

City of Westlake

4001 Seminole Pratt Whitney Rd.
Westlake, Florida 33470
Phone: 561-530-5880
Fax: 561-790-5466
Website: westlakegov.com



Council Members

Roger Manning-Mayor
Katrina Long Robinson-Vice Mayor
John Stanavitch-Seat 1
Kara Crump-Seat 2
Phillip Everett-Seat 3

Regular Meeting and Public Hearing
Monday, June 11, 2018

Meeting Location
Westlake Council Chambers
4005 Seminole Pratt-Whitney Road
Westlake, FL 33470
6:30 PM

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision made by the City Council with respect to any matter considered at this meeting or hearing, such interested person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The meeting/hearing may be continued to another date and time as may be found necessary during the aforesaid meeting. In accordance with the provisions of the Americans with Disabilities Act (ADA), any person requiring special accommodations at these meetings because of disability or physical impairment should contact the Interim City Manager at (954)753-5841 at least two (2) calendar days prior to the meeting.

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June 6, 2018

City Council
City of Westlake

Dear Mayor and Council:

The City Council of the City of Westlake will hold a regular meeting and public hearing on Monday, June 11, 2018 at 6:30 p.m. at the Westlake Council Chambers, 4005 Seminole Pratt Whitney Road, Westlake, Florida. Following is the advance agenda for the meeting.

1. Call to Order/ Roll Call
2. Pledge of Allegiance
3. Approval of Agenda
4. Audience Comments on Agenda Items (3) Minute Time Limit
5. Approval of Minutes of the May 14, 2018 and May 21, 2018 Meetings
6. Approval of Financial Statements for April 2018
7. Interlocal Agreement with Palm Beach County – Maintenance and Transfer of Persimmon Boulevard
8. Interlocal Agreement with Palm Beach County – Traffic Maintenance
9. Interlocal Agreement with Palm Beach County – Decorative Art Wrap Traffic Control Signals
- SECOND READING OF ORDINANCE**
10. Ordinance 2018-7, Establishing Purchasing Procedures and Guidelines for Acquiring Goods, Services and/or Construction Related Services
11. Consideration of Bid for IT Services – Backup to be Provided Under Separate Cover
12. Housing Assistance Purchasing Program – Update
13. PBSO Monthly Report – Informational Only
14. Manager’s Report
15. Attorney’s Report
16. Audience Comments on Other Items (3) Minute Time Limit
17. Council Comments
18. Adjournment

Any additional supporting material for the items listed above, not included in the agenda package, will be distributed at the meeting. Staff will present their reports at the meeting. I look forward to seeing you, but in the meantime if you have any questions, please contact me.

Sincerely,

Kenneth Cassel

Kenneth G. Cassel
City Manager

cc: Pam E. Booker, Esq.
John Carter
Terry Lewis
Kelley Burke

Fifth Order of Business

**MINUTES OF MEETING
CITY OF WESTLAKE**

A meeting of the City Council of the City of Westlake was held on Monday, May 14, 2018, at 6:32 p.m., at the Westlake Community Center, 4005 Seminole-Pratt Whitney Road, Westlake, Florida.

Present and constituting a quorum were:

Roger Manning	Mayor
Karina Long Robinson	Vice Mayor
John Stanavitch	City Council Seat 1
Kara Crump	City Council Seat 2
Phillip Everett	City Council Seat 3

Also present were:

Kenneth Cassel	City Manager
Pam E. Booker, Esq.	City Attorney
Kate DeWitt	Coutleur & Hearing
John Carter	Minto PBLH

The following is a summary of the minutes and actions taken during the May 14, 2018 City of Westlake Council Meeting.

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mayor Manning called the meeting to order and Mr. Cassel called the roll.

SECOND ORDER OF BUSINESS

Pledge of Allegiance

The Pledge of Allegiance was recited.

THIRD ORDER OF BUSINESS

Approval of Agenda

On MOTION by Councilman Stanavitch seconded by Vice Mayor Long Robinson with all in favor the agenda was approved.

FOURTH ORDER OF BUSINESS

**Audience Comments on Agenda Items (3)
Minute Time Limit**

There being none, the next item followed.

May 14, 2018

FIFTH ORDER OF BUSINESS

Approval of the Minutes of the April 9, 2018 Meeting

On MOTION by Councilman Everett seconded by Councilwoman Crump with all in favor the minutes of the April 9, 2018 meeting were approved.

SIXTH ORDER OF BUSINESS

Approval of Financial Statements for March 2018

On MOTION by Vice Mayor Long Robinson seconded by Councilwoman Crump with all in favor the financial statements for March 2018 were approved.

PUBLIC HEARING

SEVENTH ORDER OF BUSINESS

Resolution 2018-11, Approving the Final Plat for Town Center Parkway, Phase II

Ms. Dewitt addressed the Board and submitted a PowerPoint Presentation into the record.

Ms. Booker stated the Amenity Parcel will be on the May 21, 2018 agenda. There was a minor alignment change here, as well as some language change for SID to allow them to maintain a drainage and lighting facilities within the easement areas for the plat. This is the final version.

Mr. Cassel read Resolution 2018-11 by title only.

On MOTION by Councilwoman Crump seconded by Councilman Stanavitch with all in favor Resolution 2018-11, approving the final plat for Town Center Parkway, Phase II, was adopted.

FIRST READING OF ORDINANCE

EIGHTH ORDER OF BUSINESS

Ordinance 2018-7, Establishing Purchasing Procedures and Guidelines for Acquiring Goods, Services and/or Construction Related Services

Ms. Booker reviewed Ordinance 2018-7 as well as the procurement guidelines as dictated under Chapter 287, Florida Statutes.

Councilman Stanavitch asked if there is anything in the ordinance allowing for minority vendors. Palm Beach County and other cities give a five to ten percent preference for minority vendors.

Ms. Booker responded no, but those provisions can be added prior to the second reading.

Vice Mayor Long-Robinson noted she would also like the language revised to include preference for minority vendors and have the information communicated at the State of the City.

Mr. Cassel read Ordinance 2018-7 by title only.

On MOTION by Councilman Stanavitch seconded by Councilwoman Crump with all in favor the first reading of Ordinance 2018-7 was approved with consideration for minority vendors.

NINTH ORDER OF BUSINESS

PBSO Monthly Report – Informational Only

A copy of the report is included in the agenda package.

TENTH ORDER OF BUSINESS

City Manager

Mr. Cassel reported the following:

- Plans for the freestanding emergency center are being reviewed. Comments were given by the Building Department.
- Seminole Pratt Whitney Road is projected to be completed by the middle of June.
- The SID Board approved permits for the transmission lines coming through the M-2 Canal and out the west extension.

ELEVENTH ORDER OF BUSINESS

City Attorney

Ms. Booker reported the following:

- The City’s Comprehensive Plan was found in compliance by DEO.
- She met with Mr. Cassel to go over the applicants for the housing program. An award letter was issued and closing documents sent to one of the applicants who should be closing this week.

TWELFTH ORDER OF BUSINESS

Council Comments

There being none, the next item followed.

THIRTEENTH ORDER OF BUSINESS

**Audience Comments on Other Items (3)
Minute Time Limit**

Mr. John Carter introduced Mr. Nelson Bennett who recently joined Minto PBLH. He thanked Vice Mayor Long Robinson for hosting a housing summit at the Sales Center. Mr. Carter also provided an update on house sales in the City as well as other future development

May 14, 2018

plans. He invited the Council to attend the Chamber of Commerce Gala on May 19, 2018, which is being sponsored by Minto at Westlake.

FOURTEENTH ORDER OF BUSINESS

UHS Groundbreaking Ceremony – May 24, 2018 at 8:30 a.m. at the Sales Center

This is for informational purposes only.

FIFTEENTH ORDER OF BUSINESS

May 21, 2018 – P&Z Meeting at 6:00 p.m. and Council Meeting at 6:30 p.m.

A Planning and Zoning meeting has been scheduled for May 21, 2018 at 6:00 p.m. and a Council meeting will follow at 6:30 p.m.

THIRTEENTH ORDER OF BUSINESS

Audience Comments on Other Items (3) Minute Time Limit (Continued)

Mr. Rick Christmas, of Professional Firefighters Local 2928, addressed the Council

SIXTEENTH ORDER OF BUSINESS

Adjournment

There being no further business, the meeting adjourned at 7:12 p.m.

Kenneth Cassel
City Manager

Roger Manning
Mayor

**MINUTES OF MEETING
CITY OF WESTLAKE**

A meeting of the City Council of the City of Westlake was held on Monday, May 21, 2018, at 6:30 p.m., at the Westlake Community Center, 4005 Seminole-Pratt Whitney Road, Westlake, Florida.

Present and constituting a quorum were:

Roger Manning	Mayor
Karina Long Robinson	Vice Mayor
John Stanavitch	City Council Seat 1
Kara Crump	City Council Seat 2
Phillip Everett	City Council Seat 3

Also present were:

Pam E. Booker, Esq.	City Attorney
Lynn LoBrutto	Inframark
Nilsa Zacarias	NZ Consultants

The following is a summary of the minutes and actions taken during the May 21, 2018 City of Westlake Council Meeting.

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mayor Manning called the meeting to order and Mr. Cassel called the roll.

SECOND ORDER OF BUSINESS

Pledge of Allegiance

The Pledge of Allegiance was recited during the Planning and Zoning meeting.

THIRD ORDER OF BUSINESS

Approval of Agenda

On MOTION by Councilman Everett seconded by Councilwoman Crump with all in favor the agenda was approved.

FOURTH ORDER OF BUSINESS

**Audience Comments on Agenda Items (3)
Minute Time Limit**

There being none, the next item followed.

FIFTH ORDER OF BUSINESS

Resolution 2018-13, Approving the Amended Site Plan for POD PC-1 Amenity Parcel

Ms. Zacarias provided an overview of the amended site plan for POD PC-1 Amenity Parcel.

Ms. Booker noted the address on the resolution changed to 16306 Town Center Parkway North as a result of a meeting she had with the City Manager and Palm Beach County to go over an addressing plan.

Ms. LoBrutto read Resolution 2018-13 by title only.

On MOTION by Vice Mayor Long Robinson seconded by Councilman Everett with all in favor Resolution 2018-16, approving the amended site plan for POD PC-1 Amenity Parcel, was adopted.

SIXTH ORDER OF BUSINESS

City Manager

There being no report, the next item followed.

SEVENTH ORDER OF BUSINESS

City Attorney

Ms. Booker reserved comments for the next meeting where she will be able to provide the Council with an update on the down payment assistance program.

EIGHTH ORDER OF BUSINESS

Council Comments

Vice Mayor Long Robinson stated she and Ms. Booker have a meeting this week with the Palm Beach County School District Director of Retention and Recruitment to discuss the assistance program the City has.

Mayor Manning stated United Healthcare Systems will have their groundbreaking ceremony on May 24, 2018 at 8:30 a.m. He invited everyone to attend.

NINTH ORDER OF BUSINESS

**Audience Comments on Other Items (3)
Minute Time Limit**

A copy of the report is included in the agenda package.

TENTH ORDER OF BUSINESS

Adjournment

There being no further business, the meeting adjourned at 6:41 p.m.

Kenneth Cassel
City Manager

Roger Manning
Mayor

Sixth Order of Business



MEMORANDUM

TO: Members of the City Council, City of Westlake
FROM: Steven Fowler, Accountant II, Alan Baldwin, Accounting Manager
CC: Ken Cassel, City Manager
DATE: June 5, 2018
SUBJECT: April Financial Report

Please find attached the April 2018 financial report. During your review, please keep in mind that the goal is for revenue to meet or exceed the year-to-date budget and for expenditures to be at or below the year-to-date budget. An overview of the City is provided below. Should you have any questions or require additional information, please contact me at Steven.Fowler@inframark.com.

General Fund

- Total Revenue is approximately 70% of the annual budget which includes funding agreement with Minto Community LLC. (Developer) and Building Permits. 100% of Ad Valorem Tax has been collected.
- Total expenditures through April are approximately 60% of the annual budget.

Special Revenue Fund – Housing Assistance Program

- Budget amendment was approved in January.

City of Westlake

Financial Report

April 30, 2018



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City of Westlake

Financial Statements

April 30, 2018

Balance Sheet
April 30, 2018

<u>ACCOUNT DESCRIPTION</u>	<u>GENERAL FUND</u>	<u>SPECIAL REVENUE FUND - HOUSING ASSISTANCE PROGRAM</u>	<u>TOTAL</u>
<u>ASSETS</u>			
Cash - Checking Account	\$ 744,830	\$ -	\$ 744,830
Accounts Receivable	72,043	-	72,043
Investments:			
Money Market Account	86,917	317,583	404,500
TOTAL ASSETS	\$ 903,790	\$ 317,583	\$ 1,221,373
<u>LIABILITIES</u>			
Accounts Payable	\$ 245,372	\$ -	\$ 245,372
Accrued Expenses	17,281	-	17,281
Solid Waste fees	5,647	-	5,647
Other Current Liabilities	59,265	-	59,265
TOTAL LIABILITIES	327,565	-	327,565
<u>FUND BALANCES</u>			
Restricted for:			
Special Revenue	-	317,583	317,583
Unassigned:	576,225	-	576,225
TOTAL FUND BALANCES	\$ 576,225	\$ 317,583	\$ 893,808
TOTAL LIABILITIES & FUND BALANCES	\$ 903,790	\$ 317,583	\$ 1,221,373

Statement of Revenues, Expenditures and Changes in Fund Balances

For the Period Ending April 30, 2018

ACCOUNT DESCRIPTION	AMENDED BUDGET	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	VARIANCE (\$) FAV(UNFAV)
REVENUES				
Interest - Investments	\$ 2,000	\$ 1,167	\$ 586	\$ (581)
Ad Valorem Taxes	138,030	138,030	140,217	2,187
Ad Valorem Taxes - Discounts	(5,521)	(5,521)	(5,463)	58
Occupational Licenses	5,000	2,917	18,093	15,176
Building Permits	160,000	93,333	641,164	547,831
Local Govt .05c Sales Tax	1,000	583	49	(534)
Administrative Fees	-	-	495	495
Other Impact Fees	1,500	750	-	(750)
Developer Contribution	1,580,967	1,053,978	519,568	(534,410)
Inspection Fees	1,000	583	500	(83)
TOTAL REVENUES	1,883,976	1,285,820	1,315,209	29,389

EXPENDITURES

Administration

Mayor/Council Stipend	204,000	119,000	119,000	-
FICA Taxes	15,606	9,104	9,104	-
ProfServ-Engineering	100,000	58,333	49,253	9,080
ProfServ-Legal Services	284,280	165,830	169,976	(4,146)
ProfServ-Legislative Expense	18,000	10,500	12,000	(1,500)
ProfServ-Planning/Zoning Board	170,000	99,167	139,039	(39,872)
ProfServ-Consultants	40,000	23,333	12,475	10,858
ProfServ-Building Permits	160,000	93,333	340,540	(247,207)
Management Services	283,830	165,568	194,165	(28,597)
ProfServ-Web Site Maintenance	5,900	3,442	3,192	250
Auditing Services	7,000	-	-	-
Communication - Telephone	7,500	4,375	1,545	2,830
Postage and Freight	1,500	875	794	81
Lease - Building	500	500	500	-
Insurance - General Liability	15,000	15,000	6,000	9,000
Printing and Binding	1,000	583	-	583
Legal Advertising	10,000	5,833	16,348	(10,515)
General Government	33,360	19,460	216	19,244
Council Expenses	10,000	5,833	-	5,833
Misc-Contingency	90,000	52,500	19,399	33,101
Office Supplies	2,500	1,458	4,319	(2,861)
Dues, Licenses, Subscriptions	9,000	5,250	2,174	3,076
Cap Outlay - Office Computers	20,000	11,667	-	11,667
Cap Outlay - Software	120,000	70,000	11,025	58,975
Total Administration	1,608,976	940,944	1,111,064	(170,120)

Statement of Revenues, Expenditures and Changes in Fund Balances

For the Period Ending April 30, 2018

ACCOUNT DESCRIPTION	AMENDED BUDGET	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	VARIANCE (\$) FAV(UNFAV)
<u>Other Public Safety</u>				
Contracts-Sheriff	275,000	160,417	16,727	143,690
Total Other Public Safety	<u>275,000</u>	<u>160,417</u>	<u>16,727</u>	<u>143,690</u>
TOTAL EXPENDITURES	1,883,976	1,101,361	1,127,791	(26,430)
Excess (deficiency) of revenues				
Over (under) expenditures	-	184,459	187,418	2,959
Net change in fund balance	\$ -	\$ 184,459	\$ 187,418	\$ 2,959
FUND BALANCE, BEGINNING (OCT 1, 2017)	388,807	388,807	388,807	
FUND BALANCE, ENDING	<u>\$ 388,807</u>	<u>\$ 573,266</u>	<u>\$ 576,225</u>	

Statement of Revenues, Expenditures and Changes in Fund Balances

For the Period Ending April 30, 2018

ACCOUNT DESCRIPTION	AMENDED BUDGET	YEAR TO DATE BUDGET	YEAR TO DATE ACTUAL	VARIANCE (\$) FAV(UNFAV)
REVENUES				
Interest - Investments	\$ -	\$ -	\$ 1,083	\$ 1,083
Developer Contribution	316,500	316,500	316,500	-
TOTAL REVENUES	316,500	316,500	317,583	1,083
EXPENDITURES				
Administration				
Misc-Admin Fee (%)	22,155	12,924	-	12,924
Assistance Program	294,345	171,701	-	171,701
Total Administration	316,500	184,625	-	184,625
TOTAL EXPENDITURES	316,500	184,625	-	184,625
Excess (deficiency) of revenues Over (under) expenditures	-	131,875	317,583	185,708
Net change in fund balance	\$ -	\$ 131,875	\$ 317,583	\$ 185,708
FUND BALANCE, BEGINNING (OCT 1, 2017)	-	-	-	
FUND BALANCE, ENDING	\$ -	\$ 131,875	\$ 317,583	

City of Westlake

Supporting Schedules

April 30, 2018

Cash and Investment Report

April 30, 2018

GENERAL FUND

<u>Account Name</u>	<u>Bank Name</u>	<u>Investment Type</u>	<u>Maturity</u>	<u>Yield</u>	<u>Balance</u>
Checking Account - Operating	BankUnited	Checking Account	n/a	n/a	\$744,830
Money Market	BankUnited	MMA	n/a	1.00%	\$86,917
				Subtotal	<u>\$831,747</u>

SPECIAL REVENUE FUND

Money Market	BankUnited	MMA	n/a	1.00%	\$317,583
				Subtotal	<u>\$317,256</u>
				Total	<u><u>\$1,149,004</u></u>

City of Westlake

Bank Reconciliation

Bank Account No. 0300 Bank United - GF
 Statement No. 04-18B
 Statement Date 4/30/2018

G/L Balance (LCY)	744,829.65	Statement Balance	748,227.93
G/L Balance	744,829.65	Outstanding Deposits	1,825.48
Positive Adjustments	0.00		
	<hr/>		
Subtotal	744,829.65	Subtotal	750,053.41
Negative Adjustments	0.00	Outstanding Checks	5,223.76
	<hr/>	Differences	0.00
Ending G/L Balance	744,829.65	Ending Balance	744,829.65
Difference	0.00		

Posting Date	Document Type	Document No.	Description	Amount	Cleared Amount	Difference	
Outstanding Checks							
4/23/2018	Payment	7444	FARNER BARLEY AND ASSOCIATES INC	1,500.00	0.00	1,500.00	
4/26/2018	Payment	7445	CMG-PB REMITTANCE ADDRESS	185.76	0.00	185.76	
4/26/2018	Payment	7446	OLIN WAYNE COMPANIES, INC.	25.00	0.00	25.00	
4/30/2018	Payment	7447	MARK L. DUBOIS	975.00	0.00	975.00	
4/30/2018	Payment	7448	FARNER BARLEY AND ASSOCIATES INC	1,528.00	0.00	1,528.00	
4/30/2018	Payment	7449	BERWIN, INC.	1,010.00	0.00	1,010.00	
Total Outstanding Checks.....				5,223.76		5,223.76	
Outstanding Deposits							
4/30/2018		CREDIT CAR	PERMITS-MINTO	G/L Ac	1,825.48	0.00	1,825.48
Total Outstanding Deposits.....				1,825.48		1,825.48	

City of Westlake

Check register

April 1 - 30, 2018

CITY OF WESTLAKE

**Payment Register by Fund
For the Period from 4/1/2018 to 4/30/2018
(Sorted by Check / ACH No.)**

Fund No.	Check / ACH No.	Date	Payee	Invoice No.	Payment Description	Invoice / GL Description	G/L Account #	Amount Paid
GENERAL FUND - 001								
001	7428	04/03/18	T-MOBILE USA, INC.	63851-032118	SERVICE THRU 3/21/18	Communication - Telephone	541003-51301	\$220.49
001	7429	04/03/18	NZ CONSULTANTS, INC.	WES-17	SERVICES FOR 2/1/18-2/28/18	ProfServ-Planning/Zoning Board	531032-51501	\$24,275.00
001	7430	04/03/18	CMG-PB REMITTANCE ADDRESS	100327799-03162018	ADVERTISE-RESOLUTION 2018-7	Legal Advertising	548002-51301	\$700.00
001	7430	04/03/18	CMG-PB REMITTANCE ADDRESS	100327809-03162018	NOTICE OF PUBLIC HEARING 3/16/	Legal Advertising	548002-51301	\$700.00
001	7430	04/03/18	CMG-PB REMITTANCE ADDRESS	100327805-03162018	NOTICE OF PUBLIC HEARING 3/16	Legal Advertising	548002-51301	\$700.00
001	7430	04/03/18	CMG-PB REMITTANCE ADDRESS	100319937-03162018	NOTICE OF MEETING 3/16	Legal Advertising	548002-51301	\$123.84
001	7430	04/03/18	CMG-PB REMITTANCE ADDRESS	100327799-03162018	NOTICE OF PUBLIC HEARING 3/16/	Legal Advertising	548002-51301	\$700.00
001	7431	04/03/18	OFFICE DEPOT	118201020001	TAB PLASTIC	Office Supplies	551002-51301	\$6.69
001	7431	04/03/18	OFFICE DEPOT	118201179001	TAB FOLDER HANGING	Office Supplies	551002-51301	\$6.69
001	7431	04/03/18	OFFICE DEPOT	118201180001	SCALE 10LB, DIG. POSTAL	Office Supplies	551002-51301	\$34.19
001	7431	04/03/18	OFFICE DEPOT	118201181001	8 GB FLASH DRIVE USB	Office Supplies	551002-51301	\$36.34
001	7432	04/03/18	FED EX	6-130-64039	03/21/18-FDOT SHIPPING	Postage and Freight	541006-51301	\$35.57
001	7434	04/18/18	DAKIM, INC	110729	BUSINESS CARDS	Office Supplies	551002-51301	\$289.50
001	7435	04/18/18	INFRAMARK, LLC	29507	MANAGEMENT FEE-APRIL 2018	Management Services	531093-51301	\$31,196.83
001	7435	04/18/18	INFRAMARK, LLC	29507	MANAGEMENT FEE-APRIL 2018	Postage and Freight	541006-51301	\$8.46
001	7435	04/18/18	INFRAMARK, LLC	29507	MANAGEMENT FEE-APRIL 2018	WEB	531094-51301	\$366.67
001	7435	04/18/18	INFRAMARK, LLC	29507	MANAGEMENT FEE-APRIL 2018	Office Supplies	551002-51301	\$14.20
001	7436	04/18/18	CMG-PB REMITTANCE ADDRESS	100334887-03302018	3/30/18 PUBLIC NOTICE	Legal Advertising	548002-51301	\$700.00
001	7437	04/18/18	OFFICE DEPOT	120748709001	ENVELOPE,POCKET,TABS,BATTERY	Office Supplies	551002-51301	\$172.34
001	7437	04/18/18	OFFICE DEPOT	120748935001	CD/DVD WRITER	Office Supplies	551002-51301	\$35.19
001	7437	04/18/18	OFFICE DEPOT	123166104001	TAPE	Office Supplies	551002-51301	\$59.99
001	7437	04/18/18	OFFICE DEPOT	123166103001	MARKER,PEN	Office Supplies	551002-51301	\$37.47
001	7437	04/18/18	OFFICE DEPOT	123165896001	PEN,TABBING,TAPE,BOOK ENDS	Office Supplies	551002-51301	\$81.06
001	7438	04/18/18	PBC SHERIFF'S OFFICE	59632	OFF DUTY - 3/1/18 - 3/31/18	Contracts-Sheriff	534100-52901	\$3,404.00
001	7439	04/18/18	PBC FINANCE DEPARTMENT	033118-IMPACT	IMPACT FEES-MARCH 2018	Other Current Liabilities	229000	\$77,508.59
001	7440	04/18/18	MARK L. DUBOIS	18170	SERVICES 3/12/18-3/22/18	Management Services	531093-51301	\$900.00
001	7441	04/19/18	LAW OFFICES OF PAM E. BOOKER, ESQ	122	LEGAL SERVICE-APRIL 2018	ProfServ-Legal Services	531023-51401	\$24,282.25
001	7442	04/19/18	OFFICE DEPOT	125646975001	FOLDERS	Office Supplies	551002-51301	\$12.88
001	7442	04/19/18	OFFICE DEPOT	125646973001	FILE FOLDER	Office Supplies	551002-51301	\$23.99
001	7442	04/19/18	OFFICE DEPOT	125646974001	MISC OFFICE SUPPLIES	Office Supplies	551002-51301	\$41.27
001	7442	04/19/18	OFFICE DEPOT	125646651001	HANGING FOLDER	Office Supplies	551002-51301	\$32.99
001	7443	04/23/18	CARD SERVICES CENTER	CM022018	DOUBLE PAYMENT IN 2/18	Postage and Freight	541006-51301	(\$526.74)
001	7443	04/23/18	CARD SERVICES CENTER	0935-040918	PURCHASES FOR 3/21 THRU 4/4/18	PUBLIX	549001-51301	\$22.56
001	7443	04/23/18	CARD SERVICES CENTER	0935-040918	PURCHASES FOR 3/21 THRU 4/4/18	INLETGROVE	531094-51301	\$150.00
001	7443	04/23/18	CARD SERVICES CENTER	0935-040918	PURCHASES FOR 3/21 THRU 4/4/18	YWCA PALM BEACH	549900-51301	\$1,300.00
001	7443	04/23/18	CARD SERVICES CENTER	0935-040918	PURCHASES FOR 3/21 THRU 4/4/18	YWCA PALM BEACH	549900-51301	(\$650.00)
001	7443	04/23/18	CARD SERVICES CENTER	0935-040918	PURCHASES FOR 3/21 THRU 4/4/18	AMAZON PRIME	549900-51301	\$13.24

CITY OF WESTLAKE

**Payment Register by Fund
For the Period from 4/1/2018 to 4/30/2018
(Sorted by Check / ACH No.)**


Fund No.	Check / ACH No.	Date	Payee	Invoice No.	Payment Description	Invoice / GL Description	G/L Account #	Amount Paid
001	7443	04/23/18	CARD SERVICES CENTER	0935-040918	PURCHASES FOR 3/21 THRU 4/4/18	PUBLIX	549900-51301	\$3.99
001	7443	04/23/18	CARD SERVICES CENTER	0935-040918	PURCHASES FOR 3/21 THRU 4/4/18	PUBLIX	549900-51301	\$5.35
001	7443	04/23/18	CARD SERVICES CENTER	0935-040918	PURCHASES FOR 3/21 THRU 4/4/18	PIZZA BARN	549900-51301	\$58.29
001	7443	04/23/18	CARD SERVICES CENTER	0935-040918	PURCHASES FOR 3/21 THRU 4/4/18	PUBLIX	549900-51301	\$7.98
001	7443	04/23/18	CARD SERVICES CENTER	0935-040918	PURCHASES FOR 3/21 THRU 4/4/18	TEST	549900-51301	\$0.01
001	7444	04/23/18	FARNER BARLEY AND ASSOCIATES INC	0110648	ENGINEERING 4/11-4/24/18	ProfServ-Engineering	531013-51501	\$1,500.00
001	7445	04/26/18	CMG-PB REMITTANCE ADDRESS	35857-041318	NOTICE OF MEETING 4/12/18	Legal Advertising	548002-51301	\$185.76
001	7446	04/26/18	OLIN WAYNE COMPANIES, INC.	041718	REFUND OVERPAYMENT CONTACTOR R	Building Permits	322000	\$25.00
001	7447	04/30/18	MARK L. DUBOIS	18174	SERVICE THRU 4/23/18	Management Services	531093-51301	\$975.00
001	7448	04/30/18	FARNER BARLEY AND ASSOCIATES INC	0110813	PROFESSIONAL SERVICE 3/28-4/10	ProfServ-Engineering	531013-51501	\$1,528.00
001	7449	04/30/18	BERWIN, INC.	637613	AIR GRID BACK AND MESH SEAT	Miscellaneous Services	549001-51301	\$1,010.00
001	DD121	04/24/18	FBC'S BUILDING CODE	2018-3RD QTR-ACH	Q3 FY2018 ENDING 3/31/18	Building Permits	322000	\$59.05
001	7433	04/09/18	PHILLIP D EVERETT	PAYROLL	April 09, 2018 Payroll Posting			\$2,909.27
001	DD117	04/09/18	KARA S. CRUMP	PAYROLL	April 09, 2018 Payroll Posting			\$2,784.77
001	DD118	04/09/18	KATRINA L. LONG	PAYROLL	April 09, 2018 Payroll Posting			\$2,784.77
001	DD119	04/09/18	ROGER B MANNING	PAYROLL	April 09, 2018 Payroll Posting			\$2,826.27
001	DD120	04/09/18	JOHN A. STANAVITCH	PAYROLL	April 09, 2018 Payroll Posting			\$2,867.77
Fund Total								\$186,546.83

Total Checks Paid	\$186,546.83
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Seventh Order of Business

MEMORANDUM

To: Mayor Roger Manning
City Council Members

From: Pam E. Booker, City Attorney 
Ken Cassel, City Manager

Date: May 30, 2018

Subject: Interlocal Agreement with Palm Beach County
Maintenance and Transfer of Persimmon Boulevard

Attached please find an interlocal agreement between Palm Beach County and the City of Westlake, for the transfer of ownership, operation and maintenance of Persimmon Boulevard. Florida Statutes, Chapter 163, provide for governmental agencies to enter into interlocal agreements for the health, safety, and welfare of the residents where it is in the best interest of both parties. Minto PBLH, LLC conveyed a portion of an 80 ft wide right of way for Persimmon Boulevard to the County as part of their development order R2014-1646. Within 90 days of the City's acceptance of Persimmon Boulevard for ownership and maintenance purposes, the County shall convey its' ownership of Persimmon Boulevard to the City of Westlake. The City is agreeing to maintain Persimmon Boulevard from Seminole Pratt Whitney road to 140th street north, as a public right of way in perpetuity. Additionally, the City is agreeing not to modify the access at the Grove Market shopping center unless it's necessary for the health, safety or welfare of the City of Westlake.

The interlocal agreement has been reviewed and approved by the City Manager, the City Attorney, the engineering division and the legal department for Palm Beach County. We would recommend approval of the interlocal agreement. Should you have any questions, please do not hesitate to contact me at (772) 971-8676.

INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY AND THE CITY OF WESTLAKE FOR THE TRANSFER OF OWNERSHIP AND OPERATION AND MAINTENANCE OF PERSIMMON BOULEVARD

THIS INTERLOCAL AGREEMENT is made and entered into this _____ day of June, 2018, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, by and through its Board of County Commissioners, (“County”) and the **CITY OF WESTLAKE**, a Florida municipal corporation, whose address is 4001 Seminole Pratt Whitney Road, Westlake, Florida 33470, its successors, agents, and assigns (“Westlake”) individually (“Party”) and collectively (“Parties”).

WITNESSETH:

WHEREAS, on or about October 2014, Palm Beach County Development Order R-2014-1646 (“Development Order”) was issued to Minto PBLH, LLC (“Developer”); and

WHEREAS, pursuant to the Development Order, the Developer is to provide to the County, an 80-foot wide road right-of-way for Persimmon Boulevard, from Seminole Pratt Whitney Road to 140th Ave. North free and clear of all encumbrances (“Persimmon Condition”); and

WHEREAS, in compliance with the Development Order, the Developer has conveyed a portion of the Persimmon Boulevard right-of-way to the County, as recorded in the Official Public Records at ORB 28479, page 0822; and

WHEREAS, the County owns certain portions of Persimmon Boulevard right-of-way, as recorded in the Official Public Records at ORB 28479, page 0822, and ORB 10202, page 430 (collectively “County Rights-of-Way”); and

WHEREAS, on or about June 20, 2016, the Developer incorporated Westlake; and

WHEREAS, Westlake agrees to comply with the Persimmon Condition as provided in this Agreement; and

WHEREAS, Westlake has undertaken widening improvements to Persimmon Boulevard from Seminole Pratt Whitney Road to approximately 1400 feet east of Seminole Pratt Whitney Road (“Project”); and

WHEREAS, the Project includes improvements within the County Rights-of-Way; and

WHEREAS, Westlake has requested and County has agreed that within ninety (90) days of completion of the Project, County will transfer ownership and maintenance responsibilities for the County Rights-of-Way to Westlake; and

NOW THEREFORE, in consideration of the mutual covenants, promises, and agreements herein contained, County and Westlake agree as follows:

1. The above recitals are true, correct, and incorporated herein.
2. **PERSIMMON BOULEVARD**
 - a. Westlake shall notify the County within ten (10) days of Westlake's final acceptance of the Project.
 - b. Within ninety (90) days of Westlake's final acceptance of the Project, County agrees to convey the County's interest, and all operation and maintenance responsibilities in the County Rights-of-Way to Westlake, excluding expanded corners at the intersection of Seminole Pratt Whitney Road, as shown in Exhibit "A." All right-of-way deeds for the County Rights-of-Way shall be in a form approved by the County Attorney.
 - c. As warranted by traffic analysis and at the direction of the County Engineer, Westlake shall design and construct improvements to Persimmon Boulevard from 1400 feet east of Seminole Pratt Whitney Road to 140th Avenue North ("Persimmon Improvements").
 - d. Westlake shall design and construct the Persimmon Improvements in accordance with the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, commonly known as the Florida Greenbook, as amended, including but not limited to, the requirement that Persimmon Improvements shall (1) include sufficient road drainage and a landscaped median; and (2) be designed and constructed as a five-lane roadway, with a center bi-directional left turn lane, and right turn lanes.
 - e. Westlake shall ensure that Persimmon Boulevard, from Seminole Pratt Whitney Road to 140th Street North, and any part thereof ("The Boulevard"), be maintained as a public road right-of-way and remain open to the public at all times in perpetuity.

- f. Westlake agrees to not interfere with or seek to modify or alter the location of the existing driveway on Persimmon Boulevard at the Grove Market Shopping Center (“Center”), as shown in Exhibit B, attached hereto and incorporated herein, unless such modification of the driveway location is necessary for public health, safety, or welfare.
- g. In addition to Westlake’s operation and maintenance responsibilities, as provided in Paragraph 2.b. above, Westlake shall have operation and maintenance responsibilities for The Boulevard within the municipal boundaries of Westlake.
- 3. Notice. All notices required to be given under this Agreement shall be in writing, and deemed sufficient to each party when sent by United States Mail, return receipt requested, postage paid to the following:

As to the County

Engineering and Public Works Department
Tanya N. McConnell, P.E.
Deputy County Engineer
P.O. Box 21229
West Palm Beach, FL 33416-1229

With copy to: Palm Beach County Attorney’s Office
Yelizaveta B. Herman, Assistant County Attorney
301 N. Olive Ave, Suite 601
West Palm Beach, FL, 33401

As to the Westlake

City of Westlake
Ken Cassel, City Manager
4001 Seminole Pratt Whitney Road
Westlake, FL 33470

With a Copy to City Attorney

City of Westlake
Pam E. Booker, City Attorney
4001 Seminole Pratt Whitney Road
Westlake, FL 33470

4. Indemnification. Westlake shall protect, defend, reimburse, indemnify and hold County, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this Agreement or due to the acts or omissions of Westlake, to the extent permitted by law. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28.
5. Legal Fees. The Parties shall bear their own costs or expenses, including reasonable attorney's fees, associated with the enforcement of the terms and conditions of this Agreement.
6. Amendments. Except as expressly permitted herein to the contrary, no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless agreed to by the Parties in writing and executed in the same manner, as was this Agreement.
7. Venue. This Agreement shall be construed and governed by the laws of the State of Florida. Venue for any and all legal action necessary to enforce this Agreement shall be held in Palm Beach County. No remedy conferred upon either Party by this Agreement is intended to be exclusive of any other remedy existing at law, in equity or otherwise. No single or partial exercise by either Party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.
8. Preparation. Preparation of this Agreement was a joint effort of the Parties and should not be construed more severely against one Party than the other.
9. Non-Discrimination. The Parties agree that no person shall be excluded on the grounds of race, color, sex, age, national origin, disability, religion, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information from the benefits of or be subjected to any form of discrimination under any activity carried out by the performance of this Agreement.
10. Severability. In the event any provision hereof is held invalid by a court of competent jurisdiction, the remaining portions of the Agreement shall remain in full force and effect.

11. Entire Understanding. This Agreement represents the entire understanding of the Parties and supersedes all other negotiations, representations or agreements, written or oral, relating to this Agreement.
12. Inspector General. The County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Parties, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor provided such Local Government is a special district that has previously and by separate written instrument agreed to be subject to said Inspector General's authority or is a municipality.
13. Records. The County and Westlake shall maintain books, records, and documents to justify all charges, expenses and costs incurred or paid by them under this Agreement in performance of the term of this Agreement, in accordance with Generally Accepted Accounting Principles (GAAP), as promulgated by the Government Finance Officers Association from time to time. The County and Westlake shall have access to all books, records, and documents as required in this Agreement, and for at least three (3) years after completion of the Persimmon Improvements.
14. Contractual Relationship. County and Westlake are and shall be, in the performance of all work, services and activities under this Agreement independent contractors and not employees, agents or servants of the other Party. All County employees engaged in the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to County's sole direction, supervision, and control. All Westlake employees engaged in the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to Westlake's sole direction, supervision, and control. The Parties shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Parties' relationship and the relationship of its

employees to the other Party shall be that of an independent contractor and not as employees or agents of the other. The County and Westlake do not have the power or authority to bind each other in any promise, agreement or representation without the prior written consent of the other Party.

15. Waiver. Any waiver by either Party of its rights with respect to a default under this Agreement, or with respect to any other matters arising in connection with this Agreement, shall not be deemed a waiver with respect to any subsequent default or other matter. The failure of either Party to enforce strict performance by the other Party of any of the provisions of this Agreement or to exercise any rights under this Agreement shall not be construed as a waiver or relinquishment to any extent of such Party's right to assert or rely upon any such provisions or rights in that or any other instance.
16. Legal Compliance. County and Westlake shall abide by all applicable federal, State and local laws, orders, rules, codes, and regulations when performing under this Agreement. County and Westlake further agree to the inclusion of this provision in all subcontracts issued as a result of this Agreement.
17. Convicted Vendor List. As provided in Sections 287.132-133, Florida Statutes, as may be amended from time to time, by entering into this Agreement or performing any work in furtherance hereof, County shall have its contractor certify that their affiliates, suppliers and sub-consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within thirty-six (36) months immediately preceding the date hereof.
18. No Third Party Beneficiary. This Agreement is not intended to, nor shall be construed to create a third party beneficiary.
19. Survivability. The obligations, rights, and remedies of the Parties hereunder, which by their nature are intended to survive the termination of this Agreement or the completion of the Project, shall survive such termination or Project completion and inure to the benefit of the Parties.
20. Effective Date. This Agreement shall be effective and binding upon the Parties hereto once the Agreement has been signed by both Parties and filed with the Clerk of the Court in and for Palm Beach County, Florida.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year first written above.

ATTEST:

CITY OF WESTLAKE

Sandra DeMarco, City Clerk

By: _____
Roger Manning, MAYOR

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Pam E. Booker, City Attorney

**PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY
COMMISSIONERS**

APPROVED AS TO TERMS
AND CONDITIONS:

By: Mayor Melissa McKinlay

By: _____
Division Director

ATTEST:
SHARON R. BOCK,
CLERK & COMPTROLLER

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

CLERK



Assistant County Attorney

DESCRIPTION: A PARCEL OF LAND LYING IN SECTIONS 1 AND 12, TOWNSHIP 43 SOUTH, RANGE 40 EAST, PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 43 SOUTH, RANGE 40 EAST; THENCE S.01°33'05"W. ALONG THE EAST LINE OF SAID SECTION 1, A DISTANCE OF 250.33 FEET TO A POINT ON THE NORTH LINE OF THE 80 FOOT M-CANAL EASEMENT AS RECORDED IN DEED BOOK 1156, PAGE 58 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND AS SHOWN IN ROAD PLAT BOOK 6, PAGE 136 OF SAID RECORDS, AND AS MONUMENTED; THENCE S.88°36'57"W. ALONG SAID NORTH LINE OF THE 80 FOOT M-CANAL EASEMENT, A DISTANCE OF 3776.52 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF SEMINOLE PRATT WHITNEY ROAD AS RECORDED IN OFFICIAL RECORD BOOK 1544, PAGE 378 AND OFFICIAL RECORD BOOK 1640, PAGE 1626 BOTH OF SAID PUBLIC RECORDS; THENCE S.01°42'52"W. ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 3541.19 FEET; THENCE S.88°17'08"E. ALONG THE WESTERLY EXTENSION OF THE NORTH LINE OF THAT GROVE MARKET PLAT, AS RECORDED IN PLAT BOOK 82, PAGE 67 OF SAID PUBLIC RECORDS, A DISTANCE OF 10.00 FEET TO THE NORTHWEST CORNER OF SAID GROVE MARKET PLAT; THENCE S.01°42'52"W., ALONG THE WEST LINE OF SAID PLAT AND ALONG A LINE 10.00 FEET EAST OF AND PARALLEL TO THE EAST RIGHT OF WAY LINE OF SEMINOLE PRATT WHITNEY ROAD, A DISTANCE OF 663.00 FEET TO A POINT ON THE NORTHERLY CORNER OF THAT ADDITIONAL RIGHT OF WAY OF PERSIMMON BOULEVARD, AS RECORDED IN OFFICIAL RECORDS BOOK 10202, PAGE 430 OF SAID PUBLIC RECORDS AND THE **POINT OF BEGINNING**; THENCE S.43°17'22"E., ALONG SAID NORTH ADDITIONAL RIGHT OF WAY LINE, A DISTANCE OF 113.13 FEET; THENCE S.88°17'08"E., ALONG SAID NORTH ADDITIONAL RIGHT OF WAY, A DISTANCE OF 556.56 FEET TO THE SOUTHEAST CORNER OF SAID GROVE MARKET PLAT; THENCE S.01°42'52"W., ALONG THE EAST BOUNDARY LINE OF SAID ADDITIONAL RIGHT OF WAY, A DISTANCE OF 80.00 FEET TO THE NORTHEAST CORNER OF THAT SEMINOLE-PRATT WHITNEY ROAD RIGHT OF WAY PARCEL 103, AS RECORDED ON OFFICIAL RECORDS BOOK 28479, PAGE 822 OF SAID PUBLIC RECORDS; THENCE S.01°42'52"W, ALONG THE EAST LINE OF SAID SEMINOLE-PRATT WHITNEY ROAD RIGHT OF WAY PARCEL 103, A DISTANCE OF 77.00 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL 103; THENCE CONTINUE ALONG SAID SOUTH LINE FOR THE FOLLOWING FOUR (4) COURSES: 1) N.88°17'08"W, A DISTANCE OF 374.82 FEET; 2) THENCE N.75°43'50"W, DISTANCE OF 50.60 FEET; 3) THENCE N.88°17'08"W, A DISTANCE OF 172.34 FEET; 4) THENCE S.46°42'52"W, A DISTANCE OF 56.57 FEET; THENCE N.01°42'52"E., ALONG A LINE 10.00 FEET EAST OF AND PARALLEL TO THE EAST RIGHT OF WAY LINE OF SEMINOLE PRATT WHITNEY ROAD, A DISTANCE OF 265.99 FEET TO NORTHERLY CORNER OF THAT ADDITIONAL RIGHT OF WAY OF PERSIMMON BOULEVARD AND THE **POINT OF BEGINNING**.

CONTAINING: 2.326 ACRES, OR 101,332 SQUARE FEET, MORE OR LESS.

**PERSIMMON BOULEVARD
LEGAL DESCRIPTION AND SKETCH**

REVISIONS				Prepared For	
No.	Date	Description	Dwn.		
1	08/13/15	COUNTY COMMENTS	KKM	 <p>Surveyor's Certificate No. 4828 This certifies that a sketch and description of the hereon described property was made under my supervision and meets the Standards of Practice set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.01, Florida Statute.</p> <p>Gary A. Bae FLORIDA PROFESSIONAL SURVEYOR & MAPPER No. LS4828</p> <p>NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER</p>	
2	09/02/15	REVISE BOUNDARY	KKM		
3	11/04/15	STATIONS AND OFFSETS	KKM		
4	06/24/18	COUNTY COMMENTS	KKM		
5	12/12/16	Sketch & Desc Add'l R/W & Par-103	SWM		
6	01/03/17	Revise Sketch & Desc Add'l R/W & Par-103	SWM		
				 <p>GeoPoint Surveying, Inc.</p> <p>4152 W. Blue Heron Blvd. Phone: (561) 444-2720 Suite 105 www.geopointsurvey.com Riviera Beach, FL 33404 Licensed Business Number LB 7768</p> <p>Drawn: SWM Date: 01/03/17 Data File: Check: GAR P.C.: Field Book: Section: 1 & 12 Twn. 43S Rng. 40E Job #: FBA-SF-005</p>	
Sheet No. 1 of 4 Sheets					

ALL DISTANCES ARE GROUND
 SCALE FACTOR: 1.0000
 ROTATION ANGLE = 0°
 COORDINATES SHOWN ARE GRID
 DATUM: NAD83-2007 ADJUSTMENT
 ZONE: FLORIDA EAST
 LINEAR UNIT: US SURVEY FEET
 COORDINATE SYSTEM: 1983 STATE PLANE
 TRANSVERSE MERCATOR PROJECTION
 GROUND DISTANCE X SCALE FACTOR =
 GRID
 BASIS OF BEARINGS: EAST LINE OF
 SECTION 1, TOWNSHIP 43S, RANGE 40E.
 (S01°33'05"W)

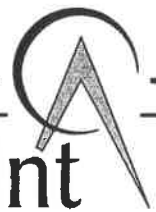
NOTES:

1. THE GRID BEARINGS AND COORDINATES, AS SHOWN HEREON, REFER TO THE STATE PLANE COORDINATE SYSTEM, NORTH AMERICAN DATUM OF 1983 - 2007 ADJUSTMENT (NAD 83/07) FOR THE EAST ZONE OF FLORIDA AND REFERENCE THE NORTH AMERICAN DATUM OF 1983 - 1990 ADJUSTMENT (NAD 83/90).
2. STATIONS AND OFFSETS ARE FROM THE BASELINE OF SURVEY OF THE RIGHT OF WAY PROCUREMENT MAP FOR PALM BEACH COUNTY PROJECT No. 1997511C AND REFERENCE ROAD BOOK 4, PAGES 34-40.
3. THE BEARINGS AND DISTANCES FROM SECTIONAL MONUMENTATION ARE BASED ON CALCULATIONS, MEASUREMENTS, AND POSITIONS OF SAID SECTION CORNERS AS DETERMINED BY GEOPOINT SURVEYING, INC.
4. ALL EASEMENTS AND ENCUMBRANCES FROM CURRENT TITLE SEARCH HAVE BEEN REFLECTED HERON.

LEGEND

- R/W ----- Right of Way
- O.R. ----- Official Records Book
- D.B. ----- Deed Book
- P.B. ----- Plat Book
- R.P.B. ----- Road Plat Book
- Pg(s). ----- Page(s)
- F.D.O.T. ----- Florida Department of Transportation
- S.F.W.M.D. ----- South Florida Water Management District
- FIR ----- Found Iron Rod
- CCR ----- Certified Corner Record
- F.D.E.P. ----- Florida Department of Environmental Protection
- BL ----- Baseline
- LB ----- Licensed Business
- SID ----- Seminole Improvement District Easement
- SWCD ----- Seminole Water Control District Ingress/Egress Easement
- PBCo. ----- Palm Beach County
- (83/90) ----- North American Datum of 1983
 1990 Adjustment (PBCo. PUBLISHED COORDINATES)
- (83/07) ----- North American Datum of 1983
 2007 Adjustment (MEASURED COORDINATES BY GEOPOINT)

**PERSIMMON BOULEVARD
 LEGAL DESCRIPTION AND SKETCH**



REVISIONS			
No.	Date	Description	Dwn.
1	08/13/15	COUNTY COMMENTS	KKM
2	08/02/15	REVISE BOUNDARY	KKM
3	11/04/15	STATIONS AND OFFSETS	KKM
4	06/24/16	COUNTY COMMENTS	KKM
5	12/12/16	Sketch & Desc Add'l R/W & Par-103	SWM
6	01/03/17	Revise Sketch & Desc Add'l R/W & Par-103	SWM

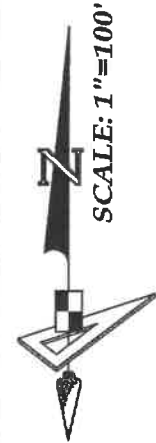
Prepared For: MINTO

GeoPoint
 Surveying, Inc.

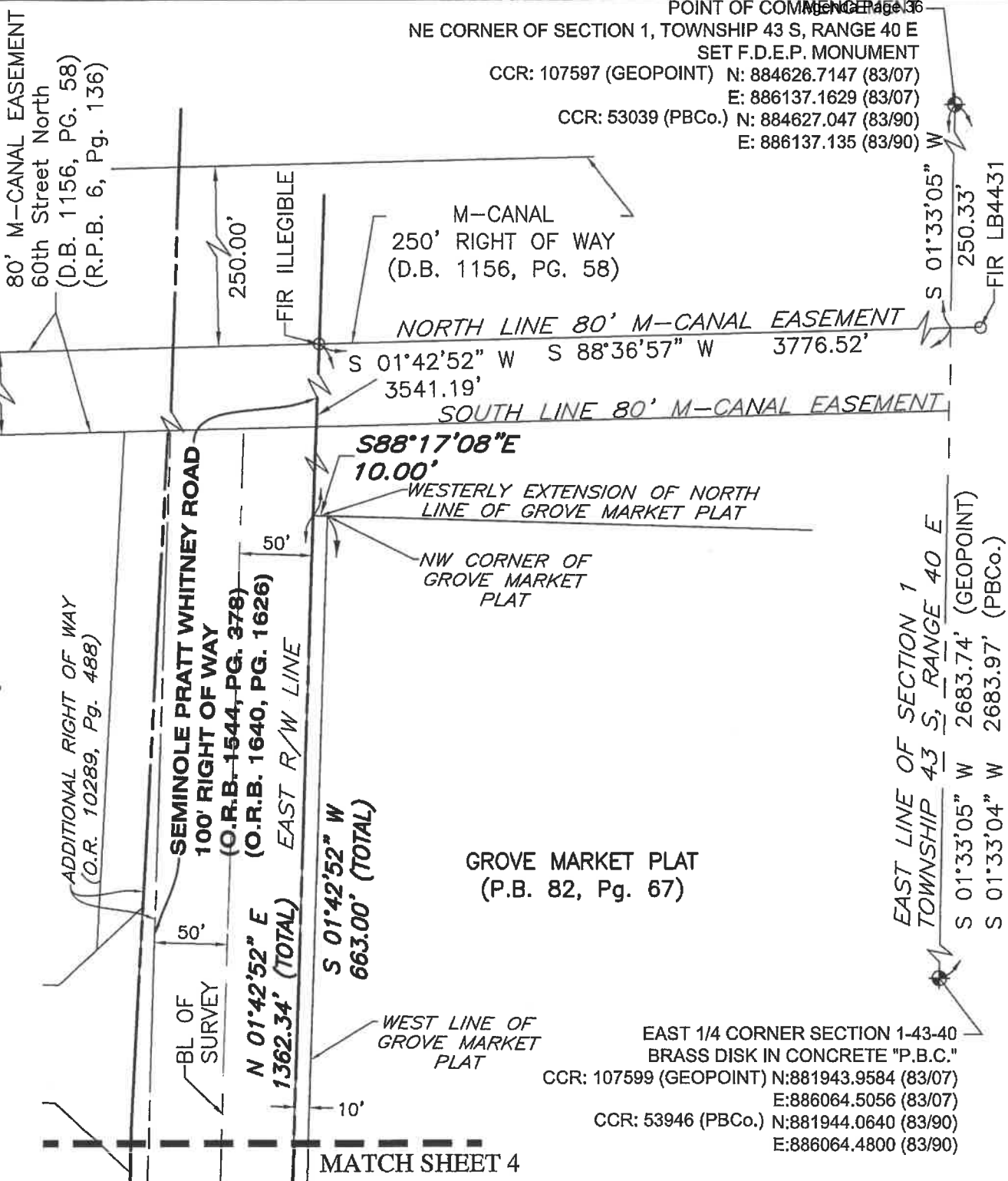
4152 W. Blue Heron Blvd. Phone: (561) 444-2720
 Suite 105 www.geopointsurvey.com
 Riviera Beach, FL 33404 Licensed Business Number LB 7768

Drawn:SWM Date:01/03/17 Data File:
 Check:GAR P.C.: Field Book:
 Section: 1 & 12 Twn. 43S Rng. 40E Job #:FBA-SP-005

NE CORNER OF SECTION 1, TOWNSHIP 43 S, RANGE 40 E
 SET F.D.E.P. MONUMENT
 CCR: 107597 (GEOPOINT) N: 884626.7147 (83/07)
 E: 886137.1629 (83/07)
 CCR: 53039 (PBCo.) N: 884627.047 (83/90)
 E: 886137.135 (83/90)



SCALE: 1" = 100'



**PERSIMMON BOULEVARD
 LEGAL DESCRIPTION AND SKETCH**

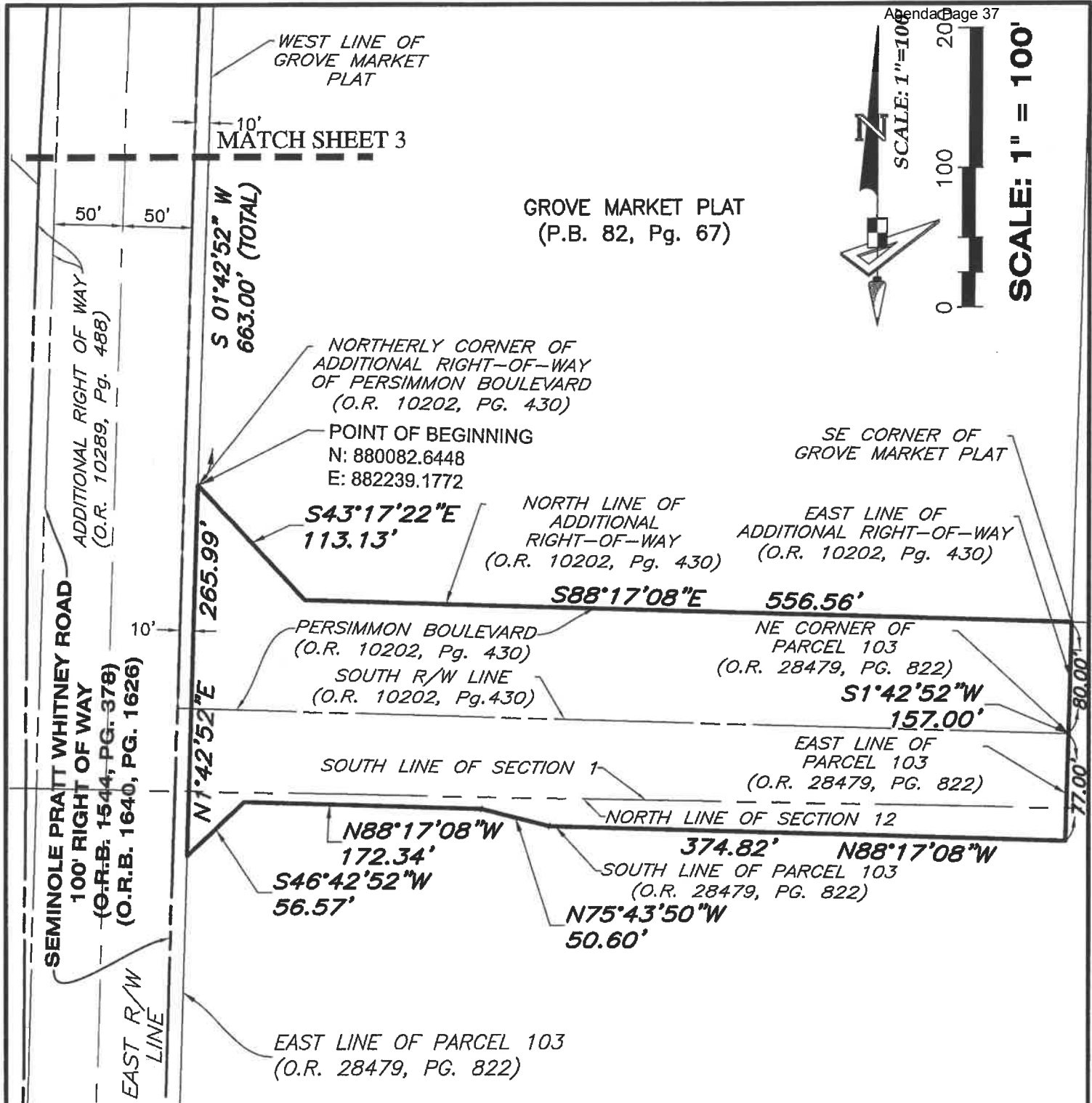
REVISIONS			
No.	Date	Description	Dwn.
1	08/13/15	COUNTY COMMENTS	KKM
2	08/02/15	REVISE BOUNDARY	KKM
3	11/04/15	STATIONS AND OFFSETS	KKM
4	06/24/18	COUNTY COMMENTS	KKM
5	12/12/16	Sketch & Desc Add'l R/W & Par-103	SWM
6	01/03/17	Revise Sketch & Desc Add'l R/W & Par-103	SWM

Prepared For: MINTO



4152 W. Blue Heron Blvd. Phone: (561) 444-2720
 Suite 105 www.geopointsurvey.com
 Riviera Beach, FL 33404 Licensed Business Number LB 7768

Drawn: SWM	Date: 01/03/17	Data File:
Check: GAR	P.C.:	Field Book:
Section: 1 & 12 Twn. 43S Rng. 40E		Job #: FBA-SP-005



**PERSIMMON BOULEVARD
LEGAL DESCRIPTION AND SKETCH**

REVISIONS			
No.	Date	Description	Dwn.
1	08/13/15	COUNTY COMMENTS	KKM
2	08/02/15	REVISE BOUNDARY	KKM
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6	12/12/18	Sketch & Desc Add'l R/W & Par-103	SWM
6	01/03/17	Revise Sketch & Desc Add'l R/W & Par-103	SWM

Prepared For: MINTO



4152 W. Blue Heron Blvd. Phone: (561) 444-2720
Suite 105 www.geopointsurvey.com
Riviera Beach, FL 33404 Licensed Business Number LB 7768

Drawn: SWM	Date: 01/03/17	Data File:
Check: GAR	P.C.:	Field Book:
Section: 1 & 12 Twn. 43S Rng. 40E		Job #: FBA-SP-005

Eighth Order of Business

MEMORANDUM

To: Mayor Roger Manning
City Council Members

From: Pam E. Booker, City Attorney 
Ken Cassel, City Manager

Date: May 30, 2018

Subject: Interlocal Agreement Palm Beach County Traffic Maintenance

Please find an interlocal agreement between Palm Beach County and the City of Westlake, for maintenance of traffic signals on Seminole Pratt Whitney road and Fire Station 22. Florida Statutes, Chapter 163, provide for governmental agencies to enter into interlocal agreements for the health, safety, and welfare of the residents where it is in the best interest of both parties. Florida Statutes, Chapter 316.006(2)(c), specifically authorizes a municipality to transfer traffic regulatory authority over areas within the municipality to the County. The County and the City via the interlocal agreement, agree that traffic maintenance responsibilities as set forth in Article II, shall be performed by the County. The City agrees to reimburse the County for the costs of maintenance responsibilities as set forth in Article II, within twenty-days receipt of an invoice from the County. The parties have agreed to paint the mast arms within the City limits black, instead of the County's green. The term of the agreement is for five years (May 31, 2018 – September 30, 2013), and is automatically renewed for another five-year term, unless terminated by either party within six (6) months of a renewal term. The agreement may be terminated within sixty (60) days if agreed to by both parties.

The interlocal agreement has been reviewed and approved by the City Manager, the City Attorney, the engineering division and the legal department for Palm Beach County. We would recommend approval of the interlocal agreement. Should you have any questions, please do not hesitate to contact me at (772) 971-8676.

INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY AND THE CITY OF WESTLAKE PROVIDING FOR TRAFFIC JURISDICTION FOR CERTAIN AREAS WITHIN THE MUNICIPAL LIMITS OF THE CITY OF WESTLAKE BY PALM BEACH COUNTY.

THIS AGREEMENT is entered into this ____ day of _____ 2018 by and between:

THE CITY OF WESTLAKE, a Florida municipal corporation organized and existing under the laws of the State of Florida, whose permanent address is 4001 Seminole Pratt Whitney Road, Westlake, Florida 33470 (“CITY”); and

PALM BEACH COUNTY, a political subdivision of the State of Florida, by and through its Board of County Commissioners (“COUNTY”). The CITY and COUNTY are collectively referred to as “PARTIES”.

WITNESSETH:

WHEREAS, the CITY was incorporated on June 20, 2016; and

WHEREAS, the health, safety, and welfare of the residents of both the CITY and COUNTY will be best served by COUNTY providing certain governmental services; and

WHEREAS, Section 316.006 (2)(C), Florida Statutes, provides the CITY may, by interlocal agreement with COUNTY, agree to transfer traffic regulatory authority over areas within the CITY to the COUNTY; and

WHEREAS, PARTIES agree to transfer traffic regulatory authority over Seminole Pratt Whitney Road, within municipal boundary of the CITY (“SEMINOLE PRATT”) to COUNTY; and

WHEREAS, PARTIES agree to transfer traffic regulatory authority over the traffic signal at Town Center Parkway South and Palm Beach County Fire Station No. 22 (“PBC FIRE STATION SIGNAL”) to COUNTY; and

WHEREAS, COUNTY is authorized to enter into this Agreement pursuant to Section 163.01, Florida Statutes; and

WHEREAS, this Agreement evidences the intentions of the respective PARTIES to cooperate with each other in furtherance of the public’s interest; and

WHEREAS, the CITY and COUNTY believe the public's interest will be best served by the PARTIES entering into this Agreement,

NOW THEREFORE, in consideration of the mutual obligations and undertakings described below, the PARTIES do hereby agree as follows:

ARTICLE I.

It is specifically understood and agreed that all rights and powers as may be vested in the CITY pursuant to Chapter 316 of the Florida Statutes or any other law or ordinance or Charter provision of the CITY and not specifically transferred to COUNTY hereunder shall be retained by the CITY. It is further understood and agreed that the CITY is not transferring any of its traffic enforcement functions, rights, and duties by the execution of this Agreement, and the CITY shall fully retain such traffic enforcement functions, rights and enforcement of the CITY traffic ordinances or state traffic statutes.

1. PURPOSE OF AGREEMENT

This Agreement is for the purpose of the CITY contracting with COUNTY to provide several public services for the CITY, more particularly set forth in Article II hereof.

2. LIABILITY

The PARTIES to the Agreement and their respective officers and employees shall not be deemed to assume any liability for the acts, omissions, and negligence of the other Party. Further, nothing herein shall be construed as a waiver of sovereign immunity by either Party, pursuant to Florida Statutes § 768.28.

3. INDEMNIFICATION

The CITY shall protect, defend, reimburse, indemnify and hold COUNTY, its agents, employees and elected officers, and each of them free and harmless at all times from and against any and all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this Agreement or due to the acts or omissions of CITY. The CITY's aforesaid indemnity and hold harmless agreement shall apply to the fullest extent permitted by law but in no event shall it apply to liability caused by the negligence or willful misconduct of COUNTY, its respective agents, servants, employees or officers, nor shall the liability limits set forth in Florida Statutes § 768.28 be waived.

4. **INSURANCE**

The CITY shall, during the term of this Agreement and any extensions hereof, maintain in full force and effect insurance, which specifically covers all exposures to the intent and responsibilities under this Agreement. Such insurance shall be with a company acceptable to COUNTY in a form consistent with COUNTY practice and in the same amount as the CITY'S liability insurance which shall not be less than the liability limits set forth in Florida Statutes § 768.28 as amended from time to time. Approval by COUNTY shall not be unreasonably withheld.

Policy (ies) shall be endorsed to show Palm Beach County, a political subdivision of the State of Florida, as an additional insured as its interests may appear; and shall also provide that insurance shall not be canceled, limited, or non-renewed until thirty (30) days written notice has been given to COUNTY. Current Certificates of Insurance evidencing required coverage must be on file with COUNTY at all times.

The CITY expressly understands and agrees that any insurance protection furnished by the CITY in no way limits its responsibility to indemnify and hold harmless COUNTY under the provisions of this Agreement.

5. **TERMS OF CONTRACT**

This Agreement shall be in effect from May 31, 2018 to September 30, 2023, and shall be automatically renewed thereafter every five years (October 1 to September 30), unless either Party hereto shall notify the other in writing of the Party's desire to terminate all or part of this Agreement six (6) months prior to the expiration of the then existing term. This Agreement shall not be terminated except at the expiration of the contract term or at the expiration of any renewal terms unless agreed upon in writing sixty (60) days in advance by both PARTIES. If neither Party gives notice of its intent to terminate, the Parties shall negotiate the terms of any revisions to the renewal. In the event the terms of renewal are not agreed to, the Agreement remains in force with the existing terms.

6. **ADOPTION OF ORDINANCES**

The CITY shall adopt all ordinances necessary to effectuate this Agreement.

7. NOTICE

All notices required to be given under this Agreement shall be deemed sufficient to each Party when delivered by United States Mail to the following:

COUNTY	CITY
Name: Tanya N. McConnell, Deputy County Engineering and Public Works	Name: Roger Manning, Mayor City of Westlake, Florida
Address: 2300 North Jog Road, 3 rd Floor	Address: 4001 Seminole Pratt Whitney Road
City, State, Zip: West Palm Beach, FL 33411	City, State, Zip: Westlake, FL 33470

8. DELEGATION OF DUTY

Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of COUNTY or CITY officers.

9. ANNUAL APPROPRIATION

Each Party’s performance and obligation to pay under this Agreement is contingent upon an annual budgetary appropriation by its respective governing body for subsequent fiscal years.

10. AMENDMENTS

This Agreement may be amended only by formal action of the Board of County Commissioners of COUNTY and the City Council of the CITY.

11. REMEDIES

This Agreement shall be construed and governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement shall be filed in Palm Beach County, Florida.

12. EFFECTIVE DATE

The provisions of this Agreement shall become effective upon the execution of this Agreement by both PARTIES.

13. EXECUTION OF AGREEMENT

This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one (1) and the same instrument.

14. FILING

A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County, Florida.

15. PAYMENT FOR SERVICES

CITY agrees to reimburse the COUNTY for COUNTY's reasonable costs related to the performance of services provided in the Agreement, including but not limited to, costs for electric service. CITY shall make payments within thirty (30) days from the date of the COUNTY's invoice.

16. MAST ARMS PAINT

For traffic signal mast arms that are within CITY's boundaries on Seminole Pratt Whitney Road ("Mast Arms"), CITY desires that Mast Arms be painted black. At all times, CITY shall paint and maintain in good condition the black paint of the Mast Arms. In the event that maintenance of the paint for any of the Mast Arms is transferred to COUNTY, CITY shall apply for COUNTY approval of the transfer. COUNTY approval of the transfer is subject to, but is not limited to, requiring CITY to apply a galvanized finish or another COUNTY-approved color to replace the black paint and a final inspection of the finish or paint.

ARTICLE II.

**TRAFFIC CONTROL JURISDICTION FOR SEMINOLE PRATT WHITNEY ROAD
AND PBC FIRE STATION SIGNAL**

1. A. COUNTY agrees to accept the transfer of traffic regulatory authority ("Authority") for SEMINOLE PRATT, including Authority over all traffic control devices on SEMINOLE PRATT, and Authority over PBC FIRE STATION SIGNAL. Upon mutual agreement of both PARTIES, this AGREEMENT may be amended to add Authority for other traffic control devices or roadways.

B. To protect the welfare of the public, COUNTY's Authority for SEMINOLE PRATT includes the following functions:

(1) Install, remove, modify, upgrade, and maintain all signs necessary to govern traffic;

- (2) Maintain, operate, modify, and upgrade existing traffic signals, warning flashers, and school zone flashers;
- (3) Install traffic signals, warning flashers, and school zone flashers, where warranted, as determined by the County Engineer.
- (4) Remove existing traffic signals, warning flashers, and school zone flashers, where warranted, as determined by the County Engineer.
- (5) Establish turn lanes where justified;
- (6) Prohibit or restrict traffic movements including left, right and U-turns;
- (7) Install, remove, modify, upgrade, and maintain traffic markings, including crosswalks, safety zones and traffic lane striping;
- (8) Establish no-parking, no-standing, and no-stopping regulations;
- (9) Establish emergency and experimental regulations;
- (10) Establish on-street truck and passenger loading zones;
- (11) Establish speed limits;
- (12) Establish no-passing zones;
- (13) Establish traffic control guidelines for all roadway construction operations;
- (14) Establish bridge loading restrictions; and
- (15) Establish truck route restrictions.

COUNTY shall perform the above-described functions and duties and such ministerial tasks as it deems appropriate.

2. Subject to budgetary, financial, and policy considerations, COUNTY agrees to implement all reasonable written requests of the CITY promulgated by Resolution of CITY Council for the installation, retention, or removal of traffic control devices included in this AGREEMENT. COUNTY further agrees to consider all reasonable requests of the CITY with regard to any of the duties and functions specified in ARTICLE II.1 above, as long as such requests are in accord with the Manual on Uniform Traffic Control Devices for Streets and Highways and specifications of the Florida Department of Transportation and commonly accepted standards of traffic engineering.

3. In the event of cancellation of this AGREEMENT, the PARTIES agree that all traffic signals on SEMINOLE PRATT and the PBC FIRE STATION SIGNAL shall remain at their respective locations.

IN WITNESS WHEREOF, PALM BEACH COUNTY, Florida, has caused this Interlocal Agreement to be executed by the Mayor of the COUNTY and the seal of its Board of County Commissioners to be affixed to and attested to by the Clerk of said Board, pursuant to authority granted by said Board; and the CITY OF WESTLAKE, Florida, has caused this Interlocal Agreement to be executed in its corporate name by its Mayor and its corporate seal to be affixed hereto, attested by the CITY's Clerk, the date and year first written above.

ATTEST:

City of Westlake City Clerk

City of Westlake
By its City Council

By: _____
Sandra DeMarco
City Clerk

By: _____
Roger Manning
Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
Pam E. Booker
City Attorney

By: _____
Ken Cassel
City Manager

ATTEST:

Sharon R. Bock
Clerk & Comptroller

Palm Beach County, Florida
by its Board of County Commissioners

By: _____
Deputy Clerk

By: _____
Melissa McKinlay
Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS


By: _____
Yelizaveta Herman
County Attorney

By: _____
Tanya N. McConnell
Deputy County Engineer

Ninth Order of Business

MEMORANDUM

To: Mayor Roger Manning
City Council Members

From: Pam E. Booker, City Attorney 
Ken Cassel, City Manager

Date: May 30, 2018

Subject: Interlocal Agreement with Palm Beach County
For Decorative Art Wrap Traffic Control Signals

Attached please find an interlocal agreement between Palm Beach County and the City of Westlake, for the installation of decorative art wrap on the traffic control signals on County maintained traffic control signal cabinets. Florida Statutes, Chapter 163, provide for governmental agencies to enter into interlocal agreements for the health, safety, and welfare of the residents where it is in the best interest of both parties. There are several cabinets located on Seminole Pratt Whitney road from Sycamore Drive to 60th Street north, within the City of Westlake's jurisdictional boundaries. In an effort to integrate civic art and to enhance the appearance of the public rights of ways within the City of Westlake, the City requested the installation of 3M vinyl material as decorative coverings for the traffic control cabinets. The County has agreed to the installation of decorative coverings based upon the terms and conditions in the interlocal agreement. Advertising will not be permitted as part of the agreement. The City must provide 10 days-notice to the County prior to installation of the decorative wrap.

The interlocal agreement has been reviewed and approved by the City Manager, the City Attorney, the engineering division and the legal department for Palm Beach County. We would recommend approval of the interlocal agreement. Should you have any questions, please do not hesitate to contact me at (772) 971-8676.

**INTERLOCAL AGREEMENT FOR THE INSTALLATION AND MAINTENANCE OF
DECORATIVE ART WRAPS ON TRAFFIC SIGNAL CONTROL CABINETS
BETWEEN PALM BEACH COUNTY AND CITY OF WESTLAKE**

THIS AGREEMENT, made and entered into this _____ day of _____, 2018 and between **PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS**, a political subdivision of the State of Florida, (“COUNTY”), and **CITY OF WESTLAKE**, (“CITY”), a Florida municipal corporation, whose address is 4001 Seminole Pratt Whitney Road, Westlake, FL 33470, its successors, agents, and assigns individually (“Party” and collectively “Parties”).

WITNESSETH:

WHEREAS, the COUNTY maintains and operates certain traffic signals within the CITY’s municipal limits which includes traffic signal control cabinets (“SIGNAL CABINETS”) located on Seminole Pratt Whitney Road from Sycamore Drive E. South to 60th Street N. to the north; and,

WHEREAS, the COUNTY maintains the SIGNAL CABINETS on Seminole Pratt Whitney Road within the CITY’s municipal limits, and the two SIGNAL CABINETS located on Seminole Pratt Whitney Road outside the CITY’s municipal limits, at 60th Street N and Sycamore Drive E.; and

WHEREAS, the placement of WRAPS on SIGNAL CABINETS integrates civic art with public infrastructure; and

WHEREAS, the COUNTY believes that the efforts by the CITY to integrate civic art with public infrastructure serve a public purpose and enhances the appearance of right of way adjacent to public roads; and

WHEREAS, the COUNTY and CITY wish to enter into an Agreement to establish the criteria and requirements associated with the installation and maintenance of WRAPS on SIGNAL CABINETS.

NOW, THEREFORE, in consideration of the mutual representations, terms, and covenants contained herein, the parties hereto agree as follows:

1. The above recitations are true and correct and incorporated herein.
2. CITY will present the WRAPS to COUNTY for its review and approval. The CITY assumes full responsibility for the content of the WRAPS and follow the recommendations of COUNTY. Advertising shall not be permitted on the WRAPS under any circumstances.

3. CITY will provide the COUNTY with ten (10) calendar days-notice, prior to installation of WRAPS on SIGNAL CABINETS.

4. WRAPS shall be installed in such a manner as to not interfere with the operation and maintenance of the SIGNAL CABINETS.

5. WRAPS shall be installed in such a manner as to not obstruct the access and ventilation of the SIGNAL CABINETS, including but not limited to the hinges, lock mechanism, door handle and cabinet vents.

6. COUNTY is not responsible for damage to WRAPS caused by the COUNTY'S operations or maintenance in or round the COUNTY'S signal cabinet.

7. WRAPS shall be made of quality 3M vinyl material and ink, shall be graffiti and sticker resistant, and removable.

8. CITY is solely responsible for all costs associated with installation, maintenance, replacement and removal of WRAPS.

9. CITY is solely responsible for restoring the SIGNAL CABINET to its original condition.

10. COUNTY shall have the right to remove or request that the CITY remove the WRAPS. When feasible, the COUNTY will provide the CITY thirty (30) calendar days-notice that WRAPS must be removed.

11. Under no circumstances shall the COUNTY incur any cost related to the WRAPS.

12. Should the COUNTY remove the WRAPS under any circumstances, the CITY shall be responsible for all costs. The COUNTY will forward any and all costs associated with the removal of the WRAPS to the CITY. The CITY will not be permitted to install any additional WRAPS on any SIGNAL CABINETS until any and all outstanding costs have been reimbursed to the COUNTY.

13. This Agreement may be canceled by the COUNTY or CITY for any reason after sixty (60) days written notice has been provided to the other party. Upon receipt of written notification, all WRAPS will be removed from SIGNAL CABINETS and the COUNTY shall be relieved of any further obligation.

14. All notices or inquiries required or allowed by this Agreement shall be delivered in person or mailed by Certified Mail, Return Receipt Requested, with sufficient postage affixed, to the party to whom such notice is to be given. Notices are to be sent to the following locations: As to the activities of the COUNTY and CITY:

PALM BEACH COUNTY: Palm Beach County Engineering and
Public Works Department
Attn: Tanya N. McConnell, Deputy County Engineer
P.O. Box 21229
West Palm Beach, FL 33416-1229

With a copy to: Palm Beach County Attorney's Office
Attn: Yelizaveta "Liz" Herman
Assistant County Attorney
P.O. Box 1989
West Palm Beach, FL 33416-1229

CITY: City of Westlake, Florida
Attn: Roger Manning, Mayor
4001 Seminole Pratt Whitney Road
Westlake, FL 33470

15. In the event that any section, paragraph, sentence, clause, or provision hereof be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

16. This Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreements, written or oral, relating to this Agreement.

17. Any costs or expenses including reasonable attorney's fees associated with the enforcement of the terms or conditions of this Agreement shall be borne by the respective parties.

18. This Agreement shall be governed by and in accordance with the laws of the State of Florida. Any legal action necessary to enforce this Agreement shall be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity by statute or otherwise. No single or partial exercise by any party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

19. The CITY shall maintain books, records and documents to justify all charges, expenses and costs incurred under this Agreement.

20. The CITY shall protect, defend, reimburse, indemnify and hold the COUNTY, its agents, employees and elected officers free and harmless from and against any and all claims, liability expenses, losses, costs, fines and damages or causes of action of every kind or character including attorney's fees, whether at trial or appellate levels or otherwise arising during and as a result of CITY's performance of the terms of this Agreement or due to the acts or omissions of the

CITY. The CITY's aforesaid indemnity and hold harmless obligations shall apply to the fullest extent permitted by law. Notwithstanding the foregoing, nothing set forth in this paragraph shall constitute a waiver of sovereign immunity beyond the limits set forth at Section 768.28, *Florida Statutes*. This paragraph shall survive the expiration or termination of this Agreement.

21. The Parties agree that no person shall be excluded on the grounds of race, color, sex, age, national origin, disability, religion, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information from the benefits of or be subjected to any form of discrimination under any activity carried out by the performance of this Agreement.

22. The CITY is, and shall be, in the performance of all work, services and activities under this Agreement an independent contractor and not an employee, agent or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to the Agreement shall at all times in all places be subject to the CITY's sole direction, supervision, and control. The CITY shall exercise control over the means and manner in which its employees, agents or contractors perform the work in all respects. The CITY's relationship and the relationship of its employees, agents or contractors to the COUNTY shall be that of an independent contractor and not as employees of agents of the COUNTY.

23. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original.

24. CITY shall abide by all applicable federal, state and local laws, orders, rules and regulations when performing under this Agreement. CITY further agrees to include this provision in all contracts issued as a result of this Agreement.

25. As provided in F.S 287.132-133, as may be amended from time to time, by entering into this Agreement or performing any work in furtherance hereof, CITY shall have its contractors certify that their affiliates, suppliers, subcontractors, and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within thirty-six (36) months immediately preceding the date hereof.

26. The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not, solely as a manner of judicial constrain, be construed more severely against one of the parties than the other.

27. Neither the COUNTY nor the CITY shall assign, sublet, convey or transfer its interest in this Agreement without the prior written consent of the other.

28. Except as expressly permitted herein to the contrary, no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written

document executed with the same formality and equality of dignity herewith. Except that either party may from time to time change the address to which notice under this Agreement shall be given upon three (3) days prior written notice to the other party.

29. COUNTY has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 – 2-440, as may be amended. The Inspector General’s authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records to require the production of records, and to audit, investigate, monitor, and inspect the activities of the DDA, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 – 2-440 and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second-degree misdemeanor.

30. No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including, but not limited to, any citizen or employees of the COUNTY and/or the CITY.

31. This Agreement shall become effective immediately upon the execution by both parties and upon filing with the Clerk of the Circuit Court of Palm Beach County, Florida.

EXECUTED by CITY this _____ day of _____, 2018.

(CITY Seal)

ATTEST:

City of Westlake, City Clerk

City of Westlake
By its City Council

By: _____
Sandra DeMarco
City Clerk

By: _____
Roger Manning
Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
Pam E. Booker
City Attorney

By: _____
Ken Cassel
City Manager

EXECUTED by COUNTY this _____ day of _____, 2017.

(COUNTY Seal)

ATTEST:

Sharon R. Bock
Clerk & Comptroller

Palm Beach County, Florida
by its Board of County Commissioners

By: _____
Deputy Clerk

By: _____
Melissa McKinlay
Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
Yelizaveta Herman
County Attorney

By: _____
Tanya N. McConnell
Deputy County Engineer

Tenth Order of Business

ORDINANCE NO. 2018-7

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, ESTABLISHING PURCHASING PROCEDURES AND GUIDELINES FOR ACQUIRING GOODS, SERVICES AND/OR CONSTRUCTION RELATED SERVICES FOR THE CITY OF WESTLAKE; PROVIDING FOR CODIFICATION, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Westlake desires to implement procedures consistent with Florida Statutes, Chapter 287, which procedures will guide the City in the procurement of commodities, goods, services and construction related projects; and

WHEREAS, under Florida Statutes, Chapter 287, the legislature created statutory guidelines to ensure honesty and integrity of local governments in public procurement, which reduces the appearance of favoritism and inspires public confidence in the award of contracts in an economic and equitable manner; and

WHEREAS, the legislature further provided provisions for ethical considerations in the procurement of public commodities and contractual services by requiring uniform procedures and written documentation of the decision-making process; and

WHEREAS, consistent with the requirements as set forth in the Florida Statutes for the award of contracts, for the procurement of goods and services and construction related contracts, the City of Westlake intends to adopt policies, procedures, practices and guidelines in furtherance of the procurement laws; and

WHEREAS, the adoption of purchasing policies, procedures, practices and guidelines will ensure that public procurement is performed in an honest and equitable manner, and inspire confidence in the public for the City of Westlake that the local elected officials are operating in a manner that will preserve the public health, safety and welfare with regard to the expenditure of funds for the public.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, AS FOLLOWS:

ARTICLE I PURPOSE, DEFINITIONS, BID PROCEDURES

SECTION 1: Purpose: The purpose of this division is to provide for a fair and equitable method of administering purchases of goods and services in order to maximize the purchasing value of public funds and to provide procedures and guidelines governing those purchases. The City shall utilize a solicitation process which encourages small business, minority owned business and women owned business participation even on items which are exempted from Council approval.

SECTION 2: Definitions: The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Addenda means additional directions, modifications and alternations to solicitation which is issued as separate document prior to the time of receipt of bids or proposals.

Amendment means the method of changing the terms and conditions or requirements of a contract or agreement after its execution. All amendments must be approved in writing and signed by the city manager and contractor. Amendment must include all changes in terms and /or conditions including total amount of the amended contract.

Appropriation means a legislative authorization to expend public funds for a specific purpose. Funds set apart for a specific use.

Award means the acceptance of a bid, offer or proposal by the proper authorized designee. The city council must approve all awards over the authority of the city manager, with the exception of emergency purchases.

Best and Final Offer means the rational granting the City Manager or his/her designee discretion in taking action to allow qualified bidders participating in a competitive bid process to provide a sealed best and final offer.

Best Interest of the City means the rational granting the City Manager or his/her designee discretion in taking action most advantages to the city when it is impossible to interpret adequately a specific response by law or regulation.

Best Value means a method of award that uses a cost/benefit analysis to define the best combinations of quality, services, time, and cost considerations over the useful life of the acquired item.

Bid means a written offer submitted to the city by a prospective offeror to furnish specific services, supplies, or construction services in response to an invitation for bid.

Bid Acceptance means the unconditional receipt of the bid at the designated bid location within the time frame and conditions set in the bid document. Any alterations to the bidder's offer after the close of the bid or any deviations from the conditions set in the bid document may result in the rejection and removal of the bid.

Bid Bond means a sum of money, which could be in the form of a cashier's check, irrevocable letter of credit, money order or a bond issued by a surety, deposited with a bid or proposal guaranteeing the bidder or offeror will not withdraw the bid or proposal for a specific period of time, will furnish bonds as required, and will accept a contract, if awarded, or forfeit the bid bond.

Bid Deposit means a certified check, cashier's check, bank money order, bank draft or any national or state bank, surety bond or cash deposited with and as instructed by the prospective purchaser to guarantee the bidder will, if selected, accept the contract in accordance with the bid. If the bidder does not accept the contract, the bidder forfeits the amount of the deposit.

Bid Opening means the process of opening and reading bids conducted at the time and place specified in the Invitation for Bid, and/or advertisement and in the presence of all who wish to attend the bid opening.

Bid Performance Bond means a sum which is issued usually by a surety assuring the city that once the contract is awarded, the contractor will meet its obligations under the contract.

Bid Waiver means a process, whereby supplies or services may be procured without formal competitive bidding process when determined to be in the best interest of the city.

Blanket Purchase Order means a purchase order under which a party agrees to provide supplies or services to the city on a demand basis, acceptance of which constitutes a contract.

Business means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, association or any other private legal entity.

Certificate of Insurance means a certificate issued by a reputable insurance company evidencing that the company has the appropriate insurance.

Change Order means a written alteration to a formal contract or purchase order entered in accordance with the terms of the contract or in accordance with the solicitation.

City means the City of Westlake, Florida.

City Manager means the city manager of the City of Westlake, Florida, and/or authorized designee.

Compensation means the amount paid by the agency for goods or services regardless of whether stated as compensation or stated as hourly rates, overhead rates, or other figures or formulas from which compensation can be calculated.

Competitive Bidding means the submission of prices by individuals for firms competing for a contract, privilege, or right to supply merchandise or services.

Competitive Sealed Bids or Competitive Sealed Quotes means the process of receiving two or more sealed bids, proposals, or replies submitted by responsive vendors and includes bids, proposals, or replies transmitted by electronic means in lieu of or in addition to written bids, proposals, or replies.

Competitive Sealed Proposal means a method for acquiring goods, services, and construction for public use in which discussions or negotiations may be conducted with responsible bidders who submit proposals and prices in the competition that meet the required criteria. Competitive sealed proposal is the preferred method of sources selection in the City.

Competitive Solicitation or solicitation means an invitation to bid, a request for proposals, or an invitation to negotiate.

Confidential Information means any information which is available to an employee only because of the employee's status as an employee of the city and is not a matter of public knowledge or available to the public on request.

Consultant means one who provides professional advice or services including, but not limited to: attorneys, architects, engineers, surveyors and accountants.

Consultants' Competitive Negotiation Act means a procedure established in Florida Statutes § 287.055, as periodically amended, for acquiring professional architectural, engineering, landscaping architectural or land surveying services.

Contract means a binding contractual instrument, including, but not limited to contracts, leases, purchase orders, interlocal agreements, grants, sales agreements, service agreements, joint participation agreements, maintenance agreements, attachments, change orders, addendum, bonds, fee schedules, and any other related documents for incorporation into the contractual agreement.

Contracts means every contract, unless otherwise exempt as per the section below, shall contain language that obligates the contractor to comply with the applicable provisions of this section. The contract shall include provisions for the following:

- (1) The contractor certifies and represents that it will comply with this section during the entire term of the contract.
- (2) The failure of the contractor to comply with this section shall be deemed to be a material breach of the contract, entitling the city to pursue any remedy stated below or any remedy provided under applicable law.
- (3) The City may terminate the contract if the contractor fails to comply with this section.
- (4) The City may retain all monies due or to become due until the contractor complies with this section.

Contract Administrator means city manager duly authorized designee requesting items and/or services and the designated City contact for the particular contract.

Contractor means any person or entity having a contract with the City.

Contractual Services includes, without limitation, printing; gas; fuel; cleaning services; purchase, installation, rental, repair and maintenance of equipment; machinery; construction and consultant contracts and other personal property; lease of real property and office space by the city as lessee; and all other contractual supplies, materials equipment and services not specifically excluded from these procedures.

Construction means the process building, altering, repairing, improving, or demolishing any structure or building or roadway or utility or other improvements of any kind to any real property owned or under the control of the City. It does not generally include the routine operation, repair, or maintenance of existing structures, buildings, or other real property. Florida Statutes, §255.20.

Construction of Utilities means all such reservoirs, sewerage systems, trunk sewers, intercepting sewers, pumping stations, wells, intakes, pipelines, distribution systems, purification works, collecting systems, treatment and disposal works, airports, hospitals, jails and golf courses, and gas plants and distribution systems.

Cooperative Purchasing means the procurement conducted by or on behalf of more than one public procurement unit. The combining of requirements of two or more public procurement units, in order to obtain the benefits of volume purchases and/or reduction in administrative expenses.

Council means the Mayor and City Council of the City of Westlake, Florida.

Debarment means the exclusion of a person or business from participating in a procurement activity for an extended period of time, as specified by law, because of an illegal or irresponsible action.

Design-Build Contract means a single contract with a design-build firm for the design, and construction of a public construction project.

Design-Build Firm means a partnership, corporation, or other legal entity that:

- (1) Is certified under F.S. § 489.119, to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or
- (2) Is certified under F.S. § 471.023, to practice or to offer to practice engineering; certified under F.S. § 481.219, to practice or to offer to practice architecture; or certified under F.S. § 481.319, to practice or to offer to practice landscape architecture.

Design Criteria Package means performance oriented drawings or specifications of the public construction project. The design criteria package must furnish sufficient information to permit design-build firms to prepare a bid or a response to the city's request for proposal, or to permit the city to enter into a negotiated design-build contract. The design criteria package must specify performance based criteria for the construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirement applicable to the project.

Design Criteria Professional means a firm which holds a current certificate or registration under F.S. Ch. 481, to practice architecture or landscape architecture or a firm which holds a current certificate as a registered engineer under F.S. Ch. 471, to practice engineering and who is employed by or under contract by the city to provide professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package.

Designee means a duly authorized representative.

Discount from list contracts means those contracts whereby price is determined by applying a percentage discount from an established catalog or list price.

Emergency means a situation or occurrence of a serious nature involving urgent and extreme matters of public health, safety, and welfare, or which requires the safeguarding of city assets.

Emergency Purchase means a purchase made without following the normal purchasing procedures in order to obtain goods or services quickly to meet an urgent and unexpected requirement where health and public safety or the conservation of public resources is at risk. The City Manager or his/her designee shall have the authority to make emergency purchases of not more than the current bid threshold without competitive bids, provided that all such purchases shall be reported to the City Council at the next regularly scheduled meeting.

Employee means an individual employed by the City drawing a salary or wages from the City.

Evaluation Committee means a group of three or more persons selected by the city manager to review proposals received in response to an RFP. The evaluation committee may include persons who are not employed by the city.

Evaluation Sheet means the forms used by the evaluators to evaluate proposals. Each evaluator shall sign and date his or her evaluation sheet. The factors included in the evaluation sheet are factors related to management capability, technical capability, manner of meeting performance requirements, cost and other important considerations which were incorporated.

Exceptional Purchase means any purchase of commodities or contractual services excepted by city ordinance or policy or rule from the requirements for competitive solicitation, including, but not limited to, purchases from a single source, purchases upon receipt of less than two responsive bids, proposals or replies, purchases made by the City after receiving approval from the City Manager or his/her designee made without advertisement.

Field Purchase Order (FPO) means a document which encumbers the funds and must be approved using the same steps as a requisition. FPO's are used in situations when a purchase order is not required and a direct check is requested.

Grant means the furnishing by the city or a city authorized not-for-profit provider of assistance, whether financial or otherwise, to any person to support a program or activity, or the furnishing to the city of such assistance by another person or federal or state agency.

GSA Federal General Services Administration establishes long-term government-wide contracts. Local government entities may only purchase goods and services related to information technology from GSA schedule 70, information technology, consolidated (formerly corporate contracts) schedule contracts containing IT special item number (SIN) and disaster recovery purchasing to recover from a major disaster. GSA government-wide acquisition contracts (GWACs) are not authorized for use by local government entities under section 211 of the E-Government Act of 2002.

Identical Bid means a bid that is the same in all salient respects with another bid. Identical tie bids in accordance with Florida Statutes, Section 287.087, preference shall be given to businesses with drug-free workplace programs. Whenever, two or more bids are equal with respect to price, quality, and services are received by the City for the procurement of commodities or contractual services, the bid received from a business that certifies that it has implemented a drug free workplace program shall be given preference in the award process.

Informal Bids means process utilized to obtain prices for goods and supplies for all purchases up to \$50,000.00. The acceptable methods are faxed, emailed or mailed written price quotations.

Invitation for Bids All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.

Invitation to Negotiate means a written solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or contractual services. The invitation to negotiate is used when the City determines that negotiations may be necessary to receive the best value. A written solicitation includes a solicitation that is electronically posted.

Lobbyist regulations stipulates that all persons, firms, organizations and corporations seeking procurement from the city or the award of funds for goods and services must submit a completed and notarized lobbyist registration form/oath to the city clerk's prior to contacting a member or members of the city council regarding the city procurement. The lobbyist registration must disclose each party, person, principal, and/or client represented on city matters.

Local City Vendor or Professional. Any person, firm, partnership, company or corporation with a regional or main business office located in Palm Beach County. Any person, firm, partnership, company, or corporation that is authorized to provide any of the services listed in Florida Statutes, §287.055(2)(a) with a regional or main business office located in Palm Beach County.

Lowest Responsible Bid or Lowest Responsible Quotation means the lowest bid or quotation received that best responds in quality, fitness and capacity to the requirements of the proposed work or usage, as specified, from a vendor deemed responsible and responsive to the invitation to bid or solicitation for a quotation.

Main Business Office: The office where the company leadership is located and where management and technical staff who possess capabilities to actually perform the work are located and within the geographical boundary where work has been done continuously for the previous 12 months. For any company or entity to avail itself of the local preference provisions of this Division, the main business office shall have paid a business tax receipt, where applicable, to the City of Cape Coral for at least one full year prior to the bid or proposal submission. The main business office must have a physical location in an area zoned for the conduct of such business. Post office boxes are not acceptable for purposes of establishing a physical address.

Minority/Women Business Enterprise: A minority-owned business enterprise or a women-owned business enterprise or a combination minority and women-owned business enterprise. A M/WBE is any small business concern which is organized to engage in commercial transactions, which is domiciled in Palm Beach County, and which is at least fifty-one (51) percent owned by minority persons and/or women who are members of an insular group that is of a particular racial, ethnic or national origin makeup or gender, which has been subjected historically to disparate treatment due to identification in and with that group resulting in an under-representation of commercial enterprises under the group's control, and whose management and daily operations are controlled by such persons.

Multiple Award means the award of contract to two or more vendors or contractors to furnish the same or similar supplies or services, where more than one vendor is needed to meet the contract requirements for quality, delivery or services.

Payment Bond means a promise of a surety assuring payment to all persons supplying labor or materials in the work provided for in a contract. The city has the discretion of requesting a payment bond when the construction contract is \$250,000.00 or less.

Performance Bond means a promise of a surety, sometimes referred to as "completion bond," assuring the city that once the contract is awarded, the contractor will perform its obligations under the contract.

Person means any business, corporation, partnership, individual, union, agency, committee, club, organization, or group of individuals.

Piggyback Method means a form of intergovernmental cooperative purchasing in which an entity requests competitive sealed bids, enters into a contract, and arranges as part of the contract for other public purchasing units to purchase from the selected vendor under the same terms and conditions as itself.

Procurement buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services and construction. It also includes all functions that pertain to the obtaining of any supplies, service, and construction, including description of requirements, selection and solicitation of sources, preparation and award of contracts and all phases of contract administration.

Professional Services means any services where the city is obtaining advice, instruction, or specialized work from an individual, firm or agency specifically qualified in a particular area. Professional services may include a report, or written advice which may be lengthy; however, the main thrust of the service is not considered labor, but the exercise of intellectual ability.

Protest means a written complaint presented to the City Manager in reference to the award of a contract which resulted from an RFP, RFQ, or bid.

Public Bid Disclosure Act (Florida Statutes § 218.80). When a department wishes to release a construction bid or RFP, all of the city's permits or fees, including, but not limited to, all license fees, permit fees, impact fees, or inspection fees, payable by the contractor to the city must be disclosed. If the RFP does not require the response to include a final fixed price, the city is not required to disclose any fees or assessments in the RFP. However, at least ten days prior to requiring the contractor to submit a final fixed price for the project, the city shall make the disclosures required by F.S. § 218.80.

Public Records means those records as defined in Florida Statutes, Chapter 119.

Purchase means the words used in a solicitation to describe the supplies, services, and construction to be purchased, and includes specifications attached to, or made a part of the solicitation.

Purchase Order means a purchaser's document to formalize a purchase transaction with a vendor, conveying acceptance of a vendor's proposal. The purchase order should contain statements as to quantity, description, and price of the supplies, services, or construction ordered, and applicable terms as to payment, discounts, date of performance, transportation, and other factors or suitable references pertinent to the purchase and its execution by the vendor. A purchase order binds the vendor in a contractual relationship with the City.

Request for Proposal means a solicitation for proposal to provide a solution to a problem or a course of action or a determination of data findings useful to the City. An RFP is characterized by description of the desired results and a scale of how the proposals will be evaluated to obtain the results. Negotiation on any part of the RFP is permissible. The RFP includes all documents, whether attached or incorporated by reference, utilized for soliciting proposals. Compensation paid to a proposer is negotiated once the top-rated proposer has been determined.

Request for Quotation is an informal request for prices normally used for procurement below the formal contract threshold. The request for quotation includes all documents whether attached or incorporated by reference, included in a solicitation for quotations.

Request for Qualifications (prequalification of bidders) is the screening of potential vendors in such factors as financial capability, reputation, professional expertise and management in order to develop a list of qualified vendors. Once the list of pre-qualified vendors is created, a bid or RFP is created and released to the pre-qualified list.

Responsible Bidder A person or firm who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment and credit which will assure good faith performance of the contract.

Responsive Bidder means a person who has submitted a bid which conforms in all material respects to a solicitation. A bid or proposal of a responsive bidder must be submitted on the required forms, which contain all required information, signatures, notarizations, insurance, bonding, security, or other mandated requirements required by the bid documents to be submitted at the time of bid opening.

Sealed Bid means a bid that has been submitted in a sealed envelope to prevent its contents from being revealed or known before the deadline for the submission of all bids.

Services mean the furnishing of labor, time, specifications and technical assistance by a contractor, including both professional and general services. This term shall not include employment agreements.

Small Business means a business domiciled in Palm Beach County and certified by the county which is an independently owned and operated, for profit, business concern organized to engage in commercial transactions.

Sole Source means the only source known to be able to perform a contract, or the one source that among others that, for justifiable reason, is found to be the most advantageous for the purpose of contract award.

Specifications mean any description of the physical or functional characteristics or of the nature of a supply, service and construction item. It may include a description of any requirement for inspecting, testing or preparing a supply, service and construction item for delivery. Specifications may also contain provisions for inclusion of factors which will lead to the ultimate calculation of lowest total cost. All specifications shall seek to promote overall economy for the purposes intended, and encourage competition in satisfying the city's needs and shall not be unduly restrictive.

Supplies shall mean and include all supplies, materials, and equipment.

Sunbiz means the website maintained by the department of state, division of corporation listing all companies incorporated in the state, including registered fictitious names and foreign corporations.

Surplus Property means City-owned which is no longer needed for public use.

Tax Savings Direct Purchases. The City is recognized by the state as being exempt from state sales tax and use tax and is therefore, qualified for an exemption from Florida and all other state sales taxes

on the purchase of tangible personal property if certain criteria are met. The City may realize savings of sales tax on selected material and equipment needed for use in public works contracts. Public works contracts are projects for public use or enjoyment, financed and owned by the city, in which private firms install tangible property that becomes part of a City facility. See rule 12A-1.094 and Florida Statute, § 212.08(6). The City will implement the DPTSP for projects of \$1,000,000.00 or above.

Unit Price mean the cost per unit of a product or service.

Using Agency is any department, agency, commission, bureau or other unit to the City government using supplies or procuring contractual services.

Vendor means an actual or potential supplier of an item, service, and construction.

Vendor Performance means an action or inaction taken by a vendor under a contract, purchase order, or other binding agreement with the city. Nonperformance, which is an action or inaction, which does not comply with the specifications, and/or terms and conditions of a contract or purchase order.

Waiver of Bid means a process where authorized by law or rule whereby the City Manager may procure items without competitive bidding procedures because of unique circumstances related to a particular need or procurement.

Section 3: Competitive Bidding Required.

- (A) **Competitive Sealed Bids:** All purchases of and contracts for equipment, supplies and contractual services, when the estimated cost shall exceed \$50,000.00, except as specifically provided in this section, shall be based, wherever possible, on competitive sealed bids. The City Manager is authorized to purchase and contract for equipment, supplies and contractual services and pay for a construction change order(s) when the cost do not exceed ten percent of the contract costs or \$50,000.00, whichever is less, without further City Council approval.
- (B) **Invitation for Bids:** For all purchases subject to competitive bidding, the Procurement Division shall issue an invitation for bids which includes specifications, and all contractual terms and conditions applicable to the anticipated purchase. In the event of any conflict between the invitation for bids and this article, the provisions of this article shall prevail.
- (C) **Addenda:** After an invitation for bids is issued and before the bid opening, the Procurement Division may issue one or more written addenda for the purpose of clarifying specifications or other matters relating to the bid.
No addenda will be issued within five business days prior to bid opening without extending the bid opening date.
- (D) **Public Notice:** All invitations for bids shall be published at least once in a newspaper of general circulation in the city a minimum of ten calendar days preceding the last day set for the opening of bids. The public notice shall state the place, date and time of the bid opening; a general description of the subject matter of the bid, and where bid forms and specifications may be obtained. The city may utilize electronic bidding either through its own database or a third-party vendor. The public notice shall contain the internet bidding web address. This will be a standard sealed bid electronic submission and a vendor's electronic signature will be accepted.

- (E) **Bid Security:** The invitation for bids may specify that some form of bid security is required. Bid bonds may be required, in the discretion of the City Manager, on all bid solicitations where the estimated cost is in excess of \$50,000.00. The bid bond shall provide that if the bid is:
- a. Rejected by the city; or
 - b. Accepted and the bidder executes the contract and furnishes an appropriate bond, if required, then the bid bond is void, otherwise it remains in full force and effect. The security may be in the form of a certified check, a cashier's check, treasurer's check or bank draft of any national or state bank. If the city permits a bidder to withdraw its bid, no action shall be taken against the bidder or the bid security. If a bidder indicates that it has made a mistake that is of a magnitude that it will not be willing to perform a contract based on its bid, then the city shall not be obligated to formally accept the bid of that firm as a prerequisite to making a claim against the bid bond and the bid bond shall so provide. A vendor who fails or refuses to execute the contract within 15 calendar days after City Council approval shall forfeit the bid security, unless the city is solely responsible for the delay in executing the contract. The City Council may, upon the refusal or failure of the successful bidder to execute the contract, award the contract to the next lowest responsible and responsive bidder. In such event, the amount of the lowest bidder's bid security shall be applied by the city to the difference between the lowest and the lowest responsible and responsive bid, and the surplus, if any, shall be returned to the lowest bidder.
- (F) **Bid Opening:** Bids shall be opened publicly at the time and place designated in the invitation for bids. The amount of each bid, and other relevant information as the Procurement Manager deems appropriate, together with the name of each bidder shall be recorded. Sealed bids received by the city are exempt from public disclosure until a time as the city provides notice of intent to award, or ten calendar days after bid opening, whichever is earlier.
- (G) **Ranking of Responsive Bidders:** The City Manager shall establish purchasing procedures which increase small business, minority owned business and women owned business participation in procurement within the City. Contracts shall be awarded to a certified small business, minority owned business or women owned business submitting the lowest responsive, responsible when the small, minority or women owned business is within ten (10%) of the lowest non-small, minority owned or women owned business proposal.

Section 4: Formal Contract Procedure.

All equipment, supplies and contractual services, except as otherwise provided in this section, when the estimated cost shall exceed \$50,000.00 shall be purchased by formal, written contract from the lowest responsive, responsible bidder, after due public notice inviting proposals has been given; however, the City Council, upon request of the City Manager, may waive the requirement for a formal written contract when such a contract would not be in the best interest of the City.

Section 5: Award of Contract.

- (A) **City Manager Recommendation:** The City Manager shall have the authority to recommend to the City Council award of contracts. Contracts shall be awarded to the lowest

responsive, responsible bidder, or as otherwise determined in the best interest of the City. The City Manager may establish a point system for small business, minority owned and women owned business in the evaluation of proposals. The City Council shall not be involved in the preparation, submittal and evaluation of bids, request for proposals and other purchases, including attendance at or participating in presentations to or deliberations by a selection committee or contact with persons, firms, organizations and corporations submitting bids or proposals to the City. Following an evaluation of responses received for bids, request for proposals, and other purchases, the City Manager shall have the authority to recommend to the City Council award of contracts. After placement on the agenda, the City Council reviews the City Manager's recommendations and may direct any communications, inquiries or questions regarding the contract award to or through the City Manager.

- (B) **Lobbyist:** In accordance with administrative procedures and policies, and the City's lobbying ordinance, all persons, firms, organizations and corporations seeking a procurement from the City or the award of funds for goods and services must submit a completed and notarized lobbyist registration form/oath to the City Clerk's prior to contacting a member or members of the City Council regarding a City procurement. Lobbyists shall cease all contact and communication with the City Council within the period of time as stated in the lobbying ordinance before the date set for a decision on a matter.
- (C) **Lowest Responsive Bid/Quote:** In determining the lowest responsible bid or quotation, the following shall be considered, in addition to price:
- (1) The quality of commodities or services offered;
 - (2) The ability, capacity, and skill of the vendor to perform the contract or provide the commodities or services required;
 - (3) Whether the vendor can perform the contract or provide the commodities or services promptly, or within the time specified, without delay or interference;
 - (4) The sufficiency of the vendor's financial resources and the effect thereof on the vendor's ability to perform the contract or provide the commodities or services;
 - (5) The character, integrity, reputation, judgment, experience, and efficiency of the vendor;
 - (6) The quality of vendor's performance on previous orders or contracts for the city;
 - (7) Litigation by the vendor on previous orders or contracts with the City;
 - (8) Compliance by the vendor with federal, state and local laws and ordinances relating to the subject of the purchase or contract;
 - (9) The ability of the vendor to provide future maintenance and service where such maintenance and service is essential;
 - (10) Internal cost of vendor's proposal, including any additional expenditure required by the city to complete the project or purchase; and
 - (11) Life cycle costs, including costs of purchase, maintenance, and disposal, less residual value over the expected life of the product.

(D) Process to Apply the Local Vendor Preference (LVP) to Bids:

Purchases and contracts within the authority of the City Manager may be given consideration to local preference by application of the guidelines in this subsection. In the award of bids and the determination of the lowest, best and responsible bidder, the City Council may award a preference based upon vendors, contractors or subcontractors who are local with a preference as follows:

(1) **Local Contractor/Vendor Preference.** When the lowest responsive bid has been submitted by a non-local qualified contractor/vendor (hereafter non-local bidder), and a qualified local contractor/vendor has submitted a responsive and responsible bid, the local contractor/vendor with the lowest bid shall have the opportunity to match the bid submitted by the lowest responsive non-local bidder provided that the local contractor/vendor's bid price does not exceed the non-local bidder's bid price by more than the following percentages:

- a. Main business office in the City of Westlake - 10%;
- b. Regional office in the City of Westlake - 7.5%;
- c. Main business office in Palm Beach County - 5%;
- d. Regional office in Palm Beach County - 2.5%.

(2) When a non-local bidder submits the lowest bid price, but there is a local contractor/vendor whose bid price does not exceed the percentages stated above, the Procurement Manager shall notify the local contractor/vendor in writing of its opportunity to match the lowest bid price submitted by a non-local bidder. The local contractor/vendor shall have five business days from the date of receipt of notification to match the bid submitted by the lowest non-local bidder.

(3) In the event the local contractor/vendor declines or is not able to submit a matching low bid, the local contractor/vendor with the next lowest responsive and responsible bid whose bid price does not exceed the percentages of the lowest bid price shall be notified in writing by the Procurement Manager of its opportunity to match, within five business days of receipt of notification, the lowest bid price. This procedure shall be followed until there are no more local contractors/vendors whose responsive bid is within percentages specified above.

(4) Any contractor/vendor who desires to be considered for the local contractor/vendor must apply for such status as set forth herein. If a nonlocal proposer submits a bid or proposal that includes subcontractors that qualify for local vendor, in order to receive local preference consideration, the proposer must identify all local vendors that will be utilized as subcontractors, and delineate for each the specific elements of work each local vendor will be responsible for performing and the dollar value of work as a percentage of the total contract value.

(E) Exceptions to Application of LVP: Preference for a local contractor/vendor shall **not** apply to any of the following purchases, contracts or situations:

- a. Goods or services provided under a cooperative purchasing agreement or piggyback.

- b. Contracts for professional services subject to the Consultant's Competitive Negotiation Act (F.S. § 287.055), except as otherwise provided herein.
- c. Purchases or contracts which are funded, in whole or in part, by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of that preference.
- d. Purchases made or contracts let under emergency or noncompetitive situations exempt from competition.
- e. Where the application of local preference to a particular purchase, contract or category of contracts is within the award authority of the City Manager, the City Manager may waive the local preference upon good cause shown.
- f. Where the City Council is the awarding authority the City Council may waive, for good cause shown, the application of the local preference to a particular purchase, contract, or category of contracts.

(F) **Application of Local Vendor Preference for Requests for Proposals:** When evaluation points are used to evaluate through a solicitation, and when a non-local business is the highest ranked proposer, and the ranking of a local firm is within ten percent of the total 100 ranking points, then the city may elect to negotiate with the local firm first.

Section 6: Purchases Over \$35,000.00 Require City Council Approval.

The City Manager shall have the authority to execute all procurement related purchase orders, contracts, contract amendments and contract renewals in the amount of \$35,000.00 or less. The City Manager shall have discretion to establish guidelines for purchases over \$15,000.00 but less than \$35,000.00. The City Council shall approve all purchases over thirty-five thousand (\$35,000.00) dollars. All contracts, contract amendments and contract renewals shall be reviewed and approved by the City Attorney prior to execution on behalf of Westlake.

Section 7: Emergency Purchases:

An "Emergency" is defined as a situation brought about by a sudden unexpected turn of events, such as an Act of God, riots, fires, floods, accidents, or any circumstance or caused beyond the control of the City in the normal course of conducting business. An emergency purchase is made to alleviate a situation where there is a threat to health, safety, welfare, injury or loss to the City that can only be rectified by immediate purchase of equipment, supplies, materials or services.

The City Manager may authorize emergency purchases on weekends, holidays or after hours. The authorization may be in excess of \$35,000.00 dollars, but may not exceed \$50,000.00, where the immediate requisition of goods or services are required.

Section 8: Exception to Bid Requirements.

Only the following situations are exempted from the competitive bid requirements of this article:

- (1) **Emergency Purchases.** In urgent cases of compelling emergency which require the immediate purchase or repair of equipment, supplies or contractual services, the city manager is empowered to secure, by open market procedure at the lowest obtainable price, any equipment, supplies, repairs or services not exceeding

\$50,000.00. The City Manager shall place a notation on the agenda of the next regularly scheduled City Council meeting advising of the emergency purchase.

- (2) **Professional Services.** Contracts for professional services involving peculiar skill, ability, experience or expertise, which are in their nature unique and not subject to competitive bidding, are exempt from the competitive bidding requirements of this article; however, a formal written contract, approved by the council, shall be required for all such contracts in excess of \$25,000.00.00, and any applicable state law, such as the Consultant's Competitive Negotiation Act, shall be followed.
- (3) **Noncompetitive Supplies.** Noncompetitive supplies, available only from one source, such as unique, patented or franchised supplies, are exempt. The City Manager is authorized to purchase and contract for noncompetitive supplies in excess of \$50,000.00, provided authorized funds are available in the annual budget and records of purchases exceeding \$50,000.00 are available for review in the procurement department.
- (4) **One Bid or No Bid Received.** In the event that only one bid is received by the city, the City Manager is authorized to negotiate a lower price from the bidder. If no bids are received, the City Manager, when time or economic considerations warrant, may attempt to obtain three informal written quotations. If at least two written quotations are received, the purchase may proceed without the necessity for a rebid. Such purchases in excess of \$50,000.00 require a formal, written contract approved by the City Council.
- (5) **Unique Circumstances.** Where the City Council finds unique circumstances to establish that competitive bidding is not in the best interest of the City; however, such purchases in excess of \$50,000.00 shall require a formal, written contract approved by the City Council. The City Council, upon request by the City Manager, may waive the requirement for a formal written contract when such a contract would not be in the best interest of the city.
- (6) **Bids and Contracts from Other Entities.** The City Manager is authorized to use competitive bids and formal contracts from other entities.

Section 9: Exclusions to Procurement Procedures: The provision of this section shall not apply where:

- (1) The procurement of dues and memberships in trade or professional organizations; registration fees for trade and career fairs, subscriptions for periodicals and newspapers; advertisements; postage; expert witness; legal and mediation services; lobbying services; abstracts of title for real property; title searches and certificates; title insurance for real property; real estate appraisal services; water, sewer, telecommunications and electric utility services; copyrighted materials or patented materials including, but not limited to, technical pamphlets, published books, maps, testing or instructional materials; fees and costs of job-related seminars and training.
- (2) Travel expenses, hotel accommodations and hotel services.

- (3) The contractor is a governmental entity.
- (4) The contract is for the sale or lease of property.
- (5) The covered contract is necessary to respond to an emergency.
- (6) The provision of this section would violate grant requirements, the laws, rules or regulations of federal or state law.
- (7) The city council waives compliance of this section in the best interests of the city, including but not limited to, the following circumstances:
 - a. Where only one solicitation response is received.
 - b. Where more than one solicitation response is received, but the solicitation demonstrates that none of the proposed solicitations can comply with the requirements of this section.

Section 10: Waiver of Procurement Procedures. The City Council may authorize the waiver of procurement procedures upon the recommendation of the City Manager that it is in the city's best interest to do so to obtain goods and services which cannot be acquired through the normal purchasing process due to insufficient time, the nature of the goods or services, or other factors. Purchases authorized by the waiver process shall be acquired with such competition as is practicable under the circumstances and only after a good faith review of all available sources and negotiation as to price, delivery and terms. There shall be no waiver of procurement procedures for procurements that are subject to the provisions of F.S. §§ 287.055 or 255.20.

Section 11: Tie Bids: In the event two or more bids are equal with respect to price, quality and service, preference will be given in the following order:

- a. The bidder that has its main business office in the city;
- b. The bidder that as its regional office in the city;
- c. The bidder that has its main business office in Palm Beach County;
- d. The bidder that has its regional office in Palm Beach County;
- e. The bidder that has his or her business in the State of Florida;
- f. A state or county certified minority-owned bidder;
- g. A bidder that promotes a drug-free environment; and
- h. Alphabetical.

Section 12: Cooperative Purchasing.

The City Manager may procure, without following formal contract procedure, all supplies, materials, equipment and services, which are cooperative purchases and shall have the authority to join with other units of government in cooperative purchasing plans or to purchase pursuant to formal written contracts or competitive bids of other governmental units, when the best interests of the City would be served.

Section 13: Appropriations Required.

- (A) No obligation for expenditures of City funds may be incurred except pursuant to, and only to the extent of, a specific appropriation of funds in the budget. This provision shall apply, without being limited to, any formal or informal contractual obligation for the purchase of

lease supplies, services or equipment, and personal services. No money may be drawn from the treasury of the City nor may the appropriate City officials execute any check, draft, warrant, note or other negotiable instrument, except pursuant to, and only to the extent of, a specific appropriation of funds in the budget to be debited for such payment.

- (B) No obligation for the expenditure of money, nor drawing of funds from the treasury, in excess of \$1,000.00 may occur unless there is a written certification from the finance director or his/her designee certifying that there exists an adequate unencumbered balance of appropriate and available funds.
- (C) The City Manager, in a matter of public necessity, may incur obligations or expend funds, not in excess of \$25,000.00 without complying with this article or the requirements for public bidding, provided that he/she places the ratification of these expenditures on the first regularly scheduled council meeting occurring after the incursion or expenditure. In an emergency involving urgent, and extreme matters of public health, safety or welfare, the City Manager may exceed this monetary limitation, provided that, on the same business day that he/she takes such action, the City Manager shall request that a special Council meeting be held at the earliest possible time, to ratify that action.

Section 14: Appropriations for Outstanding Purchase Orders.

A duly authorized appropriation of any given fiscal year shall continue to be a valid appropriation of a subsequent fiscal year, without appropriation or inclusion in the later year's budget, providing that the expenditure pursuant to such appropriation has been authorized by the City Council or a properly executed purchase order is outstanding at the end of the fiscal year of the original appropriation. Authority to complete such purchase and expenditure is granted; and if the expenditure is not completed after a reasonable time, the City Manager is authorized and directed to cancel and close out the unexpended balance of the appropriation.

Section 15: Procedures for Purchases in Excess of \$50,000.00.

Bid Award

- (A) All bids in excess of \$50,000.00 shall be awarded by City Council as soon as practical after the bids are opened. Bids shall be awarded to the lowest qualified responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids. In determining the lowest responsible and responsive bidder, in addition to price, the following shall be considered:

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1. The ability, capacity, skill and sufficiency of resources of the bidder to perform the contract;
2. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
3. The character, integrity, reputation, judgement, experience and efficiency of the bidder;
4. The quality of performance of the bidder on previous city contracts;
5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract;
6. The quality, availability and adaptability of the supplies or professional or contractual services to the particular use required; and

7. The ability of the bidder to provide future maintenance, service or warranty work, if applicable.
 8. The bidder's status as a small business, minority owned business or a women owned business as certified by Palm Beach County.
- (B) Except as otherwise provided in this division, the purchase of commodities or services of an estimated value in excess of \$50,000.00 shall be approved by the City Council and may be by purchase order and/or other written contract with the vendor submitting the lowest responsible bid whose bid has been solicited, received and approved, pursuant to the following procedures:
- (C) **Advertisements. Notice inviting solicitations.** Except of those solicitations that are required by statute to be advertised in a newspaper, notices inviting solicitations shall be published electronically. A general description of the commodities or services to be purchased, a statement of where the solicitation documents may be obtained, and the date, time and place of receipt is to be provided.
- (D) **Security (bid bonds).** When the estimated cost of a contract is \$150,000.00 or higher, or when otherwise deemed necessary by the City Manager, security in the form of a bid bond issued by a surety company licensed to do business in the state or a cash bond in an amount equal to ten percent of the bid shall be prescribed in the public notices inviting bids. When the City Manager deems it necessary to require a bid bond for bids less than \$150,000.00, the bond shall be in an amount equal to five percent of the bid. A vendor shall forfeit a bid security upon a refusal or failure to execute the contract within 15 calendar days of the notice of award of contract, unless the City is solely responsible for the delay in executing the contract. The City Council may, upon the refusal or failure of the successful vendor to execute the contract, award the contract to the next lowest vendor.
- (E) **Bid Opening Procedures.** Sealed written bids shall be returned to the City and identified as bids on the envelope, together with other information as may be specified in the invitation to bid. Bids shall be opened in public on the date and at the time and place stated in the public notices as specified by Florida Statute.
- (F) **Rejection of Bids.** The City Council may authorize the City Manager to:
- a. Reject any and all bids, reject all bids and re-advertise for bids, and/or to waive minor irregularities in an otherwise valid bid.
 - b. A minor irregularity is a variation from the bid invitation which does not affect the price of the bid, or give the bidder an advantage or benefit not enjoyed by other bidders, or does not adversely impact the interests of the city.
 - c. In the event the lowest responsive and responsible bid for a construction project exceeds available funds as certified by the Financial Services Director, and the bid does not exceed the funds by more than 10%, the Procurement Manager is authorized, when time or economic considerations preclude re-solicitation of work of a reduced scope, to negotiate an adjustment of the bid price with the lowest responsive and responsible bidder, in order to bring the bid within the amount of available funds.

- (G) **Performance and Payment Bonds.** A performance bond and a payment bond, or a "contract bond" combining the elements of a performance and a payment bond, issued by a surety company licensed to do business in the state, may be required before entering into a contract, in an amount at least equal to the contract price or such higher amount as may be found reasonably necessary to protect the best interests of the City except, in limited circumstances, such as incremental services contracts or blanket purchase orders, where it has been determined by the department director that the potential liability resulting from the performance or payment under the contract is an amount less than the full contract price. If such bond is required, the form and amount of the bond shall be described in the notice inviting bids. Bonds required hereunder shall be subject to all other provisions of this section and this Code.
- (H) **Security in Lieu of Performance and Payment Bonds.** In lieu of the bond required by this section, a contractor may file with the City an alternative form of security in the form of cash, money order, certified check, cashier's check, an irrevocable letter of credit, or security of a type listed in Florida Statutes, § 625.301 et seq. Any such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the bond required hereunder. The appropriate representative of the City as described in subsection (5) of this section shall make the determination of the value of the alternative form of security.
- (I) **Insurance.** The successful bidder is required to obtain at its own expense, all minimum insurance coverages required in the bid documents and contract documents. The successful bidder shall submit copies of all insurance certificates to the City for approval. No work under the contract shall commence until the required insurance has been obtained and proof of said insurance has been provided.
- (J) **Change Orders.** Any change in the contract price, scope of work or time for completion of any project following the award of a contract shall be by a written change order, approved by the City Manager and executed with the same formalities as the contract. However, the City Manager may approve and execute change orders without City Council approval subject to the following limitations:
- a. The City Manager may approve any change orders, which do not exceed \$50,000.00, for up to a maximum of ten percent over the award of the City Council. The scope of any project may not be changed without prior approval of the City Council. No increase in contract price shall be approved unless there are sufficient funds available for such purpose.
 - b. Contract price decreases may be approved without limitation.
 - c. No change order shall materially change the scope of the work unless approved by the City Council.
 - d. In the event the lowest, most responsive and responsible bid for a project exceeds available funds, and the City Council does not make available additional funds, the City Manager is authorized, when time or economic considerations preclude re-solicitation of bids, to negotiate an adjustment of the bid price as long as the scope of work is not materially changed with the lowest, most responsive and responsible bidder, in order to

bring the bid within the amount of available funds. Final negotiations shall be in written form as approved by the City Manager.

- (K) **Demonstration of products.** All departments that engage firms in the demonstration, inspection and/or testing of supplies or services for which no formal solicitation has been advertised, must involve the procurement department in the demonstrations and/or testing. Where there would be an eventual solicitation for the products and/or services which have previously gone through a demonstration and/or inspection, it must be made known at the pre-bid meeting for the particular solicitation released.

Section 16: Protests Procedures.

Any party may present a written protest about the award of a contract as a result of an RFP, RFQ or bid to the City Manager. Emergency procurements, purchases for goods, supplies, equipment, and services, the estimated cost of which does not exceed \$50,000.00, are not subject to protests.

- (A) **Time for Protest.** The submission of a protest about the award of a contract, as a result of an RFP, RFQ or bid, to the City Manager must be made no later than ten calendar days of approval of notice of award.
- (B) **Form and Content of Protest.** The protest shall be filed in writing with a statement as to the particular facts and law upon which the protest is based, to the City Manager.
The City Manager will provide a copy of the written protest to the City Attorney and other appropriate city staff.
- (C) **Protest Filing Fee.** The written protest must be accompanied by a filing fee in the form of a money order or cashier's check payable to the City in an amount equal to one percent of the contract value, which resulted from an RFP, RFQ or Bid, but no greater than \$5,000.00. The filing fee shall guarantee the payment of all costs which may be adjudged against the protestor in any administrative or court proceeding. Failure to submit a filing fee or bond simultaneously with the formal protest shall invalidate the protest and the City may proceed to the contract as if the protest was never filed.

If a protest is upheld by the City Manager, the filing fee shall be refunded to the protestor less any costs assessed under subsection (4), costs, below.

- (D) **Costs.** All costs accrued from a protest shall be assumed by the protestor.
- (E) **Authority to Resolve Protests.** The City Manager and the City Attorney shall have the authority, to settle and resolve any written protest within 30 days after receipt of the written protest.
- (F) **Special Magistrate.** In the event the protest is not resolved by the City Manager, a hearing shall be scheduled by the City before a special magistrate selected by the City, who shall only determine whether procedural due process has been afforded, whether the essential requirements of law have been observed, and whether the City Manager's finding are arbitrary, capricious, or an abuse of discretion. Any hearing shall be limited to two hours per

side, unless the special magistrate rules otherwise. This requirement is a jurisdictional prerequisite to the institution of any civil action regarding the same subject matter.

(G) **Remedies for Solicitations or Awards in Violation of Law**

- (1) *Prior to bid opening or closing date for receipt of proposals:* If prior to the bid opening or the closing date for receipt of proposals, the City Manager, after consultation with the City Attorney, determines that a solicitation is in violation of federal, state or municipal law, then the solicitation shall be canceled or revised to comply with applicable law.
- (2) *Prior to award:* If after bid opening or the closing date for receipt of proposals, the City Manager, after consultation with the City Attorney, determines that a solicitation or a proposed award of a contract is in violation of federal, state or municipal law, then the solicitation or proposed award shall be canceled.
- (3) *After award:* If, after an award, the City Manager, after consultation with the City Attorney, determines that a solicitation or award of a contract was in violation of applicable law, then:
 - a. If the person or firm awarded the contract has not acted fraudulently or in bad faith:
 1. The contract may be ratified and affirmed, provided it is determined that doing so is in the best interests of the city; or
 2. The contract may be terminated and the person awarded the contract shall be compensated for any actual costs reasonably incurred under the contract, plus a reasonable amount for overhead, prior to the termination; or
 - b. If the person or firm awarded the contract has acted fraudulently or in bad faith, the contract may be declared null and void or voidable, if that action is in the best interests of the city.

Section 17: Cone of Silence.

- (A) **Purpose.** A cone of silence shall be applicable to all requests for proposal (RFP), invitations to bid (ITB), RFLI, or any other advertised solicitations for the provision of goods and services, professional services, and public works or improvements for amounts greater than \$50,000.00, unless otherwise exempted in this section.
- (B) **Definition.** The term "cone of silence" means a prohibition on:
 - (1) Any communication regarding a particular RFP, RFQ, ITB, RFLI, or any other advertised solicitation between a potential proposer, offeror, respondent, bidder, lobbyist or consultant and the City's staff including, but not limited to, the City Manager and his/her staff;
 - (2) Any communication regarding a particular RFP, RFQ, RFLI, ITB or any other advertised solicitation between a potential proposer, offeror, respondent, bidder, lobbyist, or consultant and any member of the selection/evaluation committee therefor;
 - (3) Any communication regarding a particular RFP, RFQ, RFLI, ITB or any other advertised solicitation between a potential proposer, offeror, respondent, bidder, lobbyist, or consultant and the Mayor and City Council and their respective staff.

- (C) **Exemptions.** Notwithstanding the foregoing, the cone of silence shall not apply to:
- (1) Communications between a potential proposer, offeror, respondent, bidder, consultant and City purchasing staff, prior to bid opening date or receipt of proposals, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document;
 - (2) Duly noticed pre-bid/proposal conferences and site inspections;
 - (3) Duly noticed site visits to determine the competency of bidders/proposers regarding a particular solicitation during the time period between the opening of bids/receipt of proposals and the time the City Manager presents his/her written recommendation to City Council;
 - (4) Emergency procurements;
 - (5) Communications with the city attorney;
 - (6) Sole source procurements;
 - (7) Those purchases that are exempted from competitive requirements
 - (8) Bid waivers;
 - (9) Oral presentations before selection/evaluation committees and communications occurring during duly noticed meetings of selection/evaluation committees;
 - (10) Public presentations made to the City Council and communications occurring during any duly noticed public meeting;
 - (11) Communications in connection with the collection of industry comments or the performance of market research regarding a particular RFP, RFQ, RFLI, ITB or any other advertised solicitation by the purchasing staff;
 - (12) Contract negotiations that occur after an award; and
 - (13) Any communication regarding a particular RFP, RFQ, RFLI, ITB or any other advertised solicitation between the City Manager and his/her staff, and the mayor and City Council and their staff, following the evaluation process, to discuss the documents released by the city as well as documents received from responders. The City Manager shall make available to the Mayor and the City Council all documents reviewed by the evaluation committee for the top three ranked responders.
- (D) **Procedure.**
- (1) **Imposition.** A cone of silence shall be imposed upon each RFP, RFQ, RFLI, ITB or any other advertised solicitation when the solicitation is advertised. At the time of imposition of the cone of silence, the city manager or his/her designee shall issue a notice thereof to the affected department, the City Clerk, Mayor and City Council and shall include in any advertised solicitation a statement disclosing that the solicitation is subject to the cone of silence.
 - (2) **Termination; City Council awarding authority.** Except as otherwise provided herein, the cone of silence shall terminate at the date and time of the City Council meeting where the award will be made; provided, however, that if the City Council defers the matter to a future date, the cone of silence shall be re-imposed until such time as the

matter is brought back before the City Council for further deliberation. In the event the City Council decides to reject all bids, then the cone of silence shall be lifted.

- (3) **City manager awarding authority.** Except as otherwise provided herein, the cone of silence shall terminate at the time the originating department issues a written recommendation to the City Manager; provided, however, that if the City Manager refers the recommendation back for further review, the cone of silence shall be reinstated until such time as the city manager issues a recommendation for award pending the bid protest period.
- (E) **Penalties.** Violation of the cone of silence by a particular bidder or proposer shall render the award to said bidder or proposer voidable by the city commission. A violation of this section by a particular bidder, proposer, offeror, respondent, lobbyist or consultant shall subject said bidder, proposer, offeror, respondent, lobbyist or consultant to \$500.00 fine per violation and debarment.

ARTICLE II. - DESIGN-BUILD PROCUREMENT METHOD

Section 18: Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consultants' Competitive Negotiation Act means Florida Statutes §287.055, as periodically amended.

Design-build contract means a single contract with a design-build firm for the design and construction of a public construction project.

Design-build firm means a partnership, corporation, or other legal entity that:

- (1) Is certified under Florida Statutes §489.119 to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or
- (2) Is certified under Florida Statutes §471.023 to practice or to offer to practice engineering; certified under Florida Statutes §481.219 to practice or to offer to practice architecture; or certified under Florida Statutes §481.319 to practice or to offer to practice landscape architecture.

Design criteria package means performance oriented drawings or specifications of the public construction project. The design criteria package shall furnish sufficient information to permit design-build firms to prepare a bid or a response to the city's request for proposal, or to permit the city to enter into a negotiated design-build contract. The design criteria package shall specify performance based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layout and conceptual design criteria for the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project.

Design Criteria Professional means a firm which holds a current certificate or registration under Florida Statutes, chapter 481 to practice architecture or landscape architecture or a firm which holds a current certificate as a registered engineer under Florida Statutes, chapter 471 to practice engineering

and who is employed by or under contract by the city to provide professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package.

Section 19: Use of Design-Build Contracts.

(a) **Competitive Proposal Selection Process.** The competitive proposal selection process involves a three-phase design-build process.

(1) **Design Criteria Package.**

- a. All design-build projects require a design criteria package.
- b. The design criteria package shall be prepared and sealed by a design criteria professional, employed by or retained by the city.
- c. Should the city elect to enter into a professional services contract for the preparation of the design criteria package, then the design criteria professional must be selected and contracted in accordance with the requirements of sections (4) and (5) of the Consultants' Competitive Negotiation Act.
- d. A design criteria professional who has been selected to prepare the design criteria package shall be ineligible to render services under a design-build contract executed pursuant to the design criteria package.

(2) **Public Announcement.** The city shall publicly announce in a uniform and consistent manner, the fact that design criteria professional services and design-build services are required, except in cases of valid public emergency as declared by the City Manager. The announcement shall include a general description of the project, procedures for obtaining the request for proposals, and the time within which interested design criteria professionals and design-build firms may submit proposals.

(3) **Design-Build Firm Selection.**

- a. The qualification and selection of at least three design-build firms shall be made based on qualifications, availability, and past work of the firms, including the partners or members of such firms.
- b. The City Manager shall select three firms submitting the best proposals and shall present the proposals to the City Council.
- c. The City Council shall make the final selection of the design-build firm for the public construction project based on qualifications, availability, experience and related factors of the three firms.
- d. The City Manager is authorized to develop additional procedures for use of the competitive proposal selection process for design-build contracts by the City.

(1) **Qualifications-based selection process.** The qualifications-based selection (QBS) is a two-phase, simplified procurement process not requiring the creation and submission of a design criteria package.

(2) **Design-build firm selection.**

- a. If the City uses the qualifications-based selection (QBS) method, the City shall employ or retain a licensed design professional appropriate to the project to serve as its representative.
 - b. The QBS method shall include the qualification and selection of at least design-build firms, based on the qualifications, availability, past work of the firms including partners or members of such firms.
 - c. The selection of at least three firms shall be made by the City Manager and presented to the City Council for final approval of one firm.
- (3) **Public announcement.** The City shall publicly announce in a uniform and consistent manner, the fact that the design criteria professional services and design-build services are required, except in cases of valid public emergency as declared by the city. The announcement shall include a general description of the project, procedures for obtaining the request for proposals, and the time within which interested design criteria professionals and design-build firms may submit proposals.

Section 20: Method of Project Selection and Participation.

- (A) Prior to the implementation of each proposed construction project, the City Council may determine which construction method to use based on the nature of the project and the city's needs and capabilities. The City Council may reject both design-build methods contained in this article and instead implement the traditional design-bid-build method of contracting.
- (B) Prior to the implementation of each proposed construction project, the City Council shall also determine whether to use staff or retain an outside design criteria professional.
- (C) All final agreements pursuant to this article shall be subject to the approval of the City Council following recommendations made by the City Manager. The City Council reserves the right to reject all proposals.
- (D) In the case of a public emergency presenting certain conditions that might adversely affect the life, safety, health or welfare of the residents of the City, or when City employees, property or equipment are endangered, or when it is necessary to maintain or restore vital services, to address noncompliance with state statutes or other regulatory laws and permits or situations which may cause major financial impact to the City should immediate action not be taken, the City Manager is authorized to negotiate with the best design-build firm available at the time, and award a design-build contract. The emergency design-build contract shall be presented to the City Council for ratification at the next scheduled council meeting.

SECTION 21: The City Council hereby enacts the purchasing policy for the procurement of commodities, good, services and construction related projects.

SECTION 22: Severability: Should the provisions of this ordinance be declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall remain notwithstanding the invalidity of any part.

SECTION 23: Codification: It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances for the City of Westlake, Florida and the sections of this ordinance may be re-numbered or re-lettered to accomplish such intentions, and the word “ordinance” shall be changed to “section” or other appropriate word.

SECTION 24: Effective Date: This ordinance shall be effective upon adoption on second reading.

PASSED this _____ day of May, 2018, on first reading.

PASSED AND ADOPTED this _____ day of June, 2018, on second reading.

City of Westlake
Roger Manning, Mayor

Sandra Demarco, City Clerk


Approved as to Form and Sufficiency

Pam E. Booker, City Attorney

Twelfth Order of Business

MEMORANDUM

To: Mayor Roger Manning
City Council Members

From: Pam E. Booker, City Attorney 
Ken Cassel, City Manager

Date: June 4, 2018

Subject: HAPPY Application

The City of Westlake has received nine (9) applications for down payment assistance through the program. The evaluations were based upon criteria approved by the Council, including a "need based" component. Need based is determined by how cost burdened the applicants would be with the purchase of the home. The purchase price has been another factor in granting awards. The Council wanted to stay as close to the HUD guidelines of \$298,000 purchase price as possible, therefore, applicants purchasing homes over \$350,000, do not qualify for the program. With those factors as guidelines, the following awards have been provided.

- \$16,475.00 Closed May 24, 2018
- \$10,000.00 Closed May 31, 2018
- \$20,000.00 Closing scheduled June 14, 2018.

Three applicants were either not cost burdened with the purchase of their home, the purchase price exceeded \$350,000.00, or they exceeded the \$30,000.00 asset limit to qualify for the program. The City provided letters to those applicants stating the reason they did not qualify for the program.

One applicant did not complete the application at this time due to the purchase price exceeding their budget. There are two applications under review, one which was submitted on Friday. The City will continue to receive and process applications as they come into the City and provide updates to the Council as the program continues. Should you have any questions or need additional information, please do not hesitate to contact me at (772) 971-8676.

Thirteenth Order of Business

District 15 City of Westlake

Monthly Report: May 2018



Calls for Service	Monthly
Business/Residence Checks	185
Traffic Stops	30
Calls for Service (Excluding 1061's)	83
All CAD Calls – Total*	268

Traffic Summary	Monthly
Warnings (Written and Verbal)	22
Citations	10
Total	32

Data Source: CrimeView Dashboard

*Omit Miscellaneous Calls

Summary: During the month, there were 268 generated calls within the district. 80% of these calls were self-initiated.

Crimes	Monthly
Murder	0
Sexual Assault	0
Robbery	0
Burglary - Residential	0
Burglary - Vehicle	0
Burglary - Business/Construction	0
Theft	0
Motor Vehicle Theft	0
Vandalism	0
Fire	0
Total	0