FORT PIERCE UTILITIES AUTHORITY
REGULAR MEETING
AGENDA

TUESDAY
October 3, 2023 4:00 PM
City Commission Chambers
100 North U.S. #1, Fort Pierce, Florida

MEETING TO ORDER

Opening Prayer Jason Mittler, FPUAnet Manager

Pledge of Allegiance

ROLL CALL AND DECLARATION OF A QUORUM

A. SET THE AGENDA

B. APPROVAL OF MINUTES:

1. Approve the Minutes of the Regular Meeting on September 19, 2023.

C. COMMENTS FROM THE PUBLIC:

D. CONSENT AGENDA:

1. Approve the Contract for Public Utility Week's Luncheon-Food Vendor with Good Eats, See Food LLC, of Fort Pierce, Florida, in an amount not to exceed $2,470.00. The initial term of this Contract will be upon written notice to proceed through final completion. Presented by Craig Crawford.
2. Contract No. C41692: Approve the Contract for Public Utility Week's Luncheon-Food Vendor with Big Worm's BBQ dba Big Worm's BBQ, LLC of Fort Pierce, Florida, in an amount not to exceed $2,600.00. The initial term of this Contract will be upon written notice to proceed and end on final completion of the work and acceptance by FPUA. Presented by Craig Crawford.
3. Staff recommends that the FPUA Board approve the SHM Harbortown, LLC's Easement Agreement and Temporary Construction Easement associated with Parcel ID 1434-330-0004-101-1 and 1434-330-0004-000-8 (“Property”), and further authorize the FPUA to execute all documents and take all actions necessary. Presented by Caroline Valentin.

E. RECOGNITION OF EXCELLENCE:

F. OLD BUSINESS:

G. NEW BUSINESS:

1. Election of Officers. Presented Caroline Valentin.
2. Sunshine Law Update. Presented by Caroline Valentin.

H. AWARD OF BID:

I. RESOLUTIONS:

1. Resolution No. UA 2023-12 – A Resolution on Rules of Procedure for FPUA Board Meetings. Presented by Caroline Valentin.

J. DIRECTOR:

K. ATTORNEY:

L. COMMENTS FROM BOARD MEMBERS:

M. ADJOURN

MINUTES OF A REGULAR MEETING OF THE FORT PIERCE UTILITIES AUTHORITY, TUESDAY, SEPTEMBER 19, 2023, 4:00 P.M., CITY COMMISSION CHAMBERS.

Members Present: Vice Chair Barbara Bennett; Secretary Larry Lammers; Deputy Secretary Frank H. Fee, IV; and Mayor Linda Hudson.

Members Absent: Chairman Kristina Gibbons.

Others present: Javier Cisneros, Director of Utilities; Barbara Mika, Director of Finance and Administrative Services; Daniel Retherford, Director of Utility Support Services; Bo Hutchinson, Director of Water/Wastewater Systems, Craig Crawford, Director of Electric & Gas Systems, and Caroline A. Valentin, General Counsel to FPUA Board.

The meeting was called to order by Madam Vice Chair Barbara Bennett.

A motion was made by Mayor Hudson, seconded by Mr. Fee, and unanimously carried to excuse Madam Chair Kristina Gibbons from September 19, 2023 meeting.

Opening Prayer was by Jason Mittler, FPUAnet.

The Pledge of Allegiance was recited.

The roll was called and a quorum declared.

ITEM A: SET THE AGENDA

A motion was made by Mr. Fee, seconded by Mayor Hudson, to move item G-7, I-1, and I-2 to be heard after the consent agenda. Those voting yes were Mr. Fee, Mrs. Bennett, and Mayor Hudson. Mr. Lammers voted no. Motion passed.

A motion was made by Mr. Fee, seconded by Mayor Hudson, and unanimously carried to approve the modified agenda removing items I3 and I4.

ITEM B: APPROVAL OF MINUTES

A motion was made by Mayor Hudson, seconded by Mr. Fee, and unanimously carried to approve the Minutes of the Regular Meeting of September 5, 2023.

ITEM C: COMMENTS FROM THE PUBLIC

ITEM D: CONSENT AGENDA

A motion was made by Mr. Lammers, seconded by Mr. Fee, and unanimously carried to approve the Consent Agenda.

ITEM E: RECOGNITION OF EXCELLENCE

ITEM F: OLD BUSINESS

ITEM G: NEW BUSINESS

1. Barbara Mika presented request to accept the renewal quote and proposal from the Florida League of Cities on behalf of the Florida Municipal Insurance Trust (FMIT) for the FY 24 policy package that includes our property, general liability, cyber liability, automobile liability, and workers' compensation insurance coverage for the period of October 1, 2023 through September 30, 2024. and approve funding for the $1,509,936 annual premium.

A motion was made by Mayor Hudson, seconded by Mr. Lammers, and unanimously carried to accept the renewal quote and proposal from the Florida League of Cities on behalf of the Florida Municipal Insurance Trust (FMIT) for the FY 24 policy package for the period of October 1, 2023 through September 30, 2024, and approve funding for the $1,509,936 annual premium.

2. Bill Crawford presented the request to approve Bid No. 16-42: Approve Amendment No. 5 to the Tree Trimming Services Contract with The Davey Tree Expert Company of Kent, Ohio to increase the not to exceed contract amount by $168,000 from $376,000 to $544,000 annually and to extend the contract through November 30, 2023.

A motion was made by Mayor Hudson, seconded by Mr. Lammers, and unanimously carried to approve Amendment No. 5 to the Tree Trimming Services Contract with the Davey Tree Expert Company, to increase the not to exceed contract amount by $168,000 from $376,000 to $544,000 annually and to extend the contract through November 30, 2023.

3. Kuper Krueger presented the request to approve piggyback of Lee County, RFP B230154DWJ, Wastewater Collection Systems Rehabilitation and contract with Miller Pipeline LLC, of Indianapolis, Indiana, for Sewer Rehabilitation Services in an amount not to exceed $634,500 annually. The term of the Contract will be from execution through June 29, 2026 with one (1) three-year (3) year renewal options.

A motion was made by Mr. Fee, seconded by Mayor Hudson, and unanimously carried to approve piggyback of the Lee County, RFP B230154DWJ, Wastewater Collection Systems Rehabilitation and contract with Miller Pipeline LLC in an amount not to exceed $634,500.

4. Lugey Dawson presented the request to approve Amendment No. 1 to the Annual Unit Price Contract (UPC) for the Installation of Underground Utilities for Water and Wastewater Systems with Hinterland Group Inc., of Riviera Beach, Florida, to increase the not to exceed contract amount by $500,000, from $1,000,000 to $1,500,000 annually.

A motion was made by Mr. Fee, seconded by Mr. Lammers, and unanimously carried to approve Amendment No. 1 to the Annual Unit Price Contract for the installation of underground utilities for water and wastewater systems with Hinterland Group Inc. in the not to exceed contract amount of $1,500,000 annually.

5. Lugey Dawson presented the request to approve Amendment No. 2 to the Annual Unit Price Contract for the Installation of Underground Utilities for Water and Wastewater Systems with Mastec North America, Inc., of Coral Gables, Florida, to increase the not to exceed contract amount by $1,000,000, from $2,400,000 to $3,400,000 annually

A motion was made by Mr. Fee, seconded by Mayor Hudson, and unanimously carried to approve Amendment No. 2 to the Annual Unit Price Contract for the installation of underground utilities for water and wastewater systems with Mastec North America, Inc. in the not to exceed contract amount of $3,400,000 annually.

6. Michele Harris presented the request to approve an increase in the not to exceed limited to from $500,000 to $900,000. On 12/15/2020, the FPUA Board approved electronic

payment processing fees not to exceed $500,000. As a result of the increased volume, these fees are on target to exceed $750,000 for 12 months ending 02/28/2024. The current request is to increase the not to exceed limit to $900,000 annually, to accommodate the current needs and future changes.

A motion was made by Mr. Lammers, seconded by Mayor Hudson, and unanimously carried to approve the increase the electronic payment processing fees not to exceed limit to $900,000 annually, to accommodate the current needs and future changes.

7. Barbara Mika presented the Power Cost Adjustment Update for July 2023.

A motion was made by Mr. Fee, seconded by Mayor Hudson, and unanimously carried to decrease the PCA by $9 from $9 to $0 for the October 1st bill.

ITEM H: AWARD OF BID

ITEM I: RESOLUTIONS

1. Barbara Mika presented the second reading of Resolution UA 2023-08 Electric Rate Adjustment.

Mrs. Cortes read RESOLUTION UA 2023-08. A RESOLUTION AMENDING, SUPERSEDING, AND RESCINDING THE SCHEDULE OF RATES FOR ELECTRIC SERVICES FURNISHED BY FORT PIERCE UTILITIES AUTHORITY, FORT PIERCE, FLORIDA, IN RESOLUTION NO. UA 2022-06, IN ACCORDANCE WITH THE CHARTER OF THE CITY OF FORT PIERCE, FLORIDA, ARTICLE XII; PROVIDING FOR A 7.07% INCREASE IN THE CUSTOMER AND USAGE CHARGES, BASED ON THE 2023 FLORIDA PUBLIC SERVICE COMMISSION ANNUAL PRICE INDEX; AND PROVIDING FOR ADMINISTRATIVE ACTION, ANNUAL INDEXING PROVISION, SCRIVENOR'S ERRORS, REPEAL, SEVERABILITY AND AN EFFECTIVE DATE.

A motion was made by Mr. Fee, seconded by Mayor Hudson, to adopt Resolution UA 2023-08 Electric Rate Adjustments. Those voting yes were Mr. Fee, Mr. Lammers, and Mayor Hudson. Mrs. Bennett voted no. Motion passed.

2. Barbara Mika presented the second reading of Resolution UA 2023-09 Gas Rate Adjustment.

Mrs. Cortes read RESOLUTION UA 2023-09. A RESOLUTION AMENDING, SUPERSEDING, AND RESCINDING THE SCHEDULE OF RATES AND CHARGES FOR NATURAL GAS SERVICES FURNISHED BY FORT PIERCE UTILITIES AUTHORITY, FORT PIERCE, FLORIDA, IN RESOLUTION NO. 2022-07, IN ACCORDANCE WITH THE CHARTER OF THE CITY OF FORT PIERCE, FLORIDA, ARTICLE XII; PROVIDING FOR A 7.07% INCREASE IN THE CUSTOMER AND COMMODITY CHARGES BASED ON THE 2023 FLORIDA PUBLIC SERVICE COMMISSION ANNUAL PRICE INDEX; AND PROVIDING FOR ANNUAL INDEXING PROVISION, ADMINISTRATIVE ACTION, SCRIVENOR'S ERRORS, REPEAL, SEVERABILITY AND AN EFFECTIVE DATE.

A motion was made by Mr. Fee, seconded by Mayor Hudson, to adopt Resolution UA 2023-09 Gas Rate Adjustments. Those voting yes were Mr. Fee, Mr. Lammers, and Mayor Hudson. Mrs. Bennett voted no. Motion passed.

PUBLIC HEARING – COMMENTS FROM THE PUBLIC

Mrs. Cynthia Ashley – concerned with rate increase.
Mrs. Frances Watson – concerned with rate increase.
Mrs. Katy Howard – concerned with rate increase.
Dr. Walter Campbell – concerned with rate increase.
Mrs. Darlene Miller – concerned with rate increase.
Mrs. Geneira Lovett – concerned with rate increase.
Mrs. Marjorie Harrell – concerned with rate increase.
Mrs. Pear Liverpool – concerned with rate increase.
Mrs. Sarah George – concerned with rate increase.

ITEM J: DIRECTOR

Mr. Cisneros provided update was provided on natural gas rates, previous and upcoming FMPA meetings, review of tariff sheets, and recognition of the appointment of the Human Resources Manager.

ITEM K: ATTORNEY

No comments.

ITEM L: COMMENTS FROM BOARD MEMBERS

No comments.

Madam Vice Chair Bennett said meeting adjourned.

ITEM M: ADJOURN

There being no further business, the meeting was adjourned at 5:55 pm.

ATTEST:

_____ _____

SECRETARY CHAIRMAN

Note: These minutes are not verbatim, only important issues and motions are reproduced in writing for the benefit of the Fort Pierce Utilities Authority and Board Members. The recording itself is the official record for the meeting.

Fort Pierce Utilities Authority

206 South Sixth Street (34950) | PO Box 3191, Fort Pierce, FL 34948-3191 | Phone: 772.466.1600

Board Submission Form

9/26/2023

Department: 51 - Dir. of Electric & Gas Systems

Board Meeting Date: 10/03/2023

Item Type: Contract Agreement

Subject: 2023 PUBLIC UTILITY LUNCHEON-FOOD VENDOR #1

Recommendation:

Approve the Contract for Public Utility Week's Luncheon-Food Vendor with Good Eats, See Food LLC, of Fort Pierce, Florida, in an amount not to exceed $2,470.00. The initial term of this Contract will be upon written notice to proceed through final completion. Presented by Craig Crawford.

Reviewed By Attorney: NA (FPUA Standard Contract)

Funds Available From: ___ No Funds Needed ___ Budgeted ___ Contingency

Approvals:

System Director: CRAWFORD, CRAIG A. Sep 26 2023 8:59AM

Director of Finance:

Director of Utilities: CISNEROS, JAVIER Sep 26 2023 11:37AM

Fort Pierce Utilities Authority

Memorandum

TO: Javier Cisneros, P.E., Director of Utilities

FROM: Craig A. Crawford, Director of Electric & Gas Systems

DATE: September 26, 2023

SUBJECT: **2023 PUBLIC UTILITY LUNCHEON-FOOD VENDOR #1**

PRESENTER(S): Craig Crawford

RECOMMENDATION:

Approve the Contract for Public Utility Week's Luncheon-Food Vendor with Good Eats, See Food LLC, of Fort Pierce, Florida, in an amount not to exceed $2,470.00. The initial term of this Contract will be upon written notice to proceed through final completion.

SUMMARY/SUPPORTING INFORMATION

The 2023 Public Utility Week's Luncheon is scheduled to be held on Wednesday, October 4 from 11:00 AM -1:00 PM at the Foster Avenue complex, located next door to the Energy Service Center (ESC). Good Eats See Food was selected to be 1 of 2 vendors. FPUA has used them in the past and they have consistently provided great food and service, with competitive prices, making them very popular with FPUA employees.

ALTERNATIVES (IF ANY):

The meals would be prepared by FPUA employees, or a caterer would be used that is not self-contained.

ATTACHMENTS:

FPUA Contract Attachment B
FPUA Contract - needs vendor signature

FORT PIERCE UTILITIES AUTHORITY
CONTRACT FOR
SAFTEY LUNCHEON – FOOD VENDOR
C 41693

THIS CONTRACT ("Contract") is made between Fort Pierce Utilities Authority ("FPUA") and Good Eats, See Food LLC, with its principal address at 10106 S Federal Hwy 1, Fort Pierce, Florida, 34952 ("Contractor").

The parties to this Contract in consideration of the mutual covenants and stipulations set out herein agree as follows:

Section 1
Contractor shall be defined as an individual, firm, or corporation having a direct contract with FPUA or with any other subcontractor in the performance of a part of the work contracted for under the terms of Contractor's direct contract with FPUA.

Section 2
Contractor is hereby contracted with to perform the following services: Provide catering services for Safety Appreciation Luncheon in accordance with Contractor's quote attached hereto as Attachment B and incorporated herein the specifications set forth in the Contractor's quote are hereinafter referred to as "Services." In the event of a conflict between the terms of the main body of this Contract, Attachment A, Attachment B, the terms and conditions set forth in the main body of this Contract will control, followed by the terms set forth in Attachment A, followed by the terms set forth in Attachment B.

Section 3
The Services to be performed by Contractor shall be on the following site(s), hereinafter referred to as Project Site: 3751 Foster Avenue, Fort Pierce, Florida 34947.

Section 4
The job upon which Contractor is to perform the Services shall be referred to as the Safety Luncheon – Food Vendor, C 41692 job.

Section 5
Contractor shall be paid by FPUA per job and in accordance with the Local Government Prompt Payment Act, sections 218.70-79, Florida Statutes. The calculations shall begin using the date the invoice was received. Invoices should be sent to AP@FPUA.com or may be mailed to FPUA Attn: Accounts Payable, PO Box 3191, Fort Pierce, Florida 34948-3191.

The total job price shall not to exceed $2,470.00 (two thousand four hundred seventy dollars and no cents) on the terms contained in Attachment B the Specifications herein specifically referred to and made a part of this Contract.

Section 6
Contractor shall, under no circumstances, look to FPUA to provide any labor or equipment for Contractor. Contractor shall provide all of the labor and equipment necessary to perform the job or services contracted for at the expense of Contractor. Property of any kind that may be on the premises, which are the site of the performance of this Contract, during the performance of this Contract, shall be at the sole risk of Contractor.

Section 7
Contractor shall provide certificate of insurance to FPUA setting forth the type and amount of insurance carried by Contractor and conforming to the minimum requirements set forth in Attachment A. All requirements of this section shall be approved by FPUA.

Section 8
This instrument contains the entire agreement between the parties and no statement, promises or inducements made by either party or agent of either party that is not contained in this written Contract shall be valid or binding and this Contract may not be enlarged, modified, or altered except in writing signed by the parties and endorsed hereon.

Section 9
This Contract shall commence on written notice to proceed and end on final completion of the work and acceptance by FPUA. This Contract will remain in effect in the event of a natural disaster, pandemic or other emergency event(s).

Section 10
Contractor acknowledges and understands that he is an independent contractor in his relationship to FPUA.

Section 11
This Contract shall inure to the benefit of and be binding upon the heirs, executors, administrator, assignees and successors of the respective parties.

Section 12
FPUA may terminate this Contract in accordance with the following terms and conditions:

A. **Termination for Convenience.** The FPUA has the right at any time upon 30 days written notice to Contractor to terminate this Contract for any reason whatsoever. In the event of such termination, the FPUA will be responsible to Contractor only for the fees and compensation earned by Contractor prior to the effective date of said termination. In no event will the FPUA be responsible for lost profits of the Contractor or any asserted damages which may arise out of an alleged premature termination of this Agreement. Contractor acknowledges that the 30 days notice provision set forth in this Section is adequate additional consideration supporting this Termination for Convenience clause. Upon termination of the Contract, Contractor shall refund any prepaid annual fee in a prorated amount covering the remainder of the term of the Contract.
    a)

The total sum to be paid Contractor under this subsection A shall not exceed the total contract amount, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

B. **Termination for Cause.** If Contractor does not perform the work, or any part thereof, in a timely manner, supply adequate labor, supervisory personnel or proper equipment or materials, or if it fails to timely discharge its obligation for labor, equipment and materials, or proceeds to disobey applicable law, or otherwise commits a violation of a material provision of this Contract, then FPUA, in addition to any other rights it may have against Contractor or others, may immediately terminate the performance of Contractor, in whole or in part at FPUA's sole option, and assume possession of the Project Site and all materials and equipment at the site and may complete the work.

In such case, Contractor shall not be paid further until the work is complete. After completion has been achieved, if any portion of the contract price, as it may be modified hereunder, remains after the cost to FPUA of completing the work, including all costs and expenses of every nature incurred, has been deducted by FPUA, such remainder shall belong to Contractor. Otherwise, Contractor shall pay and make whole FPUA for such cost. This obligation for payment shall survive the termination of the Contract.

In the event the employment of Contractor is terminated by FPUA for cause pursuant to this subsection B and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under subsection A and the provisions of subsection A shall apply.

C. **Termination for Non-Appropriation.** FPUA may also terminate this Contract in whole or in part, for non-appropriation of sufficient funds to complete or partially complete the project, regardless of the source of such funds, and such termination shall be on the terms of subsection A.

D. FPUA's rights under this section shall be in addition to those contained elsewhere herein or provided by law.

Section 13

A. **Indemnification.** Contractor shall indemnify and hold harmless FPUA and its officers, agents and employees, from any liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of Contractor and persons employed or used by Contractor in the performance of this Contract.
B. **Audit Rights.** In accordance with section 2-439 of the City of Fort Pierce Code of Ordinances, FPUA has the right to audit the books and records of Contractor under any Contract other than a firm fixed-price contract to the extent that such books and records are pertinent to the performance of such Contract. Such books and records shall be maintained by Contractor for a period of three (3) years from the date of final payment under the Contract.
C. **No Assignment or Third-Party Rights.** Contractor shall not assign any interest in this Contract, and shall not transfer any interest in the same without the prior written approval

of FPUA. Nothing in this Contract shall be construed to give any rights or benefits to anyone other than FPUA and Contractor.

D. **Consequential Damages.** Neither party shall be liable to the other for any incidental, consequential, exemplary, special, or punitive damages, including lost profits, that may arise in connection with this Contract, regardless of the cause of action (whether in contract, tort, negligence, strict liability, or otherwise) and regardless of how characterized, even if such party was advised of the possibility of such damages in advance.

E. **Choice of Law and Venue.** This Contract shall be construed in accordance with the laws of the State of Florida, without consideration of any conflict of law principles. Venue shall be in the federal or state courts in St. Lucie County.

F. **E-Verify Required.** Pursuant to 448.095, Florida Statutes, FPUA and every Contractor and subcontractor entering into an agreement to provide labor, supplies or services to FPUA must use the E-Verify system (www.e-verify.gov) to verify the work authorization status of any newly hired employees. If a Contractor subcontracts any of the labor or services for FPUA, the subcontractor must provide the Contractor with an affidavit stating that it does not employ, contract or subcontract with any person not authorized to work in the United States. The contractor must keep a copy of the affidavit on file for the duration of the contract. If FPUA or any Contractor or subcontractor has a good faith belief that a person or entity with which it is contracting has knowingly employed, hired, or recruited an unauthorized alien for public or private employment, it must terminate the contract with that person or entity. Pursuant to 448.095 a contract terminated under this provision is not a breach of contract.

G. **Scrutinized Companies List.** Pursuant to Section 287.135, Florida Statutes, a company is ineligible and may not bid on, submit a proposal, or enter into or renew a contract with an agency or local governmental entity, and FPUA is prohibited from contracting or renewing contracts for goods or services: (1) for any amount with a company that is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, or is engaged in a boycott of Israel; (2) for $1,000,000 or more with a company that is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Section List, created pursuant to Section 215.473; or (3) is engaged in business operations in Cuba or Syria. By signing below Contractor certifies that it is not on any of the above referenced lists, is not engaged in a boycott of Israel, and is not engaged in business operations in Cuba or Syria. The company further acknowledges that FPUA may immediately terminate any contract if the company is found to have falsely certified that it is not on any of the forgoing lists, been placed on any of the foregoing lists, been engaged in a boycott of Israel, or engaged in business operations in Cuba or Syria.

H. Public Records.

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 PUBLICRECORDS@FPUA.COM, (772) 466-1600, OR PO BOX 3191, FORT PIERCE, FL 34948-3191.

To the extent the Contract includes providing services and acting on behalf of a FPUA as provided under section 119.011(2), Florida Statutes, the Contractor agrees to comply with Florida Public Records Law, Chapter 119, Florida Statutes, and shall:

1) Keep and maintain public records required by FPUA to perform the service;

2) Upon request from FPUA's custodian of public records, provide FPUA 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 or as otherwise provided by law;

3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to FPUA;

4) Upon completion of the Contract, transfer, at no cost to FPUA, all public records in possession of the company or keep and maintain public records required by FPUA to perform the service. If all public records are transferred to FPUA upon completion of the contract Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor maintains public records upon completion of the contract, it shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to FPUA upon request in a format compatible with FPUA's information technology systems.

I. **Trade Secret or Confidential Material.** In accordance with Florida Statutes, including 119.01 (Public Records) and 815.045 (Trade Secret Information), if Contractor considers any information related to this Contract or the services to be provided to FPUA thereunder to be a trade secret or confidential material under Florida or federal law(s), Contractor shall designate such portions of the material by clearly marking it CONFIDENTIAL or TRADE SECRET when it is submitted to FPUA (hereinafter the Confidential Material). If FPUA receives a public records request for the Confidential Material FPUA will provide only the materials not designated confidential or trade secret. If the requester of the information asserts a right to examine the Confidential Material FPUA will notify Contractor, and Contractor shall be responsible for responding to and resolving any claims for access to the Confidential Material. If FPUA is served with a request for discovery or order related to the Confidential Material, FPUA will promptly notify Contractor, and Contractor shall be responsible for filing the appropriate motion, objection, or seek an injunction to prevent disclosure of its Confidential Material. FPUA will provide the Confidential Material only if the Contractor fails to take appropriate action to protect the Confidential Material from disclosure within the timeframe(s) established by the applicable statute, rule or order. The Contractor agrees to protect, defend, and indemnify FPUA and its members and employees from all claims, fines or costs, including attorney's fees, arising from or relating to the designation of Confidential Material.

J. **Waiver.** The failure of the FPUA to take any action with respect to any breach of any term, covenant, or condition contained herein, or any instance of default hereunder by Contractor, will not be deemed to be a waiver of any default or breach by the FPUA.

K. **Sovereign Immunity.** The FPUA expressly retains all rights, benefits and immunities of sovereign immunity in accordance with section 768.28, Florida Statutes (as amended). Notwithstanding anything set forth in any section of this Contract to the contrary, nothing in this Contract shall be deemed as a waiver of immunity or limits of liability of the FPUA beyond any statutory limited waiver of immunity or limits of liability which may have been or may be adopted by the Florida Legislature and the cap on the amount and liability of the FPUA for damages, regardless of the number or nature of claims in tort, equity, or contract, shall not exceed the dollar amount set by the legislature for tort. Nothing in this Contract shall inure to the benefit of any third party for the purpose of allowing any claim against the FPUA, which claim would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

L. **Compliance with Applicable Law.** This Cotnract is governed by the laws of the State of Florida. Contractor covenants to promptly comply with all applicable federal, state, county and municipal laws, ordinances, regulations, and rules relating to the Project and in effect at the time of performance. Contractor covenants that it will conduct no activity or provide any goods or service that is unlawful or offensive.

[signatures are on the following page]

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals to this Contract the day and year set forth below.

Signed, sealed and delivered in the presence of:

GOOD EATS, SEE FOOD LLC

BY: _____
Signature/Officer of Firm (Manual)

_____
Name (Typed or Printed)

TITLE: _____

DATE: _____

ATTEST:

FORT PIERCE UTILITIES AUTHORITY

_____
Secretary

BY: _____
Chairman

(FPUA Seal)

DATE: _____

APPROVED AS TO FORM & CORRECTNESS:

BY: _____
FPUA General Counsel

ATTACHMENT A

REQUIRED LIMITS OF INSURANCE
FOR
FORT PIERCE UTILITIES AUTHORITY
TYPE III

Contractor shall, at its own expense, procure and maintain throughout the term of this Agreement, with insurers acceptable to the Fort Pierce Utilities Authority (FPUA), the types and amounts of insurance conforming to the minimum requirements set forth herein.

Workers' Compensation/Employers' Liability - Such insurance shall be no more restrictive than that provided by the Florida Workers Compensation Act. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employer's Liability Act and any other applicable Federal or State law. The Workers' Compensation policy must be endorsed to waive the insurer's right to subrogate against FPUA, and its members, officials, officers and employees.

The minimum limits (inclusive of any amount provided by an umbrella or excess policy) shall be:

Part One:	"Statutory"	
Part Two:	$ 500,000	(Each Accident)
	$ 500,000	(Disease-Each Employee)
	$1,000,000	(Disease-Policy Limit)

Commercial General Liability - The limits are to be applicable only to work performed under the Contract and shall be those that would be provided with the attachment of the Amendment of Limits of Insurance (Designated Project or Premises) endorsement (ISO Form CG 25 03) to a Commercial General Liability policy. FPUA (and if required the project engineer) and its board members, officials, officers and employees shall be included as "Additional Insureds" on a form no more restrictive than ISO Form CG 20 10 (Additional Insured - Owners, Lessees, or Contractors).

The minimum limits (inclusive of any amount provided by an umbrella or excess policy) shall be:

Each Occurrence	$1,000,000
Personal and Advertising Injury	$1,000,000
General Aggregate	$2,000,000
Products/Completed Operations Aggregate	$2,000,000

Contractor shall continue to maintain products/completed operations coverage in the amounts stated above for a period of three (3) years after the final completion of the Work. The insurance shall be on a form no more restrictive than, and shall cover those sources of liability which would be covered by Coverage A of, the latest occurrence form edition of the Commercial General Liability Coverage Form (ISO Form CG 00 01), or of the occurrence Products/Completed Operations Liability Coverage Form (ISO Form CG 00 37), as filed for use in the State of Florida by ISO, without restrictive endorsements other than mandatory endorsements under an ISO filing.

Automobile Liability - Such insurance shall cover all owned, non-owned, and hired autos used in connection with the performance of the work, and shall not be subject to any aggregate limit.

The minimum limits (inclusive of any amount provided by an umbrella or excess policy) shall be:

Each Occurrence Bodily Injury and Property Damage Liability Combined	$500,000

Property Insurance - If the Contract includes construction of or additions to above-ground buildings or structures, or installation of machinery or equipment, the Contractor shall provide Builder's Risk insurance or an Installation Floater. Such insurance shall be provided on an all risk basis. The minimum amount of insurance shall be 100% of the installed replacement value of the installation.

Professional Liability - If the Contract includes a requirement for professional liability insurance, such insurance shall be on a form acceptable to FPUA and shall cover the Contractor for those sources of liability arising out of the rendering or failure to render professional services in the performance of the services required in the agreement. Coverage must either be on an occurrence basis; or, if on a claims made basis, the coverage must respond to all claims reported within three (3) years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

The minimum limits (inclusive of any amount provided by an umbrella or excess policy) shall be:

Each Occurrence/Annual Aggregate	$1,000,000 Project Specific

Miscellaneous Provisions - The insurance provided by Contractor shall apply on a primary and non-contributory basis to any insurance or self-insurance maintained by FPUA. Any insurance, or self-insurance, maintained by FPUA shall be excess of the insurance provided by Contractor.

The insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention. Under limited circumstances, FPUA may permit the application of a deductible or permit Contractor to self-insure, in whole or in part, one or more of the insurance coverages required by this Agreement. In such instances, Contractor shall pay on behalf of FPUA or FPUA's board members, officials, officers and employees any deductible or self-insured retention applicable to a claim.

Compliance with these insurance requirements shall not limit the liability of Contractor or the remedies available to FPUA under this Agreement or otherwise. If Contractor obtains insurance with higher limits than the requirements herein, those higher limits shall apply.

Evidence of Insurance - Contractor shall not commence work until the required insurance is in force and evidence of insurance acceptable to FPUA has been provided and approved by FPUA. **An appropriate Certificate of Insurance (identifying the project) signed by an authorized representative of the insurer(s), with copies of the actual additional insured endorsement and notice of cancellation endorsement as issued on the policies, shall be satisfactory evidence of insurance.** With respect to Property Insurance, Contractor shall provide a Certificate of Property Insurance form or other evidence satisfactory to FPUA.

Until such insurance is no longer required by this Agreement, Contractor shall provide FPUA with renewal or replacement evidence of insurance at least thirty (30) days prior to the expiration or termination of such insurance. Contractor shall, within thirty (30) days of a written request from FPUA, provide FPUA with a certified copy of the policy or policies providing the coverage required herein. Contractor or its agent may redact or omit provisions of the policy that are not relevant to the insurance required herein.

Policies shall be endorsed to provide FPUA with 30 days' notice of cancellation.

Certificates of Insurance must be completed as follows:

Additional Insured:
Fort Pierce Utilities Authority (and if required the project engineer) and its board members, officials, officers and employees

Certificate Holder
Fort Pierce Utilities Authority
Attn: Risk Management
PO Box 3191
Fort Pierce FL 34948-3191

Certificates may be emailed to: risk@fpua.com

(Rev. 02/2019)

ATTACHMENT B

GOOD EATS SEE FOOD

Catering Quotes

Employee Appreciation Day
Date: October 4th, 2023
Time: Lunch 11:00an -1pm
Number of People: 130
Location: 1701 S 37th St, Fort Pierce, FL 34947

Quantity	Description	Rate	Amount
130 Servings	Per Person	19.00	2,470.00
	Taste of the Sea Menu **(31) Grouper Sliders** ***(2 sliders)*** *Fried Grouper fillet on Brioche slider bun, vine ripe tomato, green lettuce, tartar & chipotle. A side of Kettle chips* **(33) Bang Bang Shrimp Tacos** *Fried Corkscrew Shrimp, Bang-Bang sauce, Buttermilk Ranch, green cabbage, tomato-cilantro-lime, feta cheese, Tortilla Chips* **(33) Pan Seared Mahi Tacos** 2 tacos/order *Grilled Mahi- Mahi, green cabbage, Avocado, Tomato, Cilantro-Lime, Buttermil Ranch & Chipotle Cream… Tortilla Chips* **(33) Grilled Shrimp Burrito Bowl** *Rice bowl with corn, black bean, tomato-cilantro-lime, avocado, seasonal vegetables, garlic sour cream, Sweet Chili sauce*		
130 Drinks	**Bottle of water, Variety of Soda can**		included
	Setup-Break Down		Waived
	Travel Fee / Delivery Fee		Waived
	50% Deposit		1,235.00
	Sales Tax: A copy of Sales Tax Certificate of Exemption NEEDED		0.00
	Balance Due at the end of event		1,235.00
	Total Charge		2,470.00

NOTE: PLEASE TELL US IF YOU HAVE FOOD ALLERGY

Thank you for supporting small business and helping to keep our doors open!
GOOD EATS SEE FOOD

D-2

Fort Pierce Utilities Authority

206 South Sixth Street (34950) | PO Box 3191, Fort Pierce, FL 34948-3191 | Phone: 772.466.1600

Board Submission Form

9/26/2023

Department: 51 - Dir. of Electric & Gas Systems

Board Meeting Date: 10/03/2023

Item Type: Contract Agreement

Subject: 2023 PUBLIC UTILITY LUNCHEON-FOOD VENDOR # 2

Recommendation:

Contract No. C41692: Approve the Contract for Public Utility Week's Luncheon-Food Vendor with Big Worm's BBQ dba Big Worm's BBQ, LLC of Fort Pierce, Florida, in an amount not to exceed $2,600.00. The initial term of this Contract will be upon written notice to proceed and end on final completion of the work and acceptance by FPUA. Presented by Craig Crawford.

Reviewed By Attorney: NA (FPUA Standard Contract)

Funds Available From: ___ No Funds Needed X Budgeted ___ Contingency

Approvals:

System Director:	CRAWFORD, CRAIG A.	Sep 25 2023 12:01PM
Director of Finance:	MIKA, BARBARA A.	Sep 25 2023 11:58AM
Director of Utilities:	CISNEROS, JAVIER	Sep 26 2023 11:38AM

Fort Pierce Utilities Authority

Memorandum

TO: Javier Cisneros, P.E., Director of Utilities

FROM: Craig A. Crawford, Director of Electric & Gas Systems

DATE: September 26, 2023

SUBJECT: **2023 PUBLIC UTILITY LUNCHEON-FOOD VENDOR # 2**

PRESENTER(S): Craig Crawford

RECOMMENDATION:

Contract No. C41692: Approve the Contract for Public Utility Week's Luncheon-Food Vendor with Big Worm's BBQ dba Big Worm's BBQ, LLC of Fort Pierce, Florida, in an amount not to exceed $2,600.00. The initial term of this Contract will be upon written notice to proceed and end on final completion of the work and acceptance by FPUA.

SUMMARY/SUPPORTING INFORMATION

The 2023 Public Utility Week's Luncheon is scheduled to be held on Wednesday, October 4 from 11:00 AM -1:00 PM at the Foster Avenue complex, located next door to the Energy Service Center (ESC). Big Worm's BBQ was selected to be 1 of 2 vendors. FPUA has used them in the past and they have consistently provided great food and service, with competitive prices, making them very popular with FPUA employees.

ALTERNATIVES (IF ANY):

The meals could be prepared by FPUA staff, as in a picnic or bar-be-que, or a caterer would be hired that is not self-contained.

ATTACHMENTS:

FPUA Contract - need vendor signature

FORT PIERCE UTILITIES AUTHORITY
CONTRACT FOR
SAFTEY LUNCHEON – FOOD VENDOR
C 41692

THIS CONTRACT ("Contract") is made between Fort Pierce Utilities Authority ("FPUA") and Big Worm's BBQ dba Big Worm's BBQ LLC, with its principal address at 5299 US Hwy 1, Fort Pierce, Florida, 34982 ("Contractor").

The parties to this Contract in consideration of the mutual covenants and stipulations set out herein agree as follows:

Section 1
Contractor shall be defined as an individual, firm, or corporation having a direct contract with FPUA or with any other subcontractor in the performance of a part of the work contracted for under the terms of Contractor's direct contract with FPUA.

Section 2
Contractor is hereby contracted with to perform the following services: Provide catering services for Safety Appreciation Luncheon in accordance with Contractor's quote attached hereto as Attachment B and incorporated herein the specifications set forth in the Contractor's quote are hereinafter referred to as "Services." In the event of a conflict between the terms of the main body of this Contract, Attachment A, Attachment B, the terms and conditions set forth in the main body of this Contract will control, followed by the terms set forth in Attachment A, followed by the terms set forth in Attachment B.

Section 3
The Services to be performed by Contractor shall be on the following site(s), hereinafter referred to as Project Site: 3751 Foster Avenue, Fort Pierce, Florida 34947.

Section 4
The job upon which Contractor is to perform the Services shall be referred to as the Safety Luncheon – Food Vendor, C 41692 job.

Section 5
Contractor shall be paid by FPUA in the amount of $20 per person in accordance with Attachment B and in accordance with the Local Government Prompt Payment Act, sections 218.70-79, Florida Statutes. The calculations shall begin using the date the invoice was received. Invoices should be sent to AP@FPUA.com or may be mailed to FPUA Attn: Accounts Payable, PO Box 3191, Fort Pierce, Florida 34948-3191.

The total job price shall not to exceed $2,600.00 (two thousand six hundred dollars and no cents) on the terms contained in Attachment B the Specifications herein specifically referred to and made a part of this Contract.

Section 6

Contractor shall, under no circumstances, look to FPUA to provide any labor or equipment for Contractor. Contractor shall provide all of the labor and equipment necessary to perform the job or services contracted for at the expense of Contractor. Property of any kind that may be on the premises, which are the site of the performance of this Contract, during the performance of this Contract, shall be at the sole risk of Contractor.

Section 7

Contractor shall provide certificate of insurance to FPUA setting forth the type and amount of insurance carried by Contractor and conforming to the minimum requirements set forth in Attachment A. All requirements of this section shall be approved by FPUA.

Section 8

This instrument contains the entire agreement between the parties and no statement, promises or inducements made by either party or agent of either party that is not contained in this written Contract shall be valid or binding and this Contract may not be enlarged, modified, or altered except in writing signed by the parties and endorsed hereon.

Section 9

This Contract shall commence on written notice to proceed and end on final completion of the work and acceptance by FPUA. This Contract will remain in effect in the event of a natural disaster, pandemic or other emergency event(s).

Section 10

Contractor acknowledges and understands that he is an independent contractor in his relationship to FPUA.

Section 11

This Contract shall inure to the benefit of and be binding upon the heirs, executors, administrator, assignees and successors of the respective parties.

Section 12

FPUA may terminate this Contract in accordance with the following terms and conditions:

A. **Termination for Convenience.** The FPUA has the right at any time upon 30 days written notice to Contractor to terminate this Contract for any reason whatsoever. In the event of such termination, the FPUA will be responsible to Contractor only for the fees and compensation earned by Contractor prior to the effective date of said termination. In no event will the FPUA be responsible for lost profits of the Contractor or any asserted damages which may arise out of an alleged premature termination of this Agreement. Contractor acknowledges that the 30 days notice provision set forth in this Section is adequate additional consideration supporting this Termination for Convenience clause. Upon termination of the Contract, Contractor shall refund any prepaid annual fee in a prorated amount covering the remainder of the term of the Contract.

    a)

The total sum to be paid Contractor under this subsection A shall not exceed the total contract amount, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

B. **Termination for Cause.** If Contractor does not perform the work, or any part thereof, in a timely manner, supply adequate labor, supervisory personnel or proper equipment or materials, or if it fails to timely discharge its obligation for labor, equipment and materials, or proceeds to disobey applicable law, or otherwise commits a violation of a material provision of this Contract, then FPUA, in addition to any other rights it may have against Contractor or others, may immediately terminate the performance of Contractor, in whole or in part at FPUA's sole option, and assume possession of the Project Site and all materials and equipment at the site and may complete the work.

   In such case, Contractor shall not be paid further until the work is complete. After completion has been achieved, if any portion of the contract price, as it may be modified hereunder, remains after the cost to FPUA of completing the work, including all costs and expenses of every nature incurred, has been deducted by FPUA, such remainder shall belong to Contractor. Otherwise, Contractor shall pay and make whole FPUA for such cost. This obligation for payment shall survive the termination of the Contract.

   In the event the employment of Contractor is terminated by FPUA for cause pursuant to this subsection B and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under subsection A and the provisions of subsection A shall apply.

C. **Termination for Non-Appropriation.** FPUA may also terminate this Contract in whole or in part, for non-appropriation of sufficient funds to complete or partially complete the project, regardless of the source of such funds, and such termination shall be on the terms of subsection A.

D. FPUA's rights under this section shall be in addition to those contained elsewhere herein or provided by law.

Section 13

A. **Indemnification.** Contractor shall indemnify and hold harmless FPUA and its officers, agents and employees, from any liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of Contractor and persons employed or used by Contractor in the performance of this Contract.
B. **Audit Rights.** In accordance with section 2-439 of the City of Fort Pierce Code of Ordinances, FPUA has the right to audit the books and records of Contractor under any Contract other than a firm fixed-price contract to the extent that such books and records are pertinent to the performance of such Contract. Such books and records shall be maintained by Contractor for a period of three (3) years from the date of final payment under the Contract.

C. **No Assignment or Third-Party Rights.** Contractor shall not assign any interest in this Contract, and shall not transfer any interest in the same without the prior written approval of FPUA. Nothing in this Contract shall be construed to give any rights or benefits to anyone other than FPUA and Contractor.

D. **Consequential Damages.** Neither party shall be liable to the other for any incidental, consequential, exemplary, special, or punitive damages, including lost profits, that may arise in connection with this Contract, regardless of the cause of action (whether in contract, tort, negligence, strict liability, or otherwise) and regardless of how characterized, even if such party was advised of the possibility of such damages in advance.

E. **Choice of Law and Venue.** This Contract shall be construed in accordance with the laws of the State of Florida, without consideration of any conflict of law principles. Venue shall be in the federal or state courts in St. Lucie County.

F. **E-Verify Required.** Pursuant to 448.095, Florida Statutes, FPUA and every Contractor and subcontractor entering into an agreement to provide labor, supplies or services to FPUA must use the E-Verify system (www.e-verify.gov) to verify the work authorization status of any newly hired employees. If a Contractor subcontracts any of the labor or services for FPUA, the subcontractor must provide the Contractor with an affidavit stating that it does not employ, contract or subcontract with any person not authorized to work in the United States. The contractor must keep a copy of the affidavit on file for the duration of the contract. If FPUA or any Contractor or subcontractor has a good faith belief that a person or entity with which it is contracting has knowingly employed, hired, or recruited an unauthorized alien for public or private employment, it must terminate the contract with that person or entity. Pursuant to 448.095 a contract terminated under this provision is not a breach of contract.

G. **Scrutinized Companies List.** Pursuant to Section 287.135, Florida Statutes, a company is ineligible and may not bid on, submit a proposal, or enter into or renew a contract with an agency or local governmental entity, and FPUA is prohibited from contracting or renewing contracts for goods or services: (1) for any amount with a company that is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, or is engaged in a boycott of Israel; (2) for $1,000,000 or more with a company that is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Section List, created pursuant to Section 215.473; or (3) is engaged in business operations in Cuba or Syria. By signing below Contractor certifies that it is not on any of the above referenced lists, is not engaged in a boycott of Israel, and is not engaged in business operations in Cuba or Syria. The company further acknowledges that FPUA may immediately terminate any contract if the company is found to have falsely certified that it is not on any of the forgoing lists, been placed on any of the foregoing lists, been engaged in a boycott of Israel, or engaged in business operations in Cuba or Syria.

H. Public Records.

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 PUBLICRECORDS@FPUA.COM, (772) 466-1600, OR PO BOX 3191, FORT PIERCE, FL 34948-3191.

To the extent the Contract includes providing services and acting on behalf of a FPUA as provided under section 119.011(2), Florida Statutes, the Contractor agrees to comply with Florida Public Records Law, Chapter 119, Florida Statutes, and shall:

1) Keep and maintain public records required by FPUA to perform the service;

2) Upon request from FPUA's custodian of public records, provide FPUA 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 or as otherwise provided by law;

3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to FPUA;

4) Upon completion of the Contract, transfer, at no cost to FPUA, all public records in possession of the company or keep and maintain public records required by FPUA to perform the service. If all public records are transferred to FPUA upon completion of the contract Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor maintains public records upon completion of the contract, it shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to FPUA upon request in a format compatible with FPUA's information technology systems.

I. **Trade Secret or Confidential Material.** In accordance with Florida Statutes, including 119.01 (Public Records) and 815.045 (Trade Secret Information), if Contractor considers any information related to this Contract or the services to be provided to FPUA thereunder to be a trade secret or confidential material under Florida or federal law(s), Contractor shall designate such portions of the material by clearly marking it CONFIDENTIAL or TRADE SECRET when it is submitted to FPUA (hereinafter the Confidential Material). If FPUA receives a public records request for the Confidential Material FPUA will provide only the materials not designated confidential or trade secret. If the requester of the information asserts a right to examine the Confidential Material FPUA will notify Contractor, and Contractor shall be responsible for responding to and resolving any claims for access to the Confidential Material. If FPUA is served with a request for discovery or order related to the Confidential Material, FPUA will promptly notify Contractor, and Contractor shall be responsible for filing the appropriate motion, objection, or seek an injunction to prevent disclosure of its Confidential Material. FPUA will provide the Confidential Material only if the Contractor fails to take appropriate action to protect the Confidential Material from disclosure within the timeframe(s) established by the applicable statute, rule or order. The Contractor agrees to protect, defend, and indemnify FPUA and its members and employees from all claims, fines or costs, including attorney's fees, arising from or relating to the designation of Confidential Material.

J. **Waiver.** The failure of the FPUA to take any action with respect to any breach of any term, covenant, or condition contained herein, or any instance of default hereunder by Contractor, will not be deemed to be a waiver of any default or breach by the FPUA.

K. **Sovereign Immunity.** The FPUA expressly retains all rights, benefits and immunities of sovereign immunity in accordance with section 768.28, Florida Statutes (as amended). Notwithstanding anything set forth in any section of this Contract to the contrary, nothing in this Contract shall be deemed as a waiver of immunity or limits of liability of the FPUA beyond any statutory limited waiver of immunity or limits of liability which may have been or may be adopted by the Florida Legislature and the cap on the amount and liability of the FPUA for damages, regardless of the number or nature of claims in tort, equity, or contract, shall not exceed the dollar amount set by the legislature for tort. Nothing in this Contract shall inure to the benefit of any third party for the purpose of allowing any claim against the FPUA, which claim would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

L. **Compliance with Applicable Law.** This Cotnract is governed by the laws of the State of Florida. Contractor covenants to promptly comply with all applicable federal, state, county and municipal laws, ordinances, regulations, and rules relating to the Project and in effect at the time of performance. Contractor covenants that it will conduct no activity or provide any goods or service that is unlawful or offensive.

[signatures are on the following page]

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals to this Contract the day and year set forth below.

Signed, sealed and delivered in the presence of:

BIG WORM'S BBQ
DBA BIG WORM'S BBQ LLC

BY: _____
Signature/Officer of Firm (Manual)

Tim Bartnick
Name (Typed or Printed)

TITLE: Owner

DATE: 9/24/23

ATTEST:

_____
Secretary
(FPUA Seal)

FORT PIERCE UTILITIES AUTHORITY

BY: _____
Chairman

DATE: _____

APPROVED AS TO FORM & CORRECTNESS:

BY: _____
FPUA General Counsel

ATTACHMENT A

REQUIRED LIMITS OF INSURANCE
FOR
FORT PIERCE UTILITIES AUTHORITY
TYPE III

Contractor shall, at its own expense, procure and maintain throughout the term of this Agreement, with insurers acceptable to the Fort Pierce Utilities Authority (FPUA), the types and amounts of insurance conforming to the minimum requirements set forth herein.

Workers' Compensation/Employers' Liability - Such insurance shall be no more restrictive than that provided by the Florida Workers Compensation Act. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employer's Liability Act and any other applicable Federal or State law. The Workers' Compensation policy must be endorsed to waive the insurer's right to subrogate against FPUA, and its members, officials, officers and employees.

The minimum limits (inclusive of any amount provided by an umbrella or excess policy) shall be:

Part One:	"Statutory"	
Part Two:	$ 500,000	(Each Accident)
	$ 500,000	(Disease-Each Employee)
	$1,000,000	(Disease-Policy Limit)

Commercial General Liability - The limits are to be applicable only to work performed under the Contract and shall be those that would be provided with the attachment of the Amendment of Limits of Insurance (Designated Project or Premises) endorsement (ISO Form CG 25 03) to a Commercial General Liability policy. FPUA (and if required the project engineer) and its board members, officials, officers and employees shall be included as "Additional Insureds" on a form no more restrictive than ISO Form CG 20 10 (Additional Insured - Owners, Lessees, or Contractors).

The minimum limits (inclusive of any amount provided by an umbrella or excess policy) shall be:

Each Occurrence	$1,000,000
Personal and Advertising Injury	$1,000,000
General Aggregate	$2,000,000
Products/Completed Operations Aggregate	$2,000,000

Contractor shall continue to maintain products/completed operations coverage in the amounts stated above for a period of three (3) years after the final completion of the Work. The insurance shall be on a form no more restrictive than, and shall cover those sources of liability which would be covered by Coverage A of, the latest occurrence form edition of the Commercial General Liability Coverage Form (ISO Form CG 00 01), or of the occurrence Products/Completed Operations Liability Coverage Form (ISO Form CG 00 37), as filed for use in the State of Florida by ISO, without restrictive endorsements other than mandatory endorsements under an ISO filing.

Automobile Liability - Such insurance shall cover all owned, non-owned, and hired autos used in connection with the performance of the work, and shall not be subject to any aggregate limit.

The minimum limits (inclusive of any amount provided by an umbrella or excess policy) shall be:

Each Occurrence Bodily Injury and Property Damage Liability Combined	$500,000

Property Insurance - If the Contract includes construction of or additions to above-ground buildings or structures, or installation of machinery or equipment, the Contractor shall provide Builder's Risk insurance or an Installation Floater. Such insurance shall be provided on an all risk basis. The minimum amount of insurance shall be 100% of the installed replacement value of the installation.

Professional Liability - If the Contract includes a requirement for professional liability insurance, such insurance shall be on a form acceptable to FPUA and shall cover the Contractor for those sources of liability arising out of the rendering or failure to render professional services in the performance of the services required in the agreement. Coverage must either be on an occurrence basis; or, if on a claims made basis, the coverage must respond to all claims reported within three (3) years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

The minimum limits (inclusive of any amount provided by an umbrella or excess policy) shall be:

Each Occurrence/Annual Aggregate	$1,000,000 Project Specific

Miscellaneous Provisions - The insurance provided by Contractor shall apply on a primary and non-contributory basis to any insurance or self-insurance maintained by FPUA. Any insurance, or self-insurance, maintained by FPUA shall be excess of the insurance provided by Contractor.

The insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention. Under limited circumstances, FPUA may permit the application of a deductible or permit Contractor to self-insure, in whole or in part, one or more of the insurance coverages required by this Agreement. In such instances, Contractor shall pay on behalf of FPUA or FPUA's board members, officials, officers and employees any deductible or self-insured retention applicable to a claim.

Compliance with these insurance requirements shall not limit the liability of Contractor or the remedies available to FPUA under this Agreement or otherwise. If Contractor obtains insurance with higher limits than the requirements herein, those higher limits shall apply.

Evidence of Insurance - Contractor shall not commence work until the required insurance is in force and evidence of insurance acceptable to FPUA has been provided and approved by FPUA. **An appropriate Certificate of Insurance (identifying the project) signed by an authorized representative of the insurer(s), with copies of the actual additional insured endorsement and notice of cancellation endorsement as issued on the policies, shall be satisfactory evidence of insurance.** With respect to Property Insurance, Contractor shall provide a Certificate of Property Insurance form or other evidence satisfactory to FPUA.

Until such insurance is no longer required by this Agreement, Contractor shall provide FPUA with renewal or replacement evidence of insurance at least thirty (30) days prior to the expiration or termination of such insurance. Contractor shall, within thirty (30) days of a written request from FPUA, provide FPUA with a certified copy of the policy or policies providing the coverage required herein. Contractor or its agent may redact or omit provisions of the policy that are not relevant to the insurance required herein.

Policies shall be endorsed to provide FPUA with 30 days' notice of cancellation.

Certificates of Insurance must be completed as follows:

Additional Insured:
Fort Pierce Utilities Authority (and if required the project engineer) and its board members, officials, officers and employees

Certificate Holder
Fort Pierce Utilities Authority
Attn: Risk Management
PO Box 3191
Fort Pierce FL 34948-3191

Certificates may be emailed to: risk@fpua.com

(Rev. 02/2019)

Tue 9/19/2023 2:09 PM

Tim Bartnick <tim@bigwormsbbq.com>

Re: New Message From Big Worm's BBQ

To Maria Guerrero

CAUTION: This email originated from outside of FPUA. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Maria,

Thank you for the privilege to provide services on October 4th. The following is a summary of the various elements of which we would be responsible, including the menu, service format, and estimated cost summary. Please review this data and advise any questions and/or any further changes you would like to make.

ENTRÉE: Choice of One

Pulled Pork Sandwich
Chopped Chicken Sandwich

SIDES: Choice of Two

Smoked Gouda and White Cheddar Mac and Cheese
Sweet Bacon Coleslaw
Smoked Baked Beans

BEVERAGES: Choice of One

Sweetened Iced Tea
Unsweetened Iced Tea
Strawberry Arnold Palmer
Coke
Diet Coke
Dr. Pepper
Sprite

Based upon the preceding, with an expected attendance of 130 persons, pricing is estimated to be:
Food and beverage @ $20.00 per person. $2,600

Tax. $0

Total estimate of above items $2,600.00

Please let us know of any questions you may have along with any adjustments you would like to make. We are extremely pleased to have this opportunity to provide services and we will do everything possible to exceed your expectations.

Sincerely,
Tim Bartnick
Owner
Big Worm's BBQ
Office: 772-924-9676
Cell: 772-408-7502
Address: 5299 US-1, Fort Pierce, FL 34982

Fort Pierce Utilities Authority

206 South Sixth Street (34950)|PO Box 3191, Fort Pierce, FL 34948-3191|Phone: 772-466-1600

FPUA COMMUNITY PROUD

BOARD SUBMISSION FORM

Department: 12 – General Counsel

Board Meeting Date: 10/03/2023

Presenter(s): Caroline A. Valentin, General Counsel

Item: _____ **Regular Agenda** X **Consent Agenda**

Subject **Temporary Construction Easement for SHM Harbortown, LLC**

Recommendation:

Staff recommends that the FPUA Board approve the SHM Harbortown, LLC's Easement Agreement and Temporary Construction Easement associated with Parcel ID 1434-330-0004-101-1 and 1434-330-0004-000-8 ("Property") in substantially the same form, and further authorize the FPUA to execute all documents and take all actions necessary.

Reviewed By Attorney: X Yes ____ No

Funds Available From: X No Funds Needed ____ Budgeted

Approvals:

System Director: _____

Director of Financial Services: _____

Director of Utilities: Javier Cisneros

Fort Pierce Utilities Authority

MEMORANDUM

To: Javier Cisneros, P.E., Director of Utilities

From: Caroline A. Valentin, General Counsel

Date: October 3, 2023

Subject: SHM Harbortown, LLC - Temporary Construction Easement

RECOMMENDATION:

Staff recommends that the FPUA Board approve the SHM Harbortown, LLC's Easement Agreement and Temporary Construction Easement associated with Parcel ID 1434-330-0004-101-1 and 1434-330-0004-000-8 ("Property") in substantially the same form, and further authorize the FPUA to execute all documents and take all actions necessary.

SUMMARY/SUPPORTING INFORMATION:

The Florida Department of Transportation ("FDOT") is in the process of replacing the North Causeway Bridge and some of our utilities are in conflict with the proposed roadway storm drains and bridge Piers and have to be relocated. The FDOT right of way ("R/W") permit requires that all utilities above ground be located outside of the R/W and on private property.

Harbortown currently has a water meter in the R/W which needs to be relocated on Harbortown's property. A permanent easement for FPUA facilities is required, but Harbortown has requested that the FPUA sign the easement agreeing to the conditions contained therein.

A temporary construction easement is also required to allow the FPUA' utility contractor to have access to the property as part of the sewer main relocation. This temporary easement is for the duration o fthe construction easement. Harbortown has also requested that the FPUA sign the easement agreeing to the conditions contained therein.

ALTERNATIVES:

Approve and authorize execution of the easements subject to revisions.

Deny approval of the easements.

BOARD SUBMISSION FORM

ATTACHMENTS:

A. Easement Agreement
B. Temporary Construction Easement

TEMPORARY CONSTRUCTION EASEMENT

This Agreement, made this _____ day of _____ 20 _____, between SHM Harbortown, LLC , hereinafter designated Grantor, and the Fort Pierce Utilities Authority, hereinafter designated Grantee, does hereby grant unto the Grantee, its successors, assigns, agents, contractors, subcontractors, and employees permission to utilize the twenty (20) feet of land directly adjacent to the SR A1A Right-of-way along the property described on the attached Exhibit "A" and grants the exclusive right to perform construction activities within this twenty (20) feet as deemed necessary to construct the gravity sewer main in the Right of Way and tie-in the subject yard elevations with the new SR A1A Street road construction for the benefit of the Grantor.

Grantor does hereby grant to the Fort Pierce Utilities Authority, its successors and assigns, a Temporary Easement for the purpose of adequately blending the subject property to the new construction at the right-of-way line; provided, in no event shall Grantee's use of the easement area obstruct access to the remainder of Grantor's adjacent property.

Grantee agrees that Grantor's property shall be restored to its original or better condition. Compensation for all work shall be the responsibility of the Grantee. The Grantee will indemnify and save the Grantor harmless from any damages, injuries, losses, claims, demands or costs to the extent caused by the fault or negligence of the Grantee in the performance of the work described herein or other use of the easement area. Provided, however, that regardless of whether any such obligations are based on a tort, contract, statute, strict liability, negligence, product liability or otherwise, the obligations of the Grantee under this indemnification provision shall be limited in the same manner that would have applied if such obligations were based on, or arose out of, an action at law to recover damages in tort and were subject to Section 768.28, Florida Statutes, as that section existed at the inception of this Agreement.

IT IS UNDERSTOOD that the Easement rights herein granted shall terminate upon completion of the above-mentioned construction project.

IT IS ALSO UNDERSTOOD that the Easement herein granted does not convey any right or interest in the above described property, except as stated herein, nor prevent Grantor from the use of said property; provided, however that such use does not interfere with the rights herein granted.

FORT PIERCE UTILITIES AUTHORITY	SHM HARBORTOWN, LLC
_____	_____
Chair	Grantor
By: _____	_____
Grantee	Grantor's Printed Name
_____	_____
Date	Date

TEMPORARY ACCESS EASEMENT

EXHIBIT "A"

DESCRIPTION

Being a 20 foot portion of land lying in the Southeast quarter of the Northeast quarter of Section 7, Township 35 South, Range 40 East and the Southwest quarter of the Northwest quarter of Section 8, Township 35 South, Range 40 East, St. Lucie County, Florida, being more particularly described as follows:

COMMENCING at the Northwest corner of said Section 3; thence South 89°37'30" East (for convenience the bearings shown hereon are relative to an assumed meridian) along the North line of said Section 3: (Township Line) a distance of 633.68 feet to a point intersection with the East property line of Florida East Coast Railway right-of-way; thence North 20°24'00" West along said East property line of the Florida East Coast Railway right-of-way and an extension thereof a distance of 309.90 feet to a point of intersection with the South right-of-way line of State Road A-1-A projected as per right-of-way map Section 94060-2501, State of Florida Department of Transportation; thence North 87°45'11" East along said South right-of-way line a distance of 264.68 feet to the POINT OF BEGINNING (P.O.B) of the herein described easement; thence South 20°24'00" East a distance of 20 feet; thence North 87°45'11" East parallel to the South right-of-way line of State Road A-1-A, a distance of 153.95 feet; thence North 02°14'49" West a distance of 20 feet; thence South 87°45'11" West along said South right-of-way line of State Road A-1-A, a distance of 160.18 feet to said point of beginning.

Containing .0685 acres or 2,985.07 square feet more or less.

THIS IS NOT A SURVEY

FPUA COMMUNITY PROUD

VERIFY SCALE
BAR IS EQUAL TO ONE INCH ON ORIGINAL DRAWING
0 1
ADJUST ALL SCALED DIMENSIONS ACCORDINGLY

DATE:	REVISION:	BY:	APPD:

DESIGNED: LD	DRAWING FILENAME: HARBOURTOWN EASE
DRAWN BY: GT	SCALE: NTS
APPROVED: LD	DATE: APRIL 12, 2022

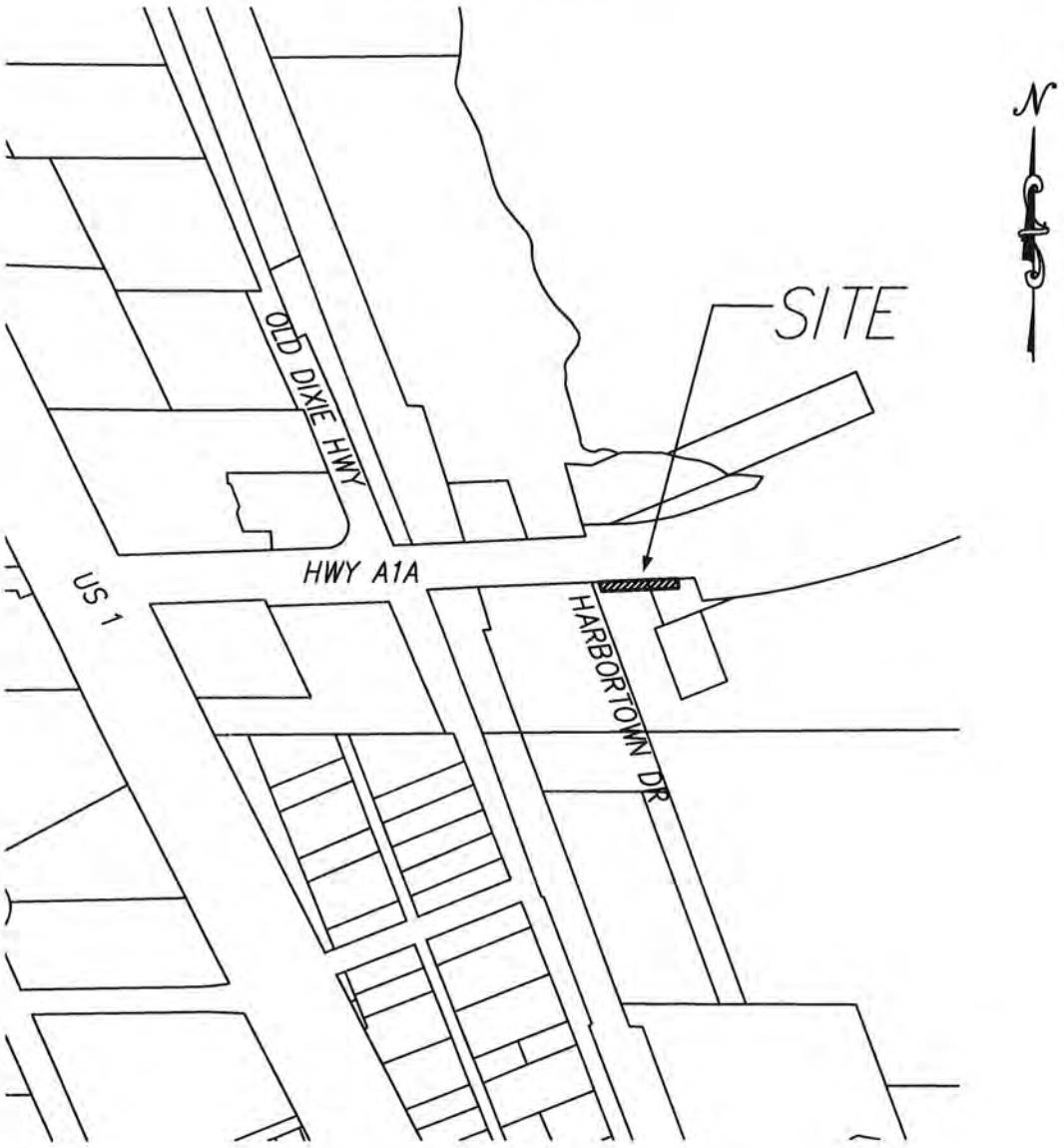
SKETCH & DESCRIPTION
TEMPORARY ACCESS EASEMENT
WATER/WASTEWATER ENGINEERING

FORT PIERCE UTILITIES AUTHORITY
1701 SOUTH 37TH STREET
FORT PIERCE, FLORIDA 34947
(772) 466-1600 / FAX (772) 468-2414

SHEET TYPE: DESCRIPTION
SHEET # 1 OF 3

TEMPORARY ACCESS EASEMENT

EXHIBIT "A"



NOTE

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DATE:	REVISION:	BY:	APPD:

DESIGNED: LD	DRAWING FILENAME: HARBOURTOWN EASE
DRAWN BY: GT	SCALE: NTS
APPROVED: LD	DATE: APRIL 12, 2022

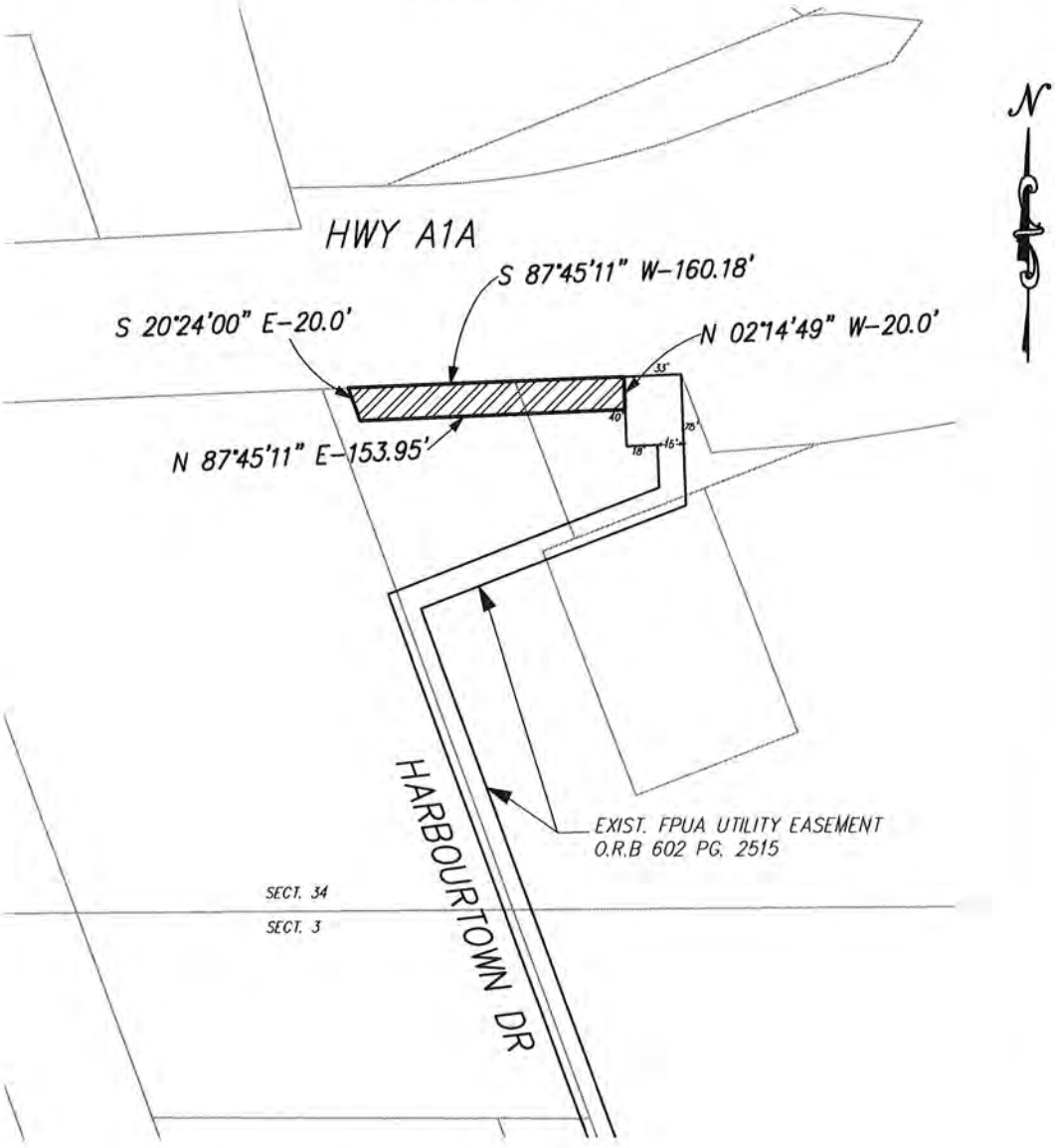
SKETCH & DESCRIPTION
TEMPORARY ACCESS EASEMENT
WATER/WASTEWATER ENGINEERING

FORT PIERCE UTILITIES AUTHORITY
1701 SOUTH 37TH STREET
FORT PIERCE, FLORIDA 34947
(772) 466-1600 / FAX (772) 468-2414

SHEET TYPE	SHEET #
SITE	2 OF 3

TEMPORARY ACCESS EASEMENT

EXHIBIT "A"



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DATE:	REVISION:	BY:	APPD:

DESIGNED: LD	DRAWING FILENAME: HARBOURTOWN EASE
DRAWN BY: GT	SCALE: 1"=100'
APPROVED: LD	DATE: APRIL 12, 2022

SKETCH & DESCRIPTION
TEMPORARY ACCESS EASEMENT
WATER/WASTEWATER ENGINEERING

FORT PIERCE UTILITIES AUTHORITY
1701 SOUTH 37TH STREET
FORT PIERCE, FLORIDA 34947
(772) 466-1600 / FAX (772) 468-2414

SHEET TYPE: DESCRIPTION
SHEET #: 3 OF 3

THIS INSTRUMENT PREPARED BY: FORT PIERCE UTILITIES AUTHORITY 206 S. 6TH STREET FORT PIERCE, FL 34950 PROPERTY APPRAISERS PARCEL ID (FOLIO) NUMBER(S): 1434-330-0004-101-1 AND 1434-330-0004-000-8	EASEMENT FROM LIMITED LIABILITY COMPANY SHM HARBORTOWN, LLC 14785 PRESTON ROAD, SUITE 975 DALLAS, TX 75254

Know All Men by These Presents, that the undersigned

SHM HARBORTOWN, LLC

for and in consideration of the sum of One Dollar, to them in hand paid by **Fort Pierce Utilities Authority of the City of Fort Pierce, Florida** (located at 206 South Sixth Street, Fort Pierce, FL 34950), a municipal corporation under the laws of the State of Florida, receipt whereof is hereby acknowledged, do hereby convey and grant to the **City of Fort Pierce, Florida, for the use and benefit of Fort Pierce Utilities Authority**, the privilege and easement for the installation maintenance, operation, repair, replacement and/or removal of their municipal-owned electric, water, sewer and natural gas utilities, in, under, upon, along, over and across the following-described land in St. Lucie County, Florida, to wit:

SEE SKETCH AND LEGAL, "EXHIBIT A" ATTACHED HERETO

Access to the above strip of land over the adjoining lands of the GRANTORS is hereby granted. Any damage to the fences or improvements of the GRANTORS on said strip of land, or on the lands of the GRANTORS adjoining said strip of land, done by the GRANTEE in the installation, maintenance, operation, repair, replacement or renewal of said utilities and the equipment and facilities connected therewith shall be promptly paid for by the GRANTEE. The GRANTEE may cut or trim trees, bushes and saplings growing upon or extending over said strip of land so far as may be reasonably necessary in the installation, maintenance, operation, repair, replacement and/or removal of said utilities. Patrolling said easement shall not constitute grounds for a claim for damage.

The GRANTORS reserve the use of said strip of land for any use not inconsistent herewith, but no buildings or structures shall be erected or placed on said strip of land by GRANTORS; provided, this sentence shall not apply to existing buildings or structures on said strip or replacements thereof. The rights herein granted may be assigned in whole or in part.

The GRANTEE will indemnify and save the GRANTOR harmless from any damages, injuries, losses, claims, demands or costs to the extent caused by the fault or negligence of the GRANTEE in the installation, maintenance, operation, repair, replacement and/or removal of said utilities and the equipment and facilities connected therewith, over and across said strip of land. Provided, however, that regardless of whether any such obligations are based on a tort, contract, statute, strict liability, negligence, product liability or otherwise, the obligations of the FPUA under this indemnification provision shall be limited in the same manner that would have applied if such obligations were based on, or arose out of, an action at law to recover damages in tort and were subject to Section 768.28, Florida Statutes, as that section existed at the inception of this Contract.

The undersigned hereby covenant and warrant that they own the said land and have the right to grant this easement.

[This space intentionally left blank. Signature pages follow]

In Witness Whereof, the GRANTOR has caused these presents to be executed in its name, by its proper member thereunto duly authorized this

_____day of _____, 2023.

SIGNED, SEALED AND DELIVERED IN OUR PRESENCE AS WITNESSES:

GRANTOR:

Witness Signature

Printed Witness Signature

Witness Signature

Printed Witness Signature

SHM Harbortown, LLC, by Baxter Underwood, CEO, with full authority to convey interest in Real Property (Signature)

Printed Name

14785 Preston Road, Suite 975
Address

Dallas, TX 75254
City, State, Zip

STATE OF TEXAS

COUNTY OF _____

I hereby certify that on this day before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared Baxter Underwood known to me to be the CEO of SHM Harbortown, LLC, with full authority to convey interest in real property, the entity in whose name the foregoing instrument was executed, by means of [ ] physical presence or [ ] online notarization, and that he/she acknowledged executing the same for such entity, freely and voluntarily, under authority duly vested in him/her by said entity, that I relied upon the following form of identification of the above-named person: Driver's Licenses, and that an oath was not taken.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, 2023.

Notary Signature

(NOTARY SEAL)

Notary's Printed Name

SIGNED, SEALED AND DELIVERED IN OUR PRESENCE AS WITNESSES:

Witness Signature

Printed Witness Signature

Witness Signature

Printed Witness Signature

ACKNOWLEDGED AND AGREED TO BY GRANTEE:

Fort Pierce Utilities Authority (Signature)

Printed Name

206 S. 6th Street
Address

Fort Pierce, FL 34950
City, State, Zip

STATE OF FLORIDA

COUNTY OF _____

I hereby certify that on this day before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared _____, by means of [ ] physical presence or [ ] online notarization, and that he/she acknowledged executing the same for such entity, freely and voluntarily, under authority duly vested in him/her, that [ ] the above-named person is personally known to me or [ ] I relied upon the following form of identification of the above-named person: Driver's Licenses, and that an oath was not taken.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, 2023.

_____
Notary Signature

(NOTARY SEAL)

_____
Notary's Printed Name

UTILITY EASEMENT

EXHIBIT "A"

DESCRIPTION

Being a portion of land lying in Section 34, Township 34 South, Range 40 East, and the Section 3, Township 35 South, Range 40 East, all in St. Lucie County, Florida, being more particularly described as follows:

COMMENCING at the Northwest corner of said Section 3; thence South 89°37'30" East (for convenience the bearings shown hereon are relative to an assumed meridian) along the North line of said Section 3: (Township Line) a distance of 633.68 feet to a point intersection with the East property line of Florida East Coast Railway right-of-way; thence North 20°24'00" West along said East property line of the Florida East Coast Railway right-of-way and an extension thereof a distance of 309.90 feet to a point of intersection with the South right-of-way line of State Road A-1-A projected as per right-of-way map Section 94060-2501, State of Florida Department of Transportation; thence North 87°45'11" East along said South right-of-way line a distance of 249.68 feet to the POINT OF BEGINNING (P.O.B) of the herein described easement; thence South 20°24'00'' East a distance of 30 feet; thence North 87°45'11'' East parallel to the South right-of-way line of State Road A-1-A, a distance of 15 feet; thence North 20°24'00" West a distance of 30 feet; thence South 87°45'11" West along said South right-of-way line of State Road A-1-A, a distance of 15 feet to said point of beginning.

Containing 430.29 square feet more or less.

THIS IS NOT A SURVEY

FPUA COMMUNITY PROUD

VERIFY SCALE
BAR IS EQUAL TO ONE INCH ON ORIGINAL DRAWING
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ADJUST ALL SCALED DIMENSIONS ACCORDINGLY

DATE:	REVISION:	BY:	APPD:

DESIGNED: LD	DRAWING FILENAME: Harbourtown EASE
DRAWN BY: GT	SCALE: NTS
APPROVED: LD	DATE: APRIL 12, 2022

SKETCH & DESCRIPTION

UTILITY EASEMENT

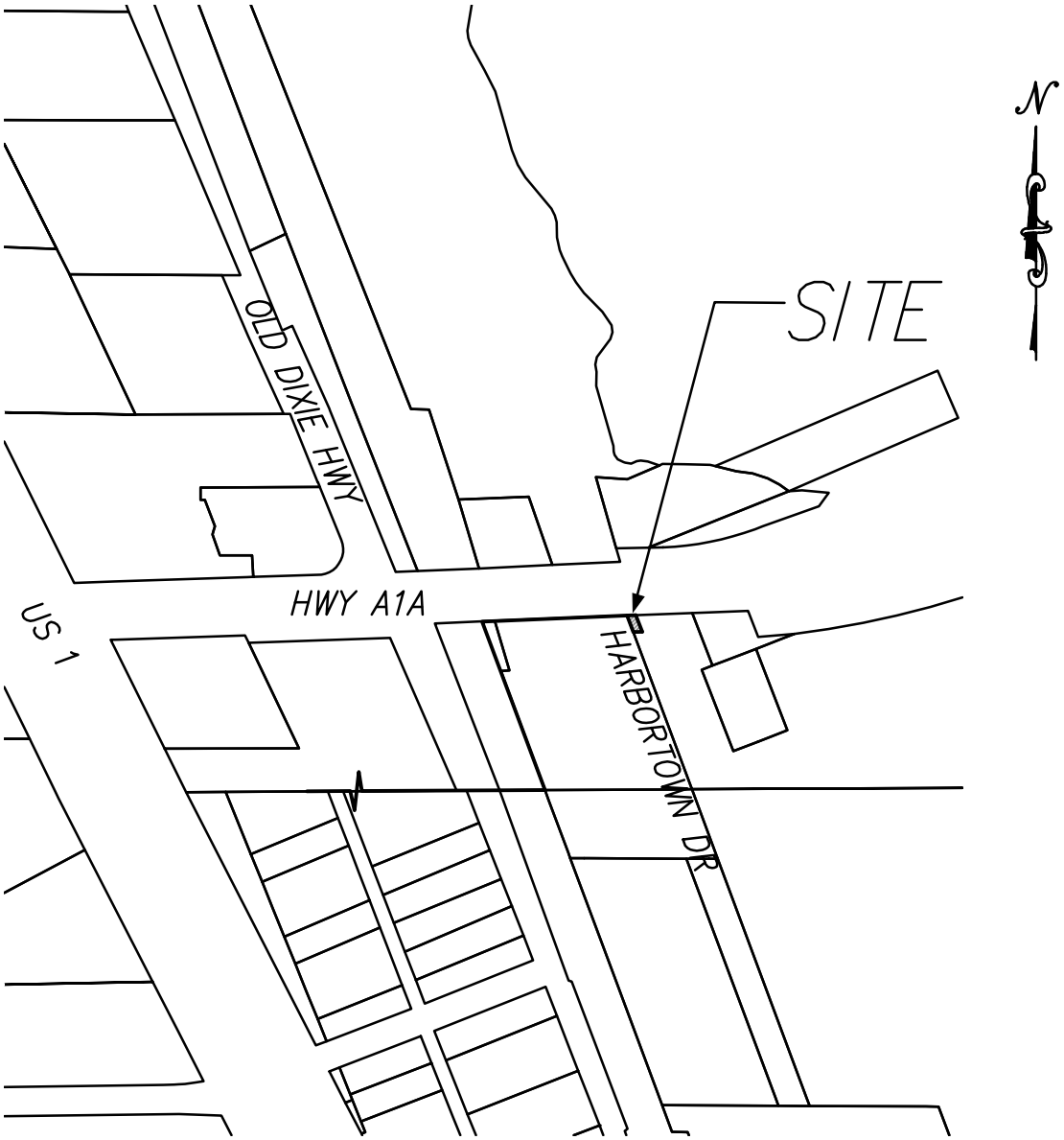
WATER/WASTEWATER ENGINEERING

FORT PIERCE UTILITIES AUTHORITY
1701 SOUTH 37TH STREET
FORT PIERCE, FLORIDA 34947
(772) 466-1600 / FAX (772) 468-2414

SHEET TYPE	SHEET #
DESCRIPTION	1 OF 3

UTILITY EASEMENT

EXHIBIT "A"



NOTE

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FPUA
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DATE:	REVISION:	BY:	APPD:

DESIGNED: LD	DRAWING FILENAME: Harbourtown Proposed EASE
DRAWN BY: GT	SCALE: NTS
APPROVED: LD	DATE: APRIL 12, 2022

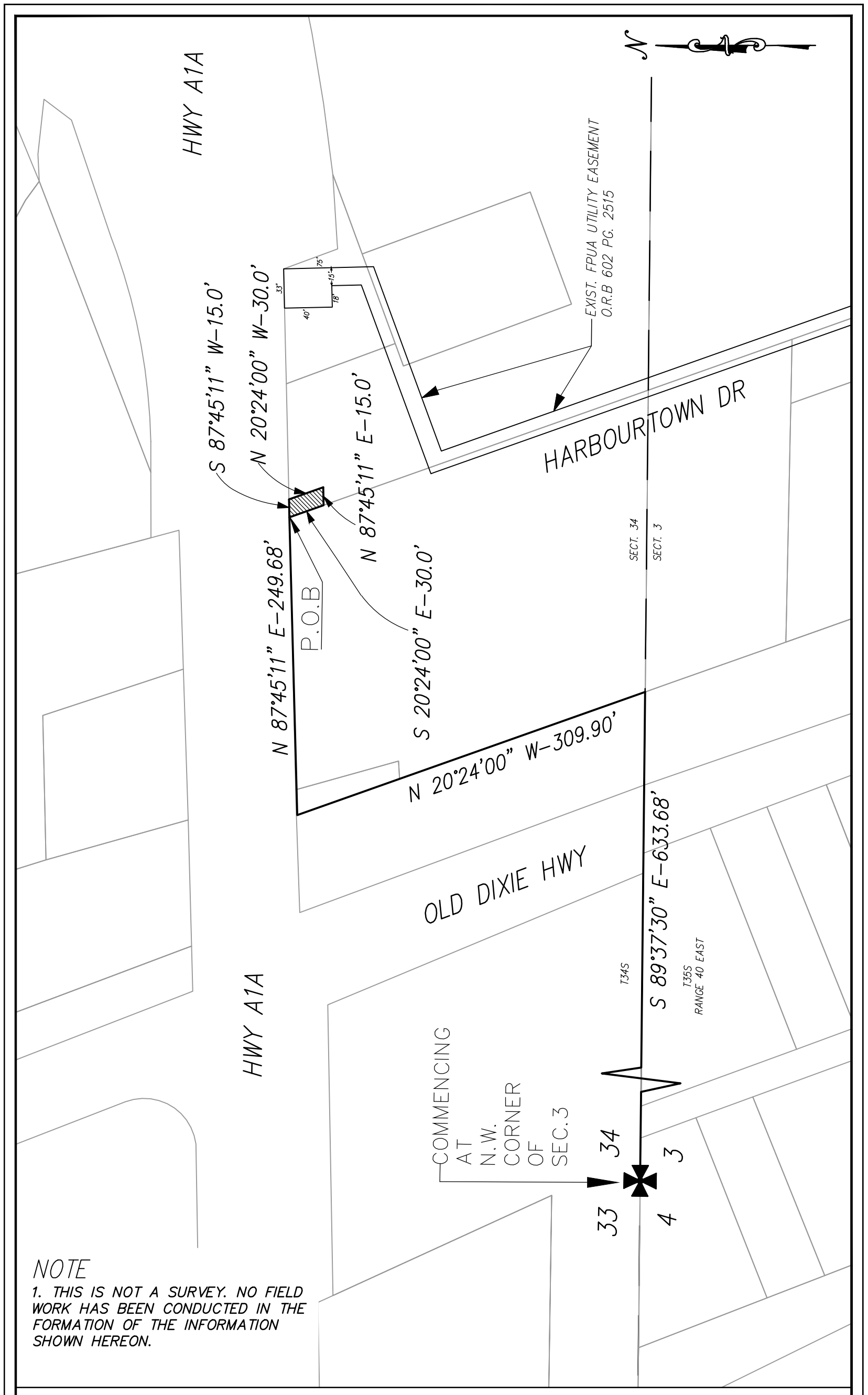
SKETCH & DESCRIPTION

UTILITY EASEMENT

WATER/WASTEWATER ENGINEERING

FORT PIERCE UTILITIES AUTHORITY
1701 SOUTH 37TH STREET
FORT PIERCE, FLORIDA 34947
(772) 466-1600 / FAX (772) 468-2414

SHEET TYPE	SHEET #
SITE	2 OF 3



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ADJUST ALL SCALED DIMENSIONS ACCORDINGLY

DATE:	REVISION:	BY:	APPD:

DESIGNED: LD	DRAWING FILENAME: Harbourtown EASE
DRAWN BY: GT	SCALE: 1" = 100'
APPROVED: LD	DATE: APRIL 12, 2022

SKETCH & DESCRIPTION

UTILITY EASEMENT

WATER/WASTEWATER ENGINEERING

FT. PIERCE UTILITIES AUTHORITY
1701 SOUTH 37TH STREET
FORT PIERCE, FLORIDA 34948
(772) 466-1600 / FAX (772) 468-2414

SHEET TYPE	SHEET #
SKETCH	3 OF 3

Fort Pierce Utilities Authority

206 South Sixth Street (34950)|PO Box 3191, Fort Pierce, FL 34948-3191|Phone: 772-466-1600

FPUA COMMUNITY PROUD

BOARD SUBMISSION FORM

Department: 12 – General Counsel

Board Meeting Date: **October 3, 2023**

Presenter(s): Caroline Valentin

Item: _____ **Regular Agenda** X **Consent Agenda**

Subject **Election of Officers**

Recommendation:

Elect, by majority vote, a Chair, Vice Chair, and Secretary pursuant to Section 170(g) of the City of Fort Pierce Charter.

Reviewed By Attorney: ____ Yes X No

Funds Available From: X No Funds Needed ____ Budgeted

Approvals:

System Director: _____

Director of Financial Services: _____

Director of Utilities: Javier Cisneros

Fort Pierce Utilities Authority

MEMORANDUM

To: FPUA Board

From: Caroline A. Valentin, General Counsel

Date: October 3, 2023

Subject: Election of Officers

RECOMMENDATION:

Elect, by majority vote, a Chair, Vice Chair, and Secretary pursuant to Section 170(g) of the City of Fort Pierce Charter.

SUMMARY/SUPPORTING INFORMATION:

In accordance with the City of Fort Pierce Charter, Pursuant to the Charter, Article XII, Section 170(g), the Board by majority vote shall elect from among its members a chairman, who shall preside over the meetings of the authority, a vice-chairman who shall act for the chairman during his absence, and a secretary. An election of officers of the authority shall be held at the first regular meeting at which all members are present following the appointment of a new member for a full term, but not later than the fourth meeting following the appointment.

ALTERNATIVES:

N/A

ATTACHMENTS:

None.

Fort Pierce Utilities Authority

206 South Sixth Street (34950)|PO Box 3191, Fort Pierce, FL 34948-3191|Phone: 772-466-1600

FPUA COMMUNITY PROUD

BOARD SUBMISSION FORM

Department: 12 – General Counsel

Board Meeting Date: 10/03/2023

Presenter(s): Caroline A. Valentin, General Counsel

Item: X **Regular Agenda** _____ **Consent Agenda**

Subject **Resolution No. UA 2023-12 – A Resolution of the Board of the Fort Pierce Utilities Authority Adopting Rules of Procedure for Meetings of the Board; and Providing for Scrivener's Errors, Repeal, Severability and an Effective Date.**

Recommendation:

Staff recommends that the FPUA Board adopt Resolution No. UA 2023-12.

Reviewed By Attorney: X Yes ____ No

Funds Available From: X No Funds Needed ____ Budgeted

Approvals:

System Director: _____

Director of Financial Services: _____

Director of Utilities: Jarin Clemens

Fort Pierce Utilities Authority

MEMORANDUM

To: Javier Cisneros, P.E., Director of Utilities

From: Caroline A. Valentin, General Counsel

Date: October 3, 2023

Subject: FPUA Resolution No. UA 2023-12

RECOMMENDATION:

Staff recommends that the FPUA Board adopt Resolution No. UA 2023-12.

SUMMARY/SUPPORTING INFORMATION:

Pursuant to the City of Fort Pierce Charter, the Fort Pierce Utilities Authority Board ("Board") has the authority to adopt Rules of Procedure for the conduct of its meetings. On November 2, 2021, the Board adopted Resolution No. 2021-11 which amended certain Board Policies to include Board Procedures and Rules of Order. The proposed resolution separates the Board's Rules of Procedure into a separate document and expands upon/amends the rules to include additional information regarding the role of officers, meetings, attendance, rules of parliamentary procedure, quorum, order of business, voting, citizen input, and decorum.

ALTERNATIVES:

Adopt Resolution No. UA 2023-12 subject to the changes requested by the Board.

Do not adopt Resolution No. UA 2023-12.

ATTACHMENTS:

A. Resolution No. UA 2023-12

RESOLUTION NO. UA 2023-12

A RESOLUTION OF THE BOARD OF THE FORT PIERCE UTILITIES AUTHORITY ADOPTING RULES OF PROCEDURE FOR MEETINGS OF THE BOARD; AND PROVIDING FOR SCRIVENER'S ERRORS, REPEAL, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Fort Pierce Utilities Authority ("FPUA") was created and established by the City Commission of the City of Fort Pierce, Florida, through a referendum election held in said City on May 30, 1972; and

WHEREAS, the Charter of the City of Fort Pierce, Florida, Article XII ("Charter"), grants to the FPUA the powers and duties possessed by the city to construct, acquire, expand and operate utility systems, and to do any and all acts or things that are necessary, convenient or desirable in order to operate, maintain, enlarge, extend, preserve and promote an orderly, economic and businesslike administration of the utility systems;

WHEREAS, the Charter also provides the FPUA Board with authority to promulgate and adopt rules of procedure for the conduct of its meetings;

WHEREAS, the Board desires to adopt rules of procedure for its meetings as set forth herein.

NOW THEREFORE BE IT RESOLVED by the Board of the Fort Pierce Utilities Authority:

Section I. Recitals. The above recitals are true and correct and are hereby incorporated as if fully set forth herein.

Section II. Rules of Procedure. The Rules of Procedure for Meetings of the Fort Pierce Utilities Authority Board set forth in Exhibit A are hereby adopted by the Board.

Section III. Scrivener's Errors. If there are any typographical, administrative, or scrivener's errors contained herein that do not change the tone, tenor, or purpose of this Resolution, such errors may be corrected with no further action by the Board.

Section IV. Repeal. All prior inconsistent resolutions or policies adopted by the FPUA Board are hereby expressly repealed to the extent of the conflict.

Section V. Severability. If any section, clause, phrase, word or provision of this Resolution is for any reason held invalid or unconstitutional by a court of competent jurisdiction, whether for substantive or procedural reasons, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Resolution which shall remain in full force and effect.

Section VI. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND DULY ADOPTED this _____ day of October, 2023.

ATTEST:

_____ _____

Secretary **Chair**

APPROVED AS TO FORM AND CORRECTNESS:

_____

Fort Pierce Utilities Authority Attorney

EXHIBIT A

RULES OF PROCEDURE FOR MEETINGS OF THE FORT PIERCE UTILITIES AUTHORITY BOARD

I. BOARD AUTHORITY

Pursuant to Article XII, Section 170(h), of the Charter of the City of Fort Pierce, Florida ("City"), the Fort Pierce Utilities Authority Board ("Board") has the authority to adopt Rules of Procedure for the conduct of its meetings. It is the policy of the Board that these Rules of Procedure shall govern all meetings of the Board. The Members of the Board, Director of Utilities, General Counsel, staff, and the public shall adhere to these rules.

II. BOARD COMPOSITION; ELECTION OF OFFICERS

A. Composition. The Board shall consist of five (5) Members, one (1) of whom shall be the City Mayor. In the discretion of the City Commission, the City Manager may serve as an Ex Officio Member without vote, and whose term shall be set by the City Commission.

B. Election of Officers. The Board by majority vote shall elect from among its Members a chair, who shall preside over the meetings of the authority, a vice-chair who shall act for the chair during his or her absence, and a secretary. The election of officers shall be held at the first regular meeting at which all Members are present following the appointment or reappointment of a new Member for a full term, but not later than the fourth meeting following the appointment.

III. ROLE OF OFFICERS

A. Chair. The Chair serves as the Presiding Officer of the Board and presides at all meetings. The Chair's responsibilities shall include, but not be solely limited to:

1. Open the meeting at the appointed time and call the meeting to order, having ascertained that a quorum is present.

2. Announce the business to come before the Board, in accordance with the prescribed order of business.

3. Recognize all Board Members, the Director of Utilities, and the General Counsel, who seek the floor under correct procedure. All questions and comments are to be directed through the Chair and restated by the Chair, and the Chair declares all votes. The Chair shall repeat every motion and state every question coming before the Board and announce the decision of the Board on all matters coming before it.

4. Preserve decorum and order, and in case of disturbance or disorderly conduct in the Commission Chambers or other meeting room, may cause the same to be cleared or cause any disruptive individual to be removed.

5. Call to order any Board Member who violates any of these rules and, when presiding, decide questions of order, subject to an affirmative vote of at least three (3) Board Members on a motion to appeal.

6. Expedite business in every way compatible with the rights of the Board Members.

7. The Presiding Officer is required to remain objective. For the Chair to make a motion, the gavel must be relinquished. The gavel shall be relinquished in the following order:

(a) to the Vice Chair;

(b) to other Board Members based upon seniority.

The Presiding Officer who relinquishes the chair should not return to it until the pending main question has been disposed of, since he or she has shown himself or herself to be partisan about the particular item. The Presiding Officer may otherwise second a motion and engage in debate and shall not be deprived of any of the rights and privileges of a Board Member by reason of being the Presiding Officer.

8. Declare the Board meeting adjourned when all agenda items have been introduced and disposed of by the Board, or at any time in the event of an emergency affecting the safety of those present.

9. Execute contracts and other instruments in writing necessary whenever required.

B. Vice Chair. In the absence of the Chair or in the event of the Chair's inability to serve by reason of illness or accident, the Vice Chair shall perform the duties and functions of the Chair until the Chair is available and able to resume the responsibilities of the Presiding Officer.

C. Secretary. The Secretary shall attest by signature whenever required.

IV. MEETINGS; ATTENDANCE

A. Regular Meetings. Regular meetings of the Board occur on the 1st and 3rd Tuesday of each month in the City Commission chambers at 4:00 p.m. Board meetings may be canceled or rescheduled when adequate notice is given to the public provided at least one meeting is held per month. The location of Board meetings may be changed at the discretion of the Board in emergency situations, for good cause as determined by the Board, or when conflicts arise with use of the City Commission chambers.

B. Special Meetings. Special Meetings may be called with six (6) hours advance written notice by the Chair or any three (3) Board members and may be held at any time or place.

Board Members should contact the Director of Utilities or General Counsel to request a Special Meeting.

C. Workshops. Workshops and other non-voting meetings may be scheduled throughout the year as deemed necessary by the Board, Director of Utilities, or General Counsel. Such meetings will be open to the public and may be held at various locations during normal working hours.

D. Attendance. Members of the Board shall attend all regular and special meetings unless excused due to illness, travel or other reasons approved by the Board. Members are encouraged to attend workshops.

E. Minutes. Minutes shall be kept of all meetings and open to public inspection. Minutes shall be furnished to the City Commission.

V. RULES OF PARLIAMENTARY PROCEDURE

The Board shall determine its own procedures, rules, and order of business, so long as they do not conflict with any provision of law that applies to the Board. In promulgating the procedures, rules, and order of business, the Board shall follow simplified parliamentary procedures and be guided by *Robert's Rules of Order Revised*. No action taken by the Board shall be deemed void or invalid because of a failure to adhere to *Robert's Rules of Order Revised*.

VI. OPEN TO THE PUBLIC

A. Meetings Open to Public. All meetings of the Board shall be open to the public in accordance with the Florida Government in the Sunshine Law, Section 286.011, Florida Statutes (F.S.).

B. Exempt Meetings. The exception to the opening meeting requirement shall be those meetings statutorily exempt, such as meetings regarding risk management claims, Section 768.28(16)(c), F.S., and litigation meetings pursuant to Section 286.011(8), F.S. The Board shall comply with all statutory requirements for exempt meetings.

C. Seating Capacity. Due to the need to comply with seating capacity and safety requirements, there may be occasions when entrance by the public to the Commission Chambers or other meeting rooms shall be limited. When the seating capacity in Commission Chambers or other meeting room has been met, the FPUA shall endeavor to accommodate overflow seating elsewhere in the meeting vicinity.

D. Accessibility. All Board meetings will be conducted in a publicly accessible building.

VII. QUORUM

A. Quorum. Three (3) Members of the Board shall constitute a quorum.

B. Remaining in Chambers. During a Board meeting, Board Members should remain in the Commission Chambers or other meeting room at all times unless an emergency or illness occurs. Board Members present in the meeting should not absent themselves for a particular item.

C. Participation by Absent Board Member. Upon the determination by an affirmative vote of at least three (3) Board Members present in the Commission Chambers or other meeting room and voting, that extraordinary circumstances exist to justify the absence of any Board Member from said meeting, and assuming a quorum of the Board is otherwise present, the Board may allow the participation of the physically absent Board Member. The decision of the Board shall take place prior to or at the beginning of the subject meeting and shall be based upon the facts and circumstances of each request. The physically absent Board Member may not vote on any motion authorizing such participation. The physically absent Board Member must take all steps necessary to provide an interactive communication between the meeting location and the location of the physically absent Board Member, and at a minimum must provide interactive voice communication, but should also endeavor to provide interactive video communication whenever possible. In instances in which the physically absent Board Member participates in the meeting, said Board Member shall also be allowed to cast his/her vote. Virtual attendance shall also be allowed if the in-person requirement for constituting a quorum is lawfully suspended during a state of emergency or otherwise waived by law.

D. Conflict of Interest. Any Board Member who announces a conflict of interest on a particular matter pursuant to Section 112.3143 or Section 286.012, F.S., and refrains from voting or otherwise participating in the proceedings related to that matter, shall be deemed present for the purpose of constituting a quorum.

E. Loss of Quorum. In the event that quorum is lost after a meeting has commenced because a Board Member leaves the Commission Chambers or other meeting room temporarily, or a Board Member is required to depart a Board meeting prior to adjournment that causes a loss of quorum, no further official action may be taken until or unless a quorum is restored, other than adjournment.

F. No Quorum. If the Board is unable to constitute a quorum, the Chair, the Vice Chair, or in their absence, another Board Member, in order of seniority, shall adjourn the meeting. The Clerk shall record in the minutes the names of the Board Members present and their action at such meeting.

VIII. ORDER OF BUSINESS

A. Official Agenda. There shall be an official agenda for every Board meeting, which shall determine the order of business conducted at the meeting. All proceedings and the order of business at all meetings shall be conducted in accordance with the official agenda.

B. Agenda Form; Availability; Support Information. The agenda shall be prepared by the Director of Utilities in appropriate form approved by the Board. The Director of Utilities shall make available to the Board Members a copy of the agenda before the meeting.

C. Agenda Format for Regular Meeting. The agenda format for a regular Commission meeting shall be in substantially the form as set forth below:

1. Call to Order,
2. Invocation and Pledge of Allegiance
3. Roll Call and Declaration of a Quorum
4. Set the Agenda
5. Comments from the Public
6. Approval of Minutes
7. Consent Agenda
8. Regular Agenda
9. Director Comments
10. Board Member Comments
11. Adjourn

D. Set the Agenda.

1. Deletions or corrections to the agenda may be considered by the Board and adopted by the passage of a single motion. Non-agendaed matters should generally be confined to items that are informational only.

2. Any departure from the order of business set forth in the official agenda shall be made only upon affirmative vote of at least three (3) Board Members present and eligible to vote.

E. Consent Agenda. All items in the portion of the agenda designated as "Consent" may be voted on with one motion. Consent items are considered to be routine in nature, are typically non-controversial and do not deviate from past Board direction or policy. However, any Board Member, the Director of Utilities, or the General Counsel may withdraw an item from the consent agenda and it shall then be voted on individually.

F. Regular Agenda. Regular Agenda items are items of a general nature that require Board direction, pertain to Board policy, or that the Director of Utilities considers to be of considerable importance to the Fort Pierce Utilities Authority ("FPUA"). These items will be presented by FPUA staff, and discussed by the Board during the meeting. The Board may act on Regular Agenda items by motion of any Board Member, which must be seconded by any other Board Member, followed by a roll call vote for each item on the agenda. The Regular Agenda may include items that are "for information only," which may include a presentation by FPUA staff but upon which no action is necessary by the Board and no vote shall be taken.

IX. PARLIAMENTARIAN

The General Counsel shall act as parliamentarian and shall advise and assist the Chair in matters of parliamentary law. In the absence of a Rule of Procedure as provided for by these Rules, the parliamentarian shall refer to Robert's Rules of Order Revised for guidance on all rulings.

X. RULES OF DEBATE

A. Decorum.

1. Every Board Member desiring to speak will address the Chair, and once recognized by the Chair, confine discussion to the question under debate.

2. While the Board is in session, the Board Members must preserve order and decorum at the meeting. Board Members shall not delay or interrupt the proceedings, disturb the peace, or interrupt other Board Members while they are speaking.

3. A Board Member will be deemed to have yielded the floor when he or she has finished speaking. A Commissioner may claim the floor only when recognized by the Chair.

B. Motions.

1. A motion and a second to the motion are to precede any action on an agenda item unless there are speakers to be heard on the agenda item.

2. All motions should be made and seconded before debate.

4. Any Board Member may move to close debate and call the question on the motion being considered which shall be nondebatable. A successful vote on the motion to close debate will end discussion of the item.

5. If the Chair wishes to put forth a motion, he or she shall relinquish the gavel to the Vice Chair until the main motion, on which he or she spoke, has been disposed. The Chair may second any main motion made by another Board Member.

XI. VOTING

A. Voice Vote. Unless otherwise directed by the Chair, all votes shall be taken by voice.

B. Tabulating the Vote. The Chair shall tabulate the votes and announce the results. Upon any roll call, there shall be no discussion by any Board Member prior to voting, and each Board Member shall vote "yes" or "no."

C. Voting. Every Board Member who is in the Commission Chambers or other meeting room when the question is put must give his or her vote, unless the Board Member has publicly stated that he or she is abstaining from voting due to a conflict of interest pursuant to Sections 112.3143 or 286.012, F.S.

D. Absent for Vote; Changing Vote. Any Board Member momentarily absent for a vote on a particular item may record his or her vote, and any Board Member may change his or her vote before the next item is called for consideration, or before a recess or adjournment is called,

whichever occurs first, but not thereafter, except with the consent of all the Board Members who voted on the item.

E. Voting Conflict. No Board Member shall vote on an item when the Board Member has a voting conflict of interest as specified in Section 112.3143 or Section 286.012, F.S. A Board Member abstaining from voting due to a conflict shall announce the conflict prior to discussion on the matter. In the event of such conflict, the Board Member shall comply with the requirements of Section 112.3143, F.S.

F. Affirmative Vote of 3 Members Required; Tie Vote. With the exception of election of the Chair, Vice Chair, and Secretary which requires a majority vote, or as otherwise required by law, the passage of any motion, policy, ordinance or resolution shall require the affirmative vote of at least three (3) Board Members. In the case of a tie in votes on any item, the item fails.

XII. CITIZEN INPUT: ADDRESSING THE BOARD

A. Citizen Input. The Board recognizes the importance of protecting the right of all citizens to express their opinions on the operation of the FPUA and encourages citizen participation. The Board also recognizes the necessity for conducting orderly and efficient meetings in order to complete County business in a timely manner.

B. Comments from the Public. At regularly scheduled meetings, the Board provides a comment period for citizens to speak. This public comment period is denoted on the agenda as "Comments from the Public." The remarks of each citizen shall be limited to no more than three (3) minutes. The Chair has the discretion to either extend or reduce the time limits for public comment based on the number of speakers. To ensure the orderly conduct of meetings, if a large number of individuals wish to speak for public comment on a topic the Board may require that one representative of a group or faction on a specific proposition will be permitted to address the Board, rather than all members of such groups or factions, and/or the Chair may designate a specified period of time for public comment.

C. Addressing the Board.

1. When the citizen's name is called, the citizen shall step up to the speaker's podium and shall give the following information in an audible tone of voice for the minutes:

   (a) Name;

   (b) Place of residence or business address;

   (c) If requested by the Chair, the citizen may be required to state whether the citizen speaks for a group or a third party, if the citizen represents an organization, whether the view expressed by the citizen represents an established policy or position approved by the organization, and whether the citizen is being compensated by the organization.

2. All remarks shall be addressed to the Board as a body and not to any Board Member or staff specifically.

3. No citizen, other than a Board Member, and the citizen having the floor, may be permitted to enter into any discussion, either directly or through a Board Member, without permission of the Chair. No question may be asked except through the Chair.

4. Speakers should make their comments concise and to the point and present any data or evidence they wish the Board to consider. No citizen may speak more than once on the same subject unless specifically granted permission by the Chair.

D. Decorum.

1. Order must be preserved. No person shall, by speech or otherwise, delay or interrupt the proceedings or the peace of the Board, or disturb any person having the floor. No person shall refuse to obey the orders of the Chair or the Board. Any person making irrelevant, impertinent, or slanderous remarks or who becomes boisterous while addressing the Board shall not be considered orderly or decorous. Any person who becomes disorderly or who fails to confine remarks to the identified subject or business at hand shall be cautioned by the Chair and given the opportunity to conclude remarks in a decorous manner and within the designated time limit. Any person failing to comply as cautioned shall be barred from making any additional comments during the meeting by the Chair, unless permission to continue or again address the Board is granted by a majority vote of the Board Members present and eligible to vote.

2. If the Chair or the Board declares an individual out of order, he or she will be requested to relinquish the podium. If the person does not do so, he or she is subject to removal from the Commission Chambers or other meeting room.

3. Any person who becomes disruptive or interferes with the orderly business of the Board may be removed from the Commission Chambers or other meeting room for the remainder of the meeting.