agrees to provide Newport Group written notice of any amendments to the Plan at least 30 days prior to the effective date thereof, or such longer period as may be required by Newport Group. Newport Group will notify Company of any restrictions on Newport Group's ability to administer the Plan as a result of such amendments and shall further notify Company of any changes to the Services and fees as a result of such amendments.

Newport Group is not responsible for maintaining the tax-qualified status of any plan documentation except as specifically provided in this Statement of Work.

(b) **Implementation Data.** Company will provide to Newport Group the information required to implement the Plan or convert the Plan to Newport Group's recordkeeping systems. Such information will include eligible employee and participant census data, account data, and any related implementation or conversion data for the participant population as may be required by Newport Group and shall be provided in an electronic format acceptable to Newport Group. Newport Group shall have no duty to inquire as to the accuracy of the information provided by Company and is entitled to rely on such information in carrying out its duties under this Statement of Work.

(c) **Ticker Symbols** Company will provide Newport Group with applicable identifying symbols and numbers (e.g., ticker symbols and CUSIP numbers) of the securities to be initially held in the Plan's trust account no fewer than twenty (20) Business Days prior to the desired account opening date.

2.2 Payroll Administration. Company hereby acknowledges that it is responsible for the implementation and administration of participant deferrals, contributions and loan repayments through its payroll system, including, without limitation, compliance with all federal, state and local employment (income and FICA/FUTA) tax withholding and reporting requirements with respect to such amounts. Company agrees to provide Newport Group, in an electronic format acceptable to Newport Group, with the amount of participant deferrals, contributions and loan repayments for each payroll period, and with the amounts of any pay period allocations of Company contributions among participants for such payroll period, in order to allow Newport Group to update participant accounts.

2.3 Reports. Company agrees to promptly review all reports prepared and delivered to Company by Newport Group. If Company shall not, within sixty (60) days after the date of any such report, notify Newport Group in writing of any inaccuracies or errors in the report, such report shall be deemed complete, accurate and duly approved by Company. Notwithstanding the foregoing, Newport Group will make every effort to correct any inaccuracies or errors in any report within sixty (60) days after the date Newport Group receives written notification from Company of such inaccuracies or errors.

2.4 [Reserved]

2.5 Information and Data. Company agrees that it will promptly provide (or cause a third party to provide) Newport Group with such information as it may reasonably request from time to time to perform the Services, including:

- (a) Copies of current signed Plan and trust documents and all amendments
- (b) Current Plan records
- (d) Notification of an eligible employee's initial eligibility to participate in the Plan
- (e) Service history
- (f) Current signed benefit elections for participants requesting payments
- (g) Notification of any upcoming merger, acquisition, spinoff, divestiture, or other corporate transaction
- (h) Notification of any change in Authorized Persons
- (i) Accurate population of payroll data files uploaded for each payroll cycle that contains the following information for all employees:
 - (i) Social security numbers
 - (ii) Full name
 - (iii) Birth date
 - (iv) Hire date
 - (v) Termination date
 - (vi) Rehire date
 - (vii) Pay period and year to date hours worked
 - (viii) Contribution amounts by source
 - (ix) Loan repayments
 - (x) Pay period and year to date compensation
 - (xi) Last known employee physical mailing addresses (not P.O. box)
 - (xii) Participant Company email addresses
 - (xiii) Other information as requested by Newport Group.

Company is responsible for ensuring that such information, documentation and instructions are complete and accurate and shall promptly inform Newport Group in writing of any changes to the Plan or Company that may affect Newport Group's obligations under this Statement of Work.

3. Company's Representations, Warranties and Acknowledgments

Company makes the following representations and warranties in addition to those set forth in the MSA:

- 3.1** Company (a) is an eligible employer under Code Section 457(b); (b) has the authority to act on behalf of the Plan; (d) has the authority and responsibility under the terms of the Plan; and (e) has the authority under the terms of the Plan to retain Newport Group to provide the Services to the Plan.
- 3.2** Company represents that the Plan and its related trust as applicable are intended to qualify as tax-exempt under Sections 401(a), 403(b), 457(b) and 501(a) of the Code, as applicable, and it will operate and administer the Plan and its related trust, and take all necessary actions and pay such expenses as needed to ensure the Plan's compliance both in form and operation with the provisions of Applicable Law. Company also represents that the Plan is not subject to the Internal Revenue Code of Puerto Rico.

- 3.3** Company has reviewed the terms and conditions of this Statement of Work and understands the nature of the Services to be performed by Newport Group and the fees Newport Group will charge for such Services. Based on such review, Company has determined that the fees are reasonable for the Services to be rendered.
- 3.4** Company understands and agrees that Newport Group shall have (i) no discretionary authority with respect to the investment of Plan assets or the administration of the Plan and (ii) no authority to interpret Plan documents, and that the sole duty of Newport Group in its role as recordkeeper is to assist Company in the performance of the Services as described herein.
- 3.5** Company acknowledges and agrees that it is responsible for the following:
- (a) Making any discretionary decision with respect to the operation of the Plan, including, without limitation, interpretation of Plan provisions, reasonableness of fees charged to the Plan, evaluation of claims made by Participants for benefits under the Plan and the investment of Plan assets;
 - (b) The selection and monitoring of the Plan's service providers, including accountants, actuaries, administrators, advisors, attorneys, custodians, financial advisors and/or trustees;
 - (c) Providing investment advice or investment management services;
 - (d) Ensuring that all funds required to be contributed to the Plan are contributed when required for tax deductibility, minimum funding standards and compliance with Applicable Law;
 - (e) Defending any legal proceeding brought by third parties against the Plan or Company or for the defense of any Plan audit by the IRS or any other government agency with respect to the Plan. Newport Group may be engaged for an additional fee to assist Company.

4. Fee Compensation

Fees for the Services are described in a schedule attached to this Statement of Work, and may include applicable revenue sharing for the Plan. Should any balance be past due in excess of sixty (60) days, Company irrevocably authorizes Newport Group to deduct from Plan assets any balance due to the extent permitted by the Plan and Applicable Law. Any such deductions will be allocated among all participants in the Plan in accordance with the terms of the Plan. To the extent that any such payments are made out of Plan assets, Company acknowledges and agrees that such payments are made at Company's direction. Company agrees to take all necessary actions and pay expenses related to maintaining the Plan as contemplated by this Statement of Work, in compliance with the Applicable Law.

5. TERM; AMENDMENT/TERMINATION

This Statement of Work is effective on the Effective Date and shall continue in effect until terminated by either party upon not less than ninety (90) days' advance written notice. Newport Group may amend this Statement of Work, including the Fee Schedule, at any time upon sixty (60) days' prior written notice to Company. In the event Company does not object to the amendment within thirty (30) days of delivery thereof, Company will be deemed to have accepted the amended Statement of Work.

In Witness Whereof, the parties have signed this **Statement of Work** effective as of the Effective Date.

Town of Jupiter Island

Newport Group, Inc.

By: _____

By:  _____

Printed Name: _____

Printed Name: Rick Irace

Title: _____

Chief Operating Officer, Total Services
Title: and Operations Management

Date: _____

Date: 2/26/2024

FEE SCHEDULE

RECORDKEEPING

PER PARTICIPANT	\$50
BASE FEE	\$1,250

TRUST AND CUSTODY

5 bps

TRANSACTIONS

Distribution (non-periodic)	\$60
Periodic Install Payments	\$12.50 per payment
Hardship Distribution	\$150
Force Out Administration Fee	\$20 per Participant
Loan Setup (new or takeover)	\$125
Annual Loan Maintenance	\$0
Self-Directed Brokerage Account Setup	\$75 per account
Self-Directed Brokerage Account	\$200 annually per account

PARTICIPANT MAILINGS AND ANNUAL NOTICES

Printed Participant Notice Mailings	\$50 initial setup plus \$1 per Participant
Printed Quarterly Participant Statement (includes annual 404(a)(5) disclosure)	\$1 each
Printed Quick Start Enrollment Guide	\$2 each
<i>Hard Copy Full Enrollment Booklet is available at \$5 each</i>	
Outgoing Bank Wire or other Electronic Transfers	\$10 per transfer
Overnight Delivery	\$30 per occurrence
Stop Payment/Reissue Fee	\$30 per occurrence
Plan Termination or Deconversion	\$1,000

DOCUMENT MAINTENANCE SERVICES

Major Sponsor-Requested Plan Amendments (e.g. name change, two or more minor Amendments, etc.)	\$500
Minor Sponsor-Requested Plan Amendments (e.g. address, trustee changes, etc.)	\$200

Revenue and Service Fee Authorization

1. Revenue Crediting Election. Select **one** of the following options to elect how revenue sharing funds will be applied:

- ☒ **Revenue Holding Account.** Newport will establish a RHA in the name of the Plan for the purposes of collecting revenue sharing funds. Funds will be used to pay Newport fees and other appropriate plan expenses as directed by the Company.
- ☐ **Plan Assets.** Newport will credit revenue sharing funds to Plan Participant accounts in proportion to Participant account balances after the revenue sharing funds have been collected.

2. Fee Payment Election. Select **one** of the following options to elect how fees are to be applied:

- ☐ **Plan Assets Pro Rata.** Fees will be paid from Plan assets in proportion to Plan Participant account balances.
- ☐ **Company Paid.** Fees will be paid directly by the Company.

- ☒ **Customized Fee Payment Election.** In the following table, indicate for each fee type the payment source by marking an "X" in the appropriate column. If you fail to make an election under one of these options, the default will be for the remaining balance of fees to be charged to the Plan on a pro rata basis.

An election must be made under columns (A) - (C) and may only include one option for each fee type.			
Fee Type	(A) Plan Assets Pro Rata	(B) Plan Assets Per Capita	(C) Company
Recordkeeping Participant Fees			X (*see below)
Base Fee			X
Trust and Custody Fees			X
Participant Mailings and Notices			X
Transaction Fees			
Describe any other fee payment elections below: (e.g. utilize forfeitures to pay fees, etc.)			
*Terminated participants pay their own per participant fee.			

Additional Terms and Conditions

Recordkeeping and Trust and Custody Services Fees

Fees listed are annual fees. Per Participant fees will be billed monthly in arrears and will be based upon the number of Participants on the last business days of the prior month. All other fees will be billed quarterly in arrears. Trust and custody fees will be based on total plan asset values on the last business day of the prior quarter. Plans electing to use ETFs will be charged an additional 5 bps on total assets in the plan. Base Fee includes up to 30 fund options; target date lineup is one fund option. Each additional fund is \$250 per year.

Transaction Fees

Transaction fees will be charged to the applicable Participant unless otherwise elected by the Company. SDBA fees apply to linked brokerage accounts only. Additional fees may apply for manual and unlinked SDBA accounts. Additional fees may be charged by the SDBA provider; participant accounts will be debited for any brokerage commissions or other fees related to trades placed through SDBA.

Document Maintenance Services

All Document Maintenance Service Fees will be charged to the Company. IRS required amendments and restatements will be quoted separately. Consulting Services include assistance with mergers, acquisitions, and spin-offs, preparation of DOL DFVCP and VFCP and IRS streamlined EPCRS filings.

Revenue Sharing

The Plan's investment line-up may include mutual funds and other investments that pay 12b-1, shareholder servicing fees and other fees ("revenue sharing funds"). To the extent the Company selects these investments as part of the Plan's investment line-up, Newport will collect and pass through to a Revenue Holding Account (RHA) or Plan Assets, as elected above, one hundred percent (100%) of the revenue sharing funds it collects.

Other Terms and Conditions

The Company is responsible for any out-of-pocket expenses Newport may incur on the Company's behalf, including but not limited to, messenger service fees, overnight delivery fees, filing fees and travel expenses.

The Company agrees to be responsible for Newport's normal and reasonable hourly rate and expenses in the event Newport is requested or required to perform additional services including, but not limited to, correction of errors (other than errors caused by Newport), response to subpoena or other legal process, or participation in legal proceeding, irrespective of whether Newport is still engaged to perform Services.

The Company agrees it is solely responsible for assessing and concluding that remuneration paid to any and all third party service providers is reasonable under ERISA and other applicable laws, rules and regulations, and that the use of Plan assets to pay such

providers is consistent with all applicable laws. The Company hereby acknowledges that it has been advised to consult with its legal counsel regarding this direction.

This Fee Schedule and Plan Sponsor Notice Regarding Services, Service Fees, and Investment Fees and Expenses (the "Plan Sponsor Notice") together are intended to satisfy the fee disclosure requirements set forth in Department of Labor regulation Section 2550.408b-2(c)(1). The Company represents and warrants that the fee and compensation information specified herein was provided to the Company and the Company had a reasonable opportunity to review and ask questions with respect to such information before entering into the SOW and MSA.

The Company has reviewed this Fee Schedule, the Plan Sponsor Notice, the SOW and the MSA, and understands the nature and amounts of the Fees and indirect compensation disclosed therein, and has determined that Newport is receiving reasonable compensation for the Services.

Defined terms used and not otherwise defined herein shall have the meanings set forth in the MSA and SOW.

IN WITNESS WHEREOF, the parties hereto have caused this Plan Fee Schedule to be executed by their duly authorized officers or representatives as of the date specified below.

Company: Town of Jupiter Island

By: _____

Signature: _____

Title: _____

Name: _____

Date: _____

Newport:
(NOTE: No handwritten changes will be accepted by Newport)

By: 

Signature: _____

Title: Chief Operating Officer, Total Services and Operations Management

Name: Rick Irace

Date: 2/26/2024

Trust Agreement

THIS TRUST AGREEMENT (the “**Agreement**”) is entered into as of the _____ by and between the entity named on the signature page hereof (the “**Company**”) and Newport Trust Company, LLC (the “**Trustee**”), a New Hampshire State chartered trust company.

WHEREAS, the Company has adopted the **Town of Jupiter Island Deferred Compensation Plan (457b)** (the “**Plan**”) for the benefit of its employees; and

WHEREAS, the Company desires to appoint the Trustee as a nondiscretionary, directed trustee of the Plan, and the Trustee desires to serve in such capacity.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

The use of defined terms in this Agreement have the following meanings:

- 1.1 “**Affiliate**” means, with respect to a party, an organization that is directly or indirectly owned or controlled by such party, owns or controls such party or is under common ownership or control with such party.
- 1.2 “**Applicable Law**” means the constitutions, statutes, rules, regulations and orders of governmental bodies or regulatory agencies, self-regulatory organizations and all orders and decrees of all courts and arbitrators in proceedings or actions applicable to a party in connection with the performance of its obligations under this Agreement, including but not limited to ERISA.
- 1.3 “**Authorized Person**” means the person or persons identified in a certificate of incumbency delivered to the Trustee by the Company pursuant to authorization of the Company's Board of Directors. The Trustee will be entitled to rely on any direction or notice from the Authorized Person(s) specified in such incumbency certificate until it receives written notice to the contrary.
- 1.4 “**Code**” means the Internal Revenue Code of 1986, and the rules and regulations promulgated thereunder, as amended from time to time.
- 1.5 “**Company**” means the entity named on the signature page hereof.
- 1.6 “**Contracts**” means, collectively, life insurance policies, group annuities, guaranteed investment contracts, bank investment contracts or similar vehicles permitted under the Plan.
- 1.7 “**Directions**” (and its derivatives, including “Direct”) means the Company's, Plan Administrator's or other Authorized Person's written directions and instructions to the Trustee.
- 1.8 “**Employer Securities**” means “qualifying employer securities” (as defined in Section 407 of ERISA), which may include any qualifying employer securities received as a result of any exchange or conversion of, or dividend received on, Employer Securities.
- 1.9 “**ERISA**” means the Employee Retirement Income Security Act of 1974, and the rules and regulations promulgated thereunder, as amended from time to time.

- 1.10 **"Investment Manager"** means an "investment manager" as defined in Section 3(38) of ERISA appointed by the Company in accordance with **Section 7.2** of this Agreement. Instructions from the Investment Manager constitute Instructions from an Authorized Person.
- 1.11 **"Participant"** means the participant and his or her beneficiary or beneficiaries, as defined in the Plan.
- 1.12 **"Participant Directed Account"** means the portion of the Trust over which a Participant has investment direction authority, to the extent permitted under the Plan.
- 1.13 **"Personal Information"** means, with respect to Company employees and Participants, any information that relates to an identified or identifiable natural person which is protected by Applicable Law.
- 1.14 **"Plan Administrator"** means the Company or the person, persons or entity appointed by the Company in accordance with **Article V** to act as a "plan administrator" (as such term is defined in ERISA).
- 1.15 **"Trustee"** means Newport Trust Company, LLC and any duly appointed successor trustee or trustees acting hereunder.
- 1.16 **"Unauthorized Disclosure"** means an unauthorized release of, or access to, Company Confidential Information, to or by any person obtaining or reasonably believed to have obtained such Company Confidential Information, or access to such Company Confidential Information, from or through the Trustee or any of its agents.

2. THE TRUST

- 2.1 **Establishment of Trust.** The Company hereby establishes with the Trustee a trust consisting of such sums of money and such other assets acceptable to the Trustee in its sole discretion as shall from time to time be actually delivered to the Trustee under the Plan, together with the earnings and profits thereon, less any payments or distributions that are made by the Trustee as provided herein (the "**Trust**"). The Plan, this Agreement, and the Trust created hereby are intended to meet the applicable requirements of ERISA and Sections 401(a) and 501(a) of the Code. The Company will be responsible for ensuring the continued qualification of the Plan and exemption of the Trust.
- 2.2 **Superseding Effect of the Agreement.** This Agreement restates, replaces or amends any existing trust agreement covering assets held or to be held in the Trust.
- 2.3 **Exclusive Use.** Except as may otherwise be permitted by Applicable Law, at no time prior to the satisfaction of all liabilities with respect to the Participants will any part of the corpus or income of the Trust be used for, or diverted to, purposes other than for the exclusive benefit of the Participants and for defraying the reasonable expenses of administering the Plan.
- 2.4 Except as may be required under Applicable Law, Trustee shall have no duty or responsibility not expressly set forth in this Trust Agreement. By way of example, but without limiting the matters subject to the foregoing sentence, the Trustee shall have no responsibility with respect to the administration or interpretation of the Plan, payment of Plan benefits other than from the assets of the Trust, the calculation of tax to be withheld, reported and/or paid to taxing authorities and (if applicable pursuant to the fee schedule) withholding, remitting, or reporting to taxing authorities of taxes other than from payments to Participants made by the Trustee with Trust assets, and other than as directed by the Company, or maintaining participant records with respect to the Plan.

3. REPRESENTATIONS AND WARRANTIES

- 3.1 **Representations and Warranties of the Parties.** Each party hereto represents and warrants to the other that: (a) it is a duly organized legal entity having all requisite authority under its organizing documents and Applicable Laws to enter into this Agreement and to perform its obligations hereunder; (b) the execution and delivery of this Agreement and the performance of the obligations contemplated hereunder have been duly and validly authorized by all necessary action, and this Agreement constitutes a valid and legally binding obligation of such party enforceable in accordance with its terms; (c) the person executing this Agreement on its behalf is duly authorized and empowered to execute and deliver this Agreement; and (d) it will perform its obligations under this Agreement in accordance with the provisions of Applicable Law.
- 3.2 **Additional Company Representations and Warranties.** The Company hereby represents and warrants that: (a) the terms of the Plan provide for the creation of a trust and the appointment of a trustee and one or more Investment Managers; (b) it either has responsibility as a “named fiduciary” as defined in Section 402(a)(2) of ERISA or has properly delegated the responsibility to a Plan fiduciary, other than the Trustee, for determining the correctness, amount and timing of contributions and for the collection of contributions; (c) the Company is the “plan sponsor” of the Plan as defined in Section 3(16)(b) of ERISA and has the authority to act for all related participating employers, if any, designated under the Plan; and (d) the terms of the Plan do not impose any duties or obligations upon the Trustee that are not contained in, or are inconsistent with, this Agreement.

4. STANDARD OF CONDUCT

- 4.1 The Trustee shall discharge its duties hereunder solely in the interest of the Participants and for the exclusive purpose of providing benefits to Participants and for defraying reasonable expenses of administering the Plan. The Trustee shall perform all of its duties with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, or in accordance with such other standard as may, from time to time, be required by Applicable Law, and in accordance with the Plan and this Agreement, insofar as they are consistent with ERISA.
- 4.2 Except as may be authorized by Applicable Law, the Trustee shall not maintain the indicia of ownership in any assets of the Trust outside of the jurisdiction of the District Courts of the United States.

5. PLAN ADMINISTRATOR

- 5.1 The Company shall appoint in writing a Plan Administrator. If no such person, persons or entity is so designated, such term will mean the Company.
- 5.2 The Plan Administrator may delegate any or all of the duties, responsibilities, or authority imposed upon or granted to the Plan Administrator under the Plan or this Agreement to one or more Authorized Persons to the extent permitted by the Plan document and Applicable Law and shall promptly notify the Trustee in writing of any such delegation and any limits or changes in such Authorized Person's authority.

- 5.3 The Plan Administrator will have exclusive responsibility for management of the Trust and the direction of the investment of the Trust, except as provided pursuant to **Section 7.2** and **Section 7.6**.

6. ADMINISTRATION AND OPERATION OF TRUST

6.1 Contributions and Distributions.

- (a) **Receipt of Contributions.** The Trustee shall hold in the Trust all amounts received by the Trustee and designated as contributions to the Trust, except to the extent required by Applicable Law or as otherwise provided pursuant to Section 6.1(b). All contributions so received, together with any income or other amount realized by the Trust, will be invested and administered by the Trustee in accordance with the terms of this Agreement. The Plan Administrator is responsible for enforcing collection from the Company of any contributions to the Trust and to determine the correctness of the amount and timing of any contribution. The Trustee will have no responsibility for enforcing the collection from the Company of any contribution to the Trust or for determining the correctness of the amount or timing of any contribution or the sufficiency of the Trust. The Trustee may rely upon the determination of the Plan Administrator that all assets received by it are properly contributed or transferred to the Trust in accordance with the provisions of the Plan.
- (b) **Unacceptable Assets.** The Company shall place any assets which are unacceptable to the Trustee with another trustee under a separate trust agreement or may retain such assets in any other "appropriate account" as defined in Section 401(f) of the Code. The Trustee will have no responsibility for such assets.
- (c) **Returns to Company.** The Trustee will return contributions to the Company upon proper Directions. The Company is solely responsible for ensuring that a Direction to return any amount to the Company meets the requirements of Applicable Law.
- (d) **Distributions.** Upon receipt of Directions, the Trustee shall make payments from the Trust to or for the benefit of Participants, in such manner, amounts and times, and for such purposes as may be specified in such Directions, or for the payment of fees and expenses pursuant to **Article 10** of this Agreement. The parties acknowledge and agree that the Trustee is not responsible for determining the accuracy or appropriateness of any such distribution or for making any distribution out of the Trust in excess of the available funds in the Trust.

- 6.2 **Participant Loans.** If the Plan permits loans to eligible Participants, the Trustee will make distributions to Participants in accordance with Directions and receive payments thereon. The parties acknowledge and agree that Plan Administrator or its designee is responsible for the administration of such loans, including but not limited to determining the terms of Participant loans, approving loans, providing appropriate disclosures under Applicable Law, collection of payments and the enforcement of Participant notes. The Trustee's sole responsibility with respect to loans shall be to make distributions to Participants in accordance with Instructions and to receive payments thereon.

- 6.3 **Proxies.** All voting rights with respect to assets held in the Trust, including shares of Employer Securities, shall be exercised by the Trustee only as Directed by the Plan Administrator, or as required by Applicable Law. The Plan Administrator shall have the responsibility for Directing the Trustee as to voting such shares under the terms of the Plan or under an agreement between a named fiduciary of the Plan and an Investment Manager, in which case such Investment Manager

shall have such responsibility. In no event will the Trustee be responsible for the voting or tendering of shares of securities held in the Trust or for ascertaining or monitoring whether or how proxies are voted or whether the proper number of proxies is received.

7. INVESTMENT OF TRUST

- 7.1 **No Discretion.** The Plan Administrator, as the named fiduciary for the Plan, is responsible for determining the diversification policy with respect to the investment of Plan assets, for monitoring adherence to such policy, and for advising the Trustee with respect to its compliance with any investment limitations contained in the Plan. The Trustee will have no discretionary control over, or any other discretion regarding, the investment of the Trust. The Company hereby Directs the Trustee to act solely in accordance with Directions from the Company, Plan Administrator or Investment Manager with respect to the investment of the assets held in the Trust. To the full extent permitted by Applicable Law, the Trustee will have (a) no duty to inquire whether such Directions conform to the Plan or Applicable Law, including, but not limited to Section 404(c) of ERISA; and (b) no liability or responsibility for following any such Direction, or for failing to act in the absence of such Direction.
- 7.2 **Investment Manager.** The Company may, through Direction, appoint an Investment Manager to direct investment of the Trust in whole or in part. Each appointment of any person as an Investment Manager will constitute the representation and warranty to the Trustee by the Company that the Company has determined that such person either is, and so long as such appointment is effective remains (a) registered as an investment advisor under the Investment Advisors Act of 1940; (b) a bank as defined in the Investment Advisers Act of 1940, as amended; or (c) an insurance company qualified to perform the services hereinafter described under the laws of more than one State.
- 7.3 **Permitted Investments.** The Trust may be invested in such property of any character, real or personal, as an Authorized Person may instruct, as the Trustee may accept from time to time (individually and collectively, "**Permitted Investments**"). In the event the Trustee has not received investment Directions, the Plan Administrator will be deemed to have Directed the Trustee to invest in the Plan's Qualified Default Investment Alternative, if a fund has been designated as such, or the cash investment option available to the Plan which cash investment option may include a savings instrument or deposit account of the Trustee, its Affiliates or subcontractors, which bears a reasonable rate of interest. The Company hereby authorizes the Trustee to hold a reasonable portion of the Trust in cash pending payment of current expenses or benefits from the Trust, or pending the consummation of transactions entered into on behalf of the Trust, without liability to the Trust for interest thereon.
- 7.4 **Prohibited Transactions.** The Company understands that certain transactions are prohibited for tax-exempt retirement plans under ERISA and under Code Section 4975. The Company will not direct the purchase or sale of any Trust asset to or from a "disqualified person" as defined in Code Section 4975(e), or a "party-in-interest" as defined in ERISA Section 3(14), or in any other way direct an investment or other transaction that would be deemed a non-exempt "prohibited transaction" with respect to the Plan under Applicable Law. The Trustee will have no duty to determine whether any transaction is, or has the potential to be, a "prohibited transaction."
- 7.5 **Investment Powers.** The Trustee to take any of the following nondiscretionary investment powers upon receipt of Directions:
- (a) To invest and reinvest all or a portion of the assets comprising the Trust in Permitted Investments.

- (b) To deposit or invest all or any part of the assets of the Trust in savings accounts or certificates of deposit or other deposits in a bank or savings and loan association or other depository institution, including the Trustee or any of its Affiliates, provided that with respect to such deposits with the Trustee or an Affiliate, the deposits will bear a reasonable interest rate.
- (c) To invest and reinvest all or any portion of the assets comprising the Trust in any group trust fund which at the time of the investment provides for the pooling of the assets of plans qualified under Section 401(a) of the Code. This authorization applies solely to a group trust fund exempt from taxation under Section 501(a) of the Code and the trust agreement which satisfies the requirements of Revenue Ruling 81-100. The provisions of the group trust fund agreement, as amended from time to time, are incorporated by reference within this Agreement. The provisions of the group trust fund will govern any investment of Plan assets in that fund. The Plan Administrator must specify, in a form acceptable to the Trustee, to which group trust fund(s) this authorization applies.
- (d) To sell, exchange, convey, transfer or otherwise dispose of, any securities or property held by it, by private contract or public auction, with or without notice or advertisement of any kind, and no person dealing with the Trustee will be bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety of any such sale or other disposition.
- (e) To purchase or sell, write or issue, puts, calls or other options, covered or uncovered, to enter into financial futures contracts, forward placement contracts and standby contracts and, in connection therewith, to deposit, hold or pledge assets of the Trust.
- (f) To execute any securities transactions and to perform any other services required to be provided by a registered broker dealer through the Trustee's Affiliate brokers, at the Affiliate's normal rates of compensation and without diminution of the compensation payable to the Trustee hereunder, provided such transactions are executed in accordance with Applicable Law.
- (g) To give general or special proxies or powers of attorney with or without powers of substitution; to exercise any conversion privileges, voting rights, subscription rights, rights to participate in voting trusts with other stockholders, or other options, and to make payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith; to abandon any property determined by it to be worthless; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities and other property held as part of the Trust.
- (h) To lend securities or enter into repurchase agreements, to extend the time of payment of any obligation owing to the Trust, and to borrow money for the purposes of the Trust from others, excluding the Trustee in its corporate capacity and excluding any other "party in interest" (as defined in Section 3(14) of ERISA); provided, however, the Trustee may agree to an arrangement to borrow from a party in interest upon such terms and conditions as it may deem acceptable. Any such loan will be upon such terms and conditions as the Company or Plan Administrator may deem comply with the requirements of Applicable Law and, for the sum so borrowed or advanced, the Trustee may issue a promissory note and secure the repayment thereof by creating a lien upon assets of the Trust.

- (i) To contest, settle, abandon or compromise claims, demands, debts or damages due or owing to or from the Trust, to commence, settle, compromise or defend suits or legal or administrative proceedings, and to represent the Trust in suits and legal and administrative proceedings; provided, however, the Trustee will have no duty to begin or maintain any legal or administrative proceeding unless it has been indemnified by the Company to its satisfaction for its counsel fees, costs, disbursements, and all other expenses and liabilities to which it may be subjected as a consequence of beginning or maintaining such legal or administrative proceeding.
- (j) To make, execute, acknowledge and deliver documents of transfer and conveyance and other instruments that may be necessary or appropriate to carry out the powers granted herein.

7.6 Participant Directed Accounts. The Plan Administrator shall Direct the Trustee regarding the investment of its Participant Directed Account. Participant-directed investments are limited to those investments permitted under the Plan. A Participant's beneficiary, upon the death of a Participant, or an alternate payee, in the event of a qualified domestic relations order, shall provide investment Directions through the Plan Administrator and such beneficiary or alternate payee will assume all rights and responsibilities for the Participant's Participant Directed investments. The exercise of investment direction by a Participant will not cause such Participant to be a fiduciary solely by reason of its exercise, and neither the Trustee nor any other fiduciary of the Plan will be liable for any loss, or by reason of any breach, that results from the exercise of investment direction by a Participant.

7.7 Employer Securities. If permitted pursuant to the Plan, the Trust may be invested in Employer Securities to the extent necessary to comply with investment Directions under this Agreement. The Trustee will have no responsibility for determining whether any Employer Security is a "qualifying employer security" or whether any acquisition or disposition of Employer Securities is consistent with Applicable Law, including (without limitation) the prohibited transaction restrictions of ERISA and the exemptions to those restrictions. The Trustee shall acquire and dispose of such securities in open market transactions or in such other manner as Instructed. If the Trust consists of Employer Securities that are not traded on a recognizable market, or the information necessary to ascertain the fair market value is not readily available, the Plan Administrator shall provide to the Trustee the value of such securities for all purposes under the Plan and this Agreement, and the Trustee will be entitled to rely upon the value of such Employer Security provided by the Plan Administrator. If the Plan Administrator fails or refuses to Direct the Trustee on the value of such Employer Security, the Trustee, in its sole discretion, may engage an independent appraiser to determine the fair market value of such Employer Security and will be entitled to rely upon the value placed upon such Employer Security by the independent appraiser. Any expenses with respect to such appraisal will be a charge against the Trust and may be paid from the Trust as provided in this Agreement. The Company will be responsible for the preparation and filing of all reports required under federal or state securities laws with respect to the Trust's ownership of Employer Securities, and shall immediately notify the Trustee in writing of any requirement to stop purchases or sales of Employer Securities pending the filing of any report.

7.8 Contracts. If the Plan permits investment in Contracts, the following provisions will apply with respect to any Contracts that become part of the Trust.

- (a) The Trustee will have no obligation to take any action with respect to any Contract, including to pay any premium on any Contract, except upon Instructions from the Plan Administrator or Authorized Person; *provided, however*, that the Trustee may (although will not be obligated to) make such payment in order to avoid the lapse of such Contract and the Trustee will not be liable for the application of any part of the Trust made solely

for this purpose in the absence of specific Directions. Contract premiums, assessments, dues, charges and interest may be paid only from cash available in the Trust. The Trustee will not be liable for losses arising out of the lapse in such Contract unless such lapse is due to the Trustee's breach of fiduciary duty.

- (b) The Trustee will have no responsibility or liability with respect to the selection or monitoring of the issuers of such Contracts. The Trustee is not responsible for (i) the form, genuineness, validity, sufficiency or effect of any Contract, (ii) the failure of any issuing company to make payments provided by any Contract (iii) the action of any person that may delay payment or render a Contract null and void or unenforceable in whole or in part, or (iv) the fact that for any reason whatsoever any Contract may lapse or otherwise be uncollectible.
- (c) Any company issuing a Contract may deal with the Trustee as owner of any Contract issued by such company and held in the Trust, without inquiry as to the authority of the Trustee to so act, and may accept and rely upon any written notice, Instruction, direction, certificate or other communication signed by the Trustee, and will incur no liability or responsibility by so doing. Any sums paid by an issuing company under any of the terms of a Contract issued by it, either to the Trustee, or, in accordance with the direction of the Trustee, to any other person or persons designated in such Contract as the person or persons to whom such payment will be made, will constitute a full and complete discharge of the liability to pay such sums, and the issuing company shall have no obligation to look into the terms of this Agreement.

8. ADMINISTRATIVE POWERS

- 8.1 **Limitations.** The Trustee has no responsibility or liability for the administration of the Plan, such as the determination of matters relating to the eligibility of any employee to become a Participant or remain a Participant, the amount of benefits which a Participant is entitled to receive, whether or to what extent any asset or item of income or expense should be allocated to a Participant's individual account, whether a distribution to a Participant is appropriate, whether the Plan is being administered in a discriminatory manner, the selection of investments to be offered under the Plan, the size and type of any insurance policy to be purchased from any insurer for any Participant, the filing of the annual Form 5500s on behalf of the Plan, or similar matters.
- 8.2 **Trustee's Administrative Powers.** The Trustee shall have the following administrative powers with respect to the Trust, which it may exercise in its sole discretion:
 - (a) Provided the Trustee is a bank or trust company that is subject to supervision by the United States or a State, or a nominee of such bank or trust company, to hold the assets constituting the Trust in its own name or in custody in the name of a nominee and under such conditions of custody and safekeeping as the Trustee shall deem appropriate for the type of trust assets and shall collect all interest, dividends and other income thereon; *provided, however*, that the Trustee is not required to maintain physical custody of stock certificates or other indicia of ownership of any type of asset representing assets within the Trust, and the Trustee may deposit or hold assets of the Trust in a custodial account, provided that such account is maintained in the name of the Trustee.
 - (b) To hold such investments for safekeeping or to deposit such securities, or cause them to be deposited, in a clearing system established to settle transfers of securities and cause them to be held in the nominee name of such clearing system.

- (c) To engage the services of, and to delegate duties, powers and responsibilities to, such agents, representatives, advisers, counsel and accountants which the Trustee considers necessary or appropriate, any of whom may be an Affiliate of such person, and as a part of its expenses under **Article 10** of this Agreement and to the extent permissible by ERISA, to pay their reasonable expenses and compensation.
- (d) To engage a custodian to perform certain custodial duties and responsibilities for the Trust, including maintaining physical control of the Trust assets, providing record maintenance and producing statements on such assets.
- (e) To do all such acts, and exercise all such rights and privileges, although not specifically mentioned unless specifically prohibited by the Company or Plan Administrator, which shall be reasonably required in the performance of the Trustee's duties hereunder, and to perform all inherent, implied, and statutory powers now or subsequently provided by Applicable Law.

9. RECORDS AND ACCOUNTS

- 9.1 **Records.** The Trustee shall maintain true, accurate, and detailed accounts of all investments, receipts, disbursements and other transactions hereunder. All accounts, books, and records relating thereto shall be open to inspection and may be audited from time to time by any person designated by the Plan Administrator during the Trustee's regular business hours as mutually agreed to in writing by the parties.
- 9.2 **Written Accounts.** As soon as reasonably practical after the close of each Plan year, and within ninety (90) days after the removal or resignation of the Trustee, the Trustee shall render to the Company a written statement of account of all investments, receipts and disbursements, and all other financial transactions relating to the Trust, including the value of the assets held by the trust. Upon the expiration of ninety (90) days from the date of filing such account, the Trustee shall be released and discharged from all liability as to all items and matters included in such accounting as if settled by the decree of a court of competent jurisdiction, except with respect to any such action or transaction to which the Company shall, within such ninety (90) day period, file written objections with the Trustee. The liability of the Trustee to persons other than the Company or Plan Administrator shall be limited to actions under ERISA brought within the period permitted by Applicable Law for bringing of such action. Nothing herein contained, however, shall be deemed to diminish the right of the Trustee to have its accounts judicially settled by a court of competent jurisdiction.
- 9.3 **Valuation.** The valuation date of the Trust shall be the last day of each Plan year, and such other dates agreed to in writing by the Plan Administrator and the Trustee. The assets of the Trust shall be valued as of each valuation date at fair market value as determined by the Trustee based upon sources of information as it may deem reliable. The reasonable costs incurred in establishing values of the Trust shall be a charge against the Trust, unless paid by the Company.

10. COMPENSATION AND EXPENSES

- 10.1 **Compensation.** The Trustee shall receive compensation for the performance of its services in accordance with the fee agreement attached hereto as Exhibit A. Such compensation shall constitute a charge against the Trust, unless the Company elects to pay all or any part of such compensation. The Company expressly acknowledges and agrees that the Trustee may retain as additional compensation for its services any earnings (which are determined daily and which the Trustee expects will be generated at the prevailing federal funds rate) with respect to any cash held uninvested pursuant to **Section 7.3**, including moneys during the period between the time

the moneys are received by the Trustee and actually forwarded to implement investment Instructions, and distributions between the time a disbursement is issued and presented for payment.

- 10.2 **Payment Terms.** The Company will be invoiced on a quarterly basis for its fees and expenses. The invoice will include recurring fees, billed in advance, and any earned project fees, travel and direct expenses described herein during the previous quarter. Invoices are due upon receipt. Balances not paid within sixty (60) days of the date of the invoice will bear a late charge equal to 1.5% of the outstanding balance for each month or partial month until paid in full. If the Company shall not have disputed, in writing, any portion of an invoice, within sixty (60) days of receipt thereof, such invoice shall be deemed accepted by the Company. Should any balance be past due in excess of sixty (60) days, Company hereby Directs and irrevocably authorizes the Trustee to deduct from Plan assets any balance due to the extent permitted by the Plan and Applicable Law. Any such deductions will be allocated among all Participants in the Plan in accordance with the terms of the Plan.
- 10.3 **408(b)(2) Disclosure.** The Trustee shall provide the Plan Sponsor with such information related to the Trustee's compensation as it may reasonably request or as otherwise may be required by Applicable Law in order to enable the Plan Sponsor to comply with applicable reporting and disclosure requirements of ERISA.
- 10.4 **Expenses.** Expenses for legal, accounting and all other proper charges and disbursements of the Trustee incurred in connection with the administration of the Trust shall constitute a charge against the Trust in the same manner as the Trustee's compensation under **Section 10.1**, and will be invoiced in accordance with **Section 10.2**. In the event the Trustee (including any of its Affiliates) is requested or authorized by the Company, or required by government regulation, subpoena, or other legal process (including but in no way limited to government audit) to produce documents, personnel, or otherwise provide assistance in connection with such legal process, the Company agrees to pay the Trustee's normal and reasonable hourly rates and expenses whether or not the Trustee is named as a party, and whether or not the Trustee is still engaged to perform services for the Company.
- 10.5 **Taxes.** All taxes that may be levied or assessed under existing or future laws upon or in respect of the Trust or the income thereof shall be a charge against the Trust. The Plan Administrator shall timely file all federal, state, and local tax and information returns relating to the Plan and the Trust. The Plan Administrator shall be responsible for withholding any tax which by any present or future law is required to be withheld from any payment under the Plan, except with respect to payments made by the Trustee pursuant to Section 2.4 hereof. The Trustee is not responsible for preparation of any tax-related return or report including, but not limited to, the Form 5500 Annual Return/Report of Employee Benefit Plan.
- 10.6 **Withdrawal from Trust.** The Trustee may withdraw from the Trust amounts sufficient to pay any proper charge against the Trust. The Company shall be responsible for payment of any deficiency. To the extent permitted by Applicable Law, the Company may reimburse the Trust for any charges paid from the Trust.

11. DIRECTIONS

- 11.1 **Directions.** The Company is responsible for ensuring that all information, documents and Directions provided to the Trustee are complete and accurate. The Trustee may rely in all respects, without having to make further inquiry, on the information, documents and Directions appearing to be from the Plan Administrator and will not be liable for any actions taken upon the Directions of the Plan Administrator. In the event of incomplete or conflicting Directions, the

Trustee shall have the right to refuse to comply with such Direction until it receives complete Directions or written evidence that the conflict has been resolved to its satisfaction. The Trustee will not be liable for any errors or omissions made as a result of conflicting, incomplete or incorrect information, documents or Directions received from the Plan Administrator.

- 11.2 **Errors and Corrections.** The Company shall promptly notify the Trustee of any errors or omissions in the information, documents or Directions provided by the Company, Authorized Person or a Participant. In the event of any such error, the Trustee shall work with the Company to resolve the error or omission and make such adjustments as may be necessary or appropriate to correct such error or omission; *provided, however*, that in no event will the Trustee be liable for any damages arising or resulting from such error or for the cost of correcting such errors.

12. CONFIDENTIALITY

- 12.1 **Confidentiality Obligation.** Each party (in such capacity the "Receiving Party") shall keep the Confidential Information (as defined below) of the other party (in such capacity, the "Disclosing Party") confidential. In addition, the Receiving Party shall implement security measures reasonably designed to secure the Confidential Information against loss, theft and unauthorized use, modification or access. The Receiving Party will have the limited right to use the Confidential Information only for the purpose of fulfilling its commitments and obligations to the Disclosing Party under this Agreement. Except as permitted in the foregoing sentence or by prior written consent of the Disclosing Party, the Receiving Party will not use, disclose, copy, reproduce or distribute to any person, firm or entity any Confidential Information and will not permit any person, firm or entity to use, disclose, copy, reproduce or distribute any Confidential Information; provided that the Receiving Party may disclose or distribute such Confidential Information to the following: (a) its officers, employees and directors who have a business need to know such Confidential Information; and (b) its attorneys, accountants, consultants, agents, independent contractors or professional advisors who (x) have a business need to know such Confidential Information and (y) are subject to fiduciary, professional or written obligations of confidentiality substantially similar to, and no less restrictive than, the obligations set forth herein.
- 12.2 **Confidential Information.** As used in this Agreement, "Confidential Information" means (a) information and reports provided or made available to the Trustee by the Company or its Affiliates; (b) Personal Information; (c) information designated by the Disclosing Party as confidential; and (d) information and material which, by its nature, should reasonably and customarily be construed to be proprietary or confidential.
- 12.3 **Exceptions.** The term "Confidential Information" does not include any information which the Receiving Party can demonstrate (a) is in the public domain through no fault or breach by such Receiving Party of its obligations hereunder; (b) was known by the Receiving Party prior to its disclosure by the Disclosing Party and was not obtained in such circumstances subject to a requirement of confidentiality; or (c) was developed independently of, and without the use of or access to, any Confidential Information exchanged pursuant to this Agreement. The exclusions in this Section 12.3 will not apply to Personal Information or otherwise limit the Trustee's obligations with respect thereto.
- 12.4 **Ownership.** All Confidential Information will be and remain the sole and exclusive property of the Disclosing Party, its Affiliates, or their respective employees, suppliers, or customers, as the case may be. Neither party acquires any intellectual property rights, including any rights to create derivative works of any Confidential Information, under this Agreement, except the limited right to use such Confidential Information in accordance with this Agreement.

- 12.5 **Permitted Disclosure.** The Receiving Party may disclose the Confidential Information of the Disclosing Party to the limited extent such Confidential Information is required to be disclosed under Applicable Law or pursuant to an order of any court or administrative body; provided, that, with regard to each such disclosure, the Receiving Party shall provide the Disclosing Party with prompt notice of such request or order (to the extent permitted by Applicable Law), shall, at Disclosing Party's option and sole expense, cooperate reasonably with the Disclosing Party in resisting the disclosure of such Confidential Information via a protective order or other appropriate legal action. In the event that such protective order or other remedy is not obtained after commercially reasonable efforts, the Receiving Party may, without liability under this Section, furnish that portion of the Confidential Information that it is requested or required to be disclosed. Notwithstanding the foregoing, the Receiving Party is not required to notify the Disclosing Party if disclosure of the Confidential Information is made to a regulatory agency, self-regulatory organization or governmental agency in the course of such authority's routine examinations or inspections not targeted at the Disclosing Party and any such disclosure will be permitted.
- 12.6 **Return of Confidential Information.** Upon written request by the Disclosing Party, the Receiving Party shall: (a) return to the Disclosing Party all Confidential Information, all documents or media containing the Confidential Information, and any and all copies or extracts thereof, and/or (b) destroy the Confidential Information, and any and all copies or extracts thereof, and provide the Disclosing Party with written certification of such destruction signed by an authorized representative of the Receiving Party; provided, however, that the Receiving Party is entitled to retain copies of such Confidential Information as it is required to retain pursuant to Applicable Law and that are electronically stored or archived in the ordinary course of business.
- 12.7 **Injunctive Relief.** The parties acknowledge and agree that any breach or threatened breach of Section 12.1 may cause the aggrieved party immediate and irreparable harm for which monetary damages alone will be inadequate compensation. Accordingly, the aggrieved party will be entitled, in addition to any other remedies available at law or in equity, to seek injunctive relief without requiring a cure period and without the necessity of posting a bond.

13. DATA SECURITY AND INFORMATION SECURITY

- 13.1 **Personal Information.** The Trustee agrees that its collection, use and disclosure of any and all Personal Information is and will be at all times conducted in compliance with all applicable data protection and/or privacy laws, rules and/or regulations. The Trustee will not use or disclose Personal Information to any third party, other than to its affiliates and third party service providers, without Plan Administrator's written consent, except pursuant to a Direction from an Authorized Person or as permitted or required by Applicable Law. Any personnel, Subcontractor, Vendor, affiliate, or third party service provider retained by the Trustee who has access to Personal Information will agree in writing to be bound by obligations of confidentiality consistent with those set forth herein and the information security measures set forth in **Exhibit B**.
- 13.2 **Responsibility for Remediation.** The Trustee will be responsible for remediation in the event of an Unauthorized Disclosure caused by its or its agents' failure to comply with its obligations under this Section 13. The Trustee will cooperate with the Company in the investigation of an Unauthorized Disclosure and will be responsible for the following costs incurred by the Trustee for (i) any remediation, mitigation, response or subsequent prevention; (ii) providing any notice of the event to affected individuals (including preparation and delivery of such notice) required by Applicable Law; (iii) providing notice to government agencies, credit bureaus, media and/or other required entities (including preparation and delivery of such notice) as required by Applicable Law; (iv) to the extent required under Applicable Law, providing individuals affected by the event with credit protection services designed to prevent fraud associated with identity theft crimes for such time as is required under Applicable Law; and (v) non-appealable fines or penalties

assessed by any governmental authority in connection with the Unauthorized Disclosure ("Remediation Costs"). The Remediation Costs set forth in this Section 13.2 will be deemed direct damages not subject to the limitations set forth in Section 17.4 of this Agreement.

14. INSURANCE, AUDIT

- 14.1 **Insurance.** The Trustee agrees to maintain insurance coverages with the coverages and policy limits set forth in **Exhibit C**. Upon request, the Trustee will provide the Company with evidence of the foregoing coverages.
- 14.2 **SOC Report.** Each year during the term of this MSA, the Trustee will cause to be conducted an audit of its operations, internal controls and security systems applicable to the Services pursuant to Statement on Standards for Attestation Engagements No. 18 (SSAE 18), or any replacement or successor audit standard or process established by the American Institute of Certified Public Accountants, and produce a Service Organization Control Report I Type 2 ("**SOC Report**"). The SOC Report will be made available to the Company upon request.
- 14.3 **Audit Access.** Once per calendar year, upon reasonable prior written notice to the Trustee, the Company, at its own expense, will have the right to perform an audit of the Trustee's operations used to provide Services. The Company may use a third party to perform such audit provided that the Company provides evidence to the Trustee that such audit firm has agreed to maintain the confidentiality of any Confidential Information consistent with the requirements of this Agreement.

15. REMOVAL OR RESIGNATION OF TRUSTEE; APPOINTMENT OF SUCCESSOR

- 15.1 **Removal or Resignation of Trustee.** The Company may remove the Trustee, with or without cause, upon at least sixty (60) days' prior written notice to the Trustee and the Trustee may resign at any time upon sixty (60) days' written notice to the Company.
- 15.2 **Successor.** Upon removal or resignation of the Trustee, the Company shall appoint a successor trustee who shall have substantially the same powers and duties as those conferred upon the Trustee hereunder. The appointment of a successor trustee shall be by written instrument delivered to the Trustee. Upon the failure of Company to appoint, or the failure of the effectiveness of the appointment by Company of, a successor trustee within sixty (60) days, the Trustee may apply to any court of competent jurisdiction for the appointment of a successor trustee, the costs of which shall be borne by the Trust unless Company otherwise agrees to pay such costs. Upon the successor trustee's acceptance of its appointment as successor trustee, the Trustee shall assign, transfer and pay over to such successor trustee the funds and other property then constituting the Trust; *provided, however*, that the Trustee may reserve such sum of money as it may deem reasonable for payment of its fees and expenses in connection with the settlement of its account or for the payment of all taxes that may be lawfully assessed upon or in respect of the Trust or the income thereof for the period prior to the removal or resignation of the Trustee, or otherwise. Any balance of the amount so reserved remaining after the payment of all such fees, expenses and taxes shall be paid over to the successor trustee.
- 15.3 **Termination of Liability.** When the assets comprising the Trust have been transferred and delivered to the successor trustee, and the accounts of the Trustee have been settled pursuant to **Section 15.2**, the Trustee shall be released and discharged from all further accountability or liability for the Trust and shall not be responsible in any way for the further disposition of the Trust or any part thereof.

16. AMENDMENT AND TERMINATION

- 16.1 **Amendment.** Any amendment to this Agreement shall be in writing and signed by both parties, except that any amendment required to comply with applicable law may be made unilaterally by either party upon sixty (60) days' prior notice to the other.
- 16.2 **Termination of Plan.** The term "Plan" as used herein shall include any amendment, whether made before or after the effective date of the execution of this Agreement, *provided* that any such amendment shall not alter the responsibilities or powers of the Trustee without the Trustee's prior written consent. In the event of the termination of the Plan, the Trustee shall dispose of the Trust in accordance with the written direction of the Company to the extent consistent with the terms of the Plan.

17. INDEMNIFICATION AND LIMITATIONS ON LIABILITY

- 17.1 **Indemnification.** Each party agrees to indemnify and hold harmless the other from and against any damages, losses, costs, judgments, fines, penalties and expenses, including without limitation, reasonably incurred attorneys' fees and disbursements, investigation costs, and costs of collection procedures for outstanding fees (collectively, "**Losses**") actually incurred in connection with any claim or regulatory proceeding, to the extent caused by the indemnifying party's negligence, willful misconduct, or breach of fiduciary duty in performing its obligations hereunder.
- 17.2 Notwithstanding the foregoing, the Company agrees that the Trustee shall not be liable for any loss or expense arising from any act or omission of another fiduciary under the Plan except to the extent required pursuant to Section 405(a) of ERISA, and will indemnify the Trustee from and against any Losses asserted against the Trustee in connection with (i) any acts taken in accordance with Directions, or acts omitted due to the absence of or conflicting Directions, from the Company, any Authorized Person or other third party retained by the Company to provide services related to the Plan or Trust, including but not limited to prior or successor trustees, investment managers or any other authorized agent thereof, and (ii) the Trustee's performance of the services under this Agreement, except to the extent such Losses were the result of the Trustee's negligence, or willful misconduct or breach of fiduciary duty hereunder. For purposes of this **Article 17**, any reference to the Company shall be deemed to include indemnification for the Plan and for the Company's respective directors, officers, employees and Affiliates. Any reference to the Trustee shall be deemed to include indemnification for its respective directors, officers, employees, agents and Affiliates.
- 17.3 **Indemnification Procedure.** A party seeking indemnification under **Article 17** (the "**Indemnified Party**") shall promptly notify the indemnifying party (the "**Indemnifying Party**") of any claim for indemnification and allow the Indemnifying Party to control the defense of such claim; *provided, however*, that the failure to provide timely notice will not relieve the Indemnifying Party from any liability hereunder or otherwise unless such failure materially prejudices the Indemnifying Party's rights. The Indemnifying Party may not settle any claim (a) that involves a remedy other than the payment of money by the Indemnifying Party without the Indemnified Party's prior written consent; and (b) no such compromise or settlement is hereby authorized unless the Indemnified Party obtains a complete release of liability under such compromise or settlement. In the event the Indemnifying Party fails to promptly assume the defense of the claim or to promptly and reasonably conduct the defense, the Indemnified Party shall have the right to control the defense of the claim, at the sole cost and expense of the Indemnifying Party.
- 17.4 **LIMITATIONS ON LIABILITY.** Notwithstanding any other provision of this Agreement, in no event will a party (including, in each case, their respective Affiliates and agents) be liable to the other party or any third party for any incidental or consequential damages (including, without limitation, indirect, special, punitive, or exemplary damages for loss of business, loss of profits, loss of goodwill or business reputation, business interruption, loss of data, or loss of business

information) arising out of or connected in any way with this Agreement, even if advised of the possibility of such damages and regardless of the nature of the claim asserted. The preceding limitations shall not apply to Remediation Costs relating to a violation of the confidentiality obligations under **Section 13.2** hereof.

18. USA PATRIOT ACT NOTIFICATION

- 18.1 The following notification is provided to Company pursuant to Section 326 of the USA Patriot Act of 2001, 31 USC Section 5318:

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each Person or entity that opens an account, including any deposit account, treasury management account, loan, other extension of credit, or other financial services product. What this means for the Company: When Company opens an account, if the Company is an individual, the Trustee will ask for the Company's name, taxpayer identification number, residential address, date of birth, and other information that will allow the Trustee to identify Company, and, if Company is not an individual, Trustee will ask for the Company's official name, taxpayer identification number, business address, and other information that will allow the Trustee to identify the Company. The Trustee may also ask, if the Company is an individual, to see a valid driver's license or other identifying documents, and, if the Company is not an individual, to see the Company's legal organizational documents or other identifying documents.

19. GENERAL

- 19.1 **Effective Date.** This Agreement shall be effective as of the later of the date hereof or the first date on which the assets are transferred to the Trust.
- 19.2 **Conflict with Plan.** The rights, duties, responsibilities, obligations and liabilities of the Trustee are as set forth in this Agreement, and no provisions of the Plan or any other document shall be deemed to affect such rights, duties, responsibilities, obligations and liabilities. If there is a conflict between provisions of the Plan and this Agreement with respect to any subject involving the Trustee, including but not limited to the responsibility, authority or powers of the Trustee, the provisions of this Agreement shall be controlling. Notwithstanding the foregoing, if the Plan document has been pre-approved as a prototype or volume submitter document by the Internal Revenue Service, and if there is a conflict between the trust provisions of the Plan document and this Agreement, the trust provisions of the Plan shall be controlling.
- 19.3 **Bond Not Required.** Except as required under ERISA Section 412, the Trustee shall not be required to furnish any bond or security for the performance of its powers and duties hereunder.
- 19.4 **Bankruptcy.** The Trustee shall have no duty, in the event of the Company's bankruptcy or insolvency, to take any action until directed to do so by the bankruptcy trustee or a court that has jurisdiction over Plan assets.
- 19.5 **Use of Third Parties.** The Trustee may retain third party vendors ("Vendors") to assist it in performance of its obligations; *provided, however*, that, to the extent such Vendor has access to Confidential Information or Personal Information, such Vendor will have agreed in writing to adhere to confidentiality and data and security obligations no less restrictive than those set forth herein. Upon the Company's request, the Trustee will provide the Company a list of: (i) any Vendors that have access to Personal Information, and (ii) any Vendors retained by the Trustee to provide certain of the services exclusively to the Company ("**Subcontractors**"). The use of

either Vendors or Subcontractors shall not affect the Trustee's responsibility for its representations, warranties, covenants or undertakings under this Agreement.

- 19.6 **Business Continuation.** Trustee hereby represents, warrants and covenants that it (a) has and will maintain a disaster recovery and business continuation plan that is reasonably designed to minimize disruption in the event of a business interruption affecting the services; (b) will test the operability of such plan at least once every twelve (12) months and revise such plan as necessary to ensure continued operability; (c) will activate such plan upon the occurrence of any event materially affecting timely delivery of the services; (d) will notify the Company as soon as practicable following the occurrence of a business interruption affecting the services; and (e) will use commercially reasonable efforts to reinstate the services as soon as practicable following a business interruption.
- 19.7 **Force Majeure.** Neither the Trustee nor the Company will be liable for any failure or delay in performance under this Agreement, including any loss or expense resulting in either party's failure to fulfill, or delay in fulfilling, its obligations under this Agreement, where such failure or delay is a result of a cause beyond the reasonable control of the affected party (a "**Force Majeure Event**"). The affected party shall promptly notify the other party of the occurrence of the Force Majeure Event. The occurrence of the Force Majeure Event does not excuse, limit, or otherwise affect the Trustee's obligation to provide either normal recovery procedures or any other disaster recovery services described in this Agreement, except to the extent that such procedures or services are directly affected by such Force Majeure Event.
- 19.8 **Status as Independent Contractors.** Nothing in this Agreement shall cause or be deemed to cause any party (including its officers, directors, or employees) to be an employee, partner, joint venturer, or agent of any other party hereto. The sole relationship of the parties hereto is that of independent contractor.
- 19.9 **Third Party Beneficiaries.** This Agreement shall not be construed as granting any rights or benefits to third parties, including, for example, plan Participants and their beneficiaries, employees, independent contractors, consultants or other agents of the parties
- 19.10 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and no other counterpart need be produced. The parties hereto agree that this Agreement and other documents may be executed by facsimile or digital signature, which will have the same effect as an original signature.
- 19.11 **Amendments and Waivers.** Except as otherwise expressly provided under this Agreement, any provision of this Agreement may be amended or waived only if such amendment or waiver is in writing and is signed, in the case of the amendment, by each party to this Agreement or, in the case of a waiver, by the party against whom the waiver is to be effective. No failure or delay in exercising any rights or privilege hereunder shall operate as a waiver thereof. No waiver of any right or privilege in respect to any occurrence or event on one occasion shall be deemed a waiver of such right or privilege in respect of such occurrence or event on any other occasion.
- 19.12 **Notices.** Whenever any notice may be or is required to be given hereunder, such notice shall be in writing and sent by United States first class mail, postage prepaid; by facsimile with confirmed delivery; or by overnight delivery service, where receipt is given, and addressed (a) to the Company: to the person and address appearing in Newport Group's records, provided by the Company for such purposes, and (b) to the Trustee: Newport Trust Company, LLC, 7651 Universal Road, Baxter, MN 56425, NTC@newportgroup.com, or such other address as the Trustee may provide from time to time, with a copy to Newport Group: Newport Group, Inc., 200 Dryden Road, Dresher, PA 19025, Attention: Legal Department.

- 19.13 **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement becomes inconsistent with any present or future law or regulation, that provision shall be superseded or amended to conform to such law and regulation, but the remainder of this Agreement shall remain in full force and effect.
- 19.14 **Construction.** Headings in this Agreement are inserted solely for convenience of reference and will neither constitute a part of this Agreement nor affect its meaning, construction or intent. Whenever used in this Agreement, unless the context indicates otherwise, the singular will include the plural, the plural will include the singular, and the male gender will include the female gender. The words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation," unless otherwise specified. The Agreement has been negotiated and prepared by the parties and their respective attorneys and, should any provision of an Agreement require judicial interpretation, the court interpreting or construing such provision shall not apply the rule of construction that a document is to be construed more strictly against one party.
- 19.15 **Non-Assignability of Interest.** No benefit to which a Participant or beneficiary or an alternate payee is or may become entitled under the Plan shall at any time be subject in any manner to alienation or encumbrance, nor be resorted to, appropriated or seized in any proceeding at law, in equity or otherwise. No Participant or other person entitled to receive a benefit under the Plan shall, except as specifically provided in such Plan, have power in any manner to transfer, assign, alienate or in any way encumber such benefit under such Plan, or any part thereof, and any attempt to do so shall be void.
- 19.16 **Successors and Assigns.** This Agreement is binding upon the successors and assigns of the parties hereto.
- 19.17 **Entire Agreement.** This Agreement, including all documentation submitted in connection with the engagement of the Trustee, including any fee schedules, contains the entire understanding between the parties relating to the subject matter hereof, and supersedes all prior agreements or understandings between the parties relating to the subject matter hereof, whether written or oral, express or implied.
- 19.18 **Choice of Law.** This Agreement shall be governed by the laws of Delaware, without regard to principles of conflicts of law, except to the extent such laws are preempted by federal law.
- 19.19 **Waiver of Jury Trial.** The parties hereby expressly waive the right to a jury trial in the resolution of any dispute or claim relating, directly or indirectly, to the terms of this Agreement.
- 19.20 **Survival.** The following provisions shall survive termination of this Agreement: **Article 3** (Representations and Warranties), **Article 10** (Compensation and Expenses), **Article 12** (Confidentiality), **Section 13.1** (Personal Information) **Section 15.2** (Successor), **Section 15.3** (Termination of Liability), **Article 17** (Indemnification and Limitations on Liability) and **Article 19** (General).

[signatures on following page]

IN WITNESS WHEREOF, the Company and Trustee have caused this Trust Agreement to be executed by their respective duly authorized officers on the date or dates shown below.

TOWN OF JUPITER ISLAND

NEWPORT TRUST COMPANY, LLC

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: Trust Officer

Date: _____

Date: _____

Exhibit A

FEE AGREEMENT

The fees of Newport Trust Company, LLC ("NTC") are set forth in the Fee Schedule included with the Master Services Agreement between the Plan Sponsor and Newport Group, Inc.

1. It is agreed that any interest earned on cash balances maintained by NTC on behalf of the Plan, while awaiting instructions, shall accrue to the benefit of NTC. Plan Sponsor expressly acknowledges and agrees that NTC may retain as additional compensation for its services any earnings (generally determined daily and calculated on the basis of the then-current Federal Funds Rate) with respect to (a) amounts credited to non-interest bearing cash accounts; (b) moneys during the period between the time the moneys are received by NTC and actually forwarded to the investment provider; and (c) distributions between the time a distribution check is requested and the distribution check is presented for payment.

Moneys shall be invested as soon as practicable following receipt of the moneys and investment instructions, but not later than two business days following receipt of both the moneys and the investment instructions. Distribution checks shall be prepared and mailed within seven (7) to ten (10) business days, following receipt of a request received in good order by 3 p.m. ET for a distribution check, provided that trades have settled and funds have been received.

2. NTC fees do not include any brokerage or other sub-custodian commissions. They also do not include mutual fund sales charges/loads or brokerage commission of any other broker-dealer or mutual fund family. Any waiver of mutual fund sales charges/loads at the plan level is only based on the qualifications set forth in the fund's prospectus, as well as the completion by the plan sponsor of appropriate documentation if required by the fund's sponsor. NTC fees also do not include any fees charged by an Investment Manager/Consultant.

3. Annual Market Value fees cover:

Custody of Standard Assets and the services as described in NTC's agreement with the Plan Sponsor.

- Receipt of Plan Contributions
- Mutual Fund daily pricing and trade execution
- Dividend/Income Posting
- Electronically delivered annual trust report and additional statements upon request
- Mutual Fund revenue-sharing invoicing and collection
- Compliance with applicable fee disclosure requirements

4. Additional fees may be charged for:

- Extraordinary services for which other compensation is not expressly stated
- Checks received with insufficient funds
- Administration of special assets including transaction and outgoing wire charges for special assets
- Overnights

5. NTC reserves the right to periodically review the fees charged for acceptability based on the time/effort required to service the account, and to propose to the client changes in the fee agreement if needed. If fees are not paid within 60 days, NTC reserves the right to charge interest on the outstanding balance in the amount of 1.5% per month and/or deduct the outstanding amount directly from the account.

Exhibit B

PRIVACY AND SECURITY REQUIREMENTS

Definitions

"Newport" means Newport Trust Company, LLC, or an affiliated entity named in the Agreement.

"Affected Computing Device" means Newport's (and Subprocessors', if applicable) hardware and/or software used to access, Process, store, or transmit any Protected Information.

"Applicable Privacy Law" means applicable data privacy, data protection, and cybersecurity laws, rules and regulations, including (a) the California Consumer Privacy Act, as amended by the California Privacy Rights Act and any binding regulations promulgated thereunder ("CPRA"); (b) the Gramm-Leach-Bliley Act; and (c) any other U.S. personal data protection laws and guidance or statutory codes of practice issued by any relevant regulatory authority, in each case, as amended from time to time, including (but not limited to) the Colorado Privacy Act, the Virginia Consumer Data Protection Act, the Connecticut Data Protection Act, and the Utah Consumer Privacy Act.

"Client" refers to the Company, as set forth in the Agreement.

"Data Subject" means an identified or identifiable natural person who can be identified, directly or indirectly by an identifier such as a name.

"Protected Information" means any information that relates to or describes an individual, and/or any data that is linked or linkable to an individual that is protected under any Applicable Privacy Law.

"Process", "Processing" or "Processed" means any operation or set of operations, as defined in Applicable Privacy Law, performed upon Protected Information whether or not by automatic means, including collecting, recording, organizing, storing, adapting or altering, retrieving, consulting, using, disclosing, making available, aligning, combining, blocking, erasing and/or destroying Protected Information.

"Security Breach" means a breach of Newport's security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Protected Information in Newport's possession, custody; or as otherwise defined by Applicable Privacy Law. Security Breaches do not include unsuccessful attempts or activities that do not compromise the security of Protected information, including unsuccessful log-in attempts, pings, port scans, denial of service attacks, or other network attacks on firewalls or networked systems.

"Subprocessor" means any third party engaged by Newport to Process Protected Information on behalf of Newport in order to service the Client.

"Trusted Device" means an Affected Computing Device that is relied upon by Newport or Subprocessor(s) to enforce or comply with a specified security policy. Each Trusted Device will be uniquely associated with a specific individual user and configured to meet the applicable security requirements set forth in this Exhibit.

Unless otherwise defined herein, capitalized terms will have the meanings assigned to them in the Agreement.

Introduction

In order to prevent unauthorized use, access, modification, or disruption to or of the Protected Information, Newport will implement the information security measures described in this Exhibit. Newport will ensure that it has the requisite expertise to adhere to and maintain the security requirements set forth herein. Newport will notify Client as soon as practicable after becoming aware of Newport's inability to meet its privacy and security obligations under this Exhibit.

Organizational Security

Subprocessor Relationship. Newport is permitted to share Protected Information with Subprocessor(s) who require such access in connection with the performance of Services under the Agreement, subject to obligations of confidentiality and non-disclosure as set forth in the Agreement. In order to protect the confidentiality, integrity and availability of Protected Information, and in order to ensure that consistent security measures are applied to Protected Information by agents of Newport, Newport will ensure that its Subprocessor(s) implement and maintain security requirements (i.e., flow-downs) substantially similar to the ones contained in this Exhibit. Newport will regularly monitor and review Subprocessor service delivery to verify and reinforce adherence to the security controls and practices.

Background Investigations

Newport's on-boarding procedures for individuals who have access to Protected Information includes an industry standard background investigation, which at minimum will consist of the following:

- a. national criminal database search;
- b. credit background check;
- c. criminal history search from all counties that the individual has lived in;
- d. Office of Foreign Assets Control (OFAC) check;
- e. SSN, date of birth, and address verification; and
- f. employment and educational verification.

Access Control

1. Access to Affected Computing Devices will be configured with the concept of "Least Privilege" enforced, and access will be granted only to individuals who require it in order to perform Services.
2. Administrative privileges to all Affected Computing Devices that access Protected Information, will: (i) be limited to the minimum number of staff required to provide the Services, and (ii) conform to industry standard practices for privilege elevation, periodic access reviews, and monitoring.
3. Access to Affected Computing Devices will be granted in-line with formally documented user administration protocols utilizing automated technologies that ensure that:
 - a. All users granted access to Affected Computing Devices will be formally approved by Newport's management; and
 - b. Granting, removal, or modification of access to Affected Computing Devices (as appropriate) is reviewed at regularly scheduled intervals (at least annually, except for administrative access which will be reviewed and updated quarterly) by Newport's Risk team.
4. All Affected Computing Devices will (a) require a unique user identifier and a password or passphrase to authenticate at the time of login; and (b) be configured to automatic session timeouts requiring users to authenticate after a period of inactivity.

5. Newport will maintain technical controls designed to ensure passwords are resistant to password guessing and cracking. Standards will include a minimum length of at least 14 characters, complexity, reuse restrictions, required periodic changes, and account lockouts upon multiple failed attempts.
6. Newport will authenticate credentials that grant access to Protected Information from Affected Computing Devices and promptly disable, delete, or remove such Affected Computing Devices from access control lists, security groups, database tables, or similar systems, once access is no longer required or authorized.
7. When accessing Protected Information, Newport will implement network protection mechanisms in line with industry standard practices, including firewalls and Intrusion Detection Systems (IDS) or Intrusion Prevention Systems (IPS) for Internet-facing networks.

Logging and Monitoring

1. All Affected Computing Devices will be configured to log auditable events, which includes all actions performed with administrative privileges and security alerts.
2. Automated alerting based on defined events will be configured for Affected Computing Devices. Where automated alerting is not feasible, regular manual review of audit/event logs on Affected Computing Devices will occur to detect suspicious activity and/or security incidents.
3. Network intrusion detection systems (NIDS) and host-based intrusion detection systems (HIDS) will be configured in accordance with industry standards, continuously monitored, and updated as necessary.
4. Newport will only access Protected Information using Trusted Devices or devices provided by Client.
5. Newport will analyze system logs for suspicious activity. System logs will detect unauthorized changes to Affected Computing Devices, and system administrators will conduct regular integrity assessments by performing network scans.

Patching and Configuration Management

1. Newport will maintain a validation methodology designed to ensure that security patches and/or updates are implemented across all Affected Computing Devices in a timely manner, consistent with industry standard practices, and are tested prior to being implemented in a production environment.
2. Newport will follow industry standard practices when implementing lockdown procedures on all Affected Computing Devices in order to enable hardening, to the extent practicable for operational functionality.
3. Newport will routinely review its compliance with security configuration standards with respect to the Affected Computing Devices.
4. For software products utilized to perform Services under the Agreement, Newport's policy is to (a) maintain supported version updates, (b) promptly implement applicable security patches or comparable mitigation actions, and (c) implement any patches for critical vulnerabilities within 30 days of the applicable patch release.

Storage, Backup, Restoration, and Media Protection

1. In order to protect the confidentiality and integrity of Protected Information, Newport will ensure that its servers, enterprise data storage devices, backup tapes or media, and all other Affected Computing Devices used to support network communications with Client are located in a secure and restricted

location. Only authorized individuals will have access to server rooms and/or storage areas containing media that houses Protected Information.

2. All backup media, including tapes, sent off-site that contain Protected Information will be encrypted using industry standard practices.
3. In instances when Client requests in writing that Newport destroy or dispose of the Protected Information, subject to the terms of the Agreement, Newport will utilize secure and proper disposal or destruction methods, in line with industry standard practices. Notwithstanding the foregoing, Newport will be permitted to retain copies of any Protected Information consistent with its document retention policies or as required by applicable law, regulation, or professional standards. Any Protected Information so kept will be maintained in accordance with Newport's obligations under this Exhibit (notwithstanding the expiration or termination of this Exhibit or the Agreement).
4. Newport will ensure that it maintains a Business Continuity Plan and a Disaster Recovery Plan with respect to Protected Information in connection with provision of Services pursuant to the Agreement. Newport will review and test said plans annually.

Physical and Environmental Protections

1. Newport will maintain physical access controls within its facilities requiring all visitors to be verified, by presenting their government issued identification, and supervised while on premises.
2. Data centers that house Client's Protected Information will be stored in an access control environment and/or building. Data centers will have working security cameras, and all access control lists for the data centers will be kept current.
3. Newport will ensure that its data centers adhere to environmental controls that meet industry standard practices, including: (i) power equipment and power cabling to protect against damage and destruction; (ii) emergency lighting and facility failover power; and (iii) fire suppression and detection, water damage controls, and temperature and humidity controls.

Vulnerability Management

1. Newport will maintain a vulnerability management and assessment program in accordance with industry standard practices. This program will also define scan frequency of Affected Computing Devices and describe mitigation timeframes for discovered vulnerabilities.
2. Newport will perform routine vulnerability scans of their external (e.g., Internet) accessible network, servers, applications, and databases on a scheduled frequency, but at least quarterly. The scan results will be analyzed, vulnerabilities identified, and remediated within a timeframe appropriate given the level of risk involved.
3. Newport will engage, at its expense, an independent security firm to perform annual comprehensive penetration testing and security evaluations of external applications, as well as internal and external networks used to Process Protected Information. Newport will implement security controls and practices to mitigate risks identified during such assessments.
4. Newport will maintain an asset inventory of all Affected Computing Devices that Process Protected Information. Said inventory will be reviewed on a regular interval to ensure that all Affected Computing Devices are included in the scope of reoccurring vulnerability scans and comprehensive penetration testing.

Encryption and Remote Access

1. Newport will utilize multi-factor authentication solution for systems that allow external connections to Affected Computing Devices.
2. When Protected Information is being accessed or transmitted over the Internet or via a public switched network (a/k/a Data-in-Motion), the communications session will utilize a secure and industry accepted transport mechanism such as VPN, Secure FTP, Secure Copy, Secure Shell, or HTTPS using TLS industry standard encryption.
3. All Affected Computing Devices that store Protected Information (a/k/a Data-at-Rest) will utilize industry standard encryption to safeguard Protected Information.
4. If and when remotely connecting to the network to Process Client's Protected Information, Newport will use Trusted Devices that are configured with security software (e.g., VPN, anti-virus, anti-malware, encryption) and protected against corruption, loss, or disclosure.

Mobile Computing Devices

Portable Affected Computing Devices (e.g., smartphones or tablet computers) will: (1) be configured to adhere to the applicable security controls set forth in this Exhibit, (2) not be rooted or jailbroken, and (3) be configured to accept commands to remotely wipe Protected Information.

Cloud Service Delivery

Newport will utilize multi-factor authentication when accessing administrator consoles. Systems storing Protected Information will not be contained within the public virtual private cloud (VPC). When Protected Information is being accessed or transmitted over the Internet or via a public switched network, the communications session will utilize industry standard encryption in transit.

Malware Protection and Endpoint Detection and Response (EDR)

Newport will implement and utilize anti-virus, anti-spyware, and Endpoint Detection and Response (EDR) software to protect Affected Computing Devices against malicious software (e.g., Trojan horses, viruses, worms) and malicious processes. Such software will be configured to receive regular updates to provide protection against newly discovered threats.

Denial of Service Protection

Newport will maintain a security architecture that is designed and tested to defend against Distributed Denial of Service (DDOS) attacks.

Security Awareness and Training

Before being granted access to Protected Information, Newport personnel are required to have successfully completed a security awareness and privacy training (along with an annual refresher training thereafter).

Policies, Procedures, and Documentation

For the duration of the Agreement, and for as long as Newport has access to any Protected Information, Newport will maintain written information security policies and procedures commensurate with the type and scope of Services being provided to Client. No more than once a year, Client may request in writing a summary of Newport's information security and privacy policies.

Data Loss Prevention

Newport will maintain an approach to data loss prevention in-line with industry standards and security standard practices to mitigate the risk of unauthorized disclosure of Protected Information from Affected Computing Devices.

Segregation of Duties

Newport will safeguard Protected Information by employing industry standard practices, techniques and/or technologies to provide for segregation of duties (i.e., distributing access or control over Protected Information to multiple individuals), in order to mitigate risk of insider threats.

Data Privacy Compliance

In the event Newport Processes Protected Information from Client, the following provisions apply:

1. Newport will comply with Applicable Privacy Law in the Processing of Protected Information and will only Process Protected Information for the limited purposes of providing the Services outlined in the Agreement or in accordance with Client's instructions, and as may subsequently be agreed between the parties in writing.
2. The parties agree that the categories of Protected Information Processed by Newport during the term of the Agreement may change based on the Services being provided. The parties anticipate Processing Sensitive Data, which may include: Social Security number, driver's license number, state identification card number, passport number, account log-in, financial account number, precise geolocation, personal information concerning a consumer's health (mental or physical), or personal information of children under the age of 16.
3. Newport will only Process Protected Information for the duration of the Agreement, unless otherwise agreed upon in writing or required by Applicable Law.
4. Unless Newport is required by law to retain Protected Information, Newport will, promptly following receipt of written direction from Client, either (a) return a complete copy of Protected Information to Client by secure file transfer in such format as mutually agreed upon by the parties; or (b) delete Client's Protected Information from its systems. When deleting Protected Information, Newport will utilize secure and proper disposal or destruction methods, in line with industry standard practices in accordance with the procedures outlined in this Exhibit.
5. Newport will not "sell" or "share" personal information to any third party and shall not retain, use or disclose any Protected Information except as necessary for the specific purpose of performing the Services for Client pursuant to the Agreement, or as otherwise set forth in the Agreement or permitted by the CPRA. Further, Newport shall not combine Client's Protected Information with Protected Information it receives from or on behalf of another person or persons, or collects from Newport's own interactions with an individual, except as specifically instructed by Client in writing or allowed under Applicable Privacy Law. The terms in this Section 5 shall have the meaning ascribed to it in Section 1798.140 of the CPRA. Newport certifies that it understands the restrictions in this Section 5 and will comply with them.
6. Without prejudice to any existing contractual arrangements between the parties, Newport will treat all Protected Information as confidential and will inform its employees, agents and any Subprocessors engaged in Processing the Protected Information of the confidential nature of the Protected Information. Newport will ensure that all such persons or parties have signed an appropriate confidentiality

agreement, are otherwise bound to a duty of confidentiality, or are under an appropriate statutory obligation of confidentiality.

7. As required by Applicable Privacy Law, Client may audit Newport's compliance with its obligations under this Exhibit up to once per year in accordance with Section 14.3 of the Agreement. Newport will contribute to such audits by providing Client with the information and assistance that Newport considers appropriate in the circumstances and reasonably necessary to conduct the audit. To request an audit, Client must submit a proposed audit plan in writing to Newport at least two weeks in advance of the proposed audit date and any third-party auditor must sign a customary non-disclosure agreement mutually acceptable to the parties providing for the confidential treatment of all information exchanged in connection with the audit and any reports regarding the results or findings thereof. The proposed audit plan must describe the proposed scope, duration, and start date of the audit. Newport will review the proposed audit plan and provide Client with any concerns or questions (for example, any request for information that could compromise Newport security, privacy, employment or other relevant policies). Newport will work cooperatively with Client to agree on a final audit plan. Nothing in this Section shall require Newport to breach any duties of confidentiality. If the controls or measures to be assessed in the requested audit are addressed in an SOC 2 Type 2, ISO, NIST or similar audit report performed by a qualified third-party auditor, Client agrees to accept such report in lieu of requesting an audit of such controls or measures. The audit must be conducted during regular business hours, subject to the agreed-upon final audit plan and Newport's safety, security or other relevant policies, and may not unreasonably interfere with Newport's business activities. Any audits are at Client's sole expense. Client shall reimburse Newport for any time expended by Newport and any third parties in connection with any audits or inspections under this Section at Newport's then-current professional services rates, which shall be made available to Client upon request. Client will be responsible for any fees charged by any auditor appointed by Client to execute any such audit.
8. Newport will promptly redirect any Data Subject requests to Client. Newport will implement and maintain reasonable and appropriate technical measures that will allow Data Subjects to exercise their Data Subject rights under Applicable Privacy Law. Newport shall not be responsible for any decisions made by Client with regard to a Data Subject request.
9. During the term of the Agreement, Newport will maintain appropriate technical and organizational security measures (as set forth in this Exhibit) to protect Protected Information against accidental or unlawful destruction or accidental loss, damage, alteration or unauthorized disclosure.
10. Upon written request and when required by Applicable Privacy Law, Newport will provide reasonable cooperation and assistance to Client in ensuring Newport's compliance with data security obligations, as well as in carrying out appropriate data protection impact assessments or similar activities. Newport will also cooperate and provide reasonable assistance or information needed for Client pertaining to requests by the regulatory authorities.
11. Client hereby authorizes Newport to appoint Subprocessors. Where required by Applicable Privacy Law, Newport shall provide Client with prior notice of any additional or replacement Subprocessors. Within five (5) days after being notified, Client must notify Newport in writing of any reasonable objection it has to such Subprocessors. In the event Client provides a reasonable objection, Newport will use commercially reasonable efforts to make a change in Processing under the Agreement to avoid Processing of Protected Information by such Subprocessors. If Newport is unable to make available such change within a reasonable period of time Client may, by providing written notice to Newport, terminate the specific Services provided under the Agreement in respect only to those Services which cannot be provided by Newport without the use of the objected-to Subprocessors. Newport will remain liable for any Processing of Protected Information by each such Subprocessor as if it had undertaken such Processing itself. Newport will contractually impose data protection obligations on its Subprocessors that are no less onerous than those imposed on Newport under this Exhibit.

12. Newport shall notify Client in the event Newport makes a determination that it can no longer meet its obligations under Applicable Privacy Law.

Security Event, Privacy Breach or Cyberattack Response

If Newport becomes aware of a Security Breach, Newport will promptly notify Client, unless Newport is specifically requested by law enforcement not to do so, in which event Newport will notify Client as promptly as permissible.

Newport will notify Client by emailing Client's business contact. Such written notification will include: (1) nature and impact of the event, in reasonable detail; (2) actions already taken by Newport; (3) Newport's assessment of the risks to Newport and Client; and (4) corrective and other response measures to be taken by Newport as set forth in Section 13 of the Agreement.

Newport will continue to promptly provide appropriate status reports to Client regarding the resolution of the event and prevention of future events; and cooperate with Client, as reasonably requested by Client, to further investigate and resolve the event.

Indemnification and Limitation of Liability

Any claims brought under, or in connection with, this Exhibit, shall be subject to the exclusions and limitations of liability set forth in the Agreement.

Exhibit C
INSURANCE

Newport shall maintain insurance coverages with carriers with an A.M. Best Insurance Rating of A-:VIII or better and licensed to do business in the states where Newport's Services are performed with limits of at least the following:

Commercial General Liability	Each Occurrence: \$1,000,000 General Aggregate: \$2,000,000
Umbrella Liability	Each Occurrence: \$10,000,000 Aggregate: \$10,000,000
Financial Institution Bond	Each Occurrence: \$5,000,000 General Aggregate: \$10,000,000
Automobile Liability	\$1,000,000
Workers Compensation	\$1,000,000
E&O	\$10,000,000
Cyber Liability	\$10,000,000

**ADOPTING RESOLUTION
FOR
TOWN OF JUPITER ISLAND**

The undersigned authorized representative of Town of Jupiter Island (the "Employer") hereby certifies that the following resolutions were duly adopted by the Employer on _____, and that such resolutions have not been modified or rescinded as of the date hereof.

WHEREAS, Town of Jupiter Island Deferred Compensation Plan (457b) (the "Plan and Trust") expressly provides the right to amend said Plan and Trust; and

WHEREAS, Employer desires to amend the Plan and Trust in order to appoint Newport Trust Company, LLC ("Newport") as nondiscretionary Trustee of the Plan and Trust subject to their acceptance; and

WHEREAS, Employer desires to remove and/or accept the resignation of the current trustee(s) of the Plan and Trust; and

NOW THEREFORE BE IT RESOLVED, that Newport is appointed to act as a non-discretionary Trustee of the trust established as part of the Plan and Trust and is authorized to hold the assets of the trust under the terms of the Trust Agreement entered into with Newport; and

RESOLVED FURTHER, that the removal and resignation of the current trustee(s) of the Plan and Trust is hereby accepted, effective as of the final transfer of assets to Newport; and

RESOLVED FURTHER, that the foregoing resolutions shall be void ab initio and shall have no force or effect in the event the Employer is notified by Newport or any of its affiliates that the Employer has failed to timely perform any material actions needed to permit Newport to commence serving as Trustee of the Plan; and

RESOLVED FURTHER, that the proper representatives of the Employer be, and hereby are, authorized and directed to execute such instruments and to perform such other acts as they, in their discretion, deem necessary or desirable to carry out these resolutions.

TOWN OF JUPITER ISLAND

By: _____

Date: _____

Name: _____

Title: _____

AUTHORIZED SIGNERS

Plan Name: Town of Jupiter Island Deferred Compensation Plan (457b) (the "Plan")

In accordance with the provisions of the agreements entered into between Newport Trust Company, LLC and its affiliates ("Newport") and the Plan Sponsor, Newport may accept and act upon instructions on behalf of the Plan received from the Authorized Signers set forth below. By providing this form, the Plan Sponsor represents that this is a true and complete list of Authorized Signers with authority and capacity to act on behalf of the Plan, and acknowledges and agrees that it is the responsibility of the Plan Sponsor to notify Newport in writing of any future removals from or additions to its Authorized Signers List. In accordance with the indemnification provisions of the agreement entered with Newport, Newport shall not have liability for acting upon the instruction of any Authorized Signer who Newport has not been notified in writing is no longer an Authorized Signer for the Plan.

Name: _____ Signature: _____ Corporate Title: _____ Date: _____ Email: _____ Capacity: ☒ Plan Sponsor	Name: _____ Signature: _____ Corporate Title: _____ Date: _____ Email: _____ Capacity: ☒ Plan Administrator (may be same as Sponsor)
Name: _____ Signature: _____ Corporate Title: _____ Date: _____ Email: _____ Capacity: ☐ Plan Sponsor ☐ Plan Administrator	Name: _____ Signature: _____ Corporate Title: _____ Date: _____ Email: _____ Capacity: ☐ Plan Sponsor ☐ Plan Administrator
Name: _____ Signature: _____ Corporate Title: _____ Date: _____ Email: _____ Capacity: ☐ Plan Sponsor ☐ Plan Administrator	Name: _____ Signature: _____ Corporate Title: _____ Date: _____ Email: _____ Capacity: ☐ Plan Sponsor ☐ Plan Administrator ☐ Approval of Participant Level Transactions ONLY (i.e. hardship distributions, loans, etc.)

Please complete additional forms if needed (NOTE: Plan Sponsor and Plan Administrator signature are required)

Town of Jupiter Island Retirement Plan for SMRU Employees 401(a)



ACCOUNT APPLICATION

I. ACCOUNT TYPE

Newport Trust Company, LLC ("NTC") is to establish the following type of account:

☒ Nondiscretionary (Directed) Trustee

☐ Nondiscretionary (Directed) Custodian

II. PLAN INFORMATION

Plan Name: Town of Jupiter Island Retirement Plan for SMRU Employees 401(a)

Plan Type: ☐ 401(k) ☐ Profit Sharing Only ☐ 403(b) ☐ 457(b) ☐ 457(f) ☐ ESOP ☐ Traditional Defined Benefit
☐ Cash Balance Defined Benefit ☐ Non-qualified deferred compensation plan ☐ nonelecting church plan
☒ Other, specify 401(a)

If 457(b) or 457(f) selected, is the Plan sponsored by a tax-exempt entity? ☐ Yes ☐ No

Plan ID: (to be completed by NTC) NG00N76 Plan Year End: 9/30 Plan Inception Date: 10/1/2009

Participant Directed Plan: ☒ Yes ☐ No

Asset Size: \$ 3,397,155

Current Recordkeeper Entity: Newport Group

Current TPA Entity: Newport Group

III. PLAN SPONSOR INFORMATION

Plan Sponsor: Town of Jupiter Island NAICS Code: _____

Entity Type: (i.e., C or S Corp, LLC, Partnership) Govt agency Fiscal Year end: 9/30 EIN: 59-6011135

Street Address: 2 Bridge Road City/State/Zip: Hobe Sound, FL 33455

Sponsor Telephone: 772-545-0103 Fax: _____

Main Contact Name: _____ Email: _____

Please identify the individual authorized to sign Agreements on behalf of Plan Sponsor

Main Contact's Title (i.e., President, CEO, Member, Partner): _____

Day-to-Day Contact Name: _____ Email: _____

IV. PLAN ADMINISTRATOR

Plan Sponsor is Plan Administrator: ☒ Yes – Skip to V. ☐ No – Complete the remainder of this section.

A. Plan Administrator Name: _____ EIN: _____

Main Contact Name: _____ Email: _____

Please identify the individual authorized to sign Agreements on behalf of Plan Administrator.

Day-to-Day Contact Name: _____ Email: _____

Street Address: _____ City/State/Zip: _____

Telephone: _____ Fax: _____ Email: _____

V. THIRD PARTY ADMINISTRATOR ("TPA") INFORMATION

Newport Group, Inc. is Third Party Administrator: ☒ Yes – Skip to VI. ☐ No – Complete the remainder of this section.

TPA Firm Name: _____ Contact Name: _____

Street Address: _____ City/State/Zip: _____

Telephone: _____ Fax: _____ Email: _____

VI. INVESTMENT ADVISOR INFORMATION

The Plan Sponsor may choose to designate an investment advisor for the Plan. Please mark the appropriate selection below:

Is an Investment Advisor(s) designated for the Plan:

☒ Yes – Complete an Advisor Information and Authorization Form.

☐ No – Skip to VII.

*Please complete an Advisor Information and Authorization Form for **each** Investment Advisor for the Plan and attach to this Application.*

An Advisor Information and Authorization Form should be completed for each advisor prior to providing investment direction to Newport Trust Company, LLC.

VII. BROKER/DEALER INFORMATION

The Plan Sponsor or the Plan Administrator may choose to designate a broker/dealer for the Plan. Please mark the appropriate selection below and provide the broker/dealer information if necessary:

Is a Broker/Dealer designated for the Plan: ☐ Yes – Complete the remainder of this section. ☐ No – Skip to VIII.

A. Dealer Name: _____ Dealer Number: _____ Branch Number: _____

Representative Name: _____ Representative Number: _____

Branch Address: _____ City/State/Zip: _____

Telephone: _____ Fax: _____ Email: _____

VIII. ADDITIONAL PLAN AND PARTICIPANT INFORMATION

Current Trustee(s) contact: _____ Phone: _____ Email: _____

Current Custodian contact: _____ Phone: _____ Email: _____

Current Recordkeeper contact: _____ Phone: _____ Email: _____

Current TPA contact: _____ Phone: _____ Email: _____

Asset Transfer (choose one): ☐ In-cash ☐ In-kind ☐ In-cash/In-kind ☐ No current assets

Number of Eligible Participants: _____ Number of Participants: _____ Participant Loans: ☐ Yes ☐ No

Periodic Payments: ☐ Yes ☐ No Number of Participant Payments (if applicable): _____

Expected date of first payroll deposit or asset transfer to Newport Trust Company, LLC: _____

Indicate when contributions will be made:

Match: ☐ Periodic ☐ Year-End ☐ N/A

Profit Sharing: ☐ Periodic ☐ Year-End ☐ N/A

Other: ☐ Periodic ☐ Year-End ☐ N/A (Describe): _____

IX. INVESTMENT SELECTION

Please indicate which of the following investments are currently assets of the Plan or will be assets of the Plan. You may be required to complete additional documents for the investments selected.

☒ **MUTUAL FUNDS**

Please contact your Recordkeeper/TPA for specific information on allowable funds.

☒ **COLLECTIVE INVESTMENT FUNDS**

Please contact your Recordkeeper/TPA for specific information on allowable funds.

☒ **STABLE VALUE FUNDS**

Please contact your Recordkeeper/TPA for specific information on allowable funds.

☐ **EMPLOYER STOCK**

Employer Stock must be reviewed and approved by NTC prior to inclusion in the Plan's account. Purchases and sales of approved securities can be submitted no more frequently than once per day. NTC will process such instructions within a reasonable period of time after NTC's receipt of instructions. NTC will not make any inquiry into the prudence, appropriateness or liability with respect to the acceptance, distribution, collection, tabulation or remittance of proxies and accompanying materials and other shareholder communications issued with respect to Employer Stock.

☐ **UNITIZED EMPLOYER STOCK**

Please complete Appendix A

☐ **GUARANTEED INVESTMENT CONTRACTS**

Guaranteed Investment Contracts ("GICs") must be reviewed and approved by NTC prior to inclusion in the Plan's account. If approved, NTC must be named as the owner and beneficiary of any GIC. Purchases and sales of GICs will be processed within a reasonable period after NTC's receipt of instructions.

☒ **PARTICIPANT LOANS**

NTC will not make any inquiry into the appropriateness or legality of any Participant loan or any Participant loan payment.

☐ **SELF-DIRECTED BROKERAGE ACCOUNT**

Requires completion of appropriate SDBA documentation.

☐ **UNITIZED MANAGED ACCOUNTS**

Unitized Managed Accounts must be authorized by the Plan Administrator or Recordkeeper/TPA, designated to NTC in writing and acknowledged by the Investment Advisor. The underlying investments of a Unitized Managed Account may include only funds on the NTC - approved fund list and other assets as applicable to the specific UMA program selected and which are pre-approved by NTC. Unitized Managed Account purchases and liquidations will be processed within a reasonable period after NTC's receipt of instructions.

Please complete Appendix B

☐ **EXCHANGED TRADED FUNDS (ETFs)**

Exchanged Traded Funds (ETFs) must be reviewed and approved by NTC prior to inclusion in the Plan's Account.

Please complete Appendix C

☐ **UNITIZED MODEL FUNDS**

All unitized investment funds must be reviewed and approved by NTC prior to inclusion in the Plan's Account

Please complete Appendix D

☐ LIFE INSURANCE/GROUP ANNUITY CONTRACTS

Group annuity contracts (both fixed and variable) issued by commercial insurance companies will be purchased or sold by NTC within a reasonable period after its receipt of written instructions, along with the annuity application. NTC must be named as the owner and beneficiary of any annuity policy. All annuity contracts must be reviewed and approved by NTC prior to inclusion in the Plan's account.

Please complete Appendix I

☒ DEFAULT FUND/INVESTMENT

Please complete the remainder of this section if the Plan will have a default fund or investment

Name of Default Fund/Investment (if applicable): Great Gray Trust T. Rowe Price target date series

Is this fund/investment a Qualified Default Investment Alternative (QDIA)? ☒ Yes ☐ No

***Please note that the cash account equivalent in your investment menu will be the fund to which all forfeitures are allocated.*

X. AUTHORIZED SIGNERS

In accordance with the provisions of the trust or custodial agreement between NTC and the Plan Sponsor and Plan Administrator for the above-named Plan, NTC and its affiliates may accept and act upon instructions on behalf of the Plan received from the Authorized Persons or Parties as set forth in the Authorized Signers Form.

ACCOUNT OPENING DOCUMENT REQUIREMENTS

In addition to completing the signatures contained herein and Exhibits and Appendices hereto, please provide the following documents:

1. Authorized Signers Attachment to this Application
2. Most Current Asset Statement
3. Plan Document Requirements:
 - Copy of executed Plan Document
 - Adoption Agreement and base plan document (*required for prototype plans*)
 - IRS Determination Letter (*for customized or non-standard plans only*)
4. Customer Identification Program Requirements (*for Tax-exempt 457(b) or 457(f) plans, non-qualified deferred compensation plans and nonelecting church plans only*):
 - IRS Form W-9 AND
 - Proof of Entity Status (i.e., certified articles of incorporation, government-issued business license, Secretary of State filing, partnership agreement, etc.)

NTC may request or require additional documents, including documents required to accept certain investments.

SIGNATURE

Plan Sponsor and/or Plan Administrator represents and warrants that all information provided in this Application, including required supplemental documentation (together, the "Information"), is true and correct and that Plan Sponsor will immediately notify NTC of and correct any errors in the Information provided. Plan Sponsor shall immediately notify NTC in writing of any changes to the Information provided herein and NTC may rely on the Information until it receives written notice of such change. The Plan Sponsor shall indemnify and hold harmless NTC and its affiliates and their officers, directors, employees, and agents from any loss or liabilities (including attorneys' fees) arising out of its reliance or action taken in reliance upon any Information provided hereunder, except to the extent such losses or liabilities are a result of the gross negligence of NTC or its affiliates.

Plan Sponsor and/or Plan Administrator further represents and warrants that the undersigned has the authority to open this account and to execute this Agreement.

By executing this Application, the Plan Sponsor and Plan Administrator agree to its terms.

NOTE: Please sign in both signature blocks, even if the Plan Sponsor and Plan Administrator are the same.

PLAN SPONSOR

Signature **X** _____

Printed Name: _____

Title: _____

Date: _____

PLAN ADMINISTRATOR

Signature **X** _____

Printed Name: _____

Title: _____

Date: _____

Newport Trust Company, LLC Automatic Rollover Agreement

This Automatic Rollover Agreement ("**Agreement**") is entered into as of _____ ("**Effective Date**"), by and between Newport Trust Company, LLC, a New Hampshire chartered trust company ("**Newport**"), and **Town of Jupiter Island** ("**Company**") (each a "**Party**" and collectively the "**Parties**").

RECITALS

Company is the sponsor of and a named fiduciary with respect to the **Town of Jupiter Island Retirement Plan for SMRU Employees 401(a)** ("**Plan**"), and is the entity with authority to appoint service providers for the Plan. Company hereby retains Newport to serve as the individual retirement plan provider for the Plan in connection with the Automatic Rollover of Mandatory Distributions, as defined below, in accordance with the terms and conditions set forth herein. The Parties intend that this Agreement satisfy the fiduciary safe harbors set forth in Sections 2550.404a-2 and 2550.404a-3 of Department of Labor regulations. The terms of this Agreement shall be enforceable by each individual for whom an Automatic Rollover IRA has been established hereunder.

1. DEFINITIONS

For purposes of the Agreement, the following terms, when capitalized, have the meaning set forth below:

- 1.1 **Authorized Person** means the person executing this Agreement on behalf of the Company and any individual designated by the Company in Instructions communicated to Newport. The Company shall notify Newport of any limitations on an Authorized Person's authority. Newport may continue to rely upon designations of Authorized Persons until it receives written notice from the Company to the contrary and has a reasonable period of time to act upon such notice.
- 1.2 **Automatic Rollover** means the rollover of a Mandatory Distribution at the direction of the Company.
- 1.3 **Automatic Rollover IRA** means an individual retirement account described in Code Section 408(a) established by Newport to hold an Automatic Rollover.
- 1.4 **Code** means the Internal Revenue Code of 1986, and the rules and regulations promulgated thereunder, as amended from time to time.
- 1.5 **Confidential Information** means (a) information and reports provided or made available to Newport by Company or an Authorized Person (or any employee, agent or representative thereof) in connection with this Agreement; (b) Personal Information; (c) the terms and conditions of this Agreement; (d) information designated by the Disclosing Party as confidential; (e) information regarding past, present or future business and business activities, financial or technical information; products, services, research and development; processes and techniques; designs; financial planning practices; investment methodologies; and marketing plans; and (f) information and material which, by its nature, should reasonably be construed to be proprietary or confidential. Except with respect to Personal Information, Confidential Information does not include any information which the Receiving Party can demonstrate (a) is in the public domain through no fault or breach by such Receiving Party of its obligations hereunder; (b) was known by the Receiving Party prior to its disclosure by the Disclosing Party and was not obtained in such circumstances subject to a requirement of confidentiality; or (c) was developed independently of, and without the use of or access to, any Confidential Information exchanged pursuant to each Agreement.
- 1.6 **Disclosing Party** has the meaning provided in Paragraph 6.1 of this Agreement.

- 1.7 **ERISA** means the Employee Retirement Income Security Act of 1974, and the rules and regulations promulgated

thereunder, as amended from time to time.

1.8 **Indemnified Parties** has the meaning provided in Section 7 of this Agreement.

1.9 **Instructions** means the Company's written directions and instructions to Newport, including, without limitation, the designation of Authorized Persons. The transmission of Plan, participant and financial information from the Company to Newport through agreed-upon transmission protocols, either directly from the Company or indirectly from third parties retained by the Company (including, for example, the Plan's administrator or recordkeeper) shall constitute an instruction to Newport to accept and use such information. Instructions from an Authorized Person constitute Instructions from the Company. All Instructions to establish Automatic Rollover IRAs shall be provided to Newport in a format acceptable to Newport via electronic files or as otherwise agreed to by the Parties.

1.10 **Investment Option** means the investment vehicle into which the corpus of each Automatic Rollover IRA is invested. The Investment Option shall be the Goldman Sachs FS Government Money Market Fund.

1.11 **IRA Account Holder** means the individual for whom an Automatic Rollover IRA has been established.

1.12 **IRA Custodial Account Agreement** means the Traditional Individual Retirement Custodial Account Agreement or the Roth Individual Retirement Custodial Account Agreement, as applicable, governing the operation of the Automatic Rollover IRA established on behalf of a Participant. A copy of the IRA Custodial Account Agreement and the disclosure statement required under Treasury Regulation Section 1.408-6 will be provided to Company upon request.

1.13 **Mandatory Distributions** means distributions that the Plan requires to be made without the Participant's consent (i) while the Plan is ongoing, to a terminated or other Participant whose vested accrued benefit does not exceed \$5,000 or such lesser limit as set forth in the Plan, and (ii) in the event the Plan is terminated, to any Participant entitled to a distribution in connection with said termination, provided that, in either case, the Participant does not affirmatively elect to have the distribution paid directly to an eligible retirement plan and does not elect to receive the distribution directly.

1.14 **Participant** means each participant who receives a Mandatory Distribution from the Plan.

1.15 **Personal Information** means, with respect to Company employees and Plan Participants, an individual's name (either first and last name or first initial and last name) in combination with any one or more of the following data elements: (i) social security number, (ii) driver's license or other government-issued number, (iii) compensation and plan account number or plan account or benefit information, in combination with a security code, access code, or password that would permit access to an individual's plan account. Personal Information does not include any information that is required to be reported in public filings with governmental agencies, is lawfully obtained from publicly available information or that is made available to the general public.

1.16 **Receiving Party** has the meaning provided in Paragraph 6.1 of this Agreement.

2. COMPANY APPOINTMENT AND DIRECTION

Company hereby appoints Newport to serve as custodian of Automatic Rollover IRAs established in connection with Mandatory Distributions from the Plan. Company directs Newport to establish such IRAs upon notification from Company or an Authorized Person of one or more Mandatory Distributions, and to invest the corpus of each such IRA in the Investment Option. Except as otherwise agreed to by the Parties, notification shall be in the form of electronic files containing all information necessary to establish an Automatic Rollover IRA on behalf of a Participant, including but not limited to the Participant's name, date of birth, tax identification number, and the most recent mailing address for the Participant contained in the records of the Plan. Newport will have no obligation to verify the accuracy of the information provided by Company.

Upon receipt of confirmation from Newport that an Automatic Rollover IRA has been established, Company will cause the direct rollover of the Mandatory Distribution from the Plan to the Automatic Rollover IRA identified by Newport. All amounts transferred to Newport by Company shall be remitted in the form of cash; in-kind rollovers shall not be remitted. Company is responsible for payment of all fees and charges necessary to permit the delivery of information and funds between the Plan's administrator or recordkeeper, the Plan, and Newport.

Notification from Company of one or more Mandatory Distributions and receipt of the corresponding rollover amounts will serve as Company's authorization and direction to establish an Automatic Rollover IRA for each individual identified in such Instructions. Company shall promptly notify Newport of any errors in the information transmitted and shall direct Newport with respect to actions to correct such errors.

Newport may rely on any Instructions received and reasonably believed by it to be from the Company or an Authorized Person and shall be fully indemnified by Company for any action taken or omitted by it in reliance upon receipt of such Instructions.

3. NEWPORT RESPONSIBILITIES

Upon receipt of sufficient Instructions, Newport will establish an Automatic Rollover IRA on behalf of individuals identified in such Instructions. Newport will provide Company with the Automatic Rollover IRA identifying information and confirmation that it is prepared to receive a transfer of assets from the Plan. Upon receipt of the assets, Newport will invest the assets in the Investment Option; provided, that Newport may hold the assets uninvested in cash until the Participant's right to revoke the Automatic Rollover IRA have expired. Newport will perform the following services with respect to each Automatic Rollover IRA:

- 3.1 Provide each individual for whom an Automatic Rollover IRA was established an IRA Custodial Account Agreement and an IRA disclosure statement as required by Treasury Regulation Section 1.408-6. The IRA Custodial Account Agreement and disclosure statement may be provided electronically in conjunction with a notice to the IRA Account Holder that will be sent first class mail to the mailing address provided to Newport by Company. Newport shall have no obligation to search for or ascertain the whereabouts of the IRA Account Holder.
- 3.2 Update the Automatic Rollover IRA information with any corrected or updated information as provided by the IRA Account Holder from time to time.
- 3.3 Provide those services described in the IRA Custodial Account Agreement.

The services provided hereunder shall be subject to the general terms and conditions of the IRA Custodial Account Agreement.

4. FEES AND EXPENSES

Each Automatic Rollover IRA will be subject to the fees and expenses set forth in Schedule A attached to this Agreement. Such fees and expenses may change from time to time, but will not exceed fees and expenses that would be charged by Newport for a comparable individual retirement account established for reasons other than the receipt of an Automatic Rollover.

5. REPRESENTATIONS AND WARRANTIES

Company represents and warrants that:

- 5.1 This Agreement has been duly authorized, executed and delivered by and constitutes a valid and binding agreement of the Company. Neither the execution nor delivery of this Agreement nor the transactions contemplated hereby, will result in any breach of a charter, bylaw, partnership agreement, order, law, rule or regulation to which Company is a party or that is otherwise applicable to Company.
- 5.2 The Plan is a qualified plan under Code Section 401(a), a plan that meets the requirements of Code Section 403(b), or an eligible governmental plan under Code Section 457(b), and includes Mandatory Distribution and Automatic Rollover provisions that permit Automatic Rollovers to Newport in accordance with the terms of this Agreement.
- 5.3 If the Plan is ongoing, Participants have been furnished with a summary plan description, or a summary of material modifications, that describes the Plan's Automatic Rollover provisions and the explanation required under Section 2550.404a-2(c)(4) or 2550.404a-3(e), as applicable, of Department of Labor regulations. If the Plan is or is being terminated, Company or its designee has furnished Participants with a notice in accordance with Department of Labor regulation Section 2550.404a-3(e), and Company or its designate has taken all steps required under Department of Labor regulation Section 2550.404a-3(e)(2)(ii) to locate Participants whose notices have been returned as undeliverable.
- 5.4 Company has determined that the Investment Option (i) is designed to preserve principal and provide a reasonable rate of return consistent with liquidity, and (ii) seeks to maintain, over the term of the investment, the dollar value that is equal

to the amount invested in the Investment Option, except insofar as fees and expenses may be charged to such Automatic Rollover IRA in accordance with the terms hereof and the IRA Custodial Account Agreement.

- 5.5 Company has received rate of return information with respect to the Investment Option, and the fee disclosure set forth in Schedule A, all of which are attached hereto or previously have been provided to Company by Newport.
- 5.6 The Investment Option is the only option available under Automatic Rollover IRAs established pursuant to this Agreement, and the respective IRA Account Holders will incur annual maintenance fees, as well as other administrative fees if any such IRA Account Holder requests a distribution from or directs the transfer of the corpus of his or her Automatic Rollover IRA to another IRA provider or eligible retirement plan. Once an IRA Account Holder takes ownership of the Automatic Rollover IRA, the terms of the IRA Custodial Account Agreement govern the investment options then available to him or her.
- 5.7 The selection of Newport to serve as custodian of the Automatic Rollover IRAs will not result in a prohibited transaction under ERISA Section 406.
- 5.8 All information provided to Newport in connection with the establishment of an Automatic Rollover IRA shall be the most recent and accurate information available to the Plan and the Company, and each individual for whom the Company directs an Automatic Rollover of a Mandatory Distribution has not elected to receive the distribution directly (or, in the case of a Plan that is or is being terminated, did not elect a form of distribution within 30 days of receiving the notice referenced in Paragraph 5.3).
- 5.9 Company acknowledges and understands that if the IRA Account Holder has not designated a beneficiary at the time of his or her death, or no such designated beneficiaries are living, the balance of the Automatic Rollover IRA will be paid to the IRA Account Holder's surviving spouse or, if none, the IRA Account Holder's estate.

Newport represents and warrants that:

- 5.10 This Agreement has been duly authorized, executed and delivered by Newport and constitutes a valid and binding agreement of Newport. Neither the execution nor delivery of this Agreement nor the transactions contemplated hereby will result in any breach of any charter, bylaw, order, law, rule or regulation to which Newport is a party or which is otherwise applicable to Newport.
- 5.11 The Automatic Rollover IRA fees and expenses described in Schedule A to this Agreement shall at all times be comparable to fees and expenses for similar individual retirement accounts provided by Newport for reasons other than the receipt of a Mandatory Distributions.
- 5.12 Newport is a state-regulated bank whose deposits are insured by the Federal Deposit Insurance Corporation/the Investment Option is an investment company registered under the Investment Company Act of 1940.

Except as expressly set forth in this Agreement, the Parties do not make any other representations or warranty and specifically disclaim all other representations or warranties, express or implied, including, without limitation, any implied warranties of merchantability and fitness for a particular purpose. The Parties acknowledge and agree that neither Newport nor any of its affiliates, employees, or agents is acting as a "fiduciary" (as such term is defined under ERISA) with respect to the Plan or its assets in providing the services contemplated by this Agreement.

6. CONFIDENTIALITY

- 6.1 Confidentiality Obligation. Each Party (in such capacity the "**Receiving Party**") shall keep the Confidential Information of the other Party (in such capacity, the "**Disclosing Party**") confidential. In addition, the Receiving Party shall implement security measures reasonably designed to secure the Confidential Information against loss, theft and unauthorized use, modification or access. The Receiving Party shall have the limited right to use the Confidential Information only for the purpose of fulfilling its commitments and obligations to the Disclosing Party under this Agreement. Except as permitted in the foregoing sentence or by prior written consent of the Disclosing Party, the Receiving Party shall not use, disclose or distribute to any person, firm or entity any Confidential Information and shall not permit any person, firm or entity to use, disclose or distribute any Confidential Information; provided that the Receiving Party may disclose or distribute such Confidential Information to the following: (a) its officers, employees and directors who have a business need to know such Confidential Information; and (b) its attorneys, accountants, consultants, agents, independent contractors or professional advisors who (x) have a business need to know such Confidential Information and (y) are subject to fiduciary, professional or written obligations of confidentiality substantially similar to, and no less restrictive than, the obligations set forth herein. Except in connection with the purposes identified above, the Receiving Party shall not copy or otherwise reproduce, or permit to be copied or otherwise reproduced, all or any part of Confidential Information without the prior written consent of the Disclosing Party. Notwithstanding the preceding, the Receiving Party may disclose the Confidential

Information of the Disclosing Party to the limited extent such Confidential Information is required to be disclosed by the Receiving Party by applicable law or pursuant to an order of any court or administrative body; provided, that, with regard to each such disclosure, the Receiving Party shall provide the Disclosing Party with prompt notice of such request or order (to the extent permitted by applicable law), shall cooperate reasonably with the Disclosing Party in resisting the disclosure of such Confidential Information via a protective order or other appropriate legal action, and shall not make disclosure pursuant thereto until the Disclosing Party has had a reasonable opportunity to resist such disclosure, unless the Receiving Party is ordered otherwise.

- 6.2 Ownership. All Confidential Information shall be and remain the sole and exclusive property of the Disclosing Party, its affiliates, or their respective employees, suppliers, or customers, as the case may be. Except as otherwise set forth in this Agreement, neither Party acquires any intellectual property, including any rights to create derivative works of any Confidential Information, under the Agreement, except the limited right to use such Confidential Information in accordance with the Agreement.
- 6.3 Return of Confidential Information. Upon written request by the Disclosing Party, the Receiving Party shall: (a) return to the Disclosing Party all Confidential Information, all documents or media containing the Confidential Information, and any and all copies or extracts thereof, and/or (b) destroy the Confidential Information, and any and all copies or extracts thereof, and provide the Disclosing Party with written certification of such destruction signed by an authorized representative of the Receiving Party; provided, however, that the Receiving Party is entitled to retain copies of such Confidential Information to the extent required by applicable law and that are electronically stored or archived in the ordinary course of business.
- 6.4 Injunctive Relief. The Parties acknowledge and agree that any breach or threatened breach of Paragraph 6.1 may cause the aggrieved Party immediate and irreparable harm for which monetary damages alone will be inadequate compensation. Accordingly, the aggrieved Party shall be entitled, in addition to any other remedies available at law or in equity, to immediate injunctive relief without requiring a cure period and without the necessity of posting a bond.

7. INDEMNIFICATION

Company agrees to indemnify, defend and hold Newport and its affiliates, and their respective directors, manager, officers, employees, agents and other representatives ("**Indemnified Parties**") harmless from any and all losses, costs, excise taxes, expenses, fees, liabilities, damages, and claims of any nature whatsoever, including but not limited to legal expenses, court costs, reasonable legal fees, costs of or associated with enforcement actions, investigations, suits, and regulatory or other actions and appeals thereof resulting from (i) their reasonable reliance upon any certificate, notice, confirmation, or instruction, purporting to have been delivered by Company or an Authorized Person; (ii) any loss or diminution of the value of the Automatic Rollover IRA resulting from changes in the market value of its assets; (iii) reliance, or action taken in reasonable reliance, on Instructions from Company or an Authorized Person; (iv) any act or failure to act by Company; (v) any prohibited transaction or disqualification of the Plan, including, but not limited to, a prohibited transaction or plan disqualification that is caused by any action taken or not taken by Newport in reasonable reliance on Instructions from Company; or (vi) any other act Newport takes in good faith hereunder that arises under this Agreement or the administration of the Automatic Rollover IRA pursuant hereto.

Newport shall not be liable to Company for any act, omission, or determination made in connection with this Agreement except for its gross negligence or willful misconduct. Without limiting the generality of the foregoing, Newport shall not be liable for any losses arising from its compliance with Instructions from Company or an Authorized Person, or executing, failing to execute, failing to timely execute or for any mistake in the execution of any Instructions, unless such action or inaction is by reason of the gross negligence or willful misconduct of Newport. Newport shall not be responsible for losses caused directly or indirectly by conditions beyond its reasonable control or that could not be avoided by the exercise of due care, including, but not limited to an act of God, any mechanical failure, war, natural disaster, government restrictions or changes, exchange, market rulings, strikes, interruptions of communications or data processing services, or disruptions in orderly trading on any exchange or market. The Parties acknowledge that unforeseen circumstances may temporarily prevent or prohibit Newport from performing its services. If Newport is not able to perform its related services for a period of more than three (3) Business Days, Newport shall notify the Plan Sponsor in writing.

8. TERM; TERMINATION; AMENDMENT

This Agreement is effective as of the Effective Date and shall continue in full force and effect until terminated. This Agreement may be amended by Newport, provided written notice of such amendment is sent to Company at least thirty (30) days prior to the effective date of any such amendment. This Agreement may be terminated by either Party at any time upon sixty (60) days' prior written notice to the address of record of the other Party. The provisions of Sections 5, 6 and 7 shall survive the termination of this Agreement.

9. USA PATRIOT ACT NOTIFICATION

The following notification is provided to Company pursuant to Section 326 of the USA PATRIOT Act of 2001, 31 U.S.C. Section 5318:

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person or entity that opens an account, including any deposit account, treasury management account, loan, other extension of credit, or other financial services product. When Company opens an Automatic Rollover IRA account for a Participant, Newport will ask for such individual's name, taxpayer identification number, residential address, date of birth, and other information that will allow Newport to identify the Participant. Newport may also ask, if the participant is an individual, to see or review a copy of his or her driver's license or other identifying documents.

10. MISCELLANEOUS

- 10.1 **Governing Law.** This Agreement shall be governed by and construed in accordance with and enforced pursuant to the laws of Delaware, without regard to its principles of conflicts of law, except to the extent preempted by federal law.
- 10.2 **Notices.** Whenever any notice may be or is required to be given hereunder, such notice shall be in writing and sent by United States first class mail, postage prepaid; by facsimile with confirmed delivery; or by overnight delivery service, where receipt is given, and addressed (a) to the Company: to the person and address appearing in Newport's records, provided by the Company for such purposes; and (b) to Newport Trust Company, LLC: Newport Trust Company, LLC, c/o Newport Group, Inc., ATTN: Newport Trust Company, LLC, 45 South 7th Street, Suite 2208, Minneapolis, MN 55402, Facsimile Number: 916-605-4024, or such other address as Newport may provide from time to time, with a copy to Newport Group, Inc., 200 Dryden Road, Dresher, PA, 19025, Attention: Legal Department.
- 10.3 **Use of Third Parties.** Newport may retain third party vendors ("subcontractors") to assist it in the performance of its obligations hereunder; provided, however, that to the extent such subcontractor has access to Confidential Information or Personal Information, such subcontractor shall have agreed in writing to adhere to confidentiality obligations no less restrictive than those set forth in this Agreement. The use of subcontractors shall not affect Newport's responsibility for its representations, warranties, covenants or undertakings under this Agreement, and at all times Newport shall remain responsible for its performance obligations hereunder.
- 10.4 **Status as Independent Contractors.** Nothing in this Agreement shall cause or be deemed to cause any Party (including its officers, directors, or employees) to be an employee, partner, joint venturer, or agent of the other Party. The sole relationship of the parties hereto is that of independent contractor.
- 10.5 **Third Party Beneficiaries.** Except with respect to a Participant's right to enforce the terms of this Agreement, as provided in the Recitals, this Agreement shall not be construed as granting any rights or benefits to third parties, including, for example, employees, independent contractors, consultants or other agents of the Parties.
- 10.6 **Successors and Assigns.** This Agreement is binding upon the successors and assigns of the Parties hereto. Either Party may assign the Agreement to an affiliate or a successor in interest upon advance written notice to the other Party.
- 10.7 **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of the Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of the Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of the Agreement becomes inconsistent with any present or future law or regulation, that provision shall be superseded or amended to conform to such law and regulation, but the remainder of the Agreement

shall remain in full force and effect.

- 10.8 Construction. Headings in this Agreement are inserted solely for convenience of reference and will neither constitute a part of the Agreement nor affect its meaning, construction or intent. Whenever used in this Agreement, unless the context indicates otherwise, the singular will include the plural, the plural will include the singular, and the male gender will include the female gender. The words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation," unless otherwise specified. This Agreement has been negotiated and prepared by the Parties and their respective attorneys and, should any provision of this Agreement require judicial interpretation, the court interpreting or construing such provision shall not apply the rule of construction that a document is to be construed more strictly against one Party.
- 10.9 Complete Agreement. This Agreement constitutes the entire agreement between Newport and the Company related to the subject matter hereof and supersedes all prior agreements, proposals or representations, whether written or oral, between the Parties relating to the subject matter hereof.
- 10.10 Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts taken together shall constitute one and the same instrument. The Parties hereto agree that this Agreement may be executed by facsimile or digital signature, which will have the same effect as an original signature.
- 10.11 Waivers. No failure or delay in exercising any rights or privilege hereunder shall operate as a waiver thereof. No waiver of any right or privilege in respect to any occurrence or event on one occasion shall be deemed a waiver of such right or privilege in respect of such occurrence or event on any other occasion.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized officers as of the Effective Date.

TOWN OF JUPITER ISLAND

NEWPORT TRUST COMPANY, LLC

Signature

Signature

Printed Name

Printed Name

Title

Trust Officer
Title

Date

Date

Schedule A
Automatic Rollover IRA Fees

Account Fees

Annual IRA Account Fee (incurred quarterly in arrears)	\$35
Account Termination Fee	\$25

Service Fees

Check Distributions	\$25 each
Overnight Delivery	\$30 each
Late/Stop Payment/Returned Checks	\$25 each

Goldman Sachs FS Government Svc FOSXX

Benchmark
Morningstar USD 1M Cash TR USD

7-Day SEC Yield %
4.73

Overall Morningstar Rating™

Morningstar Return

Morningstar Risk

Investment Objective & Strategy

From investment's prospectus

The investment seeks to maximize current income to the extent consistent with the preservation of capital and the maintenance of liquidity by investing exclusively in high quality money market instruments.

The fund pursues its investment objective by investing only in "government securities," as such term is defined in or interpreted under the Investment Company Act of 1940, as amended ("Investment Company Act"), and repurchase agreements collateralized by such securities. "government securities" generally are securities issued or guaranteed by the United States or certain U.S. government agencies or instrumentalities ("U.S. government securities").

Fees and Expenses as of 03-30-23

Prospectus Net Expense Ratio	0.68%
Prospectus Gross Expense Ratio	0.68%
Maximum Sales Charge	—
12b-1 Fee	0.25%
Redemption Fee/Term	—

Waiver Data	Type	Exp. Date	%
—	—	—	—

Operations and Management

Fund Inception Date	05-16-95
Portfolio Manager(s)	Management Team
Name of Issuer	Goldman Sachs
Telephone	800-621-2550
Web Site	www.goldmansachsfunds.com

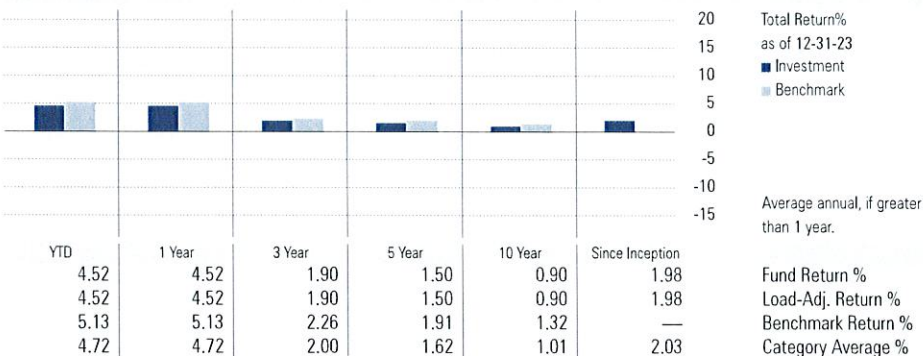
Benchmark Description: Morningstar USD 1M Cash TR USD

The index measures the performance of a synthetic asset carrying an interest rate equal to the average of the one month lending bid/offer rates in the US market. Interest income is accrued during the month and the proceeds are rolled into a new synthetic asset at each monthly rebalancing. It is market value weighted. The index does not incorporate Environmental, Social, or Governance (ESG) criteria.

Category Description: Money Market-Taxable

These portfolios invest in short-term money market securities in order to provide a level of current income that is consistent with the preservation of capital. These funds do not designate themselves as Prime in Form N-MFP.

Performance



Quarter End Returns as of 12-31-23

	YTD	1 Year	3 Year	5 Year	10 Year	Since Inception
Fund Return %	4.52	4.52	1.90	1.50	0.90	1.98
Standardized Return %	4.52	4.52	1.90	1.50	0.90	1.98

Performance Disclosure: The performance data quoted represents past performance and does not guarantee future results. The investment return and principal value of an investment will fluctuate; thus an investor's shares, when redeemed, may be worth more or less than their original cost.

Portfolio Analysis as of 12-31-23

Composition as of 12-31-23

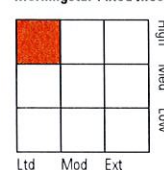


- U.S. Stocks
- Non-U.S. Stocks
- Bonds
- Cash
- Other

% Assets

U.S. Stocks	0.0
Non-U.S. Stocks	0.0
Bonds	0.0
Cash	100.0
Other	0.0

Morningstar Fixed Income Style Box™ as of 12-31-23



Principal Risks as of 11-30-23

Credit and Counterparty, Loss of Money, Not FDIC Insured, Interest Rate, Market/Market Volatility, Restricted/Illiquid Securities, U.S. Government Obligations, Shareholder Activity, Money Market

Money Market Fund Disclosure

Government Money Market Funds that have chosen not to rely on the ability to impose liquidity fees and suspend redemptions:

You could lose money by investing in the fund. Although the fund seeks to preserve the value of your investment at \$1.00 per share, it cannot guarantee it will do so. An investment in the fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. The fund's sponsor has no legal obligation to provide financial support to the fund, and you should not expect that the sponsor will provide financial support to the fund at any time.

Liquidity Fee: No

Redemption Gate: No

Disclosure

The performance data given represents past performance and should not be considered indicative of future results. Principal value and investment return will fluctuate, so that an investor's shares when redeemed may be worth more or less than the original investment. Fund portfolio statistics change over time. The fund is not FDIC-insured, may lose value and is not guaranteed by a bank or other financial institution.

Performance

Total return reflects performance without adjusting for sales charges or the effects of taxation, but is adjusted to reflect all actual ongoing fund expenses and assumes reinvestment of dividends and capital gains. If adjusted, sales charges would reduce the performance quoted.

The fund's performance is compared with that of an index. The index is an unmanaged portfolio of specified securities and the index does not reflect any initial or ongoing expenses. The Best Fit Index is the index that the fund has the highest correlation with. A fund's portfolio may differ significantly from the securities in the index. The index is chosen by Morningstar.

Best and Worst 3 Month Performance

Morningstar calculates best and worst 3-month period (in percentage) in-house on a monthly basis.

Best 3-month Period: The highest total return the stock has posted in a consecutive three-month period over the trailing 15 years, or if a fund does not have 15 years of history, it will go back as far as the inception date.

Worst 3-month Period: The lowest total return the stock has posted in a consecutive three-month period over the trailing 15 years, or if a fund does not have 15 years of history, it will go back as far as the inception date.

Growth of \$10,000 Graph

The Growth of \$10,000 graph shows a fund's performance based on how \$10,000 invested in the fund would have grown over time. The returns used in the graph are not load-adjusted. The growth of \$10,000 begins at the date of the fund's inception, or the first year listed on the graph, whichever is appropriate. Located alongside the fund's graph line is a line that represents the growth of \$10,000 in an index. The inclusion of the index allows investors to compare the performance of the fund with the performance of a benchmark index.

Morningstar Rating™

The Morningstar Rating™ for funds, or "star rating", is calculated for managed products (including mutual funds, variable annuity and variable life subaccounts, exchange-traded funds, closed-end funds, and separate accounts) with at least a three-year history. Exchange-traded funds and open-ended mutual funds are considered a single population for comparative purposes. It is calculated based on a Morningstar Risk-Adjusted Return measure that accounts for variation in a managed product's monthly excess performance, placing more emphasis on downward variations and rewarding consistent performance. The Morningstar Rating does not include any adjustment for sales loads. The top 10% of products in each product category receive 5 stars, the next 22.5% receive 4 stars, the next 35% receive 3 stars,

the next 22.5% receive 2 stars, and the bottom 10% receive 1 star. The Overall Morningstar Rating for a managed product is derived from a weighted average of the performance figures associated with its three-, five-, and 10-year (if applicable) Morningstar Rating metrics. The weights are: 100% three-year rating for 36-59 months of total returns, 60% five-year rating/40% three-year rating for 60-119 months of total returns, and 50% 10-year rating/30% five-year rating/20% three-year rating for 120 or more months of total returns. While the 10-year overall star rating formula seems to give the most weight to the 10-year period, the most recent three-year period actually has the greatest impact because it is included in all three rating periods.

For private funds, the Morningstar Rating presented is hypothetical, because Morningstar does not independently analyze private funds. Rather, the rating is assigned as a means to compare these funds with the universe of mutual funds that Morningstar rates. The evaluation of this investment does not affect the retail mutual fund data published by Morningstar.

Morningstar Return

The Morningstar Return rates a fund's performance relative to other managed products in its Morningstar Category. It is an assessment of a product's excess return over a risk-free rate (the return of the 90-day Treasury Bill) in comparison with the products in its Morningstar category. In each Morningstar category, the top 10% of products earn a High Morningstar Return (High), the next 22.5% Above Average (+ Avg), the middle 35% Average (Avg), the next 22.5% Below Average (- Avg), and the bottom 10% Low (Low). Morningstar Return is measured for up to three time periods (three, five, and 10 years). These separate measures are then weighted and averaged to produce an overall measure for the product. Products with less than three years of performance history are not rated.

Morningstar Risk

Morningstar Risk evaluates a fund's downside volatility relative to that of other products in its Morningstar Category. It is an assessment of the variations in monthly returns, with an emphasis on downside variations, in comparison with the products in its Morningstar category. In each Morningstar category, the 10% of products with the lowest measured risk are described as Low Risk (Low), the next 22.5% Below Average (-Avg), the middle 35% Average (Avg), the next 22.5% Above Average (+ Avg), and the top 10% High (High). Morningstar Risk is measured for up to three time periods (three, five, and 10 years). These separate measures are then weighted and averaged to produce an overall measure for the product. Products with less than three years of performance history are not rated.

Risk Measures

R-squared reflects the percentage of a fund's movements that are explained by movements in its benchmark index, showing the degree of correlation between the fund and the benchmark.

Beta is a measure of a fund's sensitivity to market movements. A portfolio with a beta greater than 1 is more volatile than the market, and a portfolio with a beta less than 1 is less volatile than the market.

Alpha measures the difference between a fund's actual returns and its expected performance, given its level of risk

(as measured by beta).

Sharpe ratio uses standard deviation and excess return to determine reward per unit of risk.

Standard deviation is a statistical measure of the volatility of the fund's returns.

Mean represents the annualized three-year geometric return.

Morningstar Style Box™

The Morningstar Style Box™ reveals a fund's investment strategy as of the date noted on this report.

For equity funds, the vertical axis shows the market capitalization of the long stocks owned, and the horizontal axis shows the investment style (value, blend, or growth.) A darkened cell in the style box matrix indicates the weighted average style of the portfolio.

For portfolios holding fixed-income investments, a Fixed Income Style Box is calculated. The vertical axis shows the credit quality based on credit ratings and the horizontal axis shows interest-rate sensitivity as measured by effective duration. There are three credit categories - "High", "Medium", and "Low"; and there are three interest rate sensitivity categories - "Limited", "Moderate", and "Extensive"; resulting in nine possible combinations. As in the Equity Style Box, the combination of credit and interest rate sensitivity for a portfolio is represented by a darkened square in the matrix. Morningstar uses credit rating information from credit rating agencies (CRAs) that have been designated Nationally Recognized Statistical Rating Organizations (NRSROs) by the Securities and Exchange Commission (SEC) in the United States. For a list of all NRSROs, please visit <https://www.sec.gov/oc/oc-current-nrsros.html>. Additionally, Morningstar will use credit ratings from CRAs which have been recognized by foreign regulatory institutions that are deemed the equivalent of the NRSRO designation. To determine the rating applicable to a holding and the subsequent holding weighted value of a portfolio two methods may be employed. First is a common methodology approach where if a case exists such that two CRAs have rated a holding, the lower rating of the two should be applied; if three or more CRAs have rated a holding, the median rating should be applied; and in cases where there are more than two ratings and a median rating cannot be determined, the lower of the two middle ratings should be applied.

Alternatively, if there is more than one rating available an average can be calculated from all and applied.

Please Note: Morningstar, Inc. is not an NRSRO nor does it issue a credit rating on the fund. Credit ratings for any security held in a portfolio can change over time.

Morningstar uses the credit rating information to calculate a weighted-average credit quality value for the portfolio. This value is based only upon those holdings which are considered to be classified as "fixed income", such as government, corporate, or securitized issues. Other types of holdings such as equities and many, though not all, types of derivatives are excluded. The weighted-average credit quality value is

Disclosure

represented by a rating symbol which corresponds to the long-term rating symbol schemas employed by most CRAs. Note that this value is not explicitly published but instead serves as an input in the Style Box calculation. This symbol is then used to map to a Style Box credit quality category of "low," "medium," or "high". Funds with a "low" credit quality category are those whose weighted-average credit quality is determined to be equivalent to the commonly used High Yield classification, meaning a rating below "BBB", portfolios assigned to the "high" credit category have either a "AAA" or "AA+" average credit quality value, while "medium" are those with an average rating of "AA-" inclusive to "BBB-". It is expected and intended that the majority of portfolios will be assigned a credit category of "medium".

For assignment to an interest-rate sensitivity category, Morningstar uses the average effective duration of the portfolio. From this value there are three distinct methodologies employed to determine assignment to category. Portfolio which are assigned to Morningstar municipal-bond categories employ static breakpoints between categories. These breakpoints are: "Limited" equal to 4.5 years or less, "Moderate" equal to 4.5 years to less than 7 years; and "Extensive" equal to more than 7 years. For portfolios assigned to Morningstar categories other than U.S. Taxable, including all domiciled outside the United States, static duration breakpoints are also used: "Limited" equals less than or equal to 3.5 years, "Moderate" equals greater than 3.5 years but less than or equal to 6 years, and "Extensive" is assigned to portfolios with effective durations of more than 6 years.

Note: Interest-rate sensitivity for non-U.S. domiciled portfolios (excluding those in Morningstar convertible categories) may be assigned using average modified duration when average effective duration is not available.

For portfolios Morningstar classifies as U.S. Taxable Fixed-Income, interest-rate sensitivity category assignment is based on the effective duration of the Morningstar Core Bond Index (MCBI). The classification assignment is dynamically determined relative to the benchmark index value. A "Limited" category will be assigned to portfolios whose average effective duration is between 25% to 75% of MCBI average effective duration, where the average effective duration is between 75% to 125% of the MCBI the portfolio will be classified as "Moderate", and those portfolios with an average effective duration value 125% or greater of the average effective duration of the MCBI will be classified as "Extensive".

Investment Risk

Foreign Securities Funds/Emerging Markets Funds: The investor should note that funds that invest in foreign securities involve special additional risks. These risks include, but are not limited to, currency risk, political risk, and risk associated with varying accounting standards. Investing in emerging markets may accentuate these risks.

Specialty/Sector Funds: The investor should note that funds that invest exclusively in one sector or industry involve additional risks. The lack of industry diversification subjects the investor to increased industry-specific risks.

Non-Diversified Funds: The investor should note that funds

that invest more of their assets in a single issuer involve additional risks, including share price fluctuations, because of the increased concentration of investments.

Small Cap Funds: The investor should note that funds that invest in stocks of small companies involve additional risks. Smaller companies typically have a higher risk of failure, and are not as well established as larger blue-chip companies. Historically, smaller-company stocks have experienced a greater degree of market volatility than the overall market average.

Mid Cap Funds: The investor should note that funds that invest in companies with market capitalizations below \$10 billion involve additional risks. The securities of these companies may be more volatile and less liquid than the securities of larger companies.

High-Yield Bond Funds: The investor should note that funds that invest in lower-rated debt securities (commonly referred to as junk bonds) involve additional risks because of the lower credit quality of the securities in the portfolio. The investor should be aware of the possible higher level of volatility, and increased risk of default.

Tax-Free Municipal Bond Funds: The investor should note that the income from tax-free municipal bond funds may be subject to state and local taxation and the Alternative Minimum Tax.

Statement of Work

Recordkeeping Only

This **Statement of Work** is entered on _____ (**"Effective Date"**), between **Town of Jupiter Island ("Company")** and **Newport Group, Inc. ("Newport Group")**. The terms of the Master Services Agreement (**"MSA"**) between Company and Newport Group, dated as of the same date, are incorporated by reference, except as modified below. Capitalized terms not defined in this Statement of Work have the meaning given in the MSA.

RECITALS

Company, as the plan sponsor for the **Town of Jupiter Island Retirement Plan for SMRU Employees 401(a)** (the **"Plan"**) hereby retains Newport Group to provide recordkeeping services for the Plan (**"Services"**) in accordance with the terms and conditions set forth herein.

In consideration of their mutual undertakings set forth below, the parties agree as follows:

1. SERVICES TO BE PERFORMED

Newport Group agrees to perform the following Services for the duration of this Statement of Work.

1.1 Conversion and Implementation Services

- (a) Where applicable, Newport Group will coordinate the transfer of Plan data and documentation from the prior record keeper and administrator to Newport Group's recordkeeping platform.
- (b) Newport Group will coordinate the transfer of trust assets from the prior trustee/custodian to the successor trustee/custodian, as authorized by Company.
- (c) Newport Group will prepare blackout notices for Company to deliver to participants, as applicable.
- (d) Newport Group will provide Company with appropriate payroll processing training.

Trading may commence by the end of the 7th Business Day following the date Newport Group receives all necessary Plan information and documentation by 1 p.m. ET. All information and documentation will be delivered to Newport Group electronically in a form acceptable to it. In the event the broker of record information needs to be verified, trading will be made available as soon as administratively feasible.

Newport Group will accept historical and other Plan information received as correct and complete, and will not audit such information for accuracy, compliance with government requirements or consistency.

1.2 Plan Document Services

- (a) If Company elects to use a Newport Group-sponsored plan document, Newport Group will prepare drafts of the plan document and summary plan description for review and approval by Company during the conversion process.
- (b) If Company elects to use a Newport Group-sponsored plan document, Newport Group will, for an additional fee, provide drafts of discretionary amendments and related summaries of material modifications as requested by an Authorized Person for review and approval by Company.
- (c) Newport Group will maintain current favorable Internal Revenue Service ("IRS") opinion/approval letters on the Newport Group-sponsored plan document.
- (d) Newport Group will assist Company in reviewing Plan provisions and may propose changes in Plan design based on Company's objectives as communicated to Newport Group or as required by IRS interim amendments or restatements.

1.3 Communication/Enrollment Services

- (a) Newport Group will prepare and provide to Company drafts of automatic enrollment notices as applicable.
- (b) Upon request and for an additional fee, Newport Group will prepare and provide to Company drafts of such other participant communications as may be required pursuant to the Plan or Applicable Law.

Company is responsible for distributing any such notices and communication materials to participants and other parties unless it requests Newport Group to distribute such notices and communications on its behalf for an additional fee. Company will review and approve all employee communications and enrollment materials. Company agrees that it will promptly provide (or cause a third party to provide) Newport Group with such participant information as it may require in order to perform this service.

Newport Group prepares participant communication material and reports based on information that is reasonably available in the marketplace and/or provided by Company and other service providers. Where available, Newport Group will deliver such material electronically.

1.4 Recordkeeping Services

- (a) **Coordination with Plan Auditors.** To the extent applicable, and for Plan years for which Newport Group is engaged as recordkeeper, Newport Group will provide standard Plan reports directly to the Plan auditors and will respond to auditor questions regarding information related to such standard reports. Company hereby authorizes Newport Group to provide such reports and information directly to the Plan auditors. The time required to provide additional information requested by the auditors will be charged at the hourly rate set forth in the Fee Schedule attached hereto, and notice of such charges will be provided to Company.

- (b) **Missing Persons.** Upon request, and for an additional fee, Newport Group will assist Company in locating missing participants and take action as directed by Company or an Authorized Person with respect to benefits for missing participants.
- (c) **Distribution Processing.** Newport Group will process distributions in accordance with instructions from an Authorized Person, which may include pre-approval of specific types of distributions meeting agreed criteria. Newport Group will provide instructions to the Plan trustee or custodian, as applicable, regarding tax withholding and reporting. Newport Group is not responsible for remitting taxes withheld or filing tax forms. Company is responsible for timely reporting of separations of service and is responsible for non-compliance if such reporting is not provided. Company is responsible for maintaining current participant addresses.

Distributions will be processed (requested by participant and approved by Company or an Authorized Person) through the Website except where spousal consent is required, an in-kind distribution is being requested, or Newport Group is otherwise not able to process the distribution via the Website. Where paperless distributions are not available, Newport Group will provide the appropriate documentation to enable the distribution process.

Newport Group will not be responsible for processing any distribution request that is incomplete. Newport Group will have no obligation to inquire as to the validity or accuracy of any distribution.

Non-periodic distributions will be made by check; periodic distributions may be made by ACH or check, as requested by the participant. All direct rollovers will be made by check and mailed to the participant for delivery to the rollover institution.

Newport Group will process stale (returned or unclaimed) checks in accordance with its standard procedures regarding stale dated and returned checks. If Company directs that a stop payment be placed on a check, Company will instruct Newport either to credit the proceeds back to the Participant's account or reissue the check or ACH or wire the proceeds.

- (i) **Optional Unforeseeable Emergency Withdrawal Service.** If the Plan document allows participants to take unforeseeable emergency withdrawals, Newport Group will, upon request and for an additional fee, assist Company in determining eligibility for unforeseeable emergency withdrawals and approving or denying withdrawal requests. If Company does not request such assistance, Newport Group's Services will be limited to processing the unforeseeable emergency withdrawal in accordance with instructions from an Authorized Person. Company is responsible for suspending deferrals and other contributions during the suspension period, as applicable.
 - (ii) **Optional Domestic Relations Order Services.** Newport Group's Services will be limited to processing domestic relations orders in accordance with instructions from an Authorized Person.
- (d) **Loan Processing.** Newport Group will process loans in accordance with the Plan document and instructions from an Authorized Person. Loans will be processed

(requested by participant and approved by Company or an Authorized Person) through the Website except where spousal consent is required, the loan is a residential loan, or Newport Group is otherwise not able to process the loan via the Website. Where paperless loans are not available, Newport Group will provide the appropriate documentation to enable the loan process.

Complete loan requests received by 3 p.m. ET will be processed and the funds will be issued to have the loan proceeds mailed within three Business Days, provided that the trades have settled and funds have been received. Newport Group will not be responsible for processing any loan request that is incomplete. Newport Group will have no obligation to inquire as to the validity or accuracy of any loan.

Following the processing of a loan, Newport Group will post necessary information to the Website to enable Company to commence loan repayments through payroll deductions. Company is responsible for initiating payroll deductions for such loans. Newport Group will issue a quarterly report to notify Company upon the occurrence of a late payment and of loan defaults. Loans will be offset or treated as a deemed distribution solely at the direction of Company.

- (e) **Participant Investment Accounts.** Newport Group will establish and maintain records for each participant's account under the Plan (including appropriate sub-accounts reflecting investment options and contribution classifications). Newport Group will facilitate the investment of contributions and other receipts and post transactions and investment gains and losses to participant accounts.
- (i) **Investment Purchases, Sales or Exchanges.** Newport Group will instruct the Plan custodian to buy, sell or exchange securities or other investments in accordance with, and upon receipt of, instructions electronically transmitted via the Website, VRU or otherwise provided to Newport Group in writing by Company, an Authorized Person or a participant.

On each Business Day, Newport Group will transmit instructions to the custodian for the investment exchanges, transfers, and changes in investment directions for contributions and existing account balances which are submitted on the recordkeeping system before 4 p.m. ET (or such other deadline established by Newport Group, Company, broker or market specialist for the day). Directions received on or after 4 p.m. ET (or such other deadline established by Newport Group, Company, broker or market specialist for the day) will generally be processed the next Business Day.

Newport Group is not responsible for directions that have been properly processed and timely transmitted to the custodian. Newport Group may specify the manner in which investment directions will be provided to Newport Group, including, without limitation, through Newport Group's internet interface or through Newport Group's VRU system, and Newport Group will not be responsible for investment directions provided through other means. Newport Group will have no authority or responsibility for executing the purchase or sale of securities or other assets held in the Plan trust.

- (ii) **Changes in Investment Options or Related Systems.** The addition, change or deletion of funds offered under the Plan (including fund swaps/changes, fund line-up changes, model changes/maintenance and rebalances, and corporate actions services), or changes affecting the systems through which existing or new funds are offered, will be processed by Newport Group based on information received from Company. Newport Group will prepare all necessary fund addition, change or deletion forms and any applicable blackout notices and/or fund disclosures. Changes must be communicated to Newport Group upon at least ninety (90) Business Days' advance written notice, unless otherwise agreed to by Newport.

Provided advance written notice has been provided, the addition, change or deletion of funds offered under the Plan will become effective and available for trading by the end of the 5th Business Day after Newport Group's receipt of all necessary information and documentation and expiration of all applicable regulatory and Newport or fund-mandated notice periods. In the event that a fund is not currently traded by Newport Group or the Plan's custodian, and for changes affecting systems through which existing or new funds are offered, the fund or change will be made available as soon as administratively feasible.

Company is responsible for, and Newport Group will have no obligation for, reviewing all requirements and restrictions imposed by the mutual fund and for verifying that Company will meet any such requirements or restrictions.

Newport Group will make Plan-level in-kind transfers if directed by Company.

- (f) **Contributions and Loan Repayments.** Newport Group will process participant and Company contributions and loan repayments and credit such amounts to participant investment accounts.

On a daily basis, Newport Group will accept and process payroll files that reconcile to the payroll deposit received for investment by the Plan's trustee or custodian, via the Website. Payroll and deposit information must be provided in the format and field order required by Newport Group. Subject to any requirements imposed by the Plan's trustee or custodian, contributions may be made by ACH pull from Company's designated account, or by wire.

ACH pull deposit requests received in good order by the Plan's trustee or custodian by 1:30 p.m. ET on a Business Day will be processed by Newport Group that day. ACH pull deposit requests received in good order by the Plan's trustee or custodian after 1:30 p.m. ET will be processed by Newport Group the next Business Day.

Contributions that reconcile to deposits will be credited to individual participant accounts each Business Day, typically on the same Business Day according to then current procedures. Contributions will not be processed until Newport Group has received participant allocation information. Contributions for participants for whom no investment direction has been provided to Newport Group will be allocated to the Plan's default investment, as selected by Company.

Company is responsible for ensuring that participant contribution/deferral elections and loan repayments are properly implemented through Company's payroll system and that funds (including participant elective deferrals) are remitted to the Plan trust when required by Applicable Law.

- (g) Daily Valuation. Newport Group will calculate the value of each participant's account based on the prior Business Day's values as reported by the Plan's custodian.
- (h) Participant Reporting. Newport Group will prepare pension benefit statements each calendar quarter for participants, beneficiaries and alternate payees with an account balance during such quarter.
- (i) Company Reports. Upon request by Company, and for an additional fee, Newport Group will prepare customized reports as agreed to by Newport Group in its sole discretion.

1.5 Participant and Company Support. Newport Group will maintain and provide a toll-free automated telephone answering system ("VRU") that participants can use to obtain general Plan and account information and to request changes to investment and deferral elections. Newport Group will maintain staff to support participant inquiries in English and Spanish each Business Day between the hours of 8 a.m. to 8 p.m. ET. Other languages may be available upon request. Newport Group will also maintain a Website that Company and participants can use to access Plan and account information, request distributions and loans when available, make changes to investment and contribution elections when available, and provide Instructions as needed.

Access to and use of the Website is subject to the terms and conditions of such Website, and each user thereof must comply with all user enrollment and security procedures established by Newport Group (or its agents) from time to time.

To confirm identity of an authorized VRU or Website user, Newport Group requires users to provide Newport Group issued credentials. Newport Group will not be liable for any Losses incurred by Company, participant or other party for responding to an inquiry or processing instructions from a user of the VRU or Website that has confirmed identity using Newport Group issued credentials. A user of the Website is responsible for verifying the accuracy and receipt of all data or information that such user transmits via the Website. Company shall advise its users to promptly notify Company of any errors or inaccuracies in data or information on the Website.

2. COMPANY'S RESPONSIBILITIES

Company agrees to do the following:

2.1 Implementation.

- (a) **Plan Documents.** Company agrees to provide Newport Group with copies of current executed Plan and trust documents including all amendments thereto, and the most recent IRS determination, opinion, or advisory letter for the Plan. Company will notify

Newport Group in advance of any changes to the interpretation or administration of the Plan and its related trust, and to provide notification to Newport Group of any substitution of the Plan's trustee.

Company agrees to provide Newport Group written notice of any amendments to the Plan at least 30 days prior to the effective date thereof, or such longer period as may be required by Newport Group. Newport Group will notify Company of any restrictions on Newport Group's ability to administer the Plan as a result of such amendments and shall further notify Company of any changes to the Services and fees as a result of such amendments.

Newport Group is not responsible for maintaining the tax-qualified status of any plan documentation except as specifically provided in this Statement of Work.

- (b) **Implementation Data.** Company will provide to Newport Group the information required to implement the Plan or convert the Plan to Newport Group's recordkeeping systems. Such information will include eligible employee and participant census data, account data, and any related implementation or conversion data for the participant population as may be required by Newport Group and shall be provided in an electronic format acceptable to Newport Group. Newport Group shall have no duty to inquire as to the accuracy of the information provided by Company and is entitled to rely on such information in carrying out its duties under this Statement of Work.
- (c) **Ticker Symbols** Company will provide Newport Group with applicable identifying symbols and numbers (e.g., ticker symbols and CUSIP numbers) of the securities to be initially held in the Plan's trust account no fewer than twenty (20) Business Days prior to the desired account opening date.

2.2 Payroll Administration. Company hereby acknowledges that it is responsible for the implementation and administration of participant deferrals, contributions and loan repayments through its payroll system, including, without limitation, compliance with all federal, state and local employment (income and FICA/FUTA) tax withholding and reporting requirements with respect to such amounts. Company agrees to provide Newport Group, in an electronic format acceptable to Newport Group, with the amount of participant deferrals, contributions and loan repayments for each payroll period, and with the amounts of any pay period allocations of Company contributions among participants for such payroll period, in order to allow Newport Group to update participant accounts.

2.3 Reports. Company agrees to promptly review all reports prepared and delivered to Company by Newport Group. If Company shall not, within sixty (60) days after the date of any such report, notify Newport Group in writing of any inaccuracies or errors in the report, such report shall be deemed complete, accurate and duly approved by Company. Notwithstanding the foregoing, Newport Group will make every effort to correct any inaccuracies or errors in any report within sixty (60) days after the date Newport Group receives written notification from Company of such inaccuracies or errors.

2.4 [Reserved]

2.5 Information and Data. Company agrees that it will promptly provide (or cause a third party to provide) Newport Group with such information as it may reasonably request from time to time to perform the Services, including:

- (a) Copies of current signed Plan and trust documents and all amendments
- (b) Current Plan records
- (d) Notification of an eligible employee's initial eligibility to participate in the Plan
- (e) Service history
- (f) Current signed benefit elections for participants requesting payments
- (g) Notification of any upcoming merger, acquisition, spinoff, divestiture, or other corporate transaction
- (h) Notification of any change in Authorized Persons
- (i) Accurate population of payroll data files uploaded for each payroll cycle that contains the following information for all employees:
 - (i) Social security numbers
 - (ii) Full name
 - (iii) Birth date
 - (iv) Hire date
 - (v) Termination date
 - (vi) Rehire date
 - (vii) Pay period and year to date hours worked
 - (viii) Contribution amounts by source
 - (ix) Loan repayments
 - (x) Pay period and year to date compensation
 - (xi) Last known employee physical mailing addresses (not P.O. box)
 - (xii) Participant Company email addresses
 - (xiii) Other information as requested by Newport Group.

Company is responsible for ensuring that such information, documentation and instructions are complete and accurate and shall promptly inform Newport Group in writing of any changes to the Plan or Company that may affect Newport Group's obligations under this Statement of Work.

3. Company's Representations, Warranties and Acknowledgments

Company makes the following representations and warranties in addition to those set forth in the MSA:

- 3.1** Company (a) is an eligible employer under Code Section 457(b); (b) has the authority to act on behalf of the Plan; (d) has the authority and responsibility under the terms of the Plan; and (e) has the authority under the terms of the Plan to retain Newport Group to provide the Services to the Plan.
- 3.2** Company represents that the Plan and its related trust as applicable are intended to qualify as tax-exempt under Sections 401(a), 403(b), 457(b) and 501(a) of the Code, as applicable, and it will operate and administer the Plan and its related trust, and take all

necessary actions and pay such expenses as needed to ensure the Plan's compliance both in form and operation with the provisions of Applicable Law. Company also represents that the Plan is not subject to the Internal Revenue Code of Puerto Rico.

- 3.3** Company has reviewed the terms and conditions of this Statement of Work and understands the nature of the Services to be performed by Newport Group and the fees Newport Group will charge for such Services. Based on such review, Company has determined that the fees are reasonable for the Services to be rendered.
- 3.4** Company understands and agrees that Newport Group shall have (i) no discretionary authority with respect to the investment of Plan assets or the administration of the Plan and (ii) no authority to interpret Plan documents, and that the sole duty of Newport Group in its role as recordkeeper is to assist Company in the performance of the Services as described herein.
- 3.5** Company acknowledges and agrees that it is responsible for the following:
- (a) Making any discretionary decision with respect to the operation of the Plan, including, without limitation, interpretation of Plan provisions, reasonableness of fees charged to the Plan, evaluation of claims made by Participants for benefits under the Plan and the investment of Plan assets;
 - (b) The selection and monitoring of the Plan's service providers, including accountants, actuaries, administrators, advisors, attorneys, custodians, financial advisors and/or trustees;
 - (c) Providing investment advice or investment management services;
 - (d) Ensuring that all funds required to be contributed to the Plan are contributed when required for tax deductibility, minimum funding standards and compliance with Applicable Law;
 - (e) Defending any legal proceeding brought by third parties against the Plan or Company or for the defense of any Plan audit by the IRS or any other government agency with respect to the Plan. Newport Group may be engaged for an additional fee to assist Company.

4. Fee Compensation

Fees for the Services are described in a schedule attached to this Statement of Work, and may include applicable revenue sharing for the Plan. Should any balance be past due in excess of sixty (60) days, Company irrevocably authorizes Newport Group to deduct from Plan assets any balance due to the extent permitted by the Plan and Applicable Law. Any such deductions will be allocated among all participants in the Plan in accordance with the terms of the Plan. To the extent that any such payments are made out of Plan assets, Company acknowledges and agrees that such payments are made at Company's direction. Company agrees to take all necessary actions and pay expenses related to maintaining the Plan as contemplated by this Statement of Work, in compliance with the Applicable Law.

5. TERM; AMENDMENT/TERMINATION

This Statement of Work is effective on the Effective Date and shall continue in effect until terminated by either party upon not less than ninety (90) days' advance written notice. Newport Group may amend this Statement of Work, including the Fee Schedule, at any time upon sixty (60) days' prior written notice to Company. In the event Company does not object to the amendment within thirty (30) days of delivery thereof, Company will be deemed to have accepted the amended Statement of Work.

In Witness Whereof, the parties have signed this **Statement of Work** effective as of the Effective Date.

Town of Jupiter Island

Newport Group, Inc.

By: _____

By:  _____

Printed Name: _____

Printed Name: Rick Irace

Title: _____

Title: Chief Operating Officer, Total Services
and Operations Management

Date: _____

Date: 2/26/2024

FEE SCHEDULE

RECORDKEEPING

PER PARTICIPANT	\$50
BASE FEE	\$1,250

TRUST AND CUSTODY

5 bps

TRANSACTIONS

Distribution (non-periodic)	\$60
Periodic Install Payments	\$12.50 per payment
Hardship Distribution	\$150
Force Out Administration Fee	\$20 per Participant
Loan Setup (new or takeover)	\$125
Annual Loan Maintenance	\$0
Self-Directed Brokerage Account Setup	\$75 per account
Self-Directed Brokerage Account	\$200 annually per account

PARTICIPANT MAILINGS AND ANNUAL NOTICES

Printed Participant Notice Mailings	\$50 initial setup plus \$1 per Participant
Printed Quarterly Participant Statement (includes annual 404(a)(5) disclosure)	\$1 each
Printed Quick Start Enrollment Guide	\$2 each
<i>Hard Copy Full Enrollment Booklet is available at \$5 each</i>	
Outgoing Bank Wire or other Electronic Transfers	\$10 per transfer
Overnight Delivery	\$30 per occurrence
Stop Payment/Reissue Fee	\$30 per occurrence
Plan Termination or Deconversion	\$1,000

DOCUMENT MAINTENANCE SERVICES

Major Sponsor-Requested Plan Amendments (e.g. name change, two or more minor Amendments, etc.)	\$500
Minor Sponsor-Requested Plan Amendments (e.g. address, trustee changes, etc.)	\$200

Revenue and Service Fee Authorization

1. Revenue Crediting Election. Select **one** of the following options to elect how revenue sharing funds will be applied:

- ☒ **Revenue Holding Account.** Newport will establish a RHA in the name of the Plan for the purposes of collecting revenue sharing funds. Funds will be used to pay Newport fees and other appropriate plan expenses as directed by the Company.
- ☐ **Plan Assets.** Newport will credit revenue sharing funds to Plan Participant accounts in proportion to Participant account balances after the revenue sharing funds have been collected.

2. Fee Payment Election. Select **one** of the following options to elect how fees are to be applied:

- ☐ **Plan Assets Pro Rata.** Fees will be paid from Plan assets in proportion to Plan Participant account balances.
- ☐ **Company Paid.** Fees will be paid directly by the Company.

- ☒ **Customized Fee Payment Election.** In the following table, indicate for each fee type the payment source by marking an "X" in the appropriate column. If you fail to make an election under one of these options, the default will be for the remaining balance of fees to be charged to the Plan on a pro rata basis.

An election must be made under columns (A) - (C) and may only include one option for each fee type.			
Fee Type	(A) Plan Assets Pro Rata	(B) Plan Assets Per Capita	(C) Company
Recordkeeping Participant Fees			X (*see below)
Base Fee			X
Trust and Custody Fees			X
Participant Mailings and Notices			X
Transaction Fees			
Describe any other fee payment elections below: (e.g. utilize forfeitures to pay fees, etc.)			
*Terminated participants pay their own per participant fee.			

Additional Terms and Conditions

Recordkeeping and Trust and Custody Services Fees

Fees listed are annual fees. Per Participant fees will be billed monthly in arrears and will be based upon the number of Participants on the last business days of the prior month. All other fees will be billed quarterly in arrears. Trust and custody fees will be based on total plan asset values on the last business day of the prior quarter. Plans electing to use ETFs will be charged an additional 5 bps on total assets in the plan. Base Fee includes up to 30 fund options; target date lineup is one fund option. Each additional fund is \$250 per year.

Transaction Fees

Transaction fees will be charged to the applicable Participant unless otherwise elected by the Company. SDBA fees apply to linked brokerage accounts only. Additional fees may apply for manual and unlinked SDBA accounts. Additional fees may be charged by the SDBA provider; participant accounts will be debited for any brokerage commissions or other fees related to trades placed through SDBA.

Document Maintenance Services

All Document Maintenance Service Fees will be charged to the Company. IRS required amendments and restatements will be quoted separately. Consulting Services include assistance with mergers, acquisitions, and spin-offs, preparation of DOL DFVCP and VFVP and IRS streamlined EPCRS filings.

Revenue Sharing

The Plan's investment line-up may include mutual funds and other investments that pay 12b-1, shareholder servicing fees and other fees ("revenue sharing funds"). To the extent the Company selects these investments as part of the Plan's investment line-up, Newport will collect and pass through to a Revenue Holding Account (RHA) or Plan Assets, as elected above, one hundred percent (100%) of the revenue sharing funds it collects.

Other Terms and Conditions

The Company is responsible for any out-of-pocket expenses Newport may incur on the Company's behalf, including but not limited to, messenger service fees, overnight delivery fees, filing fees and travel expenses.

The Company agrees to be responsible for Newport's normal and reasonable hourly rate and expenses in the event Newport is requested or required to perform additional services including, but not limited to, correction of errors (other than errors caused by Newport), response to subpoena or other legal process, or participation in legal proceeding, irrespective of whether Newport is still engaged to perform Services.

The Company agrees it is solely responsible for assessing and concluding that remuneration paid to any and all third party service providers is reasonable under ERISA and other applicable laws, rules and regulations, and that the use of Plan assets to pay such providers is consistent with all applicable laws. The Company hereby acknowledges that it has been advised to consult with its legal counsel regarding this direction.

This Fee Schedule and Plan Sponsor Notice Regarding Services, Service Fees, and Investment Fees and Expenses (the "Plan Sponsor Notice") together are intended to satisfy the fee disclosure requirements set forth in Department of Labor regulation Section 2550.408b-2(c)(1). The Company represents and warrants that the fee and compensation information specified herein was provided to the Company and the Company had a reasonable opportunity to review and ask questions with respect to such information before entering into the SOW and MSA.

The Company has reviewed this Fee Schedule, the Plan Sponsor Notice, the SOW and the MSA, and understands the nature and amounts of the Fees and indirect compensation disclosed therein, and has determined that Newport is receiving reasonable compensation for the Services.

Defined terms used and not otherwise defined herein shall have the meanings set forth in the MSA and SOW.

IN WITNESS WHEREOF, the parties hereto have caused this Plan Fee Schedule to be executed by their duly authorized officers or representatives as of the date specified below.

Company: Town of Jupiter Island

By: _____

Signature: _____

Title: _____

Name: _____

Date: _____

Newport:

(NOTE: No handwritten changes will be accepted by Newport)

By:  _____

Signature: _____
Title: Chief Operating Officer, Total Services and Operations Management

Name: Rick Irace

Date: 2/26/2024

Trust Agreement

THIS TRUST AGREEMENT (the "**Agreement**") is entered into as of the _____ by and between the entity named on the signature page hereof (the "**Company**") and Newport Trust Company, LLC (the "**Trustee**"), a New Hampshire State chartered trust company.

WHEREAS, the Company has adopted the **Town of Jupiter Island Retirement Plan for SMRU Employees 401(a)** (the "**Plan**") for the benefit of its employees; and

WHEREAS, the Company desires to appoint the Trustee as a nondiscretionary, directed trustee of the Plan, and the Trustee desires to serve in such capacity.

NOW THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

The use of defined terms in this Agreement have the following meanings:

- 1.1 "**Affiliate**" means, with respect to a party, an organization that is directly or indirectly owned or controlled by such party, owns or controls such party or is under common ownership or control with such party.
- 1.2 "**Applicable Law**" means the constitutions, statutes, rules, regulations and orders of governmental bodies or regulatory agencies, self-regulatory organizations and all orders and decrees of all courts and arbitrators in proceedings or actions applicable to a party in connection with the performance of its obligations under this Agreement, including but not limited to ERISA.
- 1.3 "**Authorized Person**" means the person or persons identified in a certificate of incumbency delivered to the Trustee by the Company pursuant to authorization of the Company's Board of Directors. The Trustee will be entitled to rely on any direction or notice from the Authorized Person(s) specified in such incumbency certificate until it receives written notice to the contrary.
- 1.4 "**Code**" means the Internal Revenue Code of 1986, and the rules and regulations promulgated thereunder, as amended from time to time.
- 1.5 "**Company**" means the entity named on the signature page hereof.
- 1.6 "**Contracts**" means, collectively, life insurance policies, group annuities, guaranteed investment contracts, bank investment contracts or similar vehicles permitted under the Plan.
- 1.7 "**Directions**" (and its derivatives, including "Direct") means the Company's, Plan Administrator's or other Authorized Person's written directions and instructions to the Trustee.
- 1.8 "**Employer Securities**" means "qualifying employer securities" (as defined in Section 407 of ERISA), which may include any qualifying employer securities received as a result of any exchange or conversion of, or dividend received on, Employer Securities.
- 1.9 "**ERISA**" means the Employee Retirement Income Security Act of 1974, and the rules and regulations promulgated thereunder, as amended from time to time.

- 1.10 **"Investment Manager"** means an "investment manager" as defined in Section 3(38) of ERISA appointed by the Company in accordance with **Section 7.2** of this Agreement. Instructions from the Investment Manager constitute Instructions from an Authorized Person.
- 1.11 **"Participant"** means the participant and his or her beneficiary or beneficiaries, as defined in the Plan.
- 1.12 **"Participant Directed Account"** means the portion of the Trust over which a Participant has investment direction authority, to the extent permitted under the Plan.
- 1.13 **"Personal Information"** means, with respect to Company employees and Participants, any information that relates to an identified or identifiable natural person which is protected by Applicable Law.
- 1.14 **"Plan Administrator"** means the Company or the person, persons or entity appointed by the Company in accordance with **Article V** to act as a "plan administrator" (as such term is defined in ERISA).
- 1.15 **"Trustee"** means Newport Trust Company, LLC and any duly appointed successor trustee or trustees acting hereunder.
- 1.16 **"Unauthorized Disclosure"** means an unauthorized release of, or access to, Company Confidential Information, to or by any person obtaining or reasonably believed to have obtained such Company Confidential Information, or access to such Company Confidential Information, from or through the Trustee or any of its agents.

2. THE TRUST

- 2.1 **Establishment of Trust.** The Company hereby establishes with the Trustee a trust consisting of such sums of money and such other assets acceptable to the Trustee in its sole discretion as shall from time to time be actually delivered to the Trustee under the Plan, together with the earnings and profits thereon, less any payments or distributions that are made by the Trustee as provided herein (the "**Trust**"). The Plan, this Agreement, and the Trust created hereby are intended to meet the applicable requirements of ERISA and Sections 401(a) and 501(a) of the Code. The Company will be responsible for ensuring the continued qualification of the Plan and exemption of the Trust.
- 2.2 **Superseding Effect of the Agreement.** This Agreement restates, replaces or amends any existing trust agreement covering assets held or to be held in the Trust.
- 2.3 **Exclusive Use.** Except as may otherwise be permitted by Applicable Law, at no time prior to the satisfaction of all liabilities with respect to the Participants will any part of the corpus or income of the Trust be used for, or diverted to, purposes other than for the exclusive benefit of the Participants and for defraying the reasonable expenses of administering the Plan.
- 2.4 Except as may be required under Applicable Law, Trustee shall have no duty or responsibility not expressly set forth in this Trust Agreement. By way of example, but without limiting the matters subject to the foregoing sentence, the Trustee shall have no responsibility with respect to the administration or interpretation of the Plan, payment of Plan benefits other than from the assets of the Trust, the calculation of tax to be withheld, reported and/or paid to taxing authorities and (if applicable pursuant to the fee schedule) withholding, remitting, or reporting to taxing authorities of taxes other than from payments to Participants made by the Trustee with Trust assets, and other than as directed by the Company, or maintaining participant records with respect to the Plan.

3. REPRESENTATIONS AND WARRANTIES

- 3.1 **Representations and Warranties of the Parties.** Each party hereto represents and warrants to the other that: (a) it is a duly organized legal entity having all requisite authority under its organizing documents and Applicable Laws to enter into this Agreement and to perform its obligations hereunder; (b) the execution and delivery of this Agreement and the performance of the obligations contemplated hereunder have been duly and validly authorized by all necessary action, and this Agreement constitutes a valid and legally binding obligation of such party enforceable in accordance with its terms; (c) the person executing this Agreement on its behalf is duly authorized and empowered to execute and deliver this Agreement; and (d) it will perform its obligations under this Agreement in accordance with the provisions of Applicable Law.
- 3.2 **Additional Company Representations and Warranties.** The Company hereby represents and warrants that: (a) the terms of the Plan provide for the creation of a trust and the appointment of a trustee and one or more Investment Managers; (b) it either has responsibility as a “named fiduciary” as defined in Section 402(a)(2) of ERISA or has properly delegated the responsibility to a Plan fiduciary, other than the Trustee, for determining the correctness, amount and timing of contributions and for the collection of contributions; (c) the Company is the “plan sponsor” of the Plan as defined in Section 3(16)(b) of ERISA and has the authority to act for all related participating employers, if any, designated under the Plan; and (d) the terms of the Plan do not impose any duties or obligations upon the Trustee that are not contained in, or are inconsistent with, this Agreement.

4. STANDARD OF CONDUCT

- 4.1 The Trustee shall discharge its duties hereunder solely in the interest of the Participants and for the exclusive purpose of providing benefits to Participants and for defraying reasonable expenses of administering the Plan. The Trustee shall perform all of its duties with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, or in accordance with such other standard as may, from time to time, be required by Applicable Law, and in accordance with the Plan and this Agreement, insofar as they are consistent with ERISA.
- 4.2 Except as may be authorized by Applicable Law, the Trustee shall not maintain the indicia of ownership in any assets of the Trust outside of the jurisdiction of the District Courts of the United States.

5. PLAN ADMINISTRATOR

- 5.1 The Company shall appoint in writing a Plan Administrator. If no such person, persons or entity is so designated, such term will mean the Company.
- 5.2 The Plan Administrator may delegate any or all of the duties, responsibilities, or authority imposed upon or granted to the Plan Administrator under the Plan or this Agreement to one or more Authorized Persons to the extent permitted by the Plan document and Applicable Law and shall promptly notify the Trustee in writing of any such delegation and any limits or changes in such Authorized Person's authority.

- 5.3 The Plan Administrator will have exclusive responsibility for management of the Trust and the direction of the investment of the Trust, except as provided pursuant to **Section 7.2** and **Section 7.6**.

6. ADMINISTRATION AND OPERATION OF TRUST

6.1 Contributions and Distributions.

- (a) **Receipt of Contributions.** The Trustee shall hold in the Trust all amounts received by the Trustee and designated as contributions to the Trust, except to the extent required by Applicable Law or as otherwise provided pursuant to Section 6.1(b). All contributions so received, together with any income or other amount realized by the Trust, will be invested and administered by the Trustee in accordance with the terms of this Agreement. The Plan Administrator is responsible for enforcing collection from the Company of any contributions to the Trust and to determine the correctness of the amount and timing of any contribution. The Trustee will have no responsibility for enforcing the collection from the Company of any contribution to the Trust or for determining the correctness of the amount or timing of any contribution or the sufficiency of the Trust. The Trustee may rely upon the determination of the Plan Administrator that all assets received by it are properly contributed or transferred to the Trust in accordance with the provisions of the Plan.
- (b) **Unacceptable Assets.** The Company shall place any assets which are unacceptable to the Trustee with another trustee under a separate trust agreement or may retain such assets in any other "appropriate account" as defined in Section 401(f) of the Code. The Trustee will have no responsibility for such assets.
- (c) **Returns to Company.** The Trustee will return contributions to the Company upon proper Directions. The Company is solely responsible for ensuring that a Direction to return any amount to the Company meets the requirements of Applicable Law.
- (d) **Distributions.** Upon receipt of Directions, the Trustee shall make payments from the Trust to or for the benefit of Participants, in such manner, amounts and times, and for such purposes as may be specified in such Directions, or for the payment of fees and expenses pursuant to **Article 10** of this Agreement. The parties acknowledge and agree that the Trustee is not responsible for determining the accuracy or appropriateness of any such distribution or for making any distribution out of the Trust in excess of the available funds in the Trust.

- 6.2 **Participant Loans.** If the Plan permits loans to eligible Participants, the Trustee will make distributions to Participants in accordance with Directions and receive payments thereon. The parties acknowledge and agree that Plan Administrator or its designee is responsible for the administration of such loans, including but not limited to determining the terms of Participant loans, approving loans, providing appropriate disclosures under Applicable Law, collection of payments and the enforcement of Participant notes. The Trustee's sole responsibility with respect to loans shall be to make distributions to Participants in accordance with Instructions and to receive payments thereon.

- 6.3 **Proxies.** All voting rights with respect to assets held in the Trust, including shares of Employer Securities, shall be exercised by the Trustee only as Directed by the Plan Administrator, or as required by Applicable Law. The Plan Administrator shall have the responsibility for Directing the Trustee as to voting such shares under the terms of the Plan or under an agreement between a named fiduciary of the Plan and an Investment Manager, in which case such Investment Manager

shall have such responsibility. In no event will the Trustee be responsible for the voting or tendering of shares of securities held in the Trust or for ascertaining or monitoring whether or how proxies are voted or whether the proper number of proxies is received.

7. INVESTMENT OF TRUST

- 7.1 **No Discretion.** The Plan Administrator, as the named fiduciary for the Plan, is responsible for determining the diversification policy with respect to the investment of Plan assets, for monitoring adherence to such policy, and for advising the Trustee with respect to its compliance with any investment limitations contained in the Plan. The Trustee will have no discretionary control over, or any other discretion regarding, the investment of the Trust. The Company hereby Directs the Trustee to act solely in accordance with Directions from the Company, Plan Administrator or Investment Manager with respect to the investment of the assets held in the Trust. To the full extent permitted by Applicable Law, the Trustee will have (a) no duty to inquire whether such Directions conform to the Plan or Applicable Law, including, but not limited to Section 404(c) of ERISA; and (b) no liability or responsibility for following any such Direction, or for failing to act in the absence of such Direction.
- 7.2 **Investment Manager.** The Company may, through Direction, appoint an Investment Manager to direct investment of the Trust in whole or in part. Each appointment of any person as an Investment Manager will constitute the representation and warranty to the Trustee by the Company that the Company has determined that such person either is, and so long as such appointment is effective remains (a) registered as an investment advisor under the Investment Advisors Act of 1940; (b) a bank as defined in the Investment Advisers Act of 1940, as amended; or (c) an insurance company qualified to perform the services hereinafter described under the laws of more than one State.
- 7.3 **Permitted Investments.** The Trust may be invested in such property of any character, real or personal, as an Authorized Person may Instruct, as the Trustee may accept from time to time (individually and collectively, "**Permitted Investments**"). In the event the Trustee has not received investment Directions, the Plan Administrator will be deemed to have Directed the Trustee to invest in the Plan's Qualified Default Investment Alternative, if a fund has been designated as such, or the cash investment option available to the Plan which cash investment option may include a savings instrument or deposit account of the Trustee, its Affiliates or subcontractors, which bears a reasonable rate of interest. The Company hereby authorizes the Trustee to hold a reasonable portion of the Trust in cash pending payment of current expenses or benefits from the Trust, or pending the consummation of transactions entered into on behalf of the Trust, without liability to the Trust for interest thereon.
- 7.4 **Prohibited Transactions.** The Company understands that certain transactions are prohibited for tax-exempt retirement plans under ERISA and under Code Section 4975. The Company will not direct the purchase or sale of any Trust asset to or from a "disqualified person" as defined in Code Section 4975(e), or a "party-in-interest" as defined in ERISA Section 3(14), or in any other way direct an investment or other transaction that would be deemed a non-exempt "prohibited transaction" with respect to the Plan under Applicable Law. The Trustee will have no duty to determine whether any transaction is, or has the potential to be, a "prohibited transaction."
- 7.5 **Investment Powers.** The Trustee to take any of the following nondiscretionary investment powers upon receipt of Directions:
- (a) To invest and reinvest all or a portion of the assets comprising the Trust in Permitted Investments.

- (b) To deposit or invest all or any part of the assets of the Trust in savings accounts or certificates of deposit or other deposits in a bank or savings and loan association or other depository institution, including the Trustee or any of its Affiliates, provided that with respect to such deposits with the Trustee or an Affiliate, the deposits will bear a reasonable interest rate.
- (c) To invest and reinvest all or any portion of the assets comprising the Trust in any group trust fund which at the time of the investment provides for the pooling of the assets of plans qualified under Section 401(a) of the Code. This authorization applies solely to a group trust fund exempt from taxation under Section 501(a) of the Code and the trust agreement which satisfies the requirements of Revenue Ruling 81-100. The provisions of the group trust fund agreement, as amended from time to time, are incorporated by reference within this Agreement. The provisions of the group trust fund will govern any investment of Plan assets in that fund. The Plan Administrator must specify, in a form acceptable to the Trustee, to which group trust fund(s) this authorization applies.
- (d) To sell, exchange, convey, transfer or otherwise dispose of, any securities or property held by it, by private contract or public auction, with or without notice or advertisement of any kind, and no person dealing with the Trustee will be bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety of any such sale or other disposition.
- (e) To purchase or sell, write or issue, puts, calls or other options, covered or uncovered, to enter into financial futures contracts, forward placement contracts and standby contracts and, in connection therewith, to deposit, hold or pledge assets of the Trust.
- (f) To execute any securities transactions and to perform any other services required to be provided by a registered broker dealer through the Trustee's Affiliate brokers, at the Affiliate's normal rates of compensation and without diminution of the compensation payable to the Trustee hereunder, provided such transactions are executed in accordance with Applicable Law.
- (g) To give general or special proxies or powers of attorney with or without powers of substitution; to exercise any conversion privileges, voting rights, subscription rights, rights to participate in voting trusts with other stockholders, or other options, and to make payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith; to abandon any property determined by it to be worthless; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities and other property held as part of the Trust.
- (h) To lend securities or enter into repurchase agreements, to extend the time of payment of any obligation owing to the Trust, and to borrow money for the purposes of the Trust from others, excluding the Trustee in its corporate capacity and excluding any other "party in interest" (as defined in Section 3(14) of ERISA); provided, however, the Trustee may agree to an arrangement to borrow from a party in interest upon such terms and conditions as it may deem acceptable. Any such loan will be upon such terms and conditions as the Company or Plan Administrator may deem comply with the requirements of Applicable Law and, for the sum so borrowed or advanced, the Trustee may issue a promissory note and secure the repayment thereof by creating a lien upon assets of the Trust.

- (i) To contest, settle, abandon or compromise claims, demands, debts or damages due or owing to or from the Trust, to commence, settle, compromise or defend suits or legal or administrative proceedings, and to represent the Trust in suits and legal and administrative proceedings; provided, however, the Trustee will have no duty to begin or maintain any legal or administrative proceeding unless it has been indemnified by the Company to its satisfaction for its counsel fees, costs, disbursements, and all other expenses and liabilities to which it may be subjected as a consequence of beginning or maintaining such legal or administrative proceeding.
- (j) To make, execute, acknowledge and deliver documents of transfer and conveyance and other instruments that may be necessary or appropriate to carry out the powers granted herein.

7.6 **Participant Directed Accounts.** The Plan Administrator shall Direct the Trustee regarding the investment of its Participant Directed Account. Participant-directed investments are limited to those investments permitted under the Plan. A Participant's beneficiary, upon the death of a Participant, or an alternate payee, in the event of a qualified domestic relations order, shall provide investment Directions through the Plan Administrator and such beneficiary or alternate payee will assume all rights and responsibilities for the Participant's Participant Directed investments. The exercise of investment direction by a Participant will not cause such Participant to be a fiduciary solely by reason of its exercise, and neither the Trustee nor any other fiduciary of the Plan will be liable for any loss, or by reason of any breach, that results from the exercise of investment direction by a Participant.

7.7 **Employer Securities.** If permitted pursuant to the Plan, the Trust may be invested in Employer Securities to the extent necessary to comply with investment Directions under this Agreement. The Trustee will have no responsibility for determining whether any Employer Security is a "qualifying employer security" or whether any acquisition or disposition of Employer Securities is consistent with Applicable Law, including (without limitation) the prohibited transaction restrictions of ERISA and the exemptions to those restrictions. The Trustee shall acquire and dispose of such securities in open market transactions or in such other manner as Instructed. If the Trust consists of Employer Securities that are not traded on a recognizable market, or the information necessary to ascertain the fair market value is not readily available, the Plan Administrator shall provide to the Trustee the value of such securities for all purposes under the Plan and this Agreement, and the Trustee will be entitled to rely upon the value of such Employer Security provided by the Plan Administrator. If the Plan Administrator fails or refuses to Direct the Trustee on the value of such Employer Security, the Trustee, in its sole discretion, may engage an independent appraiser to determine the fair market value of such Employer Security and will be entitled to rely upon the value placed upon such Employer Security by the independent appraiser. Any expenses with respect to such appraisal will be a charge against the Trust and may be paid from the Trust as provided in this Agreement. The Company will be responsible for the preparation and filing of all reports required under federal or state securities laws with respect to the Trust's ownership of Employer Securities, and shall immediately notify the Trustee in writing of any requirement to stop purchases or sales of Employer Securities pending the filing of any report.

7.8 **Contracts.** If the Plan permits investment in Contracts, the following provisions will apply with respect to any Contracts that become part of the Trust.

- (a) The Trustee will have no obligation to take any action with respect to any Contract, including to pay any premium on any Contract, except upon Instructions from the Plan Administrator or Authorized Person; *provided, however*, that the Trustee may (although will not be obligated to) make such payment in order to avoid the lapse of such Contract and the Trustee will not be liable for the application of any part of the Trust made solely

for this purpose in the absence of specific Directions. Contract premiums, assessments, dues, charges and interest may be paid only from cash available in the Trust. The Trustee will not be liable for losses arising out of the lapse in such Contract unless such lapse is due to the Trustee's breach of fiduciary duty.

- (b) The Trustee will have no responsibility or liability with respect to the selection or monitoring of the issuers of such Contracts. The Trustee is not responsible for (i) the form, genuineness, validity, sufficiency or effect of any Contract, (ii) the failure of any issuing company to make payments provided by any Contract (iii) the action of any person that may delay payment or render a Contract null and void or unenforceable in whole or in part, or (iv) the fact that for any reason whatsoever any Contract may lapse or otherwise be uncollectible.
- (c) Any company issuing a Contract may deal with the Trustee as owner of any Contract issued by such company and held in the Trust, without inquiry as to the authority of the Trustee to so act, and may accept and rely upon any written notice, Instruction, direction, certificate or other communication signed by the Trustee, and will incur no liability or responsibility by so doing. Any sums paid by an issuing company under any of the terms of a Contract issued by it, either to the Trustee, or, in accordance with the direction of the Trustee, to any other person or persons designated in such Contract as the person or persons to whom such payment will be made, will constitute a full and complete discharge of the liability to pay such sums, and the issuing company shall have no obligation to look into the terms of this Agreement.

8. ADMINISTRATIVE POWERS

- 8.1 **Limitations.** The Trustee has no responsibility or liability for the administration of the Plan, such as the determination of matters relating to the eligibility of any employee to become a Participant or remain a Participant, the amount of benefits which a Participant is entitled to receive, whether or to what extent any asset or item of income or expense should be allocated to a Participant's individual account, whether a distribution to a Participant is appropriate, whether the Plan is being administered in a discriminatory manner, the selection of investments to be offered under the Plan, the size and type of any insurance policy to be purchased from any insurer for any Participant, the filing of the annual Form 5500s on behalf of the Plan, or similar matters.
- 8.2 **Trustee's Administrative Powers.** The Trustee shall have the following administrative powers with respect to the Trust, which it may exercise in its sole discretion:
 - (a) Provided the Trustee is a bank or trust company that is subject to supervision by the United States or a State, or a nominee of such bank or trust company, to hold the assets constituting the Trust in its own name or in custody in the name of a nominee and under such conditions of custody and safekeeping as the Trustee shall deem appropriate for the type of trust assets and shall collect all interest, dividends and other income thereon; *provided, however*, that the Trustee is not required to maintain physical custody of stock certificates or other indicia of ownership of any type of asset representing assets within the Trust, and the Trustee may deposit or hold assets of the Trust in a custodial account, provided that such account is maintained in the name of the Trustee.
 - (b) To hold such investments for safekeeping or to deposit such securities, or cause them to be deposited, in a clearing system established to settle transfers of securities and cause them to be held in the nominee name of such clearing system.

- (c) To engage the services of, and to delegate duties, powers and responsibilities to, such agents, representatives, advisers, counsel and accountants which the Trustee considers necessary or appropriate, any of whom may be an Affiliate of such person, and as a part of its expenses under **Article 10** of this Agreement and to the extent permissible by ERISA, to pay their reasonable expenses and compensation.
- (d) To engage a custodian to perform certain custodial duties and responsibilities for the Trust, including maintaining physical control of the Trust assets, providing record maintenance and producing statements on such assets.
- (e) To do all such acts, and exercise all such rights and privileges, although not specifically mentioned unless specifically prohibited by the Company or Plan Administrator, which shall be reasonably required in the performance of the Trustee's duties hereunder, and to perform all inherent, implied, and statutory powers now or subsequently provided by Applicable Law.

9. RECORDS AND ACCOUNTS

- 9.1 **Records.** The Trustee shall maintain true, accurate, and detailed accounts of all investments, receipts, disbursements and other transactions hereunder. All accounts, books, and records relating thereto shall be open to inspection and may be audited from time to time by any person designated by the Plan Administrator during the Trustee's regular business hours as mutually agreed to in writing by the parties.
- 9.2 **Written Accounts.** As soon as reasonably practical after the close of each Plan year, and within ninety (90) days after the removal or resignation of the Trustee, the Trustee shall render to the Company a written statement of account of all investments, receipts and disbursements, and all other financial transactions relating to the Trust, including the value of the assets held by the trust. Upon the expiration of ninety (90) days from the date of filing such account, the Trustee shall be released and discharged from all liability as to all items and matters included in such accounting as if settled by the decree of a court of competent jurisdiction, except with respect to any such action or transaction to which the Company shall, within such ninety (90) day period, file written objections with the Trustee. The liability of the Trustee to persons other than the Company or Plan Administrator shall be limited to actions under ERISA brought within the period permitted by Applicable Law for bringing of such action. Nothing herein contained, however, shall be deemed to diminish the right of the Trustee to have its accounts judicially settled by a court of competent jurisdiction.
- 9.3 **Valuation.** The valuation date of the Trust shall be the last day of each Plan year, and such other dates agreed to in writing by the Plan Administrator and the Trustee. The assets of the Trust shall be valued as of each valuation date at fair market value as determined by the Trustee based upon sources of information as it may deem reliable. The reasonable costs incurred in establishing values of the Trust shall be a charge against the Trust, unless paid by the Company.

10. COMPENSATION AND EXPENSES

- 10.1 **Compensation.** The Trustee shall receive compensation for the performance of its services in accordance with the fee agreement attached hereto as Exhibit A. Such compensation shall constitute a charge against the Trust, unless the Company elects to pay all or any part of such compensation. The Company expressly acknowledges and agrees that the Trustee may retain as additional compensation for its services any earnings (which are determined daily and which the Trustee expects will be generated at the prevailing federal funds rate) with respect to any cash held uninvested pursuant to **Section 7.3**, including moneys during the period between the time

the moneys are received by the Trustee and actually forwarded to implement investment Instructions, and distributions between the time a disbursement is issued and presented for payment.

- 10.2 **Payment Terms.** The Company will be invoiced on a quarterly basis for its fees and expenses. The invoice will include recurring fees, billed in advance, and any earned project fees, travel and direct expenses described herein during the previous quarter. Invoices are due upon receipt. Balances not paid within sixty (60) days of the date of the invoice will bear a late charge equal to 1.5% of the outstanding balance for each month or partial month until paid in full. If the Company shall not have disputed, in writing, any portion of an invoice, within sixty (60) days of receipt thereof, such invoice shall be deemed accepted by the Company. Should any balance be past due in excess of sixty (60) days, Company hereby Directs and irrevocably authorizes the Trustee to deduct from Plan assets any balance due to the extent permitted by the Plan and Applicable Law. Any such deductions will be allocated among all Participants in the Plan in accordance with the terms of the Plan.
- 10.3 **408(b)(2) Disclosure.** The Trustee shall provide the Plan Sponsor with such information related to the Trustee's compensation as it may reasonably request or as otherwise may be required by Applicable Law in order to enable the Plan Sponsor to comply with applicable reporting and disclosure requirements of ERISA.
- 10.4 **Expenses.** Expenses for legal, accounting and all other proper charges and disbursements of the Trustee incurred in connection with the administration of the Trust shall constitute a charge against the Trust in the same manner as the Trustee's compensation under **Section 10.1**, and will be invoiced in accordance with **Section 10.2**. In the event the Trustee (including any of its Affiliates) is requested or authorized by the Company, or required by government regulation, subpoena, or other legal process (including but in no way limited to government audit) to produce documents, personnel, or otherwise provide assistance in connection with such legal process, the Company agrees to pay the Trustee's normal and reasonable hourly rates and expenses whether or not the Trustee is named as a party, and whether or not the Trustee is still engaged to perform services for the Company.
- 10.5 **Taxes.** All taxes that may be levied or assessed under existing or future laws upon or in respect of the Trust or the income thereof shall be a charge against the Trust. The Plan Administrator shall timely file all federal, state, and local tax and information returns relating to the Plan and the Trust. The Plan Administrator shall be responsible for withholding any tax which by any present or future law is required to be withheld from any payment under the Plan, except with respect to payments made by the Trustee pursuant to Section 2.4 hereof. The Trustee is not responsible for preparation of any tax-related return or report including, but not limited to, the Form 5500 Annual Return/Report of Employee Benefit Plan.
- 10.6 **Withdrawal from Trust.** The Trustee may withdraw from the Trust amounts sufficient to pay any proper charge against the Trust. The Company shall be responsible for payment of any deficiency. To the extent permitted by Applicable Law, the Company may reimburse the Trust for any charges paid from the Trust.

11. DIRECTIONS

- 11.1 **Directions.** The Company is responsible for ensuring that all information, documents and Directions provided to the Trustee are complete and accurate. The Trustee may rely in all respects, without having to make further inquiry, on the information, documents and Directions appearing to be from the Plan Administrator and will not be liable for any actions taken upon the Directions of the Plan Administrator. In the event of incomplete or conflicting Directions, the

Trustee shall have the right to refuse to comply with such Direction until it receives complete Directions or written evidence that the conflict has been resolved to its satisfaction. The Trustee will not be liable for any errors or omissions made as a result of conflicting, incomplete or incorrect information, documents or Directions received from the Plan Administrator.

- 11.2 **Errors and Corrections.** The Company shall promptly notify the Trustee of any errors or omissions in the information, documents or Directions provided by the Company, Authorized Person or a Participant. In the event of any such error, the Trustee shall work with the Company to resolve the error or omission and make such adjustments as may be necessary or appropriate to correct such error or omission; *provided, however*, that in no event will the Trustee be liable for any damages arising or resulting from such error or for the cost of correcting such errors.

12. CONFIDENTIALITY

- 12.1 **Confidentiality Obligation.** Each party (in such capacity the "Receiving Party") shall keep the Confidential Information (as defined below) of the other party (in such capacity, the "Disclosing Party") confidential. In addition, the Receiving Party shall implement security measures reasonably designed to secure the Confidential Information against loss, theft and unauthorized use, modification or access. The Receiving Party will have the limited right to use the Confidential Information only for the purpose of fulfilling its commitments and obligations to the Disclosing Party under this Agreement. Except as permitted in the foregoing sentence or by prior written consent of the Disclosing Party, the Receiving Party will not use, disclose, copy, reproduce or distribute to any person, firm or entity any Confidential Information and will not permit any person, firm or entity to use, disclose, copy, reproduce or distribute any Confidential Information; provided that the Receiving Party may disclose or distribute such Confidential Information to the following: (a) its officers, employees and directors who have a business need to know such Confidential Information; and (b) its attorneys, accountants, consultants, agents, independent contractors or professional advisors who (x) have a business need to know such Confidential Information and (y) are subject to fiduciary, professional or written obligations of confidentiality substantially similar to, and no less restrictive than, the obligations set forth herein.
- 12.2 **Confidential Information.** As used in this Agreement, "Confidential Information" means (a) information and reports provided or made available to the Trustee by the Company or its Affiliates; (b) Personal Information; (c) information designated by the Disclosing Party as confidential; and (d) information and material which, by its nature, should reasonably and customarily be construed to be proprietary or confidential.
- 12.3 **Exceptions.** The term "Confidential Information" does not include any information which the Receiving Party can demonstrate (a) is in the public domain through no fault or breach by such Receiving Party of its obligations hereunder; (b) was known by the Receiving Party prior to its disclosure by the Disclosing Party and was not obtained in such circumstances subject to a requirement of confidentiality; or (c) was developed independently of, and without the use of or access to, any Confidential Information exchanged pursuant to this Agreement. The exclusions in this Section 12.3 will not apply to Personal Information or otherwise limit the Trustee's obligations with respect thereto.
- 12.4 **Ownership.** All Confidential Information will be and remain the sole and exclusive property of the Disclosing Party, its Affiliates, or their respective employees, suppliers, or customers, as the case may be. Neither party acquires any intellectual property rights, including any rights to create derivative works of any Confidential Information, under this Agreement, except the limited right to use such Confidential Information in accordance with this Agreement.

- 12.5 **Permitted Disclosure.** The Receiving Party may disclose the Confidential Information of the Disclosing Party to the limited extent such Confidential Information is required to be disclosed under Applicable Law or pursuant to an order of any court or administrative body; provided, that, with regard to each such disclosure, the Receiving Party shall provide the Disclosing Party with prompt notice of such request or order (to the extent permitted by Applicable Law), shall, at Disclosing Party's option and sole expense, cooperate reasonably with the Disclosing Party in resisting the disclosure of such Confidential Information via a protective order or other appropriate legal action. In the event that such protective order or other remedy is not obtained after commercially reasonable efforts, the Receiving Party may, without liability under this Section, furnish that portion of the Confidential Information that it is requested or required to be disclosed. Notwithstanding the foregoing, the Receiving Party is not required to notify the Disclosing Party if disclosure of the Confidential Information is made to a regulatory agency, self-regulatory organization or governmental agency in the course of such authority's routine examinations or inspections not targeted at the Disclosing Party and any such disclosure will be permitted.
- 12.6 **Return of Confidential Information.** Upon written request by the Disclosing Party, the Receiving Party shall: (a) return to the Disclosing Party all Confidential Information, all documents or media containing the Confidential Information, and any and all copies or extracts thereof, and/or (b) destroy the Confidential Information, and any and all copies or extracts thereof, and provide the Disclosing Party with written certification of such destruction signed by an authorized representative of the Receiving Party; provided, however, that the Receiving Party is entitled to retain copies of such Confidential Information as it is required to retain pursuant to Applicable Law and that are electronically stored or archived in the ordinary course of business.
- 12.7 **Injunctive Relief.** The parties acknowledge and agree that any breach or threatened breach of Section 12.1 may cause the aggrieved party immediate and irreparable harm for which monetary damages alone will be inadequate compensation. Accordingly, the aggrieved party will be entitled, in addition to any other remedies available at law or in equity, to seek injunctive relief without requiring a cure period and without the necessity of posting a bond.

13. DATA SECURITY AND INFORMATION SECURITY

- 13.1 **Personal Information.** The Trustee agrees that its collection, use and disclosure of any and all Personal Information is and will be at all times conducted in compliance with all applicable data protection and/or privacy laws, rules and/or regulations. The Trustee will not use or disclose Personal Information to any third party, other than to its affiliates and third party service providers, without Plan Administrator's written consent, except pursuant to a Direction from an Authorized Person or as permitted or required by Applicable Law. Any personnel, Subcontractor, Vendor, affiliate, or third party service provider retained by the Trustee who has access to Personal Information will agree in writing to be bound by obligations of confidentiality consistent with those set forth herein and the information security measures set forth in **Exhibit B**.
- 13.2 **Responsibility for Remediation.** The Trustee will be responsible for remediation in the event of an Unauthorized Disclosure caused by its or its agents' failure to comply with its obligations under this Section 13. The Trustee will cooperate with the Company in the investigation of an Unauthorized Disclosure and will be responsible for the following costs incurred by the Trustee for (i) any remediation, mitigation, response or subsequent prevention; (ii) providing any notice of the event to affected individuals (including preparation and delivery of such notice) required by Applicable Law; (iii) providing notice to government agencies, credit bureaus, media and/or other required entities (including preparation and delivery of such notice) as required by Applicable Law; (iv) to the extent required under Applicable Law, providing individuals affected by the event with credit protection services designed to prevent fraud associated with identity theft crimes for such time as is required under Applicable Law; and (v) non-appealable fines or penalties

assessed by any governmental authority in connection with the Unauthorized Disclosure ("Remediation Costs"). The Remediation Costs set forth in this Section 13.2 will be deemed direct damages not subject to the limitations set forth in Section 17.4 of this Agreement.

14. INSURANCE, AUDIT

- 14.1 **Insurance.** The Trustee agrees to maintain insurance coverages with the coverages and policy limits set forth in **Exhibit C**. Upon request, the Trustee will provide the Company with evidence of the foregoing coverages.
- 14.2 **SOC Report.** Each year during the term of this MSA, the Trustee will cause to be conducted an audit of its operations, internal controls and security systems applicable to the Services pursuant to Statement on Standards for Attestation Engagements No. 18 (SSAE 18), or any replacement or successor audit standard or process established by the American Institute of Certified Public Accountants, and produce a Service Organization Control Report I Type 2 ("**SOC Report**"). The SOC Report will be made available to the Company upon request.
- 14.3 **Audit Access.** Once per calendar year, upon reasonable prior written notice to the Trustee, the Company, at its own expense, will have the right to perform an audit of the Trustee's operations used to provide Services. The Company may use a third party to perform such audit provided that the Company provides evidence to the Trustee that such audit firm has agreed to maintain the confidentiality of any Confidential Information consistent with the requirements of this Agreement.

15. REMOVAL OR RESIGNATION OF TRUSTEE; APPOINTMENT OF SUCCESSOR

- 15.1 **Removal or Resignation of Trustee.** The Company may remove the Trustee, with or without cause, upon at least sixty (60) days' prior written notice to the Trustee and the Trustee may resign at any time upon sixty (60) days' written notice to the Company.
- 15.2 **Successor.** Upon removal or resignation of the Trustee, the Company shall appoint a successor trustee who shall have substantially the same powers and duties as those conferred upon the Trustee hereunder. The appointment of a successor trustee shall be by written instrument delivered to the Trustee. Upon the failure of Company to appoint, or the failure of the effectiveness of the appointment by Company of, a successor trustee within sixty (60) days, the Trustee may apply to any court of competent jurisdiction for the appointment of a successor trustee, the costs of which shall be borne by the Trust unless Company otherwise agrees to pay such costs. Upon the successor trustee's acceptance of its appointment as successor trustee, the Trustee shall assign, transfer and pay over to such successor trustee the funds and other property then constituting the Trust; *provided, however*, that the Trustee may reserve such sum of money as it may deem reasonable for payment of its fees and expenses in connection with the settlement of its account or for the payment of all taxes that may be lawfully assessed upon or in respect of the Trust or the income thereof for the period prior to the removal or resignation of the Trustee, or otherwise. Any balance of the amount so reserved remaining after the payment of all such fees, expenses and taxes shall be paid over to the successor trustee.
- 15.3 **Termination of Liability.** When the assets comprising the Trust have been transferred and delivered to the successor trustee, and the accounts of the Trustee have been settled pursuant to **Section 15.2**, the Trustee shall be released and discharged from all further accountability or liability for the Trust and shall not be responsible in any way for the further disposition of the Trust or any part thereof.

16. AMENDMENT AND TERMINATION

- 16.1 **Amendment.** Any amendment to this Agreement shall be in writing and signed by both parties, except that any amendment required to comply with applicable law may be made unilaterally by either party upon sixty (60) days' prior notice to the other.
- 16.2 **Termination of Plan.** The term "Plan" as used herein shall include any amendment, whether made before or after the effective date of the execution of this Agreement, *provided* that any such amendment shall not alter the responsibilities or powers of the Trustee without the Trustee's prior written consent. In the event of the termination of the Plan, the Trustee shall dispose of the Trust in accordance with the written direction of the Company to the extent consistent with the terms of the Plan.

17. INDEMNIFICATION AND LIMITATIONS ON LIABILITY

- 17.1 **Indemnification.** Each party agrees to indemnify and hold harmless the other from and against any damages, losses, costs, judgments, fines, penalties and expenses, including without limitation, reasonably incurred attorneys' fees and disbursements, investigation costs, and costs of collection procedures for outstanding fees (collectively, "**Losses**") actually incurred in connection with any claim or regulatory proceeding, to the extent caused by the indemnifying party's negligence, willful misconduct, or breach of fiduciary duty in performing its obligations hereunder.
- 17.2 Notwithstanding the foregoing, the Company agrees that the Trustee shall not be liable for any loss or expense arising from any act or omission of another fiduciary under the Plan except to the extent required pursuant to Section 405(a) of ERISA, and will indemnify the Trustee from and against any Losses asserted against the Trustee in connection with (i) any acts taken in accordance with Directions, or acts omitted due to the absence of or conflicting Directions, from the Company, any Authorized Person or other third party retained by the Company to provide services related to the Plan or Trust, including but not limited to prior or successor trustees, investment managers or any other authorized agent thereof, and (ii) the Trustee's performance of the services under this Agreement, except to the extent such Losses were the result of the Trustee's negligence, or willful misconduct or breach of fiduciary duty hereunder. For purposes of this **Article 17**, any reference to the Company shall be deemed to include indemnification for the Plan and for the Company's respective directors, officers, employees and Affiliates. Any reference to the Trustee shall be deemed to include indemnification for its respective directors, officers, employees, agents and Affiliates.
- 17.3 **Indemnification Procedure.** A party seeking indemnification under **Article 17** (the "**Indemnified Party**") shall promptly notify the indemnifying party (the "**Indemnifying Party**") of any claim for indemnification and allow the Indemnifying Party to control the defense of such claim; *provided, however*, that the failure to provide timely notice will not relieve the Indemnifying Party from any liability hereunder or otherwise unless such failure materially prejudices the Indemnifying Party's rights. The Indemnifying Party may not settle any claim (a) that involves a remedy other than the payment of money by the Indemnifying Party without the Indemnified Party's prior written consent; and (b) no such compromise or settlement is hereby authorized unless the Indemnified Party obtains a complete release of liability under such compromise or settlement. In the event the Indemnifying Party fails to promptly assume the defense of the claim or to promptly and reasonably conduct the defense, the Indemnified Party shall have the right to control the defense of the claim, at the sole cost and expense of the Indemnifying Party.
- 17.4 **LIMITATIONS ON LIABILITY.** Notwithstanding any other provision of this Agreement, in no event will a party (including, in each case, their respective Affiliates and agents) be liable to the other party or any third party for any incidental or consequential damages (including, without limitation, indirect, special, punitive, or exemplary damages for loss of business, loss of profits, loss of goodwill or business reputation, business interruption, loss of data, or loss of business

information) arising out of or connected in any way with this Agreement, even if advised of the possibility of such damages and regardless of the nature of the claim asserted. The preceding limitations shall not apply to Remediation Costs relating to a violation of the confidentiality obligations under **Section 13.2** hereof.

18. USA PATRIOT ACT NOTIFICATION

- 18.1 The following notification is provided to Company pursuant to Section 326 of the USA Patriot Act of 2001, 31 USC Section 5318:

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each Person or entity that opens an account, including any deposit account, treasury management account, loan, other extension of credit, or other financial services product. What this means for the Company: When Company opens an account, if the Company is an individual, the Trustee will ask for the Company's name, taxpayer identification number, residential address, date of birth, and other information that will allow the Trustee to identify Company, and, if Company is not an individual, Trustee will ask for the Company's official name, taxpayer identification number, business address, and other information that will allow the Trustee to identify the Company. The Trustee may also ask, if the Company is an individual, to see a valid driver's license or other identifying documents, and, if the Company is not an individual, to see the Company's legal organizational documents or other identifying documents.

19. GENERAL

- 19.1 **Effective Date.** This Agreement shall be effective as of the later of the date hereof or the first date on which the assets are transferred to the Trust.
- 19.2 **Conflict with Plan.** The rights, duties, responsibilities, obligations and liabilities of the Trustee are as set forth in this Agreement, and no provisions of the Plan or any other document shall be deemed to affect such rights, duties, responsibilities, obligations and liabilities. If there is a conflict between provisions of the Plan and this Agreement with respect to any subject involving the Trustee, including but not limited to the responsibility, authority or powers of the Trustee, the provisions of this Agreement shall be controlling. Notwithstanding the foregoing, if the Plan document has been pre-approved as a prototype or volume submitter document by the Internal Revenue Service, and if there is a conflict between the trust provisions of the Plan document and this Agreement, the trust provisions of the Plan shall be controlling.
- 19.3 **Bond Not Required.** Except as required under ERISA Section 412, the Trustee shall not be required to furnish any bond or security for the performance of its powers and duties hereunder.
- 19.4 **Bankruptcy.** The Trustee shall have no duty, in the event of the Company's bankruptcy or insolvency, to take any action until directed to do so by the bankruptcy trustee or a court that has jurisdiction over Plan assets.
- 19.5 **Use of Third Parties.** The Trustee may retain third party vendors ("Vendors") to assist it in performance of its obligations; *provided, however*, that, to the extent such Vendor has access to Confidential Information or Personal Information, such Vendor will have agreed in writing to adhere to confidentiality and data and security obligations no less restrictive than those set forth herein. Upon the Company's request, the Trustee will provide the Company a list of: (i) any Vendors that have access to Personal Information, and (ii) any Vendors retained by the Trustee to provide certain of the services exclusively to the Company ("**Subcontractors**"). The use of

either Vendors or Subcontractors shall not affect the Trustee's responsibility for its representations, warranties, covenants or undertakings under this Agreement.

- 19.6 **Business Continuation.** Trustee hereby represents, warrants and covenants that it (a) has and will maintain a disaster recovery and business continuation plan that is reasonably designed to minimize disruption in the event of a business interruption affecting the services; (b) will test the operability of such plan at least once every twelve (12) months and revise such plan as necessary to ensure continued operability; (c) will activate such plan upon the occurrence of any event materially affecting timely delivery of the services; (d) will notify the Company as soon as practicable following the occurrence of a business interruption affecting the services; and (e) will use commercially reasonable efforts to reinstate the services as soon as practicable following a business interruption.

- 19.7 **Force Majeure.** Neither the Trustee nor the Company will be liable for any failure or delay in performance under this Agreement, including any loss or expense resulting in either party's failure to fulfill, or delay in fulfilling, its obligations under this Agreement, where such failure or delay is a result of a cause beyond the reasonable control of the affected party (a "**Force Majeure Event**"). The affected party shall promptly notify the other party of the occurrence of the Force Majeure Event. The occurrence of the Force Majeure Event does not excuse, limit, or otherwise affect the Trustee's obligation to provide either normal recovery procedures or any other disaster recovery services described in this Agreement, except to the extent that such procedures or services are directly affected by such Force Majeure Event.

- 19.8 **Status as Independent Contractors.** Nothing in this Agreement shall cause or be deemed to cause any party (including its officers, directors, or employees) to be an employee, partner, joint venturer, or agent of any other party hereto. The sole relationship of the parties hereto is that of independent contractor.

- 19.9 **Third Party Beneficiaries.** This Agreement shall not be construed as granting any rights or benefits to third parties, including, for example, plan Participants and their beneficiaries, employees, independent contractors, consultants or other agents of the parties

- 19.10 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and no other counterpart need be produced. The parties hereto agree that this Agreement and other documents may be executed by facsimile or digital signature, which will have the same effect as an original signature.

- 19.11 **Amendments and Waivers.** Except as otherwise expressly provided under this Agreement, any provision of this Agreement may be amended or waived only if such amendment or waiver is in writing and is signed, in the case of the amendment, by each party to this Agreement or, in the case of a waiver, by the party against whom the waiver is to be effective. No failure or delay in exercising any rights or privilege hereunder shall operate as a waiver thereof. No waiver of any right or privilege in respect to any occurrence or event on one occasion shall be deemed a waiver of such right or privilege in respect of such occurrence or event on any other occasion.

- 19.12 **Notices.** Whenever any notice may be or is required to be given hereunder, such notice shall be in writing and sent by United States first class mail, postage prepaid; by facsimile with confirmed delivery; or by overnight delivery service, where receipt is given, and addressed (a) to the Company: to the person and address appearing in Newport Group's records, provided by the Company for such purposes, and (b) to the Trustee: Newport Trust Company, LLC, 7651 Universal Road, Baxter, MN 56425, NTC@newportgroup.com, or such other address as the Trustee may provide from time to time, with a copy to Newport Group: Newport Group, Inc., 200 Dryden Road, Dresher, PA 19025, Attention: Legal Department.

- 19.13 **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement becomes inconsistent with any present or future law or regulation, that provision shall be superseded or amended to conform to such law and regulation, but the remainder of this Agreement shall remain in full force and effect.
- 19.14 **Construction.** Headings in this Agreement are inserted solely for convenience of reference and will neither constitute a part of this Agreement nor affect its meaning, construction or intent. Whenever used in this Agreement, unless the context indicates otherwise, the singular will include the plural, the plural will include the singular, and the male gender will include the female gender. The words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation," unless otherwise specified. The Agreement has been negotiated and prepared by the parties and their respective attorneys and, should any provision of an Agreement require judicial interpretation, the court interpreting or construing such provision shall not apply the rule of construction that a document is to be construed more strictly against one party.
- 19.15 **Non-Assignability of Interest.** No benefit to which a Participant or beneficiary or an alternate payee is or may become entitled under the Plan shall at any time be subject in any manner to alienation or encumbrance, nor be resorted to, appropriated or seized in any proceeding at law, in equity or otherwise. No Participant or other person entitled to receive a benefit under the Plan shall, except as specifically provided in such Plan, have power in any manner to transfer, assign, alienate or in any way encumber such benefit under such Plan, or any part thereof, and any attempt to do so shall be void.
- 19.16 **Successors and Assigns.** This Agreement is binding upon the successors and assigns of the parties hereto.
- 19.17 **Entire Agreement.** This Agreement, including all documentation submitted in connection with the engagement of the Trustee, including any fee schedules, contains the entire understanding between the parties relating to the subject matter hereof, and supersedes all prior agreements or understandings between the parties relating to the subject matter hereof, whether written or oral, express or implied.
- 19.18 **Choice of Law.** This Agreement shall be governed by the laws of Delaware, without regard to principles of conflicts of law, except to the extent such laws are preempted by federal law.
- 19.19 **Waiver of Jury Trial.** The parties hereby expressly waive the right to a jury trial in the resolution of any dispute or claim relating, directly or indirectly, to the terms of this Agreement.
- 19.20 **Survival.** The following provisions shall survive termination of this Agreement: **Article 3** (Representations and Warranties), **Article 10** (Compensation and Expenses), **Article 12** (Confidentiality), **Section 13.1** (Personal Information) **Section 15.2** (Successor), **Section 15.3** (Termination of Liability), **Article 17** (Indemnification and Limitations on Liability) and **Article 19** (General).

[signatures on following page]

IN WITNESS WHEREOF, the Company and Trustee have caused this Trust Agreement to be executed by their respective duly authorized officers on the date or dates shown below.

TOWN OF JUPITER ISLAND

NEWPORT TRUST COMPANY, LLC

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: Trust Officer

Date: _____

Date: _____

Exhibit A

FEE AGREEMENT

The fees of Newport Trust Company, LLC ("NTC") are set forth in the Fee Schedule included with the Master Services Agreement between the Plan Sponsor and Newport Group, Inc.

1. It is agreed that any interest earned on cash balances maintained by NTC on behalf of the Plan, while awaiting instructions, shall accrue to the benefit of NTC. Plan Sponsor expressly acknowledges and agrees that NTC may retain as additional compensation for its services any earnings (generally determined daily and calculated on the basis of the then-current Federal Funds Rate) with respect to (a) amounts credited to non-interest bearing cash accounts; (b) moneys during the period between the time the moneys are received by NTC and actually forwarded to the investment provider; and (c) distributions between the time a distribution check is requested and the distribution check is presented for payment.

Moneys shall be invested as soon as practicable following receipt of the moneys and investment instructions, but not later than two business days following receipt of both the moneys and the investment instructions. Distribution checks shall be prepared and mailed within seven (7) to ten (10) business days, following receipt of a request received in good order by 3 p.m. ET for a distribution check, provided that trades have settled and funds have been received.

2. NTC fees do not include any brokerage or other sub-custodian commissions. They also do not include mutual fund sales charges/loads or brokerage commission of any other broker-dealer or mutual fund family. Any waiver of mutual fund sales charges/loads at the plan level is only based on the qualifications set forth in the fund's prospectus, as well as the completion by the plan sponsor of appropriate documentation if required by the fund's sponsor. NTC fees also do not include any fees charged by an Investment Manager/Consultant.

3. Annual Market Value fees cover:

Custody of Standard Assets and the services as described in NTC's agreement with the Plan Sponsor.

- Receipt of Plan Contributions
- Mutual Fund daily pricing and trade execution
- Dividend/Income Posting
- Electronically delivered annual trust report and additional statements upon request
- Mutual Fund revenue-sharing invoicing and collection
- Compliance with applicable fee disclosure requirements

4. Additional fees may be charged for:

- Extraordinary services for which other compensation is not expressly stated
- Checks received with insufficient funds
- Administration of special assets including transaction and outgoing wire charges for special assets
- Overnights

5. NTC reserves the right to periodically review the fees charged for acceptability based on the time/effort required to service the account, and to propose to the client changes in the fee agreement if needed. If fees are not paid within 60 days, NTC reserves the right to charge interest on the outstanding balance in the amount of 1.5% per month and/or deduct the outstanding amount directly from the account.

Exhibit B

PRIVACY AND SECURITY REQUIREMENTS

Definitions

"Newport" means Newport Trust Company, LLC, or an affiliated entity named in the Agreement.

"Affected Computing Device" means Newport's (and Subprocessors', if applicable) hardware and/or software used to access, Process, store, or transmit any Protected Information.

"Applicable Privacy Law" means applicable data privacy, data protection, and cybersecurity laws, rules and regulations, including (a) the California Consumer Privacy Act, as amended by the California Privacy Rights Act and any binding regulations promulgated thereunder ("CPRA"); (b) the Gramm-Leach-Bliley Act; and (c) any other U.S. personal data protection laws and guidance or statutory codes of practice issued by any relevant regulatory authority, in each case, as amended from time to time, including (but not limited to) the Colorado Privacy Act, the Virginia Consumer Data Protection Act, the Connecticut Data Protection Act, and the Utah Consumer Privacy Act.

"Client" refers to the Company, as set forth in the Agreement.

"Data Subject" means an identified or identifiable natural person who can be identified, directly or indirectly by an identifier such as a name.

"Protected Information" means any information that relates to or describes an individual, and/or any data that is linked or linkable to an individual that is protected under any Applicable Privacy Law.

"Process", "Processing" or "Processed" means any operation or set of operations, as defined in Applicable Privacy Law, performed upon Protected Information whether or not by automatic means, including collecting, recording, organizing, storing, adapting or altering, retrieving, consulting, using, disclosing, making available, aligning, combining, blocking, erasing and/or destroying Protected Information.

"Security Breach" means a breach of Newport's security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Protected Information in Newport's possession, custody; or as otherwise defined by Applicable Privacy Law. Security Breaches do not include unsuccessful attempts or activities that do not compromise the security of Protected information, including unsuccessful log-in attempts, pings, port scans, denial of service attacks, or other network attacks on firewalls or networked systems.

"Subprocessor" means any third party engaged by Newport to Process Protected Information on behalf of Newport in order to service the Client.

"Trusted Device" means an Affected Computing Device that is relied upon by Newport or Subprocessor(s) to enforce or comply with a specified security policy. Each Trusted Device will be uniquely associated with a specific individual user and configured to meet the applicable security requirements set forth in this Exhibit.

Unless otherwise defined herein, capitalized terms will have the meanings assigned to them in the Agreement.

Introduction

In order to prevent unauthorized use, access, modification, or disruption to or of the Protected Information, Newport will implement the information security measures described in this Exhibit. Newport will ensure that it has the requisite expertise to adhere to and maintain the security requirements set forth herein. Newport will notify Client as soon as practicable after becoming aware of Newport's inability to meet its privacy and security obligations under this Exhibit.

Organizational Security

Subprocessor Relationship. Newport is permitted to share Protected Information with Subprocessor(s) who require such access in connection with the performance of Services under the Agreement, subject to obligations of confidentiality and non-disclosure as set forth in the Agreement. In order to protect the confidentiality, integrity and availability of Protected Information, and in order to ensure that consistent security measures are applied to Protected Information by agents of Newport, Newport will ensure that its Subprocessor(s) implement and maintain security requirements (i.e., flow-downs) substantially similar to the ones contained in this Exhibit. Newport will regularly monitor and review Subprocessor service delivery to verify and reinforce adherence to the security controls and practices.

Background Investigations

Newport's on-boarding procedures for individuals who have access to Protected Information includes an industry standard background investigation, which at minimum will consist of the following:

- a. national criminal database search;
- b. credit background check;
- c. criminal history search from all counties that the individual has lived in;
- d. Office of Foreign Assets Control (OFAC) check;
- e. SSN, date of birth, and address verification; and
- f. employment and educational verification.

Access Control

1. Access to Affected Computing Devices will be configured with the concept of "Least Privilege" enforced, and access will be granted only to individuals who require it in order to perform Services.
2. Administrative privileges to all Affected Computing Devices that access Protected Information, will: (i) be limited to the minimum number of staff required to provide the Services, and (ii) conform to industry standard practices for privilege elevation, periodic access reviews, and monitoring.
3. Access to Affected Computing Devices will be granted in-line with formally documented user administration protocols utilizing automated technologies that ensure that:
 - a. All users granted access to Affected Computing Devices will be formally approved by Newport's management; and
 - b. Granting, removal, or modification of access to Affected Computing Devices (as appropriate) is reviewed at regularly scheduled intervals (at least annually, except for administrative access which will be reviewed and updated quarterly) by Newport's Risk team.
4. All Affected Computing Devices will (a) require a unique user identifier and a password or passphrase to authenticate at the time of login; and (b) be configured to automatic session timeouts requiring users to authenticate after a period of inactivity.

5. Newport will maintain technical controls designed to ensure passwords are resistant to password guessing and cracking. Standards will include a minimum length of at least 14 characters, complexity, reuse restrictions, required periodic changes, and account lockouts upon multiple failed attempts.
6. Newport will authenticate credentials that grant access to Protected Information from Affected Computing Devices and promptly disable, delete, or remove such Affected Computing Devices from access control lists, security groups, database tables, or similar systems, once access is no longer required or authorized.
7. When accessing Protected Information, Newport will implement network protection mechanisms in line with industry standard practices, including firewalls and Intrusion Detection Systems (IDS) or Intrusion Prevention Systems (IPS) for Internet-facing networks.

Logging and Monitoring

1. All Affected Computing Devices will be configured to log auditable events, which includes all actions performed with administrative privileges and security alerts.
2. Automated alerting based on defined events will be configured for Affected Computing Devices. Where automated alerting is not feasible, regular manual review of audit/event logs on Affected Computing Devices will occur to detect suspicious activity and/or security incidents.
3. Network intrusion detection systems (NIDS) and host-based intrusion detection systems (HIDS) will be configured in accordance with industry standards, continuously monitored, and updated as necessary.
4. Newport will only access Protected Information using Trusted Devices or devices provided by Client.
5. Newport will analyze system logs for suspicious activity. System logs will detect unauthorized changes to Affected Computing Devices, and system administrators will conduct regular integrity assessments by performing network scans.

Patching and Configuration Management

1. Newport will maintain a validation methodology designed to ensure that security patches and/or updates are implemented across all Affected Computing Devices in a timely manner, consistent with industry standard practices, and are tested prior to being implemented in a production environment.
2. Newport will follow industry standard practices when implementing lockdown procedures on all Affected Computing Devices in order to enable hardening, to the extent practicable for operational functionality.
3. Newport will routinely review its compliance with security configuration standards with respect to the Affected Computing Devices.
4. For software products utilized to perform Services under the Agreement, Newport's policy is to (a) maintain supported version updates, (b) promptly implement applicable security patches or comparable mitigation actions, and (c) implement any patches for critical vulnerabilities within 30 days of the applicable patch release.

Storage, Backup, Restoration, and Media Protection

1. In order to protect the confidentiality and integrity of Protected Information, Newport will ensure that its servers, enterprise data storage devices, backup tapes or media, and all other Affected Computing Devices used to support network communications with Client are located in a secure and restricted

location. Only authorized individuals will have access to server rooms and/or storage areas containing media that houses Protected Information.

2. All backup media, including tapes, sent off-site that contain Protected Information will be encrypted using industry standard practices.
3. In instances when Client requests in writing that Newport destroy or dispose of the Protected Information, subject to the terms of the Agreement, Newport will utilize secure and proper disposal or destruction methods, in line with industry standard practices. Notwithstanding the foregoing, Newport will be permitted to retain copies of any Protected Information consistent with its document retention policies or as required by applicable law, regulation, or professional standards. Any Protected Information so kept will be maintained in accordance with Newport's obligations under this Exhibit (notwithstanding the expiration or termination of this Exhibit or the Agreement).
4. Newport will ensure that it maintains a Business Continuity Plan and a Disaster Recovery Plan with respect to Protected Information in connection with provision of Services pursuant to the Agreement. Newport will review and test said plans annually.

Physical and Environmental Protections

1. Newport will maintain physical access controls within its facilities requiring all visitors to be verified, by presenting their government issued identification, and supervised while on premises.
2. Data centers that house Client's Protected Information will be stored in an access control environment and/or building. Data centers will have working security cameras, and all access control lists for the data centers will be kept current.
3. Newport will ensure that its data centers adhere to environmental controls that meet industry standard practices, including: (i) power equipment and power cabling to protect against damage and destruction; (ii) emergency lighting and facility failover power; and (iii) fire suppression and detection, water damage controls, and temperature and humidity controls.

Vulnerability Management

1. Newport will maintain a vulnerability management and assessment program in accordance with industry standard practices. This program will also define scan frequency of Affected Computing Devices and describe mitigation timeframes for discovered vulnerabilities.
2. Newport will perform routine vulnerability scans of their external (e.g., Internet) accessible network, servers, applications, and databases on a scheduled frequency, but at least quarterly. The scan results will be analyzed, vulnerabilities identified, and remediated within a timeframe appropriate given the level of risk involved.
3. Newport will engage, at its expense, an independent security firm to perform annual comprehensive penetration testing and security evaluations of external applications, as well as internal and external networks used to Process Protected Information. Newport will implement security controls and practices to mitigate risks identified during such assessments.
4. Newport will maintain an asset inventory of all Affected Computing Devices that Process Protected Information. Said inventory will be reviewed on a regular interval to ensure that all Affected Computing Devices are included in the scope of reoccurring vulnerability scans and comprehensive penetration testing.

Encryption and Remote Access

1. Newport will utilize multi-factor authentication solution for systems that allow external connections to Affected Computing Devices.
2. When Protected Information is being accessed or transmitted over the Internet or via a public switched network (a/k/a Data-in-Motion), the communications session will utilize a secure and industry accepted transport mechanism such as VPN, Secure FTP, Secure Copy, Secure Shell, or HTTPS using TLS industry standard encryption.
3. All Affected Computing Devices that store Protected Information (a/k/a Data-at-Rest) will utilize industry standard encryption to safeguard Protected Information.
4. If and when remotely connecting to the network to Process Client's Protected Information, Newport will use Trusted Devices that are configured with security software (e.g., VPN, anti-virus, anti-malware, encryption) and protected against corruption, loss, or disclosure.

Mobile Computing Devices

Portable Affected Computing Devices (e.g., smartphones or tablet computers) will: (1) be configured to adhere to the applicable security controls set forth in this Exhibit, (2) not be rooted or jailbroken, and (3) be configured to accept commands to remotely wipe Protected Information.

Cloud Service Delivery

Newport will utilize multi-factor authentication when accessing administrator consoles. Systems storing Protected Information will not be contained within the public virtual private cloud (VPC). When Protected Information is being accessed or transmitted over the Internet or via a public switched network, the communications session will utilize industry standard encryption in transit.

Malware Protection and Endpoint Detection and Response (EDR)

Newport will implement and utilize anti-virus, anti-spyware, and Endpoint Detection and Response (EDR) software to protect Affected Computing Devices against malicious software (e.g., Trojan horses, viruses, worms) and malicious processes. Such software will be configured to receive regular updates to provide protection against newly discovered threats.

Denial of Service Protection

Newport will maintain a security architecture that is designed and tested to defend against Distributed Denial of Service (DDOS) attacks.

Security Awareness and Training

Before being granted access to Protected Information, Newport personnel are required to have successfully completed a security awareness and privacy training (along with an annual refresher training thereafter).

Policies, Procedures, and Documentation

For the duration of the Agreement, and for as long as Newport has access to any Protected Information, Newport will maintain written information security policies and procedures commensurate with the type and scope of Services being provided to Client. No more than once a year, Client may request in writing a summary of Newport's information security and privacy policies.

Data Loss Prevention

Newport will maintain an approach to data loss prevention in-line with industry standards and security standard practices to mitigate the risk of unauthorized disclosure of Protected Information from Affected Computing Devices.

Segregation of Duties

Newport will safeguard Protected Information by employing industry standard practices, techniques and/or technologies to provide for segregation of duties (i.e., distributing access or control over Protected Information to multiple individuals), in order to mitigate risk of insider threats.

Data Privacy Compliance

In the event Newport Processes Protected Information from Client, the following provisions apply:

1. Newport will comply with Applicable Privacy Law in the Processing of Protected Information and will only Process Protected Information for the limited purposes of providing the Services outlined in the Agreement or in accordance with Client's instructions, and as may subsequently be agreed between the parties in writing.
2. The parties agree that the categories of Protected Information Processed by Newport during the term of the Agreement may change based on the Services being provided. The parties anticipate Processing Sensitive Data, which may include: Social Security number, driver's license number, state identification card number, passport number, account log-in, financial account number, precise geolocation, personal information concerning a consumer's health (mental or physical), or personal information of children under the age of 16.
3. Newport will only Process Protected Information for the duration of the Agreement, unless otherwise agreed upon in writing or required by Applicable Law.
4. Unless Newport is required by law to retain Protected Information, Newport will, promptly following receipt of written direction from Client, either (a) return a complete copy of Protected Information to Client by secure file transfer in such format as mutually agreed upon by the parties; or (b) delete Client's Protected Information from its systems. When deleting Protected Information, Newport will utilize secure and proper disposal or destruction methods, in line with industry standard practices in accordance with the procedures outlined in this Exhibit.
5. Newport will not "sell" or "share" personal information to any third party and shall not retain, use or disclose any Protected Information except as necessary for the specific purpose of performing the Services for Client pursuant to the Agreement, or as otherwise set forth in the Agreement or permitted by the CPRA. Further, Newport shall not combine Client's Protected Information with Protected Information it receives from or on behalf of another person or persons, or collects from Newport's own interactions with an individual, except as specifically instructed by Client in writing or allowed under Applicable Privacy Law. The terms in this Section 5 shall have the meaning ascribed to it in Section 1798.140 of the CPRA. Newport certifies that it understands the restrictions in this Section 5 and will comply with them.
6. Without prejudice to any existing contractual arrangements between the parties, Newport will treat all Protected Information as confidential and will inform its employees, agents and any Subprocessors engaged in Processing the Protected Information of the confidential nature of the Protected Information. Newport will ensure that all such persons or parties have signed an appropriate confidentiality

agreement, are otherwise bound to a duty of confidentiality, or are under an appropriate statutory obligation of confidentiality.

7. As required by Applicable Privacy Law, Client may audit Newport's compliance with its obligations under this Exhibit up to once per year in accordance with Section 14.3 of the Agreement. Newport will contribute to such audits by providing Client with the information and assistance that Newport considers appropriate in the circumstances and reasonably necessary to conduct the audit. To request an audit, Client must submit a proposed audit plan in writing to Newport at least two weeks in advance of the proposed audit date and any third-party auditor must sign a customary non-disclosure agreement mutually acceptable to the parties providing for the confidential treatment of all information exchanged in connection with the audit and any reports regarding the results or findings thereof. The proposed audit plan must describe the proposed scope, duration, and start date of the audit. Newport will review the proposed audit plan and provide Client with any concerns or questions (for example, any request for information that could compromise Newport security, privacy, employment or other relevant policies). Newport will work cooperatively with Client to agree on a final audit plan. Nothing in this Section shall require Newport to breach any duties of confidentiality. If the controls or measures to be assessed in the requested audit are addressed in an SOC 2 Type 2, ISO, NIST or similar audit report performed by a qualified third-party auditor, Client agrees to accept such report in lieu of requesting an audit of such controls or measures. The audit must be conducted during regular business hours, subject to the agreed-upon final audit plan and Newport's safety, security or other relevant policies, and may not unreasonably interfere with Newport's business activities. Any audits are at Client's sole expense. Client shall reimburse Newport for any time expended by Newport and any third parties in connection with any audits or inspections under this Section at Newport's then-current professional services rates, which shall be made available to Client upon request. Client will be responsible for any fees charged by any auditor appointed by Client to execute any such audit.
8. Newport will promptly redirect any Data Subject requests to Client. Newport will implement and maintain reasonable and appropriate technical measures that will allow Data Subjects to exercise their Data Subject rights under Applicable Privacy Law. Newport shall not be responsible for any decisions made by Client with regard to a Data Subject request.
9. During the term of the Agreement, Newport will maintain appropriate technical and organizational security measures (as set forth in this Exhibit) to protect Protected Information against accidental or unlawful destruction or accidental loss, damage, alteration or unauthorized disclosure.
10. Upon written request and when required by Applicable Privacy Law, Newport will provide reasonable cooperation and assistance to Client in ensuring Newport's compliance with data security obligations, as well as in carrying out appropriate data protection impact assessments or similar activities. Newport will also cooperate and provide reasonable assistance or information needed for Client pertaining to requests by the regulatory authorities.
11. Client hereby authorizes Newport to appoint Subprocessors. Where required by Applicable Privacy Law, Newport shall provide Client with prior notice of any additional or replacement Subprocessors. Within five (5) days after being notified, Client must notify Newport in writing of any reasonable objection it has to such Subprocessors. In the event Client provides a reasonable objection, Newport will use commercially reasonable efforts to make a change in Processing under the Agreement to avoid Processing of Protected Information by such Subprocessors. If Newport is unable to make available such change within a reasonable period of time Client may, by providing written notice to Newport, terminate the specific Services provided under the Agreement in respect only to those Services which cannot be provided by Newport without the use of the objected-to Subprocessors. Newport will remain liable for any Processing of Protected Information by each such Subprocessor as if it had undertaken such Processing itself. Newport will contractually impose data protection obligations on its Subprocessors that are no less onerous than those imposed on Newport under this Exhibit.

12. Newport shall notify Client in the event Newport makes a determination that it can no longer meet its obligations under Applicable Privacy Law.

Security Event, Privacy Breach or Cyberattack Response

If Newport becomes aware of a Security Breach, Newport will promptly notify Client, unless Newport is specifically requested by law enforcement not to do so, in which event Newport will notify Client as promptly as permissible.

Newport will notify Client by emailing Client's business contact. Such written notification will include: (1) nature and impact of the event, in reasonable detail; (2) actions already taken by Newport; (3) Newport's assessment of the risks to Newport and Client; and (4) corrective and other response measures to be taken by Newport as set forth in Section 13 of the Agreement.

Newport will continue to promptly provide appropriate status reports to Client regarding the resolution of the event and prevention of future events; and cooperate with Client, as reasonably requested by Client, to further investigate and resolve the event.

Indemnification and Limitation of Liability

Any claims brought under, or in connection with, this Exhibit, shall be subject to the exclusions and limitations of liability set forth in the Agreement.

Exhibit C

INSURANCE

Newport shall maintain insurance coverages with carriers with an A.M. Best Insurance Rating of A-:VIII or better and licensed to do business in the states where Newport's Services are performed with limits of at least the following:

Commercial General Liability	Each Occurrence: \$1,000,000 General Aggregate: \$2,000,000
Umbrella Liability	Each Occurrence: \$10,000,000 Aggregate: \$10,000,000
Financial Institution Bond	Each Occurrence: \$5,000,000 General Aggregate: \$10,000,000
Automobile Liability	\$1,000,000
Workers Compensation	\$1,000,000
E&O	\$10,000,000
Cyber Liability	\$10,000,000

**ADOPTING RESOLUTION
FOR
TOWN OF JUPITER ISLAND**

The undersigned authorized representative of Town of Jupiter Island (the "Employer") hereby certifies that the following resolutions were duly adopted by the Employer on _____, and that such resolutions have not been modified or rescinded as of the date hereof.

WHEREAS, Town of Jupiter Island Retirement Plan for SMRU Employees 401(a) (the "Plan and Trust") expressly provides the right to amend said Plan and Trust; and

WHEREAS, Employer desires to amend the Plan and Trust in order to appoint Newport Trust Company, LLC ("Newport") as nondiscretionary Trustee of the Plan and Trust subject to their acceptance; and

WHEREAS, Employer desires to remove and/or accept the resignation of the current trustee(s) of the Plan and Trust; and

NOW THEREFORE BE IT RESOLVED, that Newport is appointed to act as a non-discretionary Trustee of the trust established as part of the Plan and Trust and is authorized to hold the assets of the trust under the terms of the Trust Agreement entered into with Newport; and

RESOLVED FURTHER, that the removal and resignation of the current trustee(s) of the Plan and Trust is hereby accepted, effective as of the final transfer of assets to Newport; and

RESOLVED FURTHER, that the foregoing resolutions shall be void ab initio and shall have no force or effect in the event the Employer is notified by Newport or any of its affiliates that the Employer has failed to timely perform any material actions needed to permit Newport to commence serving as Trustee of the Plan; and

RESOLVED FURTHER, that the proper representatives of the Employer be, and hereby are, authorized and directed to execute such instruments and to perform such other acts as they, in their discretion, deem necessary or desirable to carry out these resolutions.

TOWN OF JUPITER ISLAND

By: _____

Date: _____

Name: _____

Title: _____

AUTHORIZED SIGNERS

Plan Name: Town of Jupiter Island Retirement Plan for SMRU Employees 401(a) **(the "Plan")**

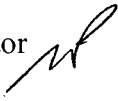
In accordance with the provisions of the agreements entered into between Newport Trust Company, LLC and its affiliates ("Newport") and the Plan Sponsor, Newport may accept and act upon instructions on behalf of the Plan received from the Authorized Signers set forth below. By providing this form, the Plan Sponsor represents that this is a true and complete list of Authorized Signers with authority and capacity to act on behalf of the Plan, and acknowledges and agrees that it is the responsibility of the Plan Sponsor to notify Newport in writing of any future removals from or additions to its Authorized Signers List. In accordance with the indemnification provisions of the agreement entered with Newport, Newport shall not have liability for acting upon the instruction of any Authorized Signer who Newport has not been notified in writing is no longer an Authorized Signer for the Plan.

Name: _____ Signature: _____ Corporate Title: _____ Date: _____ Email: _____ Capacity: ☒ Plan Sponsor	Name: _____ Signature: _____ Corporate Title: _____ Date: _____ Email: _____ Capacity: ☒ Plan Administrator (may be same as Sponsor)
Name: _____ Signature: _____ Corporate Title: _____ Date: _____ Email: _____ Capacity: ☐ Plan Sponsor ☐ Plan Administrator	Name: _____ Signature: _____ Corporate Title: _____ Date: _____ Email: _____ Capacity: ☐ Plan Sponsor ☐ Plan Administrator
Name: _____ Signature: _____ Corporate Title: _____ Date: _____ Email: _____ Capacity: ☐ Plan Sponsor ☐ Plan Administrator	Name: _____ Signature: _____ Corporate Title: _____ Date: _____ Email: _____ Capacity: ☐ Plan Sponsor ☐ Plan Administrator ☐ Approval of Participant Level Transactions ONLY (i.e. hardship distributions, loans, etc.)

Please complete additional forms if needed (NOTE: Plan Sponsor and Plan Administrator signature are required)



MEMORANDUM

TO: The Mayor and Town Commissioners
THRU: Robert Garlo, Town Manager
FROM: Matthew Pazanski, Finance/HR Director 
DATE: May 30, 2024
SUBJECT: 1) Resolution No. 915 – Approving the Retention of Ascensus Trust
2) Approving Retirement Account Administrative Service Agreements

Background

Our employee retirement account servicing companies are going through some consolidation. Our current administrative services company Newport Group was acquired by Ascensus Group LLC, and the change will require updated service agreements and approval of the attached resolution.

Discussion

Attached are three (3) documents for each of the three (3) retirement plans the Town maintains for its employees. The resolution and agreements have been reviewed by town attorneys. The plans include a 401(a) for the Town and SMRU employees and a voluntary 457 plan for all employees.

The documents requiring execution for each of the plans include:

1. Newport Trust Company account application
2. Recordkeeping and Trust services agreement with price reduction
3. Automatic rollover agreement - this is a program whereby Newport manages the terminated account balances under \$7,000 and rolls them over to an IRA.

There is one Master Services Agreement that will require execution as well.

Recommendation

Staff recommends the Town Commission consider a motion to approve Resolution No. 915 and authorize the Town Manager to execute the application and agreements for administrative, custodial and trustee services Ascensus Group LLC and Newport Group.

RESOLUTION NO. 915

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, FLORIDA, RATIFYING AND APPROVING THE RETENTION OF ASCENSUS TRUST OF THE TOWN OF JUPITER ISLAND 401(A) PLAN AND THE TOWN OF JUPITER ISLAND RETIREMENT PLAN FOR THE EMPLOYEES OF THE TOWN-OWNED SOUTH MARTIN REGIONAL UTILITY, ANY NON-DISCRETIONARY TRUST AGREEMENTS, AND OTHER ASSOCIATED DOCUMENTS WITH RESPECT TO EACH SUCH PLAN.

WHEREAS, the Town of Jupiter Island (Town) previously established the Town of Jupiter Island 401(a) Plan (the "General Plan"), the Town of Jupiter Island Retirement Plan for employees of the Town-owned South Martin Regional Utility (the "SMRU Plan"), and the Town's Deferred Compensation Plan (the "457(b) Plan") (referred to together as "the Plans");

WHEREAS, the Town has the power and authority to retain service providers with respect to the Plans; and

WHEREAS, the Town Commission has previously authorized the retention of the Newport Group, Inc. ("Newport") to provide certain administrative services with respect to the Plans; and

WHEREAS, the Town Commission hereby authorizes the migration of the Plans from Matrix Trust benefits platform to Newport's benefits platform with respect to the Plans, and directs the Town Manager to accomplish the same; and

WHEREAS, the Town Commission hereby authorizes the retention of Ascensus Trust ("Ascensus") to act as Newport's sub-custodian for custodial services with respect to the Plans and authorizes the Town Manager to execute such documents or agreements as may be necessary; and

WHEREAS, in connection with the retention of Ascensus to act as sub-custodian and the migration from the Matrix Trust benefit platform to the Newport benefits platform, it was necessary to enter into updated service agreements with Newport with respect to the Plans.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION:

SECTION 1. The Town Commission hereby ratifies and confirms all actions previously taken, or to be taken, by the Mayor and Town Manager, including without limitations the execution of documents, agreements, or other instruments, as he deemed necessary or appropriate to effectuate the migration of the Plans to the Newport BENEFIT platform, and the retention of Ascensus as sub-custodian of the Plans, are hereby ratified and approved.

SECTION 2. The Mayor and the Town Manager be, and each individually hereby is, authorized and directed from time to time to take or cause to be taken such actions and to execute or cause to be executed such documents, agreements or other instruments as shall be necessary or desirable to carry out the intent and purposes of this resolution with respect to the retention of Ascensus and the approval of the migration from the Matrix Trust benefits platform at the meeting of the Commission held on June 12, 2024, and the foregoing resolutions.

SECTION 3. The undersigned further certifies that attached hereto are true copies of the service agreements hereby approved and adopted.

DULY PASSED AND ADOPTED THIS ____ **day of June, 2024.**

Mayor

Vice Mayor

Town Commissioner

Town Commissioner

Town Commissioner

ATTEST:

Town Clerk

#5581388 v1 18270-00002



May 2024 General Fund Financial Report

**Town Commission Meeting
June 12, 2024**

Topics To Be Covered

General Fund

- 2023-2024 Revenues
- 2023-2024 Expenses
- Balance Sheet

**Town of Jupiter Island
FY 2023/2024 Budget**

Account Description	Amended Budget 2023-2024	5/31/2024	Target 66%
Total General Fund Revenues	\$11,406,550	\$11,759,763	103%
Transfers from Reserves	\$1,557,370	\$0	0%
Total Revenues	\$12,963,920	\$11,759,763	91%
Total Administration	\$3,319,087	\$1,907,772	57%
Total Public Safety	\$5,812,169	\$3,470,922	60%
Total Building Department	\$1,407,425	\$685,304	49%
Total Public Works	\$2,425,239	\$937,488	39%
Total General Fund Expenditures	\$12,963,920	\$7,001,486	54%
Year to Date Net Income		\$4,758,277	

2023-2024 Revenue

Town of Jupiter Island

Account Description	Amended Budget 2023-2024	PYTD Actual 5/31/2023	YTD Actual 5/31/2024	Actual % of Budget (Target 66%) 2023-2024
Ad Valorem	\$9,056,872	\$8,170,484	\$8,946,890	99%
Total Other Taxes and Fees	\$318,500	\$192,890	\$202,082	63%
Total Licenses and Permits	\$850,500	\$1,571,556	\$1,385,895	163%
Total Intergovernmental Revenue	\$164,700	\$97,260	\$112,965	69%
Total Charges for Services	\$136,000	\$152,359	\$84,805	62%
Total Fines and Forfeits	\$2,000	\$1,446	\$1,980	99%
Total Miscellaneous Revenues	\$196,613	\$405,297	\$570,803	290%
Transfers from Interfunds	\$681,365	\$470,869	\$454,343	67%
Subtotal Revenues	\$11,406,550	\$11,062,160	\$11,759,763	103%
Transfer from Reserves	\$1,557,370	\$0	\$0	0%
Total General Fund Revenues	\$12,963,920	\$11,062,160	\$11,759,763	91%

2023-2024 Expenses by Department

Account Description	Amended Budget 2023-2024	PYTD Actual 5/31/2023	YTD Actual 5/31/2024	Actual % of Budget (Target 66%)
Total Administration - Payroll	\$1,167,345	\$677,071	\$744,138	64%
Total Administration - Benefits	\$814,719	\$375,937	\$401,363	49%
Total Administration - Operating	\$1,317,023	\$438,994	\$754,839	57%
Subtotal	\$3,299,087	\$1,492,001	\$1,900,341	58%
Total Administration - Capital	\$20,000	\$7,123	\$7,431	37%
Total Administration	\$3,319,087	\$1,499,124	\$1,907,772	57%
Total Public Safety - Payroll	\$2,882,824	\$1,496,875	\$1,826,709	63%
Total Public Safety - Benefits	\$1,027,797	\$418,531	\$460,689	45%
Total Public Safety - Operating	\$1,382,932	\$711,338	\$755,451	55%
Subtotal	\$5,293,553	\$2,626,744	\$3,042,849	57%
Total Public Safety - Capital	\$518,616	\$23,307	\$428,072	83%
Total Public Safety	\$5,812,169	\$2,650,051	\$3,470,922	60%
Total Building - Payroll	\$516,154	\$205,838	\$299,232	58%
Total Building - Benefits	\$193,282	\$71,014	\$82,488	43%
Total Building - Operating	\$657,989	\$250,716	\$275,759	42%
Subtotal	\$1,367,425	\$527,569	\$657,479	48%
Total Building - Capital	\$40,000	\$14,901	\$27,825	70%
Total Building Department	\$1,407,425	\$542,470	\$685,304	49%
Total Public Works - Payroll	\$718,564	\$344,713	\$406,473	57%
Total Public Works-Benefits	\$437,068	\$165,048	\$201,593	46%
Total Public Works - Operating	\$779,607	\$357,668	\$329,422	42%
Subtotal	\$1,935,239	\$867,428	\$937,488	48%
Total Public Works - Capital	\$490,000	\$10,265	\$0	0%
Total Public Works	\$2,425,239	\$877,693	\$937,488	39%
Total General Fund Expenditures	\$12,963,920	\$5,569,337	\$7,001,486	54%

Balance Sheet as of 5/31/2024

Assets

CASH GENERAL ACCOUNT - SEACOAST	\$	1,326,283
CASH PAYROLL - SEACOAST	\$	271,770
CASH FLEX SPENDING - SEACOAST	\$	21,770
INVESTMENT - FLCLASS	\$	7,642,426
INVESTMENT - SBA	\$	3,400,375
INVESTMENT (MM) - SEACOAST	\$	4,077,989
PETTY CASH	\$	550
ACCOUNTS RECEIVABLE	\$	4,540
ACCOUNTS REC. - RETIREE BENEFITS	\$	834
DUE FROM INTERFUNDS	\$	667,511
DUE FROM STATE OF FLORIDA	\$	49,110
PREPAID ITEMS	\$	18,184
Total Assets	\$	17,481,342

Liabilities

ACCOUNTS PAYABLE	\$	(190)
DUE TO INTERFUNDS	\$	17,240
DUE TO OTHER GOV. UNITS	\$	42,674
ACCRUED PAYROLL LIABILITIES	\$	(15,039)
OVERPAYMENTS	\$	472
DONATIONS	\$	78
Total Liabilities	\$	45,235

Reserves/Fund Balances

ASSIGNED FOR EMERGENCIES	\$	1,000,000
ASSIGNED FOR COMPENSATED AB	\$	115,000
ASSIGNED FOR UNINSURED LOSS	\$	80,000
FUND BALANCE	\$	11,482,830
CHANGE IN FUND BALANCE - Current	\$	4,758,277
Total Reserves/Fund Balances	\$	17,436,107
Total Liabilities and Fund Balance	\$	17,481,342

General Fund Reserves

Account Description	Audited YE 2020	Audited YE 2021	Audited YE 2022	Audited YE 2023	Amended Budget FY 2024*
Beginning Fund Balance (Reserves)	9,095,126	8,095,873	9,033,098	6,237,564	9,298,494
Transfer from / to General Fund Reserves	509,951	1,610,431	2,247,916	3,060,930	-
Amount Budgeted From Reserves	(988,604)	(548,206)	(793,404)	-	(335,000)
Budget Amendment From Reserves	(520,600)	(125,000)	(385,000)	-	-
Total Available Fund Balance	8,095,873	9,033,098	10,102,610	9,298,494	8,963,494
Assigned to Uninsured Losses	80,000	80,000	80,000	80,000	80,000
Assigned to Compensated Absences	115,000	115,000	115,000	115,000	115,000
Assigned to Beautification, Scholarship, Public Safety				176,170	176,170
Assigned to Conservation Projects				431,989	431,989
Assigned to Emergencies	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Assigned to ARPA			312,393		
Restricted-Enforcement of FL Building Code				3,865,046	3,865,046
Unassigned Fund Balance (Reserves)	6,900,873	7,838,098	8,595,217	7,495,335	7,160,335
Total Fund Balance (Reserves)	8,095,873	9,033,098	10,102,610	13,163,540	12,828,540

*Estimated/Unaudited at time of this Report

TOWN OF JUPITER ISLAND

MEMORANDUM

TO: Mayor & Town Commission

THROUGH: Robert Garlo, Town Manager

CC: Kimberly Kogos, Town Clerk

FROM: John Duchock, Asst. Town Manager/Beach District Director

RE: Agenda Item 11: Debris Removal/Disposal Contract Pricing (CERES)

DATE: 6/3/2024

Background:

CERES is contracted with the Town to provide debris removal and disposal services in response to storm impacts and under declared emergency conditions. The original contract was executed on July 31, 2020, providing for an initial three-year contract period and allowing for two, single-year extensions. The contract was extended by one year through an amendment in 2023 and is eligible for one more year through July 2025.

The contract allows for pricing changes to be requested and approved through a contract amendment. CERES has prepared an updated pricing sheet for services (if required) between August 1, 2024 and July 31, 2025. It is noted that CERES is the secondary contractor for these services and would perform the work if the primary vendor (DRC Emergency Services LLC) was unresponsive or could not adequately perform the required work.

Recommendation:

Town staff is seeking Commission approval of the 2024/2025 updated pricing provided by CERES and authorization for the Town Manager to execute amendments to the contracts (debris removal contract and debris disposal contract), extending the expiration date of the contract through July 31, 2025 and adopting the updated pricing schedule.

CONTRACT AGREEMENT (#2020-10), CONTRACT ADDENDUM NO. 2 -PRICING REDETERMINATION through July 31, 2025

COST PROPOSAL						
The Proposer shall provide all labor, tools, equipment, mobilization, demobilization and other resources required to complete the requirements of the scope of services for the unit prices listed (including overhead and profit), including but not limited to the following requirements, includes Work Plan: (Submit a cost proposal for each contract with applicable items outlined)						
1. a. Removal, hauling, temporary storage and processing of all eligible debris and/or residue at the TDSRS, as specified.						
Mileage Radius	Estimated Qty.	Unit	Unit Price	Estimated Total	CPI 3.9%	Total CPI 3.9%
0-15 miles	75,000	Cubic Yard	\$ 11.62	\$ 871,500.00	\$ 12.07	\$ 905,488.50
16-30 miles	25,000	Cubic Yard	\$ 11.74	\$ 293,500.00	\$ 12.20	\$ 304,946.50
31-60 miles	25,000	Cubic Yard	\$ 11.88	\$ 297,000.00	\$ 12.34	\$ 308,583.00
TOTAL ESTIMATED COST ITEM 1a				\$ 1,462,000.00		\$ 1,519,018.00
b. Construction & Demolition (C&D) Removal to the TDSRS or Martin County Landfill						
Mileage Radius	Estimated Qty.	Unit	Unit Price	Estimated Total		
0-15 miles	5,000	Cubic Yard	\$ 11.62	\$ 58,100.00	\$ 12.07	\$ 60,365.90
16-30 miles	5,000	Cubic Yard	\$ 11.74	\$ 58,700.00	\$ 12.20	\$ 60,989.30
31-60 miles	5,000	Cubic Yard	\$ 11.88	\$ 59,400.00	\$ 12.34	\$ 61,716.60
TOTAL ESTIMATED COST ITEM 1b				\$ 176,200.00		\$ 183,071.80
c. Sand-Laden Debris Collection / Disposal Services / Sifting / Recycling						
Mileage Radius	Estimated Qty.	Unit	Unit Price	Estimated Total		
0-15 miles	10,000	Cubic Yard	\$ 14.72	\$ 147,200.00	\$ 15.29	\$ 152,940.80
16-30 miles	5,000	Cubic Yard	\$ 14.84	\$ 74,200.00	\$ 15.42	\$ 77,093.80
31-60 miles	5,000	Cubic Yard	\$ 14.96	\$ 74,800.00	\$ 15.54	\$ 77,717.20
TOTAL ESTIMATED COST ITEM 1c				\$ 296,200.00		\$ 307,751.80
TOTAL ESTIMATED COST ITEM 1a, 1b & 1c				\$ 1,934,400.00		\$ 2,009,841.60
2. Hazardous stumps, as specified (to include any fill dirt and seeding required to level)						
Diameter (measured 3 feet above ground)	Estimated Qty.	Unit	Unit Price	Estimated Total		
24 inches – 48 inches *	250	Each	\$ 280.00	\$ 70,000.00	\$ 290.92	\$ 72,730.00
Greater than 48 inches	100	Each	\$ 390.00	\$ 39,000.00	\$ 405.21	\$ 40,521.00
TOTAL ESTIMATED COST ITEM 2				\$ 109,000.00		\$ 113,251.00
TOTAL ESTIMATED COST ITEM 1a, 1b, 1c & 2				\$ 2,043,400.00		\$ 2,123,092.60

* less than 24 inches is regular debris

The hourly rates in pages 2-10 of this cost proposal are for future use if necessary by the Town. They will not be a factor in the evaluation of cost.

COST PROPOSAL/HOURLY COST				
All Equipment Rates listed below include operator, fuel and maintenance costs.				
Equipment	Hourly Rate	Day Rate	CPI 3.9%	Total CPI 3.9%
35-Ton Crane, Grove GMK2035, or Equal	\$ 246.24	1969.92	\$ 255.84	\$ 2,046.75
Stump Grinder, Vermeer SC752 or Equal	\$ 105.84	846.72	\$ 109.97	\$ 879.74
Stump Grinder, Vermeer SC60TX or Equal	\$ 98.28	786.24	\$ 102.11	\$ 816.90
Trackhoe, John Deere 200LC or Equal	\$ 225.81	1806.45	\$ 234.62	\$ 1,876.90
Wheel Loader, John Deere 644 or Equal	\$ 164.16	1313.28	\$ 170.56	\$ 1,364.50
Dozer, Caterpillar D-6R or Equal	\$ 192.24	1537.92	\$ 199.74	\$ 1,597.90
Front-End Loader, John Deere 544 or Equal	\$ 151.20	1209.6	\$ 157.10	\$ 1,256.77
Rubber Tire Backhoe, John Deere 410G or Equal	\$ 135.00	1080	\$ 140.27	\$ 1,122.12
Motor Grader, John Deere 670 or Equal	\$ 189.00	1512	\$ 196.37	\$ 1,570.97
Skid Steer Loader, 2,700 lb. Lift Capacity w/ Grapple Bucket	\$ 88.56	708.48	\$ 92.01	\$ 736.11
Tractor with Box Blade	\$ 73.44	587.52	\$ 76.30	\$ 610.43
50-Foot Bucket Truck	\$ 213.84	1710.72	\$ 222.18	\$ 1,777.44
Equipment Transport (Tractor w/50 ton Lowboy Trailer)	\$ 114.48	915.84	\$ 118.94	\$ 951.56
5-14 Cubic Yard Dump Truck	\$ 83.16	665.28	\$ 86.40	\$ 691.23
15-24 Cubic Yard Dump Truck	\$ 87.48	699.84	\$ 90.89	\$ 727.13
25-34 Cubic Yard Dump Truck	\$ 91.80	734.4	\$ 95.38	\$ 763.04
35-44 Cubic Yard Dump Truck	\$ 96.12	768.96	\$ 99.87	\$ 798.95
45-54 Cubic Yard Dump Truck	\$ 101.52	812.16	\$ 105.48	\$ 843.83
55-64 Cubic Yard Dump Truck	\$ 106.92	855.36	\$ 111.09	\$ 888.72
65-74 Cubic Yard Dump Truck	\$ 106.92	855.36	\$ 111.09	\$ 888.72
75+ Cubic Yard Dump Truck	\$ 112.32	898.56	\$ 116.70	\$ 933.60
Tub Grinder, Diamond Z or Equal	\$ 588.60	4708.8	\$ 611.56	\$ 4,892.44
Water Truck (2,000 Gallon)	\$ 95.04	760.32	\$ 98.75	\$ 789.97
Pickup Truck	\$ 18.36	146.88	\$ 19.08	\$ 152.61
Pickup Truck, Extended Cab	\$ 22.68	181.44	\$ 23.56	\$ 188.52
Pickup Truck, 4X4	\$ 23.76	190.08	\$ 24.69	\$ 197.49
Pickup Truck, 1 Ton	\$ 28.08	224.64	\$ 29.18	\$ 233.40
Box Truck	\$ 39.96	319.68	\$ 41.52	\$ 332.15
Passenger Car	\$ 17.28	138.24	\$ 17.95	\$ 143.63
20-Foot Response Trailer	\$ 48.60	388.8	\$ 50.50	\$ 403.96
36-Foot Response Trailer	\$ 63.72	509.76	\$ 66.21	\$ 529.64
Office Trailer	\$ 73.44	587.52	\$ 76.30	\$ 610.43
Flatbed Trailer, 10 Ton w/Pintle Hitch	\$ 56.16	449.28	\$ 58.35	\$ 466.80
12-Foot Work Boat w/Motor	\$ 41.04	328.32	\$ 42.64	\$ 341.12
12-Foot Work Boat wo/Motor	\$ 30.24	241.92	\$ 31.42	\$ 251.35
Vacuum Truck, 3,500 Gallon	\$ 240.00	1920	\$ 249.36	\$ 1,994.88

COST PROPOSAL/HOURLY COST					
Equipment	Hourly Rate	Day Rate			
Personal Protective Equipment Level A, DuPont TK554T, or equal	\$ 73.31	570.5	\$ 76.17	\$	592.75
Personal Protective Equipment Level B, DuPont TK555T, or equal	\$ 33.36	266.85	\$ 34.66	\$	277.26
Personal Protective Equipment Level C	\$ 19.55	156.43	\$ 20.31	\$	162.53
Cascade Air System	\$ 11.50	92.02	\$ 11.95	\$	95.61
Air Filtration Panel	\$ 3.45	27.6	\$ 3.58	\$	28.68
Airline Respirator (includes 150 Feet of Airline), Scott 4500PSI, or equal	\$ 5.75	46.01	\$ 5.97	\$	47.80
High Hazard Personnel Decontamination, TV1, or equal	\$ 146.65	1173.2	\$ 152.37	\$	1,218.95
Low Hazard Personnel Decontamination, HydroTherm #4, or equal	\$ 120.77	966.17	\$ 125.48	\$	1,003.85
Portable Eyewash Station	\$ 6.90	55.21	\$ 7.17	\$	57.36
First Aid Station	\$ 2.30	18.4	\$ 2.39	\$	19.12
Personnel Retrieval System	\$ 4.60	36.81	\$ 4.78	\$	38.25
Personnel Retrieval Harness	\$ 2.30	18.4	\$ 2.39	\$	19.12
Combustible Gas Indicator, Ion Science, or equal	\$ 60.10	480.78	\$ 62.44	\$	499.53
Toxic Gas Detector, Ion Science, or equal	\$ 22.72	181.73	\$ 23.61	\$	188.82
Photoionization Detector	\$ 65.56	524.49	\$ 68.12	\$	544.95
Hazmat Kit	\$ 12.36	98.92	\$ 12.84	\$	102.78
Hand Auger, Stainless Steel	\$ 6.90	55.21	\$ 7.17	\$	57.36
Mechanized Broom	\$ 73.61	588.9	\$ 76.48	\$	611.87
COST PROPOSAL/HOURLY COST					
All Equipment Rates listed below include operator, fuel and maintenance costs.					
Equipment	Hourly Rate	Day Rate			
Hand Operated Transfer Pump	\$ 7.98	63.87	\$ 8.29	\$	66.36
1 Inch Diaphragm Pump	\$ 12.52	100.18	\$ 13.01	\$	104.09
2 Inch Diaphragm Pump	\$ 18.09	144.7	\$ 18.80	\$	150.34
2 Inch Diaphragm Pump S.S.	\$ 23.65	189.23	\$ 24.57	\$	196.61
3 Inch Diaphragm Pump	\$ 34.78	278.28	\$ 36.14	\$	289.13
6 Inch Diaphragm Pump	\$ 139.14	1113.11	\$ 144.57	\$	1,156.52
1 Inch Suction or Discharge Hose	\$ 4.56	36.5	\$ 4.74	\$	37.92
2 Inch Suction or Discharge Hose	\$ 5.70	45.62	\$ 5.92	\$	47.40
3 Inch Suction or Discharge Hose	\$ 6.84	54.74	\$ 7.11	\$	56.87
6 Inch Suction or Discharge Hose	\$ 17.11	136.86	\$ 17.78	\$	142.20
2 Inch Chemical Suction or Discharge Hose	\$ 12.55	100.36	\$ 13.04	\$	104.27
3 Inch Chemical Suction or Discharge Hose	\$ 28.51	228.1	\$ 29.62	\$	237.00
6 Inch Chemical Suction or Discharge Hose	\$ 57.02	456.19	\$ 59.24	\$	473.98
Small Compressor	\$ 14.83	118.61	\$ 15.41	\$	123.24
185 CFM Compressor	\$ 22.81	182.48	\$ 23.70	\$	189.60
Air-hose Section	\$ 15.00	\$ 120.00	\$ 15.59	\$	124.68
Portable Light Stand	\$ 22.01	\$ 176.08	\$ 22.87	\$	182.95
Diesel-Powered Generator, 60kw - 80kw, 3 phase, 240/480 volt, trailer mounted, including 50 feet of cabling w/plug	\$ 181.57	1452.56	\$ 188.65	\$	1,509.21
Electrical Cable Section (50 feet)	\$ 6.84	54.74	\$ 7.11	\$	56.87
Spike Bar	\$ 4.69	\$ 37.50	\$ 4.87	\$	38.96
Airless Spray	\$ 9.12	72.99	\$ 9.48	\$	75.84
Pressure Washer	\$ 9.12	72.99	\$ 9.48	\$	75.84
COST PROPOSAL/HOURLY COST					
All Equipment Rates listed below include operator, fuel and maintenance costs.					
Equipment	Hourly Rate	Day Rate			
Water Hose Section (Garden)	\$ 2.26	18.07	\$ 2.35	\$	18.77
Cutting Torch	\$ 9.04	72.3	\$ 9.39	\$	75.12
Wire Welder	\$ 15.82	126.52	\$ 16.44	\$	131.45
Air Blower	\$ 11.30	90.37	\$ 11.74	\$	93.89
HEPA Vac	\$ 22.59	180.75	\$ 23.47	\$	187.80
Barrel Cart	\$ 5.65	45.19	\$ 5.87	\$	46.95
Wheelbarrow	\$ 4.52	36.15	\$ 4.70	\$	37.56
Oil Dry Spreader	\$ 7.91	63.26	\$ 8.22	\$	65.73
Traffic Control Vest, Cones, Flags, Barrels, etc.	\$ 14.69	117.49	\$ 15.26	\$	122.07
Drill with Bits	\$ 5.65	45.19	\$ 5.87	\$	46.95
Grounding Cable and Rod	\$ 7.91	63.26	\$ 8.22	\$	65.73
Circular Saw	\$ 5.65	45.19	\$ 5.87	\$	46.95
Hand Tools Per Employee (Shovels, Brooms, etc.)	\$ 3.39	27.11	\$ 3.52	\$	28.17
Tool Kit (Hammers, Pliers, Screwdrivers, etc.)	\$ 3.39	27.11	\$ 3.52	\$	28.17
Wrench Kit (Bung Wrench, Speed Wrench, etc.)	\$ 5.65	45.19	\$ 5.87	\$	46.95
Step Ladder	\$ 4.52	36.15	\$ 4.70	\$	37.56
Extension Ladder	\$ 4.52	36.15	\$ 4.70	\$	37.56
Photographic Equipment	\$ 12.43	99.41	\$ 12.91	\$	103.29
Portable Toilet	\$ 4.52	36.15	\$ 4.70	\$	37.56
Level A Suit, DuPont R5562T	\$ 56.48	451.87	\$ 58.68	\$	469.49
Level B Suit, DuPont C3123T	\$ 33.89	271.12	\$ 35.21	\$	281.69
Level C Suit, DuPont C2127T	\$ 28.24	225.94	\$ 29.34	\$	234.75

COST PROPOSAL/HOURLY COST				
<i>All Equipment Rates listed below include operator, fuel and maintenance costs.</i>				
Equipment	Hourly Rate	Day Rate		
Proshield, DuPont NG127s, or equal	\$ 45.19	361.5	\$ 46.95	\$ 375.60
Saranex, DuPont SL127T, or equal	\$ 56.48	451.87	\$ 58.68	\$ 469.49
Acid Suit	\$ 45.19	361.5	\$ 46.95	\$ 375.60
Rain Suit	\$ 33.89	271.12	\$ 35.21	\$ 281.69
Noeprene Gloves, pair	\$ 10.17	81.34	\$ 10.57	\$ 84.51
Nitrile Gloves, pair, 15 mil, 13"	\$ 0.90	7.2	\$ 0.94	\$ 7.48
Silvershield Gloves, pair	\$ 16.95	135.56	\$ 17.61	\$ 140.85
PVC Gloves, pair	\$ 4.52	36.15	\$ 4.70	\$ 37.56
Cotton or Latex Gloves, pair	\$ 4.52	36.15	\$ 4.70	\$ 37.56
Leather Work Gloves, pair	\$ 9.04	72.3	\$ 9.39	\$ 75.12
PVC Boots (Hazmat), pair	\$ 28.24	225.94	\$ 29.34	\$ 234.75
Boot Covers, pair	\$ 6.78	54.22	\$ 7.04	\$ 56.33
Hearing Protection	\$ 1.13	9.04	\$ 1.17	\$ 9.39
Detector Tubes	\$ 11.30	90.37	\$ 11.74	\$ 93.89
Ph Paper	\$ 3.39	27.11	\$ 3.52	\$ 28.17
Spill Classifier	\$ 5.65	45.19	\$ 5.87	\$ 46.95
Vehicle Use – Pickup, Vans, Cars	\$ 15.82	126.52	\$ 16.44	\$ 131.45
Vehicle Use – Trailers, Heavy Trucks	\$ 16.95	135.56	\$ 17.61	\$ 140.85
SCBA Bottle Refill	\$ 31.63	253.05	\$ 32.86	\$ 262.92
Respirator Airline, 50 Foot Section	\$ 23.72	189.79	\$ 24.65	\$ 197.19
Respirator Cartridges	\$ 27.11	216.9	\$ 28.17	\$ 225.36
Handheld Radios	\$ 11.30	90.37	\$ 11.74	\$ 93.89
COST PROPOSAL/HOURLY COST				
<i>All Equipment Rates listed below include operator, fuel and maintenance costs.</i>				
Equipment	Hourly Rate	Day Rate		
5 Inch x 10 Foot Absorbent Boom- Petroleum, CEP-WB510, or equal	\$ 45.19	361.5	\$ 46.95	\$ 375.60
8 Inch x 10 Foot Absorbent Boom – Petroleum, CEP-WB810, or equal	\$ 90.37	723	\$ 93.89	\$ 751.20
3 Inch x 12 Foot Absorbent Boom – Universal, CEP-HAZSOCIO, or equal	\$ 62.13	497.06	\$ 64.55	\$ 516.45
Absorbent Pads Bundle – Petroleum, CEP-WP100H, or equal	\$ 45.19	361.5	\$ 46.95	\$ 375.60
Absorbent Pads Bundle – Universal, CEP-OPP15, or equal	\$ 54.22	433.8	\$ 56.33	\$ 450.72
Oil Dry, CEP-FLAB50, or equal	\$ 9.04	72.3	\$ 9.39	\$ 75.12
Peat Moss, CEPEXSORB, or equal	\$ 22.59	180.75	\$ 23.47	\$ 187.80
Vermiculite, CEP-VERM4, or equal	\$ 18.07	144.6	\$ 18.77	\$ 150.24
Soda Ash Bag, CEP-SODASH, or equal	\$ 16.95	135.56	\$ 17.61	\$ 140.85
4 mil 20X100 Polyethylene	\$ 30.50	244.01	\$ 31.69	\$ 253.53
6 mil 20X100 Polyethylene	\$ 47.45	379.57	\$ 49.30	\$ 394.37
6 mil Bags	\$ 67.78	542.25	\$ 70.42	\$ 563.40
Duct Tape, roll	\$ 4.52	36.15	\$ 4.70	\$ 37.56
55-Gallon Drum, CEP-SD55THNEW, or equal	\$ 73.43	587.43	\$ 76.29	\$ 610.34
55-Gallon Drum Liners, 10 mil	\$ 9.04	72.3	\$ 9.39	\$ 75.12
Fiber Drums, CEP-FIB30L, or equal	\$ 16.95	135.56	\$ 17.61	\$ 140.85
30-Gallon Over-pack, CEP-1230YE, or equal	\$ 48.58	388.61	\$ 50.47	\$ 403.77
95-Gallon Poly Over-pack, CEP1237YE, or equal	\$ 73.43	587.43	\$ 76.29	\$ 610.34
DOT Hazardous Waste Labels	\$ 158.16	1265.24	\$ 164.33	\$ 1,314.58
Fire Extinguisher	\$ 22.59	180.75	\$ 23.47	\$ 187.80
Caution/Hazard Tape	\$ 6.78	54.22	\$ 7.04	\$ 56.33
Respirator Wipes	\$ 19.20	153.64	\$ 19.95	\$ 159.63
Kappler ChemTape, 10 Foot roll	\$ 39.54	316.31	\$ 41.08	\$ 328.65
COST PROPOSAL/HOURLY COST				
Personnel	Hourly Rate	Day Rate		
Climber with Gear	\$ 77.76	665.28	\$ 80.79	\$ 691.23
Superintendent with Truck	\$ 82.08	604.8	\$ 85.28	\$ 628.39
Foreman with Truck	\$ 69.12	518.4	\$ 71.82	\$ 538.62
Operator with Chainsaw	\$ 44.28	345.6	\$ 46.01	\$ 359.08
Survey Personnel with Vehicle	\$ 48.60	362.88	\$ 50.50	\$ 377.03
Traffic Control Personnel	\$ 36.72	259.2	\$ 38.15	\$ 269.31
Inspector with Vehicle	\$ 48.60	362.88	\$ 50.50	\$ 377.03
Safety Superintendent	\$ 62.64	492.48	\$ 65.08	\$ 511.69
Laborer	\$ 36.72	276.48	\$ 38.15	\$ 287.26
Project Coordinator	\$ 91.80	751.68	\$ 95.38	\$ 781.00
Field Hazardous Material Manager	\$ 91.80	734.4	\$ 95.38	\$ 763.04
Hazardous Material Containment Area Manager	\$ 91.80	734.4	\$ 95.38	\$ 763.04
Field Project Supervisor	\$ 84.24	673.92	\$ 87.53	\$ 700.20
Hazardous Material Containment Area Supervisor	\$ 84.24	673.92	\$ 87.53	\$ 700.20
Field Project Foreman	\$ 70.20	570.24	\$ 72.94	\$ 592.48
Hazardous Material Containment Area Foreman	\$ 77.76	648	\$ 80.79	\$ 673.27
Field Hazardous Material Technician	\$ 70.20	604.8	\$ 72.94	\$ 628.39
Hazardous Material Containment Area Technician	\$ 70.20	604.8	\$ 72.94	\$ 628.39
Health and Safety Specialist	\$ 75.60	604.8	\$ 78.55	\$ 628.39
Project Engineer	\$ 88.56	691.2	\$ 92.01	\$ 718.16
Project Geologist	\$ 88.56	691.2	\$ 92.01	\$ 718.16

COST PROPOSAL/HOURLY COST					
Personnel	Hourly Rate	Day Rate			
Chemist	\$ 88.56	691.2	\$ 92.01	\$	718.16
Regulatory Manager	\$ 75.60	604.8	\$ 78.55	\$	628.39
Equipment Operator	\$ 48.60	432	\$ 50.50	\$	448.85
Asbestos Abatement Supervisor	\$ 66.96	518.4	\$ 69.57	\$	538.62
Asbestos Abatement Worker	\$ 55.08	432	\$ 57.23	\$	448.85
Asbestos Inspector	\$ 74.52	432	\$ 77.43	\$	448.85
Truck Driver	\$ 44.28	336.96	\$ 46.01	\$	350.10
Administrative Assistant	\$ 34.56	288.66	\$ 35.91	\$	299.92
Clerical	\$ 34.56	288.66	\$ 35.91	\$	299.92
COST PROPOSAL/OTHER COSTS					
	Unit	Unit Price			
Storm Sewer Cleaning	Foot	\$ 20.17		\$	20.96
White Goods, as specified	Each	\$ 59.40		\$	61.72
Freon Recovery, as specified	Pound	\$ 37.80		\$	39.27
Dead Animal Removal and Disposal	Pound	\$ 2.29		\$	2.38
Sod Restoration (grading, restoration of sod, repair of irrigation system)	Sq. Yd.	\$ 8.62		\$	8.96

CONTRACT AGREEMENT (#2020-10), CONTRACT ADDENDUM NO. 2 -PRICING REDETERMINATION through July 31, 2025

CONTRACT #1 – EMERGENCY DISPOSAL THROUGHOUT TOWN					
DESCRIPTION	UNIT	UNIT PRICE	TOTAL	CPI 3.9%	Total CPI 3.9%
Site Preparation / Site Clearance / Final Disposal - to include cost for chipping, burning, hauling, etc.	C.Y.	\$ 14.78	\$ 14.78	\$ 15.36	\$ 15.36
CONTRACT #2 – ON-CALL / AS-NEEDED DISPOSAL THROUGHOUT TOWN					
DESCRIPTION	UNIT	UNIT PRICE	TOTAL	CPI 3.9%	Total CPI 3.9%
Site Preparation / Site Clearance / Final Disposal - to include cost for chipping, burning, hauling, etc.	C.Y.	\$ 24.98	\$ 24.98	\$ 25.95	\$ 25.95

TOWN OF JUPITER ISLAND

MEMORANDUM

TO: Mayor & Town Commission

THROUGH: Robert Garlo, Town Manager

CC: Kimberly Kogos, Town Clerk

FROM: John Duchock, Asst. Town Manager/Beach District Director

RE: Agenda Item 13: Vulnerability Assessment Steering Committee

DATE: 6/3/2024

Background:

As required in the grant agreement scope of work for the Town's Vulnerability Assessment, a steering committee will be formed to conduct a minimum of 2 meetings for the purposes of providing feedback and input on the study. As recommended by the State, a range of stakeholders has been evaluated, including key Town staff, technical experts, local government representatives, and other local stakeholders. Key Town staff members who will serve on the steering committee include:

- John Duchock, Beach Protection District Director
- Stuart Trent, Public Services Director
- Catherine Harding, Building Department Director/Building Official
- Ruben Cruz, Planning and Zoning Director/Floodplain Manager

In addition to Town staff, the following list of potential steering committee members will be contacted to determine interest and availability to participate.

- Jim Gorton, Martin County Public Work Director
- Amy Eason, Martin County Resiliency Manager
- Bill Miller, USFWS Refuge Manager
- Cristin Krasco, TNC Blowing Rocks Preserve Manager
- Rob Kloska, Jupiter Island Club Operation and Grounds Manager
- Dr. David Kriebel, Coastal Analytics/Subject Matter Expert

Recommendation:

Town staff will provide an update on the final steering committee membership and anticipated schedule of meetings moving forward during the vulnerability assessment.

Memo to: Town of Jupiter Island Commission

From: Catherine Harding, Building, Planning and Zoning Director

Reference: Change to LDR's

The following change to the LDR's would help the Building Department to evaluate the need of an applicant for more than 3 feet of fill on a site and update the reference to NAVD on plans:

Change the LDR's: Article X, Division III, Section 3.00 (A-D)

Either:

1. The use of alternative development standards will not result in a building which is more visible from adjacent property or public rights-of-way than that which could be constructed without the use of alternative development standards, ~~or~~ and
2. The fill is necessary ~~in order~~ to build the finished floor of the building at an elevation of 8.0 ~~NGVD~~ NAVD.

Note:

1. Currently, the LDR's allow a choice of "either" number 1 "or" number 2 above, to be selected by the applicant. However, both criteria are necessary to evaluate the application.
2. We changed the reference from NGVD to NAVD with the adoption of Ordinance 393.

CAH/6-3-24

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AMENDING APPENDIX “A” OF THE TOWN CODE WHICH CONTAINS THE TOWN’S LAND DEVELOPMENT REGULATIONS; PROVIDING FOR AMENDMENTS TO ARTICLE 1, DIVISION 3, SECTIONS 3.00, 3.01 AND 3.02 PERTAINING TO THE APPOINTMENT OF THE CHAIR AND VICE CHAIRS OF THE LOCAL PLANNING AGENCY, BOARD OF ADJUSTMENT AND IMPACT REVIEW COMMITTEE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission has previously created Article 1, Sections 3.00, 3.01 & 3.02 establishing a Local Planning Agency (LPA), the Board of Adjustment (BOA), and the Impact Review Committee (IRC) and vesting them with their respective responsibilities regarding the review of the comprehensive plan and land development regulations, including certain responsibilities pertaining to the development of residential properties within the Town; and

WHEREAS, the Town Commission has determined that the Town’s Land Development Regulations with respect to the appointment of the Chair and Vice Chair of the LPA, BOA, AND IRC is appropriate.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AS FOLLOWS:

Section 1: Whereas clauses are incorporated herein as the legislative findings of the Town Commission.

Section 2. The Town Commission hereby amends Article 1, Division 3, Sections 3.00, 3.01 and 3.02 of Appendix A of the Town of Jupiter Island’s Code, which contains the Town’s Land Development Regulations, related to “Development Review Boards” as

follows:

ARTICLE 1. GENERAL PROVISIONS

Sec. 3.00. Local planning agency.

- A. *Establishment.* A local planning agency for the town has been created and established.
- B. *Authority; functions; powers and duties in general.*
 - 1. The local planning agency has the authority and duty, to the extent required by law, to:
 - a. Propose, or review applications for, amendments to the comprehensive plan, including the annual monitoring and evaluation of the plan in accordance with state statute and rule.
 - b. To consider, upon request of the town commission, applications, or proposals for district boundary changes (rezoning); and
 - c. To consider, upon request of the town commission, applications, or proposals for amendment to these regulations.
 - 2. The chair, or in his or her absence the acting chair, may administer oaths and compel the attendance of witnesses.
 - 3. No member shall abstain from voting unless he has a conflict of interest pursuant to the provisions of F.S. ch. 112.
- C. *Composition.* The local planning agency shall consist of five members appointed by the mayor with the consent of the town commission. Each member of the local planning agency must have a place of residence within the incorporated limits of the town.
- D. *Alternate members.* The local planning agency shall also have two alternate members appointed by the mayor with the consent of the town commission. Alternate members may act in the temporary absence or disability of any regular member, or when a regular member is disqualified in a particular case.
- E. *Terms of office.*
 - 1. The basic term of office for members of the local planning agency shall be three years; provided that each member serving at the time of adoption of these land development regulations section shall complete his or her term as originally established.
 - 2. The members of the local planning agency shall hold offices as indicated above until the town commission's regular April meeting date of the year each member's term expires. As the initial term of each member expires, the new term of each appointed member shall be three years.

3. Each member shall hold office until his or her successor is duly appointed and qualified.
 4. Any member appointed to serve in lieu of any member on account of death, resignation, removal, or disability of such member, shall serve only for the unexpired term of such member, but shall be eligible for reappointment thereafter.
- F. *Removal from office.*
1. Members shall serve at the pleasure of the town commission, which may remove any member without cause by majority vote of the entire town commission.
 2. Should any members of the local planning agency no longer maintain a residence within the incorporated limits of the town, the member shall become disqualified and a new member, who maintains a residence within the incorporated limits of the town, shall be appointed.
- G. *Reappointment.* Any member is eligible for reappointment.
- H. *Vacancies.* Any vacancy occurring shall be filled by the town commission within 60 days after the vacancy occurs.
- I. *Officers.* ~~The mayor shall appoint, with the consent of the town commission, a chair and vice-chair from among the members of the local planning agency.~~ The members of the local planning agency shall annually elect a chair and vice-chair. The town clerk or his or her designee shall take all minutes and perform clerical duties necessary to the functioning of the local planning agency.
- J. *Meetings and rules of procedure.* The local planning agency shall have meetings at times and places to be determined by the chair. It shall adopt rules for the transaction of its business and keep a properly indexed record of its resolutions, transactions, findings and determinations, which record shall be a public record. All meetings of the local planning agency shall be open to the public, as prescribed by law.
- K. *Employees and salaries.* The local planning agency may, subject to the approval of the town commission and within the financial limitations set by appropriations made or other funds available, employ such experts, technicians and staff as may be deemed proper and pay their salaries, contractual charges and fees, and such other expenses as are necessary to conduct the work of the agency.
- L. *Minutes public record.* The local planning agency shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or abstaining, indicating such fact. The records of the local planning agency shall be filed in the office of the town clerk and shall be a public record.

Sec. 3.01. – Board of Adjustment

- A. *Establishment.* A board of adjustment for the town is created and established.
- B. *Authority; functions; powers and duties in general.*

1. The board of adjustment has the following powers and duties:
 - a. *Alternative development standards, increases in floor area, and variances.* The board of adjustment shall hear and decide applications for approval using alternative development standards, increases in floor area, pursuant to article X, division 4, and variances.
 - b. *Other powers and duties.* The board of adjustment has the authority to carry out any other powers and duties provided in these land development regulations or delegated to it by the town commission.
 2. The chair, or in his or her absence the acting chair, may administer oaths and compel the attendance of witnesses.
 3. No member shall abstain from voting unless he has a conflict of interest pursuant to the provisions of F.S. ch. 112.
- C. *Composition.* The board of adjustment shall consist of five members appointed by the mayor with the consent of the town commission. Each member of the board of adjustment must have a place of residence within the incorporated limits of the town. Members of the board of adjustment shall not hold any elected public office.
- D. *Alternate members.* The board of adjustment shall also have three alternate members appointed by the mayor with the consent of the town commission. Alternate members may act in the temporary absence or disability of any regular member or when a regular member is disqualified in a particular case.
- E. *Terms of office.*
1. The ~~basic~~ term of office for members of the board of adjustment shall be three years; provided that each member serving at the time of adoption of these land development regulations section shall complete his or her term as originally established.
 2. The members of the board of adjustment shall hold office as indicated above until the town commission's April meeting date of the year each member's term expires. As the initial term of each member expires, the new term of each member shall be three years.
 3. Each member shall hold office until his or her successor is duly appointed and qualified.
 4. Any member appointed to serve in lieu of any member on account of death, resignation, removal or disability of such member, shall serve only for the unexpired term of such member, but shall be eligible for reappointment thereafter.
- F. *Removal from office.* Should any member of the board of adjustment no longer maintain a residence within the incorporated limits of the town, the member shall become disqualified and a new member, who maintains a residence within the incorporated limits of the town, shall be appointed.

- G. *Reappointment.* Any member is eligible for reappointment.
- H. *Vacancies.* Any vacancy occurring shall be filled by the town commission within 60 days after the vacancy occurs.
- I. *Officers.* ~~The mayor shall appoint, with the consent of the town commission, a chair and vice chair from among the members of the board of adjustment.~~ The members of the board of adjustment shall annually elect a chair and vice chair. The town clerk or his or her designee shall take all minutes and perform clerical duties necessary to the functioning of the board.
- J. *Meetings and rules of procedure.*
1. The board of adjustment shall meet at regular intervals to be determined by it and at such other times as the chair or commission may determine.
 2. The board of adjustment shall adopt rules for the transaction of its business and keep a properly indexed record of its resolutions, transactions, findings and determinations, which record shall be a public record.
 3. The administrative official or his or her designee shall attend all meetings and be permitted to answer questions, give evidence and make recommendations.
 4. The town clerk or his or her designee may administer oaths, and the chair or acting chair may compel the attendance of witnesses in the same manner as prescribed in the circuit court.
 5. No action shall be taken on any application unless a quorum of three members is present, and only upon a majority vote of all members present and voting
 6. The board of adjustment or any of its members may inspect the premises, site or area under consideration.
 7. All decisions of the board of adjustment shall be by motion.
 8. All meetings of the board of adjustment shall be open to the public, as provided by law.
- K. *Employees and salaries.*
1. The board of adjustment may, subject to the approval of the town commission and within the financial limitations set by appropriations made or other funds available, employ such experts, technicians and staff as may be deemed proper and pay their salaries, contractual charges and fees, and such other expenses as are necessary to conduct the work of the commission.
 2. The administrative official shall furnish from the town such staff as may be necessary to assist and advise the board in fulfillment of its duties and is authorized to retain a qualified reporter or clerk to record and transcribe the public proceedings of the board of adjustment.

- L. *Minutes public record.* The board of adjustment shall keep minutes of its proceedings, showing the vote of each member on each question or if absent or abstaining, indicating such fact. The records of the board of adjustment shall be filed in the office of the town clerk and shall be public record.

Sec. 3.02. Impact review committee.

- A. *Establishment.* An impact review committee for the town has been created and established.
- B. *Authority; functions; powers and duties in general.*
 - 1. The impact review committee has the authority and duty to review and decide applications for impact review as provided in article X.
 - 2. The chair, or in his or her absence the acting chair, may administer oaths and compel the attendance of witnesses.
 - 3. No member shall abstain from voting unless he has a conflict of interest pursuant to the provisions of F.S. ch. 112.
- C. *Composition.* The impact review committee shall consist of five members appointed by the mayor with the consent of the town commission. Each member of the impact review committee must have a residence within the incorporated limits of the town.
- D. *Alternate members.* The impact review committee shall have three alternate members appointed by the mayor with the consent of the town commission. Alternate members may act in the temporary absence or disability of any regular member or when a regular member is disqualified in a particular case.
- E. *Terms of office.*
 - 1. The basic term of office for members of the impact review committee shall be three years, provided that each member serving at the time of adoption of these land development regulations section shall complete his or her term as originally established.
 - 2. The members of the impact review committee shall hold office as indicated above until the town commission's April meeting date of the year each member's term expires. As the initial term of each member expires, the new term of each appointed member shall be three years.
 - 3. Each member shall hold office until his or her successor is duly appointed and qualified.
 - 4. Any member appointed to serve in lieu of any member on account of death, resignation, removal, or disability of such member, shall serve only for the unexpired term of such member, but shall be eligible for reappointment thereafter.
- F. *Removal from office.*

1. Members shall serve at the pleasure of the town commission which may remove any member without cause by majority vote of the entire town commission.
 2. Should any member of the impact review committee no longer maintain a residence within the incorporated limits of the town, the member shall become disqualified and a new member, who maintains a residence within the incorporated limits of the town, shall be appointed.
- G. *Reappointment.* Any member is eligible for reappointment.
- H. *Vacancies.* Any vacancy occurring shall be filled by the town commission within 60 days after the vacancy occurs.
- I. *Officers.* ~~The mayor shall appoint, with the consent of the town commission, a chair and vice chair from among the members of the impact review committee.~~ The members of the impact review committee shall annually elect a chair and vice chair. The town clerk or his or her designee shall take all the minutes and perform clerical duties necessary to the functioning of the impact review committee.
- J. *Meetings and rules of procedure.*
1. The impact review committee shall meet at regular intervals to be determined by it and at such other times as the chair or commission may determine.
 2. The impact review committee shall adopt rules for the transaction of its business and keep a properly indexed record of its resolutions, transactions, findings and determinations, which record shall be a public record.
 3. The administrative official or his or her designee shall attend all meetings and be permitted to answer questions, give evidence, and make recommendations.
 4. The town clerk or his or her designee may administer oaths, and the chair or acting chair may compel the attendance of witnesses in the same manner as prescribed in the circuit court.
 5. No action shall be taken on any application unless a quorum of three members is present, and only upon a majority vote of all members present and voting
 6. The impact review committee or any of its members may inspect the premises, site, or area under consideration.
 7. All decisions of the impact review committee shall be by motion.
 8. All meetings of the impact review committee shall be open to the public, as provided by law.
- K. *Employees and salaries.* The impact review committee may, subject to the approval of the town commission and within the financial limitations set by appropriations made or other funds available, employ such experts, technicians and staff as may be deemed proper and pay their salaries, contractual charges and fees, and such other expenses as are necessary to conduct the work of the commission.

- L. *Minutes public record.* The impact review committee shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or abstaining, indicating such fact. The records of the impact review committee shall be filed in the office of the town clerk and shall be a public record.

Section 3. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 4. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Jupiter Island, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 5. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Jupiter Island.

Section 6. Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.



MEMORANDUM



TO: The Mayor and Town Commission

FROM: Bob Garlo, Town Manager

DATE: June 12, 2024

SUBJECT: Agenda Item 16a: Draft Ordinance regarding chair appointments.

The draft ordinance before you reflects a modification to the Town's Land Development Regulations pertaining to the appointment of the chair and vice chairs of the Local Planning Agency, Board of Adjustment and Impact Review Committee.

The proposed ordinance states that the members of each board or committee shall annually elect a chair and vice chair. This is a departure from the current ordinance which states that the Mayor, with the consent of the Town Commission, appoints the various chairs and vice chairs.

This proposed ordinance is for discussion purposes only at this time.

Memo to: Town of Jupiter Island Commission

From: Catherine Harding, Building Planning and Zoning Director

Reference: Revision of Administrative Review for development attached

The attached revision has been reviewed by the Commission along with the Options for Development Approvals. This revision eliminates the need for review of Interior Alterations and adds ADA accommodations.

These changes would eliminate an unnecessary review, as a building permit is required for interior renovations and the work will be reviewed at that time. No work would be seen by the public.

The addition of ADA accommodations would help facilitate approvals as needed under the Americans for Disabilities Act.

CAH/6-3-24

Revision of Administrative Review

Administrative review remains the same but add ADA Accommodations and eliminate I. interior alterations, to Article X, division 1, Section 1.00. Applicability.

Article X. Division 1. Administrative review

Standard:

- A. Less than 70 percent of the maximum floor area permitted.
- B. Ground level single story additions less than 600 square feet, not to exceed 100 percent of the maximum floor area permitted.
- C. One story accessory building of less than 600 square feet, not to exceed 100 of the maximum floor area permitted.
- D. Perimeter walls or fences with written consent of adjoining property owners.
- E. Ground level terraces with or without one-foot maximum height bench walls.
- F. Driveways which are more than 8 feet from the side and rear lot lines in the A-80, B-40, and G-35 Districts and more than 3 feet from side and rear lot lines in all other zoning districts.
- G. Uncovered swimming pools and tennis courts that are located entirely with the building envelope.
- H. Docks and dune crossovers in the middle one-third of the property.
- I. ~~Interior alterations~~ ADA accommodations.
- J. Exterior lighting that is landward of the Coastal Construction Control Line that is fully compliant with exterior lighting regulations in Article IV, section 3.17.
- K. Brush bins.
- L. Bulkheads/seawalls.
- M. Demolition of buildings and structures that require permits for construction. Except principal buildings and guest houses.

Memo To: Town of Jupiter Island Commission

From: Catherine Harding, Building, Planning and Zoning Director

Subject: Establishment of a comprehensive board to hear variances and development approvals.

In reviewing the past six months, the Building, Planning and Zoning Department has received, reviewed and prepared 9 applications for the BOA and 16 applications for the IRC. As a result, we have concluded that a singular board to hear all applications would function best for the Town.

The establishment of one board, a “Planning and Zoning Board”, to hear all variances including Alternative Development Standards, and review development applications would replace the Board of Adjustment and the Impact Review Committee. One board would be more efficient and eliminate the need for an applicant who requires both a variance and a development approval to attend two meetings. This would save time and money on the part of the resident, who must pay the fee of an attorney and supporting professionals for each application and save time and cost for the Building Department that must review, advertise, prepare submittals and attend meetings to present these applications. With each application we also require other departments to review for conditions of approval.

The Town of Jupiter Island is a unique town, with a unique “Building Season” that creates a rush to secure approvals and get ready to start work on May 1st. A singular board would promote accuracy on the part of the Building Department in the review of the development applications. At this time, the Building Department must review, advertise and prepare for a meeting for the BOA and one week later must do the same preparations and be ready for an IRC meeting.

The formation of a Planning and Zoning Board would consist of 7 voting members who would meet once a month on a fixed date and time. This change would also help in the summer months where attendance at meetings is a problem. A quorum of 5 members would be required.

The Board would be selected by the Chairwoman of the BOA, selecting 3 members with 1 alternate and the Chairwoman of the IRC selecting 4 members, with 1 alternate, all with a two-year term. The Planning and Zoning Board would select the Chair from its members. Thereafter, the Board would select a chairperson from the members for each new 2-year term. Members of the Planning and Zoning board could serve for 3 consecutive terms.

Based upon the number of current applications to both boards, the total number of applicants would not overwhelm the new Board. Recent text changes to the LDR’s will help clarify decisions.

Appeals from a decision of the Planning and Zoning Board would be heard by the Town Commission. The Commission could hear the appeal or send it back to the Planning and Zoning Board for further consideration.

CAH/6-3-24



Memorandum

To: Mayor & Town Commissioners
 From: Kelly Layman, Legislative & External Relations Consultant
 Through: Robert Garlo, Town Manager
 Date: June 3, 2024
 Re: Martin County 2024 Election Cycle (August 20 Primary Election)

Following a brief discussion at your May meeting regarding the candidate qualifying period and announced candidates, the Mayor asked for a written report for your next meeting. Please find that tracking sheet attached.

As I mentioned at the May meeting, the candidate qualifying period continues up to and through June 14 at Noon, at which names will be locked for the August ballot. At this writing, there are 3 announced candidates who filed their intention to run, in order to succeed the current County Commissioner representing District 3, which includes the Town of Jupiter Island. In addition, as you know, the August 20 primary election ballot is expected to decide all of the Martin County races on the ballot.

Finally, given the intense interest in this issue expressed by Town Commissioners at your May Commission meeting – particularly about the “open” District 3 seat – the Town Manager and Mayor are proposing a multi-pronged outreach effort to elevate Town residents’ attention and engagement in the 2024 Election Cycle. Among those items would be a taped discussion with the candidates, hosted by the Town of Jupiter Island, and focused on those who ultimately qualify for the District 3 race (finalized on June 14). This should greatly assist Town of Jupiter Island residents with a considerable and consequential decision in August. I will organize this pre-taped session in the near-term, in order for the Town Commission to share the video link on the web site with residents.

I will add municipal elections (Village of Indiantown and City of Stuart) to the July Commission Meeting memo.

The Town Manager will continue to keep you updated as the news warrants. Thank you.

2024 MARTIN COUNTY ELECTION CYCLE				
CANDIDATE QUALIFYING PERIOD RUNS THROUGH JUNE 14, 2024				
OFFICE / ENTITY	SEAT	NAME	METHOD OF QUALIFYING	
			QUALIFIED BY PETITION ON MAY 13 (1,191 verified signatures req'd)	AMOUNT DUE BY JUNE 14 TO APPEAR ON AUGUST BALLOT
Martin County Board of County Commissioners <i>(5 Commissioners)</i>		Doug Smith (incumbent)	Yes (1,191)	n/a
	District 1	Eileen Vargas	Yes (1,191)	n/a
	District 1	James Yurillo	No (87)	\$4,734.30
	District 3	Blake Capps	No (0)	\$4,734.30
	District 3	Frank D'Ambra	No (0)	\$4,734.30
	District 3	Susan Gibbs Thomas	No (893)	\$4,734.30
		Edward V. Ciampi (incumbent)	Yes (1,191)	n/a
	District 5	Bruce Nathan	No (0)	\$4,734.30
	District 5	Michael S. Syrkus	No (640)	\$4,734.30
Martin County School Board <i>(5 Seats + Elected Superintendent)</i>	District 2	John Millay	WITHDRAWN	
		Marsha Powers (incumbent)	No (791)	\$1,711.88
	District 2	Sydney Thomas	No (712)	\$1,711.88
	District 5	Brian Moriarty	Yes (1,191)	n/a
All five Constitutional Officers in Martin County qualified by petition (1,191 signatures).				
In addition, all five do not have opposition at this writing.				
They would be elected by default in August, unless someone qualifies by June 14.				
The only "open" Constitutional Officer seat is for Sheriff.				
John Budensiek, current Chief Deputy for Martin County Sheriff's Office, has qualified.				
The other four Consitutional Officers are: Tax Collector, Supervisor of Elections,				
Property Appraiser, and Clerk of the Circuit Court & Comptroller.				
Created for Town of Jupiter Island Commission • Updated June 3, 2024				
Kelly Layman, Legislative & External Affairs Consultant				

Memo

To: Mayor & Commission
From: Thomas J. Baird, Town Attorney
Date: June 4, 2024
Subject: Development Review Boards
Cc: Robert Garlo, Town Manager
Catherine Harding, Building Director

At the Town Commission meeting of May 14, 2024, the commission discussed the need to ensure a coordinated review of applications which are simultaneously submitted to the Board of Adjustment (BOA) for the use of Alternative Development Standards¹ and for impact review² by the Impact Review Committee (IRC). A concern was that the IRC's review of an application may be constrained or restricted by actions previously taken by the BOA approving the use of Alternative Development Standards (ADS). As a result of this discussion, the commission requested advice regarding whether the review of applications for the use of ADS could be assigned to the IRC, and what are the ramifications of doing so.

The BOA currently is responsible for (1) alternative development standards and (2) variances. Based upon information provided by staff, compiled from applications submitted to the Town for processing during the past two years, there have been **19** applications for the use of ADS and **8** applications for variances. Based upon this data, the BOA expends substantially more time addressing applications on ADS than on applications for variances. While the workload of the IRC would increase, the consolidation of applications for the use of ADS with applications for impact review would seem to make for a more efficient process for property owners, their agents and professionals, and staff. Such a consolidation would also make sense since ADS and impact review applications typically involve the same property. The professionals employed by both the Town and property owners would only have to prepare for one meeting which would result in a savings of time and money to the town, and the property owners. There would also be some saving of time and money because notices would only be provided for one meeting of the IRC instead of a notice for the BOA meeting followed by a notice for the IRC meeting.

The responsibilities for reviewing applications for "true" variance requests pursuant to Article X, Division 5 of the LDRs could continue to be the BOA's responsibility, or that responsibility could also be given to the IRC or the Town Commission. A "true" variance request involves an application

¹ See Article X , Division 3 of the LDRs

² See Article X, Division 2 of the LDRs



where a property owner seeks relief from the strict application of the Town Code because of a legal hardship. A legal hardship involves an evaluation of the standards established in code section 5.00 to determine whether an applicant has demonstrated that it has met all seven standards, thereby establishing a legal hardship. Generally, it is difficult for an applicant to establish that it has met the standards established in the LDRs to be granted variance relief.

Transferring the current responsibilities of reviewing applications for the use of ADS from the BOA to the IRC would be accomplished by an ordinance amending Article X, Division 3, Sections 3.01 and 3.02 of the LDRs. The ordinance would amend Section 3.01 regarding the BOA; and Section 3.02 regarding the IRC's responsibilities.

#5588995 v1 18270-00002

Upcoming Town Meetings and Events

2024

Date	Day	Time	Event/Meeting	Location
June 11	Tuesday	9am	Town Coffee with Vice Mayor Field	Island Room
June 11	Tuesday	10am	Beach Protection District	Island Room
June 12	Wednesday	9am	Town Commission Meeting	Island Room
June 25	Thursday	9am	Board of Adjustment	Island Room (Required)
July 4	Thursday	All Day	Independence Day Holiday - Town Hall Closed	
TBD			Impact Review Committee	Island Room (if Required)
July 16	Tuesday	9am	Town Coffee w/ Commissioner Scott	Island Room
July 17	Wednesday	9am	Town Commission/Beach Protection	Island Room
July 17	Wednesday	12:30pm	SMRU Board	Conference Room
July 25	Thursday	9am	Board of Adjustment	Island Room (if Required)
August 1	Thursday	9am	Impact Review Committee	Island Room (if Required)
August 19	Monday	9am	Town Commission/Beach Protection	Island Room (if Required)
August 20	Tuesday	7am - 7pm	Primary Election	Island Room
August 29	Thursday	9am	Board of Adjustment	Island Room (if Required)
September 2	Monday	All Day	Holiday - Labor Day - Town Hall Offices Closed	
September 5	Thursday	9am	Impact Review Committee	Island Room (if Required)
September 9	Monday	9am	Town Commission/Beach Protection	Island Room
September 9	Monday	12:30pm	SMRU Board	Conference Room
September 9	Monday	5:01pm	1st Budget Hearing	Island Room
September 12	Thursday	5:01pm	2nd Budget Hearing	Island Room
September 26	Thursday	9am	Board of Adjustment	Island Room (if Required)

June 1, 2024

Key
Changes from Previous Schedule
Board of Adjustment
Impact Review Committee
Town Hall Closed

Agendas posted on Town Website: www.townofjupiterisland.com prior to the meeting