



AGENDA

SPECIAL COMMISSION MEETING

6:00 PM - Thursday, February 8, 2024

Commission Chambers

Page

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. DELETIONS OR WITHDRAWALS TO THE AGENDA
5. PUBLIC COMMENTS RELATED TO AGENDA ITEMS / GOOD & WELFARE
6. PRESENTATIONS / PROCLAMATIONS
 - 6.1. Update from Securian dba The Standard - Pension Advisor Rosen
Presenting are: Jeff Rueber, Regional Investment Consultant from Minnesota
Paula Loeb, Relationship Manager from Florida
 - 6.2. Audit Presentation - Audit Consultant S. Davis 6 - 18
[AUDITORS PRESENTATION](#)
 - 6.3. Business Flare - Interim Town Manager Ghany 19 - 77
[Presentation Business Flare](#)
[Business Flare invoice](#)
[Business Flare Proposal](#)
 - 6.4. PROCLAMATIONS: 78 - 82
Black History Month
Irish Heritage Month
Asian Trade Food Fair and Cultural Show
Problem Gambling Awareness Month
[2024 BLACK HISTORY MONTH](#)
[2024 PROBLEM GAMBLING AWARENESS MONTH](#)
[2024 Irish American](#)
7. CONSENT AGENDA
 - 7.1. Approval of Minutes - Town Clerk Martell 83 - 113
11 14 2023 Emergency Commission meeting
12 13 2023 Regular Commission meeting
01 03 2024 Workshop Commission meeting
01 10 2024 Regular Commission meeting
[11 14 2023 EMERGENCY COMMISSION MEETING](#)
[12 13 2023 REGULAR COMMISSION MEETING](#)
[01 03 2024 WORKSHOP COMMISSION MEETING](#)
[01 10 2024 REGULAR COMMISSION MEETING](#)

[Jacobs Form 8B 11.3 investigation on Jacobs](#)
[Jacobs Form 8B 11.3 vote 2 15,000](#)
[Jacobs Form 8B Food truck Item 10.1](#)
[01 10 2024 Jacobs 10.1 01-10-2024 Meeting Form 8](#)

- 7.2. Police Station Build Out - Change Order #4 - Interim Town Manager Ghany 114 - 120

We are recommending approval.

[Agenda Item Report - AIR-24-014 - Pdf](#)

- 7.3. Grant HMGP funding - project extension request - Interim Town Manager Ghany 121 - 125

[PS HMGP Letter](#)

[PS HMGP extension](#)

[PS HMGP budget increase](#)

- 7.4. 3% Hazard Pay for employees in the Stormwater and Sewer division - Interim Town Manager Ghany

- 7.5. Annual Sponsorship - Mayor Mohammed Broward County League of Cities Annual Gala ICNA Relief USA 126 - 128

[Agenda Item Report - AIR-24-018 - Pdf](#)

- 7.6. Approval of Conferences and Events - Mayor Mohammed Women in Government Asian Pacific American Institute for Congressional Studies (APAICS) US Conference of Mayors African American Mayors Association Annual Conference Florida Institute of Government Newly Elected Officials Course Sister Cities International (SCI) Law Enforcement - MEL Safety Institute Online Learning Library Florida League of Cities Annual Conference 129 - 136

[2024 Employee Conferences](#)

[FLC 2024 Calendar of events](#)

[Commission Conference Training 2024](#)

- 7.7. Food Policy - Mayor Mohammed 137 - 139
[Food with gratuity](#)

8. RESOLUTIONS

- 8.1. S. Davis Contract - Finance Consultant DiLena 140 - 178

RESOLUTION NO. 2024-003

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA, APPROVING AND AUTHORIZING THE EXECUTION OF THE AGREEMENT BETWEEN THE TOWN OF PEMBROKE PARK AND S. DAVIS & ASSOCIATES, P.A., ATTACHED HERETO AS EXHIBIT "A," FOR INDEPENDENT AUDITING

SERVICES; AUTHORIZING THE TOWN MANAGER TO MAKE CERTAIN NON-SUBSTANTIAL CHANGES TO THE AGREEMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

[2024 003 S Davis](#)

[Audit Engagement Letter Draft4](#)

[Audit Engagement Letter - TOWN OF PEMBROKE PARK 2023 - Draft 1 Engagement Letter 2022](#)

9. ORDINANCES 2ND READING

9.1. **ORDINANCE NO. 2024-001** - Mayor Mohammed 179 - 187

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA **AMENDING CHAPTER 17 OF THE TOWN' S CODE OF ORDINANCES, ENTITLED "NOISE;" PROVIDING DEFINITIONS FOR NOISE, NOISE DISTURBANCE, AND PLAINLY AUDIBLE; PROVIDING FOR VIOLATIONS WHEN NOISE IS PLAINLY AUDIBLE AT CERTAIN DISTANCES IN VARIOUS ZONING DISTRICTS;** PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

[2024-001 Noise Ordinance](#)

10. OLD BUSINESS

10.1. Purchase of (2) new Ford F-150 pick up trucks and a Town administrative vehicle - Interim Town Manager Ghany 188 - 214

Staff is recommending the approval for the purchase of two new pick up trucks for the Public Services Department.

[Agenda Item Report - AIR-23-191 - Pdf](#)

[2024 Lease Explorer XLT](#)

[2024 Purchase Ford Explorer XLT](#)

[Presentation Vehicle purchase added 01 24](#)

11. NEW BUSINESS

11.1. Megawattage - Renewal of Generator Maintenance contract - Interim Town Manager Ghany 215 - 236

We are recommending approval.

[Agenda Item Report - AIR-24-016 - Pdf](#)

[Megawattage generator contract](#)

11.2. Discussion on benefits - Acting Clerk Commissioner Musfika 237 - 395

Discussion on the time employees report to work

Town operating hours per the personnel manual

[Agenda Item Report - AIR-23-052 - Pdf](#)

[TIME Jlac Letter](#)

[TIME OEL Exempt Employees](#)

[TIME Find Law](#)

[2021 December EMPLOYEE HANDBOOK REVISED](#)

11.3.	Camera angle - Commissioner Jacobs	
11.4.	ESRI Inc.GIS Renewal - IT Director Pakula IT quote renewal Esri Quotation	396 - 400
12.	DISCUSSION	
12.1.	Speed Zone Cameras - Police Chief Dabney Donovan Update of past Speed Zone Cameras discussion and direction moving forward Agenda Item Report - AIR-24-017 - Pdf	401
12.2.	Bills over \$500.00 - Finance Department - This is for informational purpose ONLY. Moving forward this information will be uploaded to the Finance Department Report at the Workshop Commission meetings. Bills over \$500	402
12.3.	FEMA letter - Mayor Mohammed FEMA LETTER	403 - 405
13.	ATTORNEY COMMENTS	
14.	TOWN MANAGER COMMENTS	
15.	COMMISSIONER COMMENTS Commissioner Jacobs Acting Clerk Commissioner Kashem Clerk Commissioner Hodgkins Vice Mayor Morrisette Mayor Mohammed	
16.	ANNOUNCEMENTS	
16.1.	Broward County Hurricane Hardening Program Broward Hurricane Hardening flyer	406 - 407
16.2.	Special Commission meeting, Monday, February 12th, at 6:00 PM Blood Drive, Saturday, February 24th, from 8:00 AM to 3:30 PM at 3184 West Hallandale Beach Blvd. Workshop Commission meeting, Wednesday, February 28th, at 6:00 PM Regular Commission meeting, Wednesday, March 13th, at 7:00 PM Special Magistrate, Wednesday, March 20th at 9:00 AM Eggstravaganza, March 23rd, from 10am to 2pm at the Preserve Park Workshop Commission meeting, Wednesday, March 27th at 6:00 PM Eggstravaganza Blood Drive 2024	408 - 409
17.	ADJOURNMENT	

IN ACCORDANCE WITH THE PROVISIONS OF F.S. SECTION 286.0105, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD, AGENCY, OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE, HE OR SHE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

ANY PERSON REQUIRING AUXILIARY AIDS AND SERVICES AT THIS MEETING MAY CALL THE TOWN CLERKS OFFICE AT 954-966-4600 AT LEAST TWO CALENDAR DAYS PRIOR TO THE MEETING. IF YOU ARE HEARING OR SPEECH IMPAIRED PLEASE CONTACT THE FLORIDA RELAY SERVICES BY USING THE FOLLOWING NUMBERS: 1-800-955-8770 (VOICE) OR 1-800-955-8771 (TDD)

DECORUM - ALL COMMENTS MUST BE ADDRESSED TO THE COMMISSION AS A BODY AND NOT TO INDIVIDUALS. ANY PERSON MAKING IMPERTINENT OR SLANDEROUS REMARKS, OR WHO BECOMES BOISTEROUS WHILE ADDRESSING THE COMMISSION, SHALL BE BARRED FROM FURTHER AUDIENCE BEFORE THE COMMISSION BY THE PRESIDING OFFICER, UNLESS PERMISSION TO CONTINUE OR AGAIN ADDRESS THE COMMISSION IS GRANTED BY THE MAJORITY VOTE OF THE COMMISSION MEMBERS PRESENT. NO CLAPPING, APPLAUDING, HECKLING OR VERBAL OUTBURSTS IN SUPPORT OR IN OPPOSITION TO A SPEAKER OR HIS/HER REMARKS SHALL BE PERMITTED. NO SIGNS OR PLACARDS SHALL BE ALLOWED IN THE COMMISSION CHAMBERS. PLEASE MUTE OR TURN OFF YOUR CELL PHONE OR PAGER AT THE START OF THE MEETING. FAILURE TO DO SO MAY RESULT IN BEING BARRED FROM THE MEETING. PERSONS EXITING THE CHAMBER SHALL DO SO QUIETLY.

Marlen D. Martell
Town Clerk



Town of Pembroke Park

Audit Results & Financial Overview as of and for the
Fiscal Year Ended September 30, 2022

Presented February 8, 2024



Town of Pembroke Park Scope of Examination and Results of Audit September 30, 2022

- ❖ Auditor's report of Financial Statements (pp. 1-3):
 - Audited the statements of :
 - Net Position
 - Activities
 - Balance Sheets
 - Revenues, expenses and changes in fund balances
 - Fiduciary net position
 - Change in fiduciary net position
 - Cash flows, where applicable
 - Related notes to the financial statements
 - Pursuant to Generally Accepted Auditing Standards and Government Auditing Standards ("GAAP")
 - In accordance with Generally Accepted Auditing Standards ("GAAS") and *Government Auditing Standards*

Town of Pembroke Park Scope of Examination and Results of Audit September 30, 2022

- Unmodified audit opinion on Financial Statements (p. 1)
- Adopted the provisions of Governmental Accounting Standards Board Statement No.87 “Leases”, opinion is not modified with respect to this matter (p. 1)
- Management is responsible for preparation and fair presentation of financial statements presented and for the design, implementation and maintenance of internal controls; extends to governing body (pp. 1-2)
- Auditor is responsible for opining on financial statements presented (p. 2)

Town of Pembroke Park Scope of Examination and Results of Audit September 30, 2022

➤ SDA:

- Assisted in the preparation of the financial statements
- Performed procedures to obtain audit evidence about amounts and disclosures (p. 2)
- Exercised professional judgment (p. 2)
- Performed risk assessments (p. 2)
- Gained understanding of internal control to design audit procedures; do not render opinion on internal controls (p. 2)
- Evaluated accounting policies used (p. 2)
- Considered going concern (p. 2)

Town of Pembroke Park Scope of Examination and Results of Audit September 30, 2022

- Performed limited procedures on Required Supplementary Information and Other Supplementary Information considered in relation to the financial statements (pp. 2-3)
 - MD&A (pp. 4-11)
 - Budgetary comparison schedule (pp. 57-58)
 - Pension information (pp. 59-64)
- ❖ Auditor's reports - Issued on January 11, 2024
 - The Town did not meet the required submission date of June 30, 2023

Town of Pembroke Park Scope of Examination and Results of Audit September 30, 2022

The completion of our audit was delayed because of the following reasons:

- Trial balance was received July 24, 2023 instead of December 15, 2022 as planned
- Preliminary and final field work started on September 15, 2023 instead of January 15, 2023
- Change of management (Finance Director, twice, and Town Manager)
- Deficiencies were noted in the financial statement close process that required audit adjustments of approximately \$5 million for normal closing journal entries and reclassifications of approximately \$230 thousand in order for the financial statements to be in accordance with generally accepted accounting principles
- Reconciliation of account payable
- Audit supporting documentation was not received timely

SDA[®]
S. Davis & Associates, P.A.
Certified Public Accountants & Consultants

Town of Pembroke Park Scope of Examination and Results of Audit September 30, 2022

- Material misstatements detected as a result of the audit procedures were all corrected by management
- Significant deficiencies were noted in the internal control system; management concurred and provided responses including planned corrective action (pp. 71-75)
- No material weaknesses identified

Compliance Section, including Auditor's Reports

- ❖ Auditor's Report on Internal Control over financial reporting and Compliance & Other Matters (pp. 65-66)
 - Tested controls and compliance with laws, regulations, controls and agreements over financial reporting
 - Identified significant deficiencies in internal control
 - Identified one (1) instance of noncompliance required to be reported under *Government Auditing Standards*

Compliance Section, including Auditor's Reports

- ❖ Town in compliance with Section 218.415, Florida Statutes regarding deposit/investments

Required Communication to Governance

- ❖ Responsibilities, planned scope and timing -
Engagement Letter dated June 1, 2023
- ❖ Significant Accounting Policies
 - Management is responsible for selection and use of policies
 - Note 1 to financials statements
 - No transactions which lack authoritative guidance or consensus noted
 - Significant transactions recognized in proper period
 - All adjustments were recorded by management.

Required Communication to Governance

- ❖ Significant/sensitive estimates
 - OPEB & pension-related items
 - Depreciation and amortization expense
 - Leases
- ❖ Estimates considered reasonable

Required Communication to Governance

❖ Significant/sensitive disclosures

- Note 1 – Implementation of GASB 87
- Note 3 – Deposits and Investments
- Note 5 – Property and Equipment
- Note 6 – Long-term Liabilities
- Note 5-6 – Leasing Activities
- Note 7 – Florida Retirement System
- Disclosures are neutral, consistent and clear

❖ Misstatements

- Material misstatements detected as a result of the audit procedures corrected by management

Required Communication to Governance

❖ Other

- No disagreements with Town management
- Requested and received letter dated January 11, 2024 regarding certain representations from management and governance
- No consultations with other independent auditors
- No discussions held to prior to the current year audit were a condition to our continued retention
- Limited procedures applied to Management's Discussion & Analysis, required supplementary information.



Where Business Meets and Means Business

The Town of Pembroke Park Economic Development Strategic Plan

Adopted January 24, 2024

Prepared For:
The Town of Pembroke Park

Prepared By:
BusinessFlare®





BusinessFlare® // Pembroke Park, FL Economic Development Strategic Plan 2022

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#1 - Economic Development	
Strategies & Action Steps	
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#3 - Capital Improvements	
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Introduction

This Economic Development Strategic Plan for the Town of Pembroke Park represents an opportunity for strategic growth and a roadmap to position the Town as an important business-friendly cluster in the region.

This is a guidebook-style plan that will provide five (5) primary economic development goals and corresponding strategies.

The Town of Pembroke Park needed an understanding of the state of its economy, current market trends, and a look at the impacts of the COVID-19 pandemic to develop a strategic plan for the next five years. Pembroke Park is a land locked community in between Interstate 95 and Florida's Turnpike, with limited availability of land and a large transient population. Despite its limitations, Pembroke Park has positioned itself as a strong center for employment with more than 1,000 businesses clustered in area of approximately 450 acres dedicated to industrial, manufacturing, logistics, and distribution uses. This industrially rich area of properties, located just west of Interstate 95, represents a stable tax base for Pembroke Park to provide high quality services to its residents, business owners, and visitors.

This plan is organized around five (5) primary economic development goals and corresponding strategies, summarized on the following page. These will be used to benchmark and assess progress toward achieving the Town's economic goals in the next one to five years.

The success of this plan will depend on the collaborative and coordinated efforts within the Town departments, agencies, organizations, business owners, landowners, private sector developers, investors, and community at-large. The first step for this process is to distribute this plan to every department and hold a meeting to answer any questions and make sure everybody is on the same page. Second, the plan needs to be put into motion by designated project managers that will take on the goals and strategies and start completing items action items. Third, the town manager should hold progress meetings every quarter to check on specific strategies and projects related to the plan. This plan may be use as a benchmark document to keep everyone on track.

Executive Summary

During the development of this strategic plan, we looked for the most common business climate themes which provide further insight into local economic conditions.

Additionally, there are certain factors that connect people to their place and keep bringing them back. These are the things that define how an existing or prospective business or resident 'thinks and feels' about a place.

The review of the community connections, common themes and economic conditions expose the key opportunities. These opportunities help create a vision, and they help direct resources to the most efficient and effective strategies.

Successful economic development implementation requires a balance of three success factors: Market Feasibility, Regulatory Efficiency, and Identity & Brand. The most successful communities and brands have mastered this balance, and this plan provides recommendations for each.

This strategy will be a transformative step forward in Pembroke Park's future and will require public and private collaboration to maximize economic returns.

For the Town of Pembroke Park to maximize the benefits of the current economic cycle, macro-economic trends create some urgency and timeliness for this initiative, which is well positioned to withstand these trends due to capacity and financial strength.

This Economic Development Strategic Plan is guided by the following five (5) Opportunity Areas:

Preserve the balance between large and small businesses.

Invest in strengthening the town's identity.

Enhance the town's aesthetics.

Capitalize on the businesses that have established themselves in the town.

Expose the hidden placemaking & activity center opportunities.

Executive Summary

This Economic Development Strategic Plan for the Town of Pembroke Park is grounded in actionable and realistic strategies that are cognizant and respectful of the Town's limited resources and which capitalize on the Town's economic assets and opportunities.

Some of those assets and opportunities include the expansion of office and logistics uses and a focus on the strong clusters of businesses in the community, such as decorator and design companies, bakeries, and a full food and beverage supply chain. Additional assets include high-end automotive customization, some creative and music industry infrastructure companies, strong clusters of shipping and logistics firms as well as telecommunications companies.

There are some market gaps that may be more challenging to achieve, such as a desire by many in the community to have a supermarket and more family-oriented restaurants located in the Town. However, Pembroke Park is already served by a number of nearby supermarkets, and it is unlikely that a supermarket would locate within the Town's boundaries without significant subsidy due in part to the lack of a site that can accommodate the use, as well as lack of sufficient unmet demand. There may be an opportunity to attract one or more new restaurants, especially family-oriented sit-down restaurants with consistent focused and targeted messaging by the Town that reinforces the concept that the town is a good place to open and run a business.

Some of the additional aspirational types of businesses that the Town seems to be well-suited for include craft breweries, studios and other creative industry infrastructure, and potentially the development of a hotel to take advantage of the easy accessibility to the Interstate. In addition to the hotel potential, some of the targeted development opportunities include additional office uses along 30th Avenue and Hallandale Beach Boulevard. There are also several mixed-use opportunity sites, such as the former nursery on Hallandale Beach Boulevard, and enhanced placemaking opportunities in a proposed adaptive reuse district that takes advantage of existing built environment and enhances it into an activity center.

The 30th Avenue district is an especially significant opportunity for the Town. It is the most visible business district that the town has with significant visibility from I-95. 30th Avenue can be a location for uses that include new offices, entertainment activities, and even custom specialized automotive uses and vertical showrooms. The Avenue needs to be branded rebranded away from an antique District, which is no longer the reality; and overall, the Town should be rebranded to capitalize on the decorator and design firms. On the residential side, the Town should be rebranded as a good place for families with good quality of life.

Executive Summary

The I-95 and major corridor visibility give significant opportunity to increase the exposure and awareness of the talented businesses with which will require changes to the Town's restrictive signage ordinance. This could take the form of business and Town promotional messaging on the several billboards along I-95 as well as a mural signage program that takes advantage of the large industrial and warehouse buildings in the Town.

Another opportunity the Town has is to expose and increase awareness in the marketplace of the Town's diverse types of businesses. This includes things such as the food and beverage firms and many businesses with a "cool factor" such as hot rods and studios. The Town's branding should also capitalize on the presence of well-known brands that have chosen Pembroke Park as a business location such as Coca-Cola, Amazon, Chef's Warehouse, and Safelite.

There are a number of programs and initiatives available for the Town to implement this plan, including aesthetic improvements through signage, façade, and streetscape enhancements. Signage ordinance enhancements are necessary to provide both enhanced growth opportunity to the Town's business community and to establish the Town's identity as a business location. An important element to enhancing this identity is the need to strengthen the Town's relationship with the commercial real estate community and partner economic development organizations such as the Greater Fort Lauderdale Alliance.

The Town's identity and how people view the Town as a place to open or visit a business is critical to continued economic and tax base growth and requires consistent messaging and attention. This messaging and attention must come not only from the Town but from the business community as well, since many of the Town's businesses identify as Hollywood or Hallandale Beach rather than Pembroke Park.

In conclusion, this Pembroke Park Economic Development Strategic Plan provides a framework to balance the Town's economic success by providing a roadmap to help existing and new businesses to capitalize on market conditions and remain or become economically viable, by identifying regulatory enhancements that improve the opportunity for businesses to be successful, and by strengthening the Town's identity as a quality place for businesses and residents.

Economic Development Goals (EDG) & Strategies

EDG #1 – Economic Development

- Strategy 1.A** Develop and expand targeted industries (office users, clusters, market gaps, aspirations).
- Strategy 1.B** Targeted development (opportunity sites, distribution and logistics).
- Strategy 1.C** Business assistance.
- Strategy 1.D** Support existing business, especially in the area of safety.

EDG #2 – Market Position and Identity

- Strategy 2.A** Identify and develop a brand that showcases Pembroke Park's strengths.
- Strategy 2.B** Develop and execute a comprehensive marketing communication program.
- Strategy 2.C** Strengthen and expand events and opportunities with the region.
- Strategy 2.D** Activities and events.
- Strategy 2.E** Rebrand Hallandale Beach Boulevard as "Park Boulevard".

EDG #3 – Capital Projects

- Strategy 3.A** Improve look and feel of the area (30th Ave, wayfinding, signage, gateways, street furniture, banners).
- Strategy 3.B** Maintain and expand the public infrastructure that businesses need to thrive.
- Strategy 3.C** Develop a plan to beautify Hallandale Beach Boulevard on the Pembroke Park segment as a differentiator marker.

EDG #4 – Residential

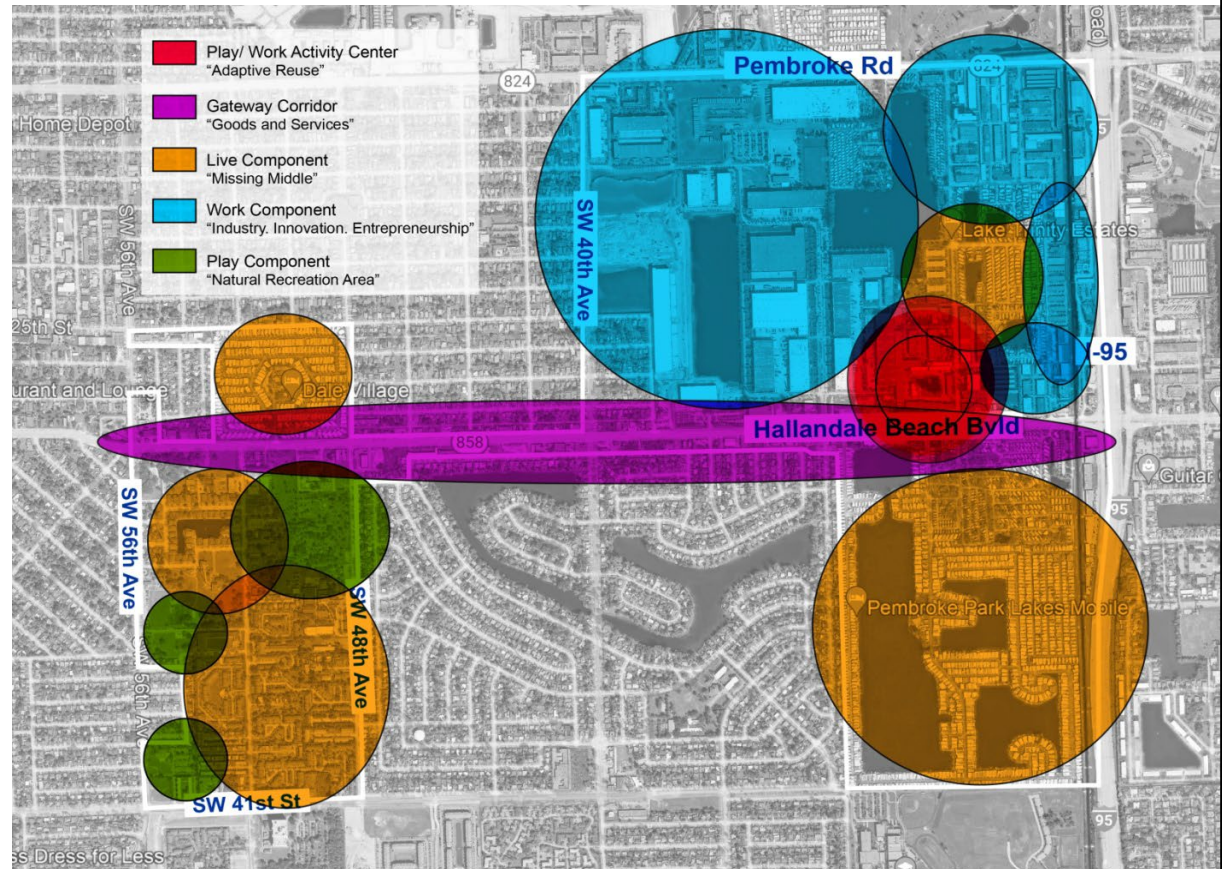
- Strategy 4.A** Encourage mixed-use development along Hallandale Beach Boulevard.

EDG #5 – Support Policies

- Strategy 5.A** Land development regulations to attract investment.
- Strategy 5.B** Program and incentives.
- Strategy 5.C** Land acquisition and disposition.

Economic Development Plan - Concept Diagram

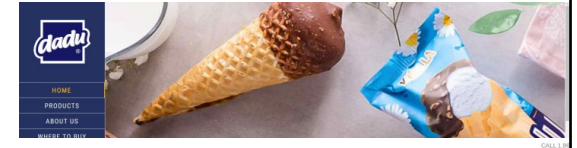
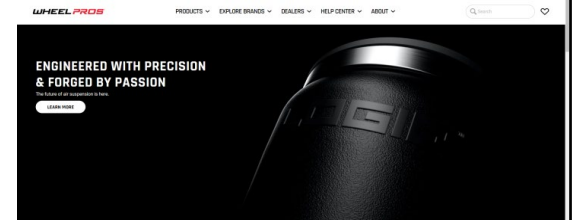
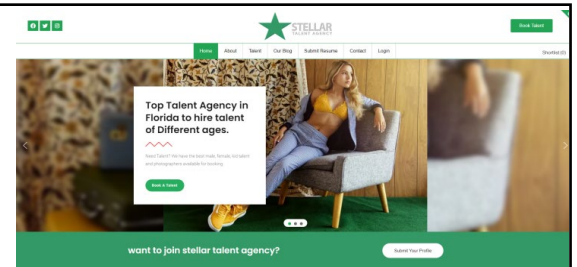
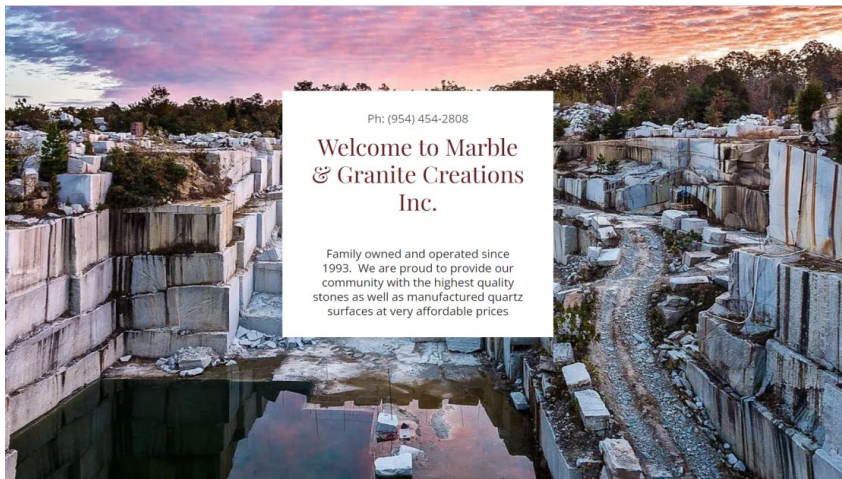
The economic development concept plan diagram for Pembroke Park highlights different economic activity zones within the Town. The concept is to have a clear picture on what happens where, and to focus efforts.



Pembroke Park Authenticity

Pembroke Park's business community is a diverse and established regional anchor

- Established Logistics and Distribution Hub
- Food and Beverage Supply Chain
- Decorator and Design Ecosystem
- Specialty Automotive Talent
- Creative Back of House



Location & Market Overview

Regional Context

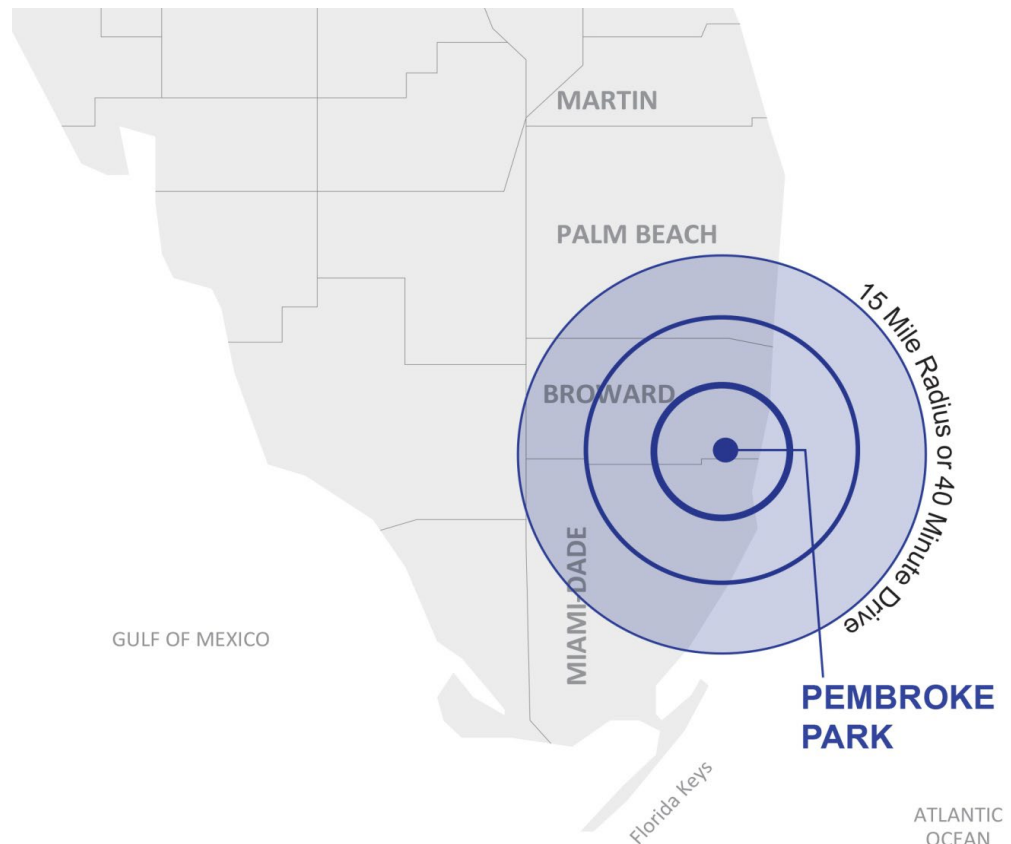
The Town of Pembroke Park is strategically located in the southern part of Broward County. This location gives the site an advantage in its proximity to Miami-Dade and Palm Beach Counties. The Miami, Fort Lauderdale, and Palm Beach Metro Area consists of approximately...

...6M+ Inhabitants in the Region.

South Florida, and especially the Miami area, continues to experience increased interest from technology, financial, and other high-wage companies seeking to relocate or expand in this region.

Companies in real estate investment and private equity, hedge fund management, social networking, financial services, and venture capital have announced relocations to the area, and many more entrepreneurs have expressed interest in this market.

In South Florida and Miami-Dade County, rents continue to climb across Broward County bolstered by tightening supply, resurging demand.



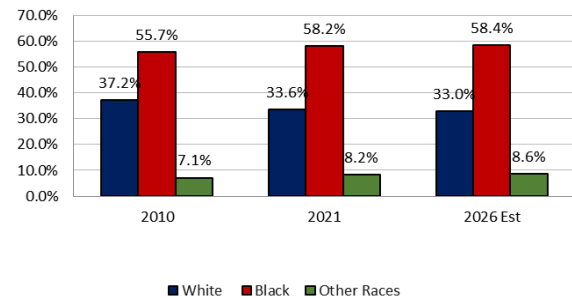
Demographics

The Town of Pembroke Park is ideally situated in southern Broward County. The Town is directly accessible from I-95 and is adjacent to Miami-Dade County. Incorporated in 1957, the Town was primarily made up of nurseries, quarries, and mobile home parks. The Town is approximately 1.6 square miles and today is characterized by compact residential development, commercial uses and light industrial. The Town is physically land-locked between Miami-Dade County, the Town of West Park and the cities of Hallandale Beach and Hollywood.

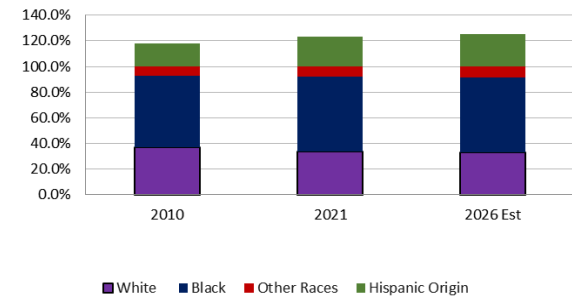
According to the 2020 US Census, Pembroke Park's population is 6,260 which does not account for the seasonal population that lives in the Town during the fall and winter months. More than one-third (36.6%) of the Town's population are school aged, (under the age of 18) and approximately thirteen (13%) of the population is 65 and over.

The population of Pembroke Park is approximately forty-five (45%) white and fifty (50%) black with the rest accounting for other races. This is also inclusive of people that identify as more than one race. Approximately thirty-seven (37%) of the Town's total population is Hispanic and thirteen (13%) Caribbean regardless of race.

Race & Ethnicity



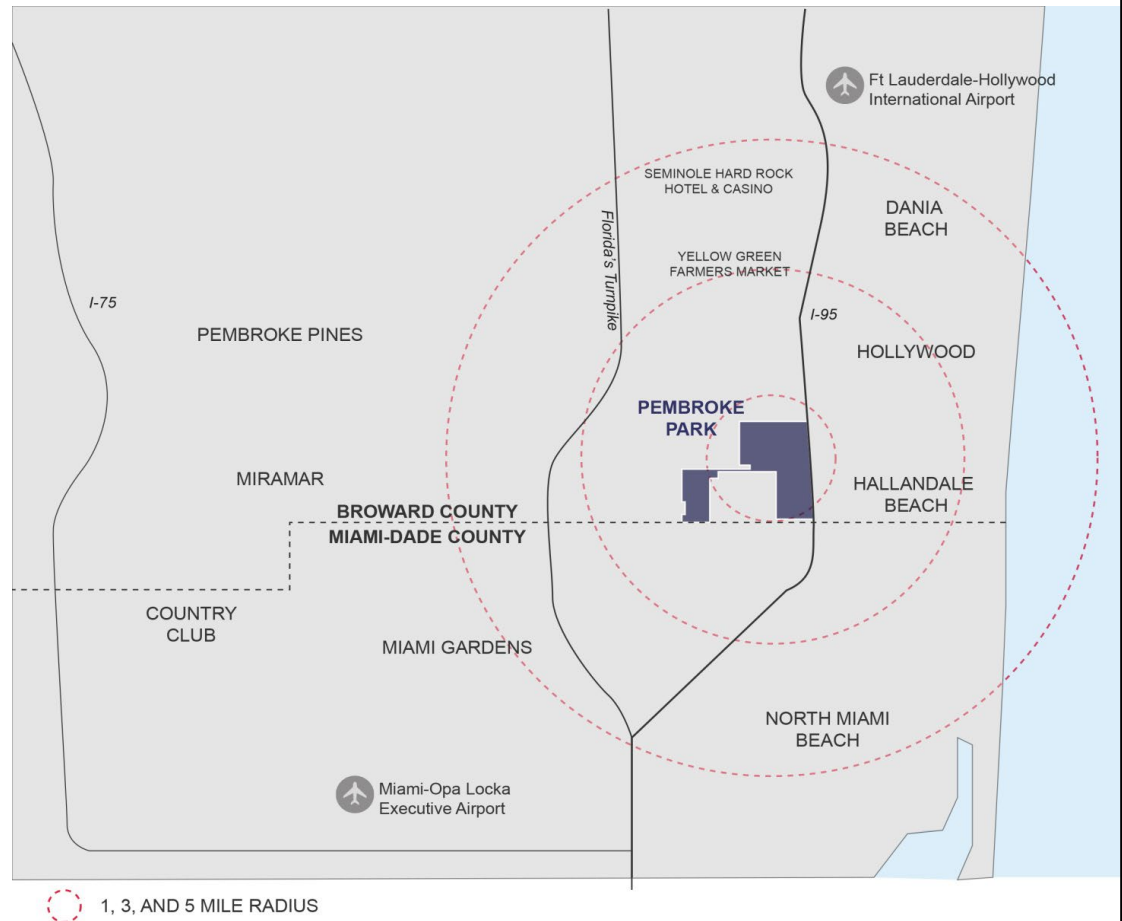
Race



Study Area

This analysis considers and evaluates the market and economic conditions of several geographic market areas:

1. Broward and Miami-Dade County – Countywide trends are important and relevant to any investment.
2. The Town of Pembroke Park – The economic conditions of the Town are important to consider, especially for a significant economic development venture.
3. 1, 3, and 5-Mile Radius – These areas provide an understanding of market conditions near the project site and study area.
4. Custom Local Trade Area – This is the geographic area near the study area with similar characteristics regarding land uses and market and supply chain access.



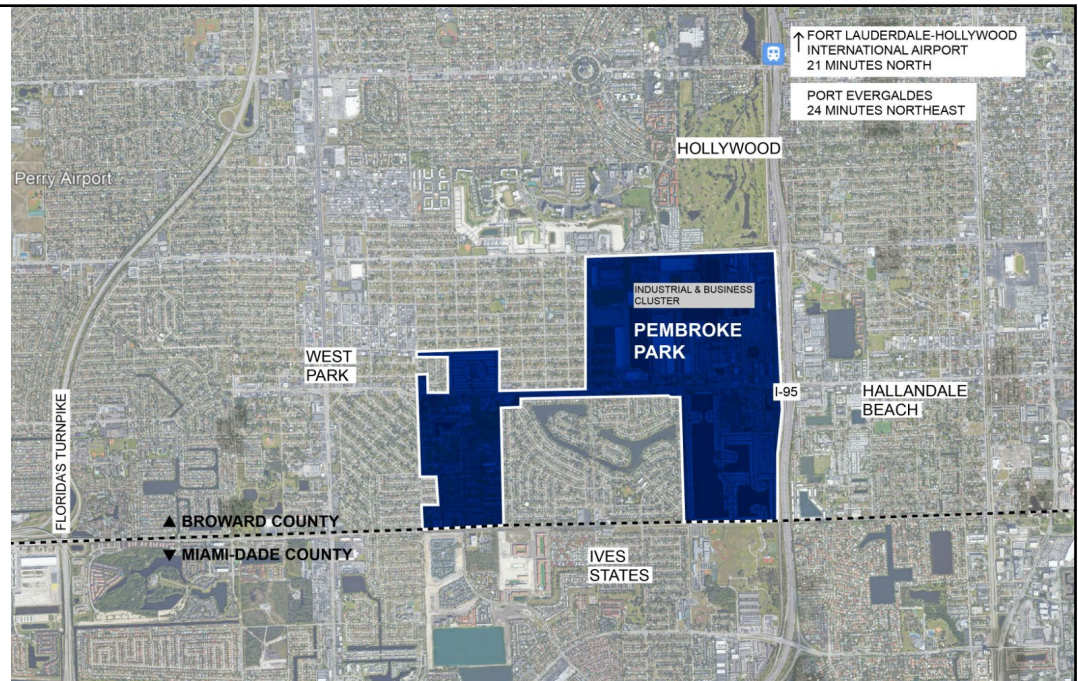
Local Context

Neighbors

- Hollywood is to the north with 152,511 pop., Median Age 41.6 years, and Median Income \$27,334.
- Ives States is to the south with 22,707 pop., Median Age 38.5 years, and Median Income \$30,644.
- Hallandale Beach is to the east with 39,656 pop., Median Age 44.8 years, and Median Income \$24,614.
- West Park is to the west with 15,012 pop., Median Age 34.7 years, and Median Income \$21,409.
- Fort Lauderdale is located just 20 minutes north and is home to 180,124 pop., Median Age 42.1 years, and Median Income \$31,081.

Land Connection to Major Transportation Hubs within Less Than 40 Minutes

- North Perry Airport (17 minutes drive).
- Fort Lauderdale-Hollywood International Airport (21 minutes drive).
- Port Everglades (24 minutes drive).
- Miami Opa-locka Executive Airport (26 minutes drive).
- Port Miami (31 minutes drive).
- Miami International Airport (34 minutes drive).



Pembroke Park is accessed regionally from I-95 at Hallandale Beach Boulevard and Pembroke Road, which carry 46,000 and 42,000 average vehicular trips per day through the Town. The primary north/south trafficways are SW 56th Avenue, SW 40th Avenue and South Park Road.

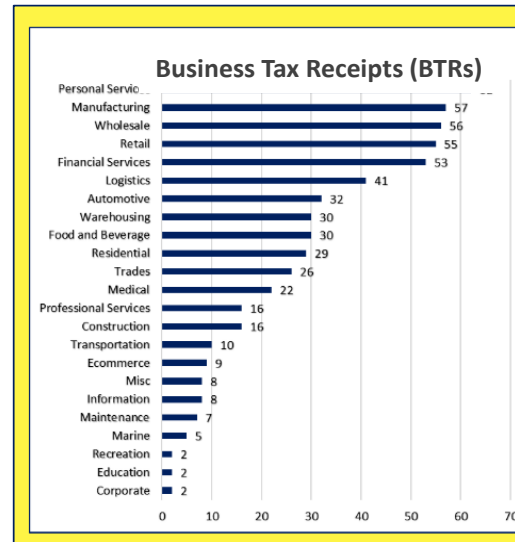
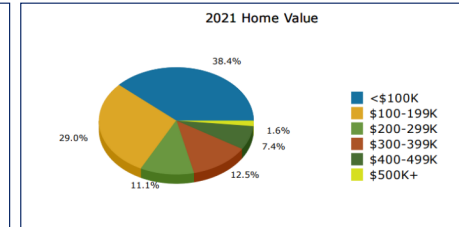
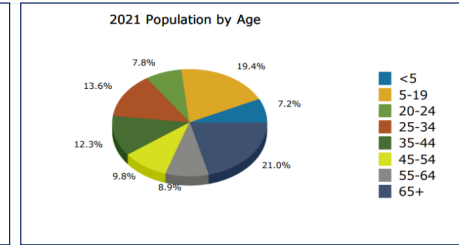
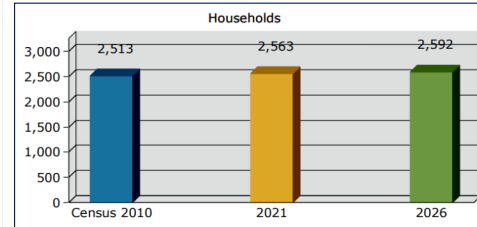
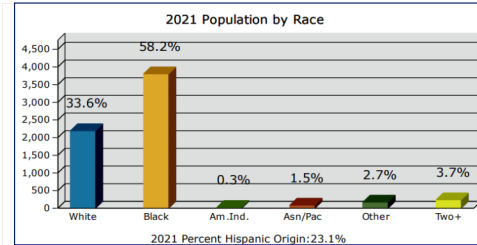
Pembroke Park is serviced by two (2) transit routes. Transit route 28 connects east/west via Hallandale Beach Boulevard from the Atlantic Ocean to the City of Miramar. Transit route 15 connects to the north, through West Park, to the Tri-Rail station and Fort Lauderdale Hollywood Airport at Griffin Road. The nearest Tri-Rail station is located at Hollywood Boulevard but there is no transit connection from Pembroke Park. The Town is currently pursuing several Complete Streets projects through the Metropolitan Planning Organization (MPO) to improve multi-modal transportation opportunities. Previously, the adjacent Town of West Park had a community shuttle which has ceased operation, but in the future Pembroke Park should create localized transit.

Economic Base Summary

The economic base summary consists of six (6) drivers of economic development and is the first step of the BusinessFlare approach. The Drivers are listed below and some of the key findings in the data are outlined to provide a frame of reference for the data that follows in this report.

Capital – Industries and Business Characteristics.
Land – Residential and Commercial Real Estate.
Labor – Workforce and Job Trends.
Markets – Socioeconomic Profile and Tapestries.
Regulations – Land Use and Zoning.
Quality of Life – Entertainment, Recreation, and Public Spaces.

BusinessFlare used the latest data sources from ESRI (Business Analyst Online), American Community Survey, CoStar, EMSI (Economic Modeling Specialists, Intl.), Placer, and other sources. In addition to the use of Miro an interactive whiteboard tool for brainstorming meetings. The purpose of this analysis is to describe the current market, economic conditions, and identify local and regional trends that may affect Pembroke Park.



BTRs

589 businesses in 2022
 609 businesses in 2021
 609 businesses in 2020
 608 in 2019

128 opened since 2019
 79 opened since 2020
 40 opened since 2021

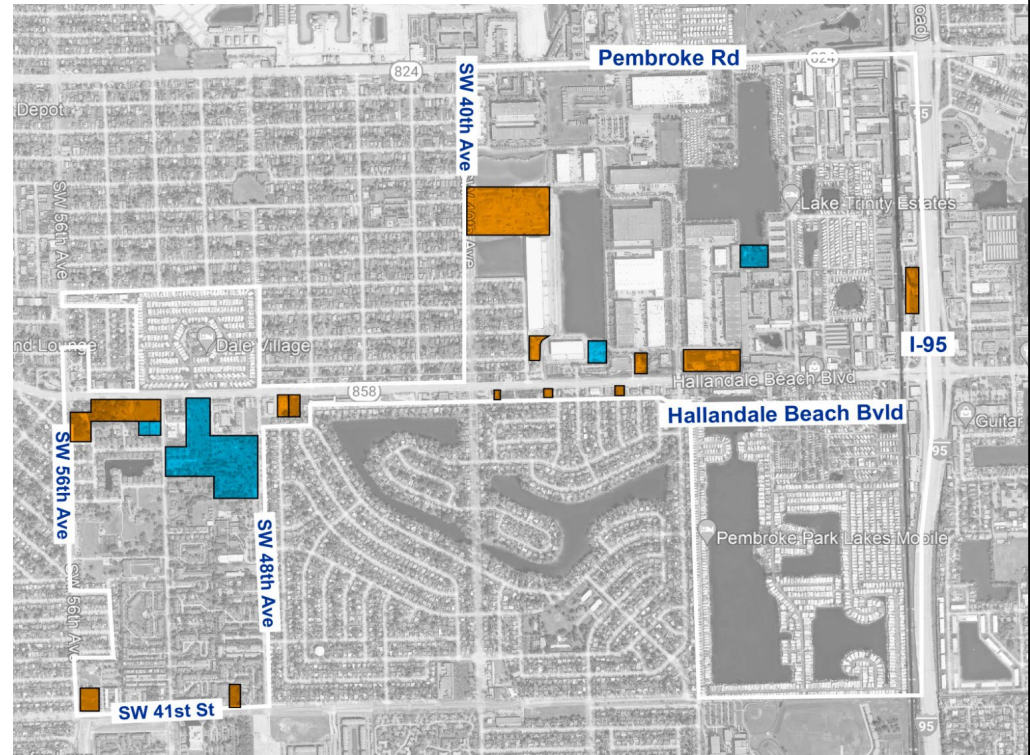
New 2022 BTRs

Financial Services
 Manufacturing and Logistics
 Warehousing & Wholesale

Driver: Land

According to the 2020 US Census, the Town holds 3,756 residential units of which thirty-four (34%) were reported as vacant. This number is higher than the countywide average and most likely accounts for a larger number of seasonally occupied units. The Town has a total of thirteen (13) mobile home parks and four (4) RV Parks catering to temporary visitors and seasonal residents.

According to the Town of Pembroke Park Comprehensive Plan, last updated in 2019, the Town is committed to enhancements that would increase residential appraised values while maintaining a minimum of 1,500 affordable housing units. Currently there are 622 State subsidized affordable units serving populations with incomes of sixty (60%) or less of area median income. Naturally occurring affordable units have not been evaluated but given the fast appreciation of housing, nationally since 2019, the Town should evaluate housing affordability. Housing Objective 3.1 of the Comprehensive plan recommends a study of its current housing stock “to identify the type(s) of housing redevelopment strategies” be conducted every 10 years, beginning in 2010.



Driver: Land

The Town is somewhat challenged when it comes to new residential development with a limited number of vacant sites for redevelopment, compounded by the Town's limitation of only thirty-three (33) residential flexibility/reserve units available for affordable housing (outside of residentially zoned areas). This is particularly challenging since one of the Town's other goals is to locate affordable housing near its employment centers which are primarily light industrial. The entire Town qualifies for Department of Housing and Urban Development (HUD) and other types of government housing assistance as a low to moderate income (LMI) community.

Industrial and commercial land uses account for more than forty (40%) of the Town's land area. Along its major thoroughfares, Pembroke Road and Hallandale Beach Boulevard, Pembroke Park shares borders with the Town of West Park and the City of Hollywood which are both adjacent and, in some areas, directly across the road. Along the southside of Hallandale Beach Boulevard there is a narrow stretch of commercial which is bounded the Town of West Park. South of this commercial area is primarily residential, while directly north along Hallandale Beach Boulevard, West Park has created a Local Activity Center (LAC) land use district which will facilitate more mixed-use development. West Park's LAC abuts the Town's northern boundaries as well. Maximum residential densities within Pembroke Park are twenty-five (25) units to the acre.

Census Tracts 1005.02 and 1007 are designated Opportunity Zones, however both locations are residential and built out. The entire Town is eligible for New Market Tax Credits (NMTC) due to its HUD status as LMI.



Driver: Labor

Pembroke Park has thriving industrial areas with more than 2,000,000 square feet of space to support a variety of uses including warehouse, distribution, manufacturing, automotive repair, entertainment infrastructure, decorator and design uses. Key employers operated in transportation/warehouse, retail trade, and construction. There are opportunities for growth in computer and technology-related business sectors, along with the need for private educational facilities including trade and language schools.

From a tax revenue standpoint, industry provides roughly 56% of the town's general fund revenue and serves as a regional employment center for residents and nearby communities.

Local restaurants and retailers exist to support nearby residential, with accompanying big box automotive and general merchandise retailers drawing consumers into the town.



Driver: Labor (Employment Clusters)

Businesses:

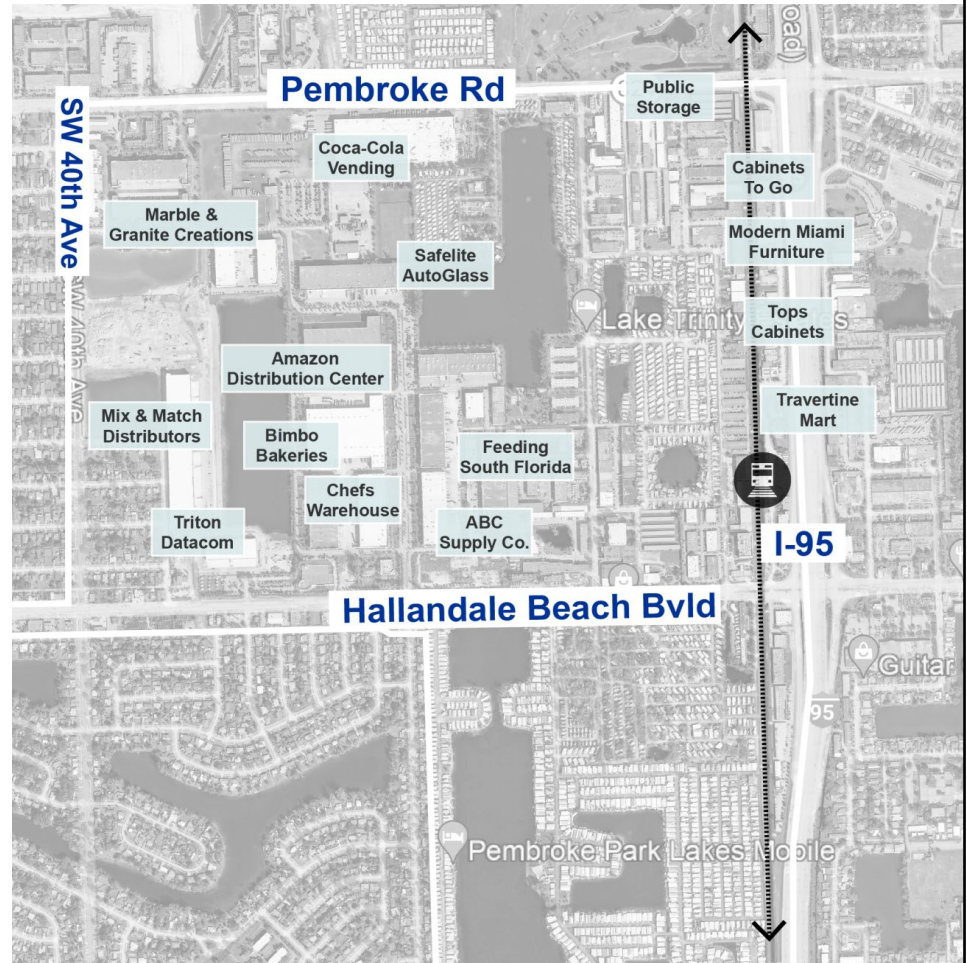
- 726 businesses
- Major business sectors:
 - Warehousing/ Distribution 12.4%
 - Retail Trade 9.3%
 - Healthcare/ Social Assistance 8%
 - Arts, Entertainment, Recreation 7.8%
 - Public Administration 7.6%
 - Construction 6.9%

Jobs:

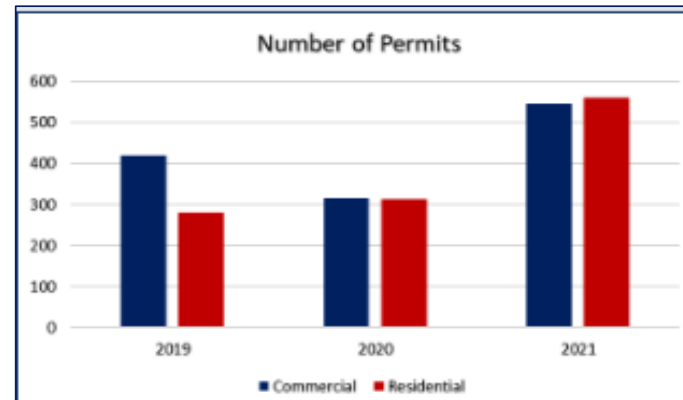
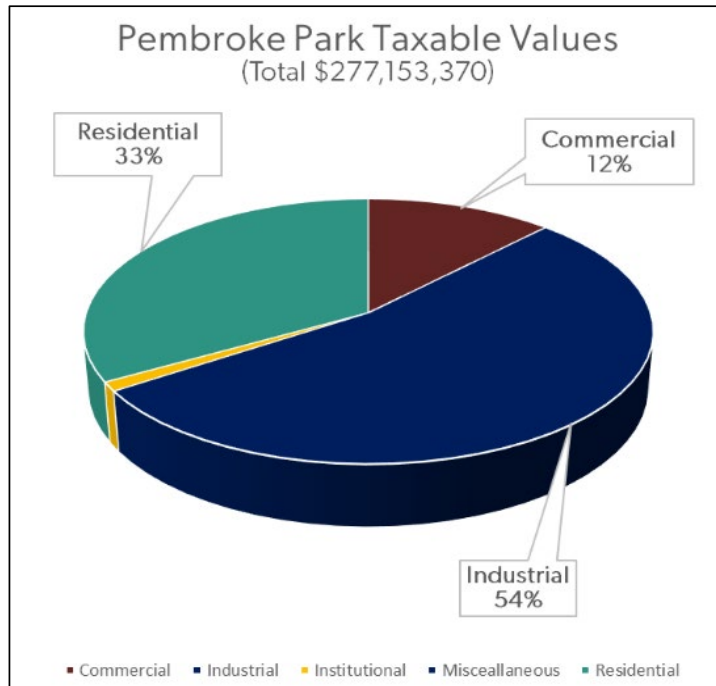
- 5,626 total employees
- 86% drive to work alone
- 15% spend 7+ hours per week commuting to and from work

Education Attainment:

- 22% Bachelor's/Grad/Prof Degree
- 23% Some College
- 30% High School Degree



Driver: Capital



Driver: Capital (Resources)

Local

- **Business Improvement District:** The concept of a Business Improvement District (BID) for Pembroke Park is a long-term goal. In the short-term, the area's business retention and attraction program should focus on identifying granular business needs, businesses, and building relationships with business owners for future BID consideration.
- **Community Benefits:** Pembroke Park should partner with developers to encourage the design and/or construction of public facilities, renovation of green spaces, and incorporation of infrastructure projects to provide community benefit.
- **Impact Fees:** Given the rising cost of materials and labor, many local governments seek ways to assist developers in mitigating start-up costs by experimenting with waiving or staggering impact fee payments. This upfront assistance differs from traditional incentives by impacting construction cashflow at a time when cash outflow is at its highest.

State

- **Brownfield Incentives:** Florida offers incentives to businesses that locate on a brownfield site with a Brownfield Site Rehabilitation Agreement (BSRA). The Brownfield Redevelopment Bonus Refund is available to encourage Brownfield redevelopment and job creation. Approved applicants receive tax refunds of up to \$2,500 for each job created.
- **Transit Oriented Development Funding:** Given the proximity of 30th Avenue to Interstate 95, Pembroke Park should research applicable transportation infrastructure grants and programs.

Federal

- **New Markets Tax Credits:** This federal program incentivizes business and real estate investment in low-income communities of the United States via a federal tax credit. It is administered by the US Treasury Department's Community Development Financial Institutions Fund and allocated by local Community Development Entities across the United States. Within Pembroke Park, there are two New Markets Tax Credits (NMTC) qualified areas. Both are designated as "Severe Distressed" which makes the areas eligible for NMTC investment.
- **Community Development Block Grants:** These federal program funds can be used to build community facilities, roads, parks, repair or rehabilitate housing, provide new or increased public services to residents, or fund initiatives that generate or retain new jobs. Depending on how Pembroke Park currently allocates its CDBG dollars, future funds could be used to assist with housing and/or small business initiatives.
- **Housing and Urban Development Grants and Loans:** The US Department of Housing and Urban Development (HUD) provides low-interest loans to local governments for the implementation of capital projects for revitalization and economic development, including streetscape and infrastructure improvements. These loans can be supplemented by Economic Development Initiative (EDI) grants from HUD.
- **Economic Development Agency:** Public Works program investments help facilitate the transition of communities from being distressed to becoming competitive by developing key public infrastructure, such as technology-based facilities that utilize distance learning networks, smart rooms, and smart buildings; multi-tenant manufacturing and other facilities; business and industrial parks with fiber optic cable; and telecommunications and development facilities. In addition, EDA invests in traditional public works projects.

Driver: Capital – Land Value Efficiency

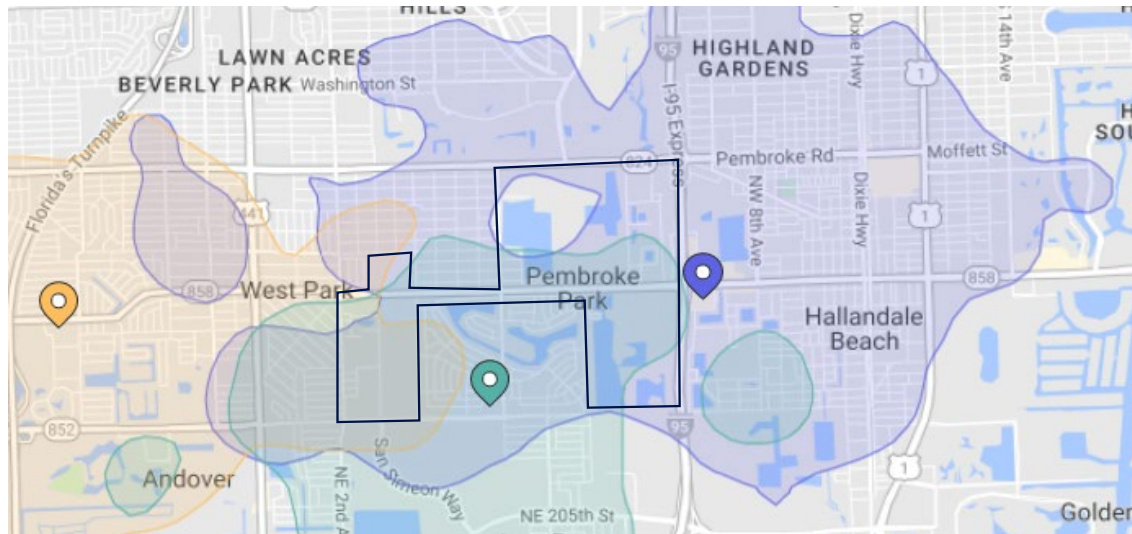
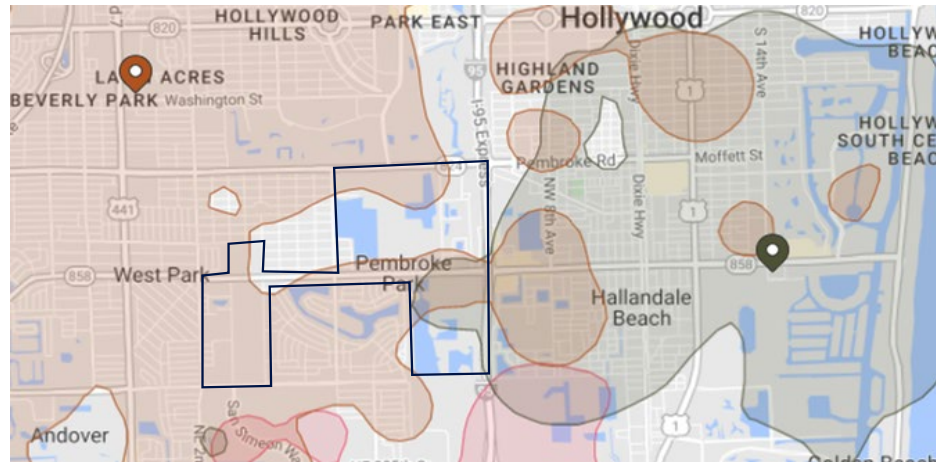
Some of the highest value parcels per acre are located at either opportunity sites or along the corridors that should be the focus of placemaking and regulatory enhancements to attract investment.



Driver: Markets

Supermarket Coverage

While there is not a grocery store within the Town's boundaries, there are two full-service grocery stores within a one-mile radius, two limited grocery retailers, and four specialty grocers located in the Town.

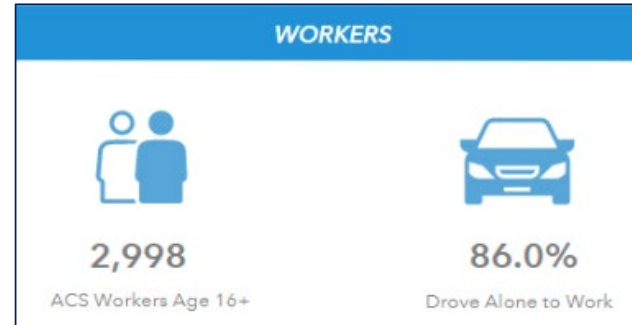


Driver: Quality of Life

Quality of life amenities in Pembroke Park include four (4) parks providing outdoor recreation areas, exercise equipment, ball fields, walking paths, and ADA-accessible trails. Select park upgrades underway. In addition, both natural and artificial lakes provide waterfront views for residents, visitors, and employees. Lake amenities include fishing and boat access, along with adjacent paved paths for biking and walking. Existing natural amenities rank high on residents' quality of life lists.

At 1.6 square miles, Pembroke Park is walkable through internal neighborhood roads. The town's walkability is enhanced by a Broward County Transit bus route with connectivity to South Florida Regional Transportation Authority's Fort Lauderdale Tri-Rail station.

With changing demographics, senior residents have access to a state-of-the-art senior living facility near public amenities, while younger families have access to quality public and private schools. Both populations also have access to healthcare locally through Mobile Health Centers provided by Joe DiMaggio Children's Hospital and Memorial Healthcare System.

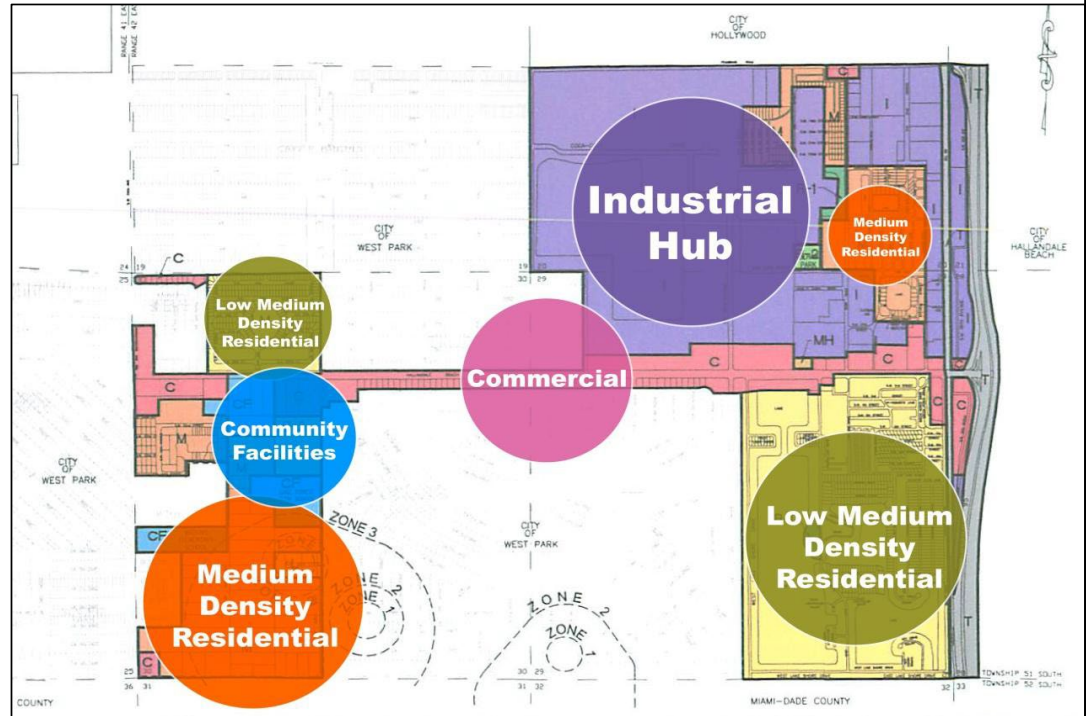


Driver: Regulation - Zoning

Land Use General Designations

In general, the Town of Pembroke Park can be characterized as a suburban commercial corridor along Hallandale Beach Boulevard, industrial and business hub in the northeast, low medium residential district to the southeast and northwest, and median density multifamily residential to the southwest. The list below shows the (5) major land uses within Pembroke Park.

- 1.Low Medium District (residential) 31.1%
- 2.Industrial Hub 30.7%
- 3.Commercial 12.2%
- 4.Medium Density Residential 7.3%
- 5.Community and Recreational Facilities 3.2%



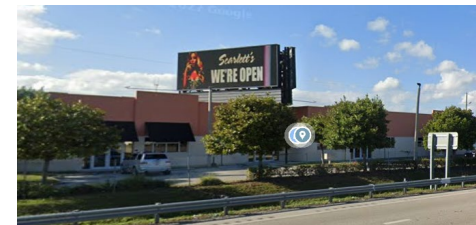
Driver: Regulation - Zoning

SIGN PROHIBITIONS

- **Tenant Identification Signs** - prohibited (except retail shopping center; not industrial).
- **Lighting** - up lighting and down lighting prohibited (up lighting or down lighting).
 - Neon or exposed prohibited.
 - Lit window signs prohibited.
- **Mural/Painted Signs** are prohibited.

SIGN DIMENSIONS

- Sign sizes are incompatible with commercial corridor development.
- Sign size regulations are written in a way that does not allow for signage to scale of building.
- General – Signage regulations or future wayfinding should be compatible with design speeds (FDOT wayfinding standards; International Sign Association).



Business Climate

- Lack of identity
- Poor signage
- Negative aesthetics
- Heavy automotive uses
- Jurisdictional confusion
- Future of mobile home parks
- Strong non-residential tax base
- Strong industry brands
- Industry “cool factor” businesses



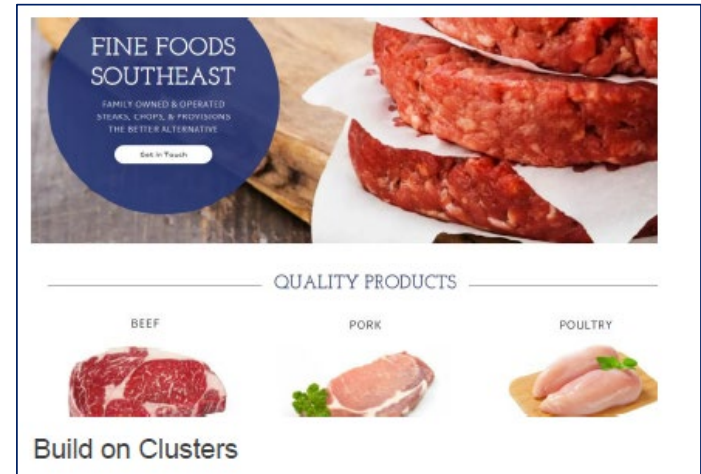


Economic Development Goals and Actions

EDG #1 – Economic Development

Strategy 1.A Develop and expand targeted industries (office users, clusters, market gaps, aspirations).

Action Items: Partner with the Fort Lauderdale Alliance to recruit key logistics companies and targeted office users.



Strategy 1.B Targeted development (opportunity sites, distribution and logistics).

Action Items: Work with opportunity sites to attract targeted development, including expanded office uses in the town.



EDG #1 – Economic Development

Strategy 1.C Business assistance.

Action Items: Encourage and assist business and building signage.

Create Façade and Fence Replacement programs to improve aesthetics.

Strategy 1.D Support existing businesses.

Action Items: Develop a start-up trades entrepreneurship program for Pembroke Park Commerce Park; establish a food and beverage entrepreneurship center (food hall and market).

Improve Business Signage



Trades Entrepreneurship



EDG #1 – Economic Development

Targeted Development



BusinessFlare® // Pembroke Park, FL Economic Development Strategic Plan 2022

EDG #1 – Economic Development

Pembroke Park should continue to work well with the warehousing and logistics industries on their continued investments in development and redevelopment.

Targeted Industries

Expand Logistics Users



EDG #2 – Market Position and Identity

Strategy 2.A Identify and develop a brand that showcases Pembroke Park's strengths.

Action Items: Outsource for branding and image services.

Strategy 2.B Develop and execute a comprehensive marketing communication program.

Action Items: Determine implementation staff and/or partners

Rebrand as a
Decorator Destination



Refocus Residential Brand on Families



EDG #2 – Market Position and Identity

Strategy 2.C Strengthen and expand events and opportunities with the region.

Action Items: Identify and prioritize existing local and regional events for partnership and support.

Strategy 2.D Activities and events.

Action Items: Enhance and expose lakeside business park activity center. Expose fishing.

Strategy 2.E Rebrand Hallandale Beach Boulevard as "Park Boulevard".

Action Items: Incorporate signage style and murals along the Boulevard.

Recruit on-brand retailers

Increase focus on code enforcement violations related to aesthetics



Encourage Activity Centers



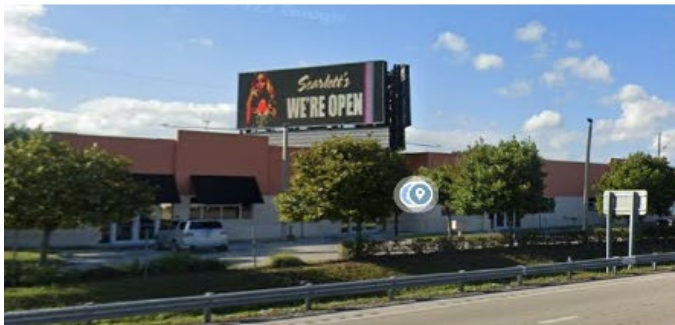
Encourage Authentic Events

EDG #2 – Market Position and Identity

Market Position and Identity



Promote PP Here



Authorize a Mural Signage Program



EDG #2 – Market Position and Identity

The presence of many recognizable brands in Pembroke Park is a strength that speaks to the Town as a regional business center.

Market Position and Identity

Capitalize on the present brands
Enhance businesses signage



EDG #2 – Market Position and Identity

Market Position and Identity



Strengthen Partnerships



Embrace Business Culture

Many businesses in Pembroke Park identify as being in either Hollywood or Hallandale Beach. The Town should work with FDOT and West Park to rebrand or co-name Hallandale Beach Boulevard to Park Boulevard.



EDG #2 – Market Position and Identity

With the exception of agriculture, Pembroke Park has the full life-cycle supply chain for the food and beverage industry, including manufacturing, wholesale, distribution, and retail and restaurant operations. This provides a theme on which the Town can develop an identity and campaign targeting the attraction of additional culinary entrepreneurs.

Food and Beverage – Manufacturing and Distribution



EDG #3 – Capital Projects

Strategy 3.A Improve look and feel of the area (30th Ave, wayfinding, signage, gateways, street furniture, banners).

Action Items: Inventory and map existing signage and furniture assets.

Map future signage and furniture upgrades, relocations, and installations.

Finalize, design, budget and phasing of image projects.

Strategy 3.B Maintain and expand the public infrastructure that businesses need to thrive.

Action Items: Identify existing and future infrastructure needs.

Determine cost, budget allocation, and phasing of projects.

Strategy 3.C Develop a plan to beautify Hallandale Beach Boulevard on the Pembroke Park segment as a differentiator marker.

Action Items: Determine beautification project boundaries and associated budget.

Outsource streetscape design, phasing recommendations and implementation.

30th Avenue is essentially the Town's front door and provides visibility for businesses to a high number of vehicles. It is a relatively unique situation in South Florida to have a business district with placemaking potential facing an Interstate with unobstructed views.

Infrastructure, streetscape and regulatory improvements to 30th Avenue can attract more resilient business investment and help make the area more of a local and regional destination.



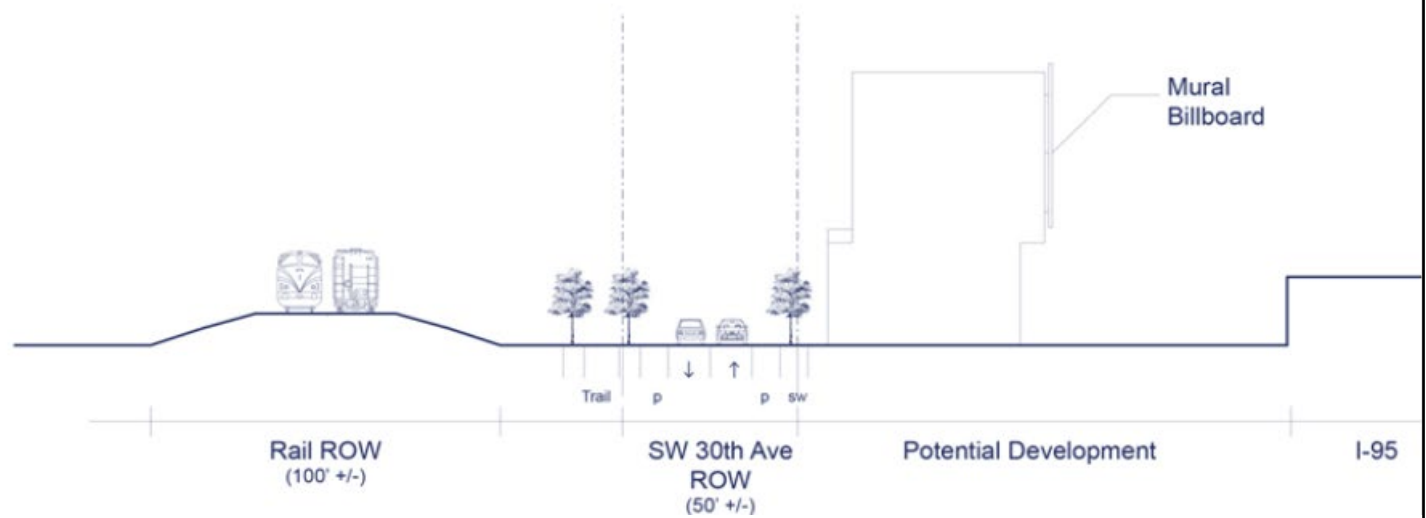
EDG #3 – Capital Projects

Aesthetics

Existing Conditions



Potential Rails W/ Trails



EDG #3 – Capital Projects

Existing



EDG #3 – Capital Projects

Potential – Rails to Trails



EDG #4 – Residential

Strategy 4.A Encourage mixed-use development along Hallandale Beach Boulevard

Action Items: Inventory applicable development and redevelopment sites to include ownership, site specifications, and existing zoning.

Create an affordable housing development program for mixed-use residential developers.



The Aspen Nursery site

In addition to the large site located at the western end of Hallandale Beach Boulevard, there two other parcels that are well-suited for mixed use or residential development.

One is the location of the former Aspen Nursery on Hallandale Beach Boulevard, which could be redeveloped into a mixed-use project. This type of development, on this site and along the Hallandale Beach Boulevard corridor, would require amendments to the Land Development Regulations.

The other site is located at the Northeast corner of Countyline Road and SW 56th Avenue. This location is a good location for the development of multifamily residential development that adds new residential inventory to the town and provides an opportunity to enhance an important southern gateway into the Town.



Vacant parcels next to Town Hall

EDG #4 – Residential

Residential Opportunity

Mixed Use – HBB Nursery Site

Site Size: 68,125 SF/ 1.5 AC

Current Zoning: B-1 Business District

FLUM: Commercial (max impervious 80%)

Developable Area After Impervious %: 1.2 AC

Max. Height: 100 FT



—
Special Exception Density: 25 Dwelling Units Per Acre

Current Site Density Without Flex Units: $1.5 \times 25 = 37.5 = 38$ Residential Units

Special Exception Commercial Use Req.: 5,000 SF

Special Exception for Mixed-Use Development:

(a) Applicability. Properties which are ten (10) acres or less in area which are master planned as integrated mixed-use projects. Properties must be a minimum of seven and one-half (7.5) acres in size to qualify for such development use.

(b) Density. Subject to allocation of Flexibility and/or Reserve Dwelling units by the Town Commission, but not to exceed the number of units permitted by the Future Land Use Element of the Town's Comprehensive Plan.

\$130K Property Tax

EDG #4 – Residential

Residential Opportunity

Multi-Family – SW Corner

Site Size: 80,899 SF/ 1.8 AC

Current Zoning: B-1 Business District

FLUM: Commercial (max impervious 80%)

Developable Area After Impervious %: 1.44 AC

Max. Height: 100 FT

--

Special Exception Density: 25 Dwelling Units Per Acre

Current Site Density Without Flex Units: $1.8 \times 25 = 45$ Residential Units

Special Exception Commercial Use Req.: 5,000 SF

--

Special Exception for Mixed-Use Development:

(a) Applicability. Properties which are ten (10) acres or less in area which are master planned as integrated mixed-use projects. Properties must be a minimum of seven and one-half (7.5) acres in size to qualify for such development use.

(b) Density. Subject to allocation of Flexibility and/or Reserve Dwelling units by the Town Commission, but not to exceed the number of units permitted by the Future Land Use Element of the Town's Comprehensive Plan.



EDG #4 – Residential

Residential Opportunity

Multi-Family – SW Corner

#1

Ground Floor Commercial: --

of Residential Units: 50

Type of Units: 1, 2, & 3 Beds

Building Height: 5 Stories

Open Space & Amenities: 3,000 SF

Parking Provided On-Site: 60 Spaces

Parking Provided On-Street: 16 Spaces

Total Parking Provided: 76 Space

--

Potential Density: 28 du/ac

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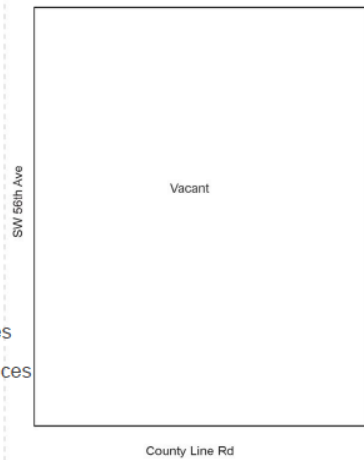
Estimated Economic Impact:

50-100 Direct and Indirect Jobs

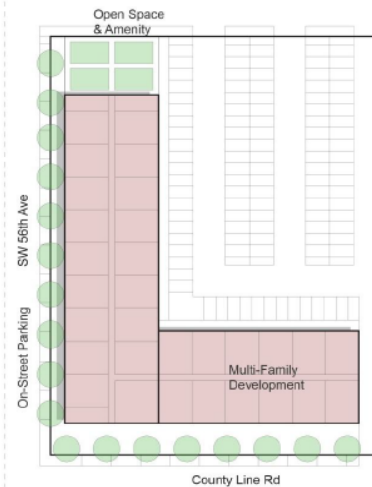
\$250K in Economic Transactions

\$130K Property Tax

Existing Conditions



Potential Fitment Conditions



EDG #5 – Support Policies

Strategy 5.A Land development regulations to attract investment

Action Items: Review existing regulations with an eye towards modifications to encourage adaptive reuse.

Create Ombudsman role to assist with business attraction goals.

Review and modify signage codes and regulations to promote commerce.

Modify existing regulations to limit vice-related businesses.

Strategy 5.B Program and incentives

Action Items: Develop mural and signage grants for targeted corridors and/ or areas.

Lay the long-term groundwork for a possible Business Improvement District to preserve small business areas.

Strategy 5.C Land acquisition and disposition

Action Items: Review existing policies for potential Public Private Partnerships.

Create Crisis Management program to cover displacements due to market forces.

Implement an Adaptive Reuse Overlay



Amend Signage Regulations



EDG #5 – Support Policies

Implement an Adaptive Reuse Overlay



Activity Centers



EDG #5 – Support Policies

Housing Preservation



Improve Aesthetics



EDG #5 – Support Policies

Public Land Acquisition and Disposition



Town-Owned Property



Acquire Liened Properties

Code Enforcement Department Report

From 1/1/2019 to 1/26/2022

EMBROKE	Sec 5-103. - Exterior maintenance of structures and premises (h) Sec. 12-48. - Outdoor storage prohibited	Supplemental Order/Claim of Lien
MBROKE	Sec 5-105. - Repairs and installations	Supplemental Order/Claim of Lien
MBROKE 75	Sec. 5-2. - Nonresidential commercial buildings, owner's responsibilities (a)	Supplemental Order/Claim of Lien
EMBROKE	Sec. 5-2. - Nonresidential commercial buildings, owner's responsibilities (a)	Supplemental Order/Claim of Lien

Pembroke Park EDSP

Implementation Budget

Implementation Budget

	Responsible Party	One time	Recurring
ED Marketing			
Research Maintenance	Economic Development		7,500
Message Development	Public Information, Economic Dev.		12,000
Message Management	Public Information, Economic Dev.		6,000
Printing	Public Information		5,000
Advertising (billboards)	Public Information	10,000	42,000
Banners	Public Information		10,000
ED Engagement			
Partner Engagement	Town Manager, Planning, Eco Dev		5,400
Prospect Engagement	Town Manager, Planning, Eco Dev		5,400
Stakeholder Engagement	Town Manager, Planning, Eco Dev		5,400
Façade Grants	Planning		50,000
Capital			
30th Avenue Improvements	Public Works	1,500,000	-
Gateways and Wayfinding	Public Works	125,000	-
Street Furniture	Public Works	75,000	-
Regulatory			
LDR Amendments	Planning, Economic Development	90,000	-
Targeted Code Enforcement	Code Enforcement		TBD
Special Events	Town Manager, PD, Public Information		TBD
		1,800,000	156,200

BusinessFlare® is a full-service economic development consulting firm based in North Miami, Florida, with Flareheads located in the states of Florida, Tennessee, Alabama, Ohio, and Texas. The firm specializes in economic analysis and realistic planning and implementation of economic development strategies for neighborhoods, cities and counties.

The firm excels at finding the right balance between financial and market feasibility, regulatory efficiency, and design, identity and brand for each client's unique characteristics.

The firm has recently worked on projects such as Martin County's COVID-19 Economic Development Action Plan, the Bahia Mar Fiscal Impact Assessment, the West Coconut Grove Community Redevelopment Plan, the Lake Park CRA Plan, economic development implementation in Doral, Homestead, and North Miami, and for the Hiram Clarke Redevelopment Zone in Houston, Texas.

The firm's service areas include:

BusinessFlare® Economics – economic development, revitalization
BusinessFlare® Analytics – feasibility, market, economic analysis;
BusinessFlare® Design – placemaking, urban planning
BusinessFlare® Aerial – project based aerial photography
Craft Brewery Sites – craft brewery attraction

Thank You

Town of Pembroke Park
Adopted January 2024

Prepared For:
Town of Pembroke Park



BusinessFlare, LLC

1175 NE 125th Street, Suite 601
North Miami, FL 33161
accounts@businessflare.net
http://businessflare.net



Economic Development Solutions
Maximize Your Marketplace

INVOICE

BILL TO

Town of Pembroke Park
3150 SW 52nd Ave
Pembroke Park, FL 33023

INVOICE

1310

DATE

01/25/2024

TERMS

Net 30

DUE DATE

02/24/2024

PROJECT

Market Analysis & EDSP

DESCRIPTION	AMOUNT
Task 1 – Background Review, Internal Kickoff Meeting and Client Kickoff Meeting - 100% Contract: \$4,000 Paid: \$4,000 Balance: \$0	
Task 2 – Data Compilation and Analysis - 100% Deliverable: Economic Indicators Summary Report Contract: \$6,500 Paid: \$6,500 Balance: \$0	
Task 3 – Stakeholder Engagement - 100% Deliverable: Stakeholder Engagement Summary Report Contract: \$7,500 Paid: \$5,625 Balance: \$0	
Task 4 – Market Analysis -100% Deliverables: 3D Massing Study and Feasibility Assessment for potential redevelopment projects, and Draft Market Analysis and Best Practices Contract: \$8,000 Paid: \$7200 Balance: \$0	800.00
Task 5 – Economic Development Strategic Plan -100% Deliverable: Draft Econ Dev Strategic Plan and Implementation Matrix Contract: \$10,000 Paid: \$7500 Balance: \$0	2,500.00
Task 6 – Plan Review and Revisions - 100% Deliverable: Revised Economic Development Strategic Plan Contract: \$2,500 Paid: \$0 Balance: \$0	2,500.00
Task 7 – Plan Approval -100% Deliverable: Final Economic Development Strategic Plan & Implementation Matrix Contract: \$1,500 Paid: \$0 Balance: \$0	1,500.00
Total Contract \$40,000 Paid: \$32,700 Balance: \$0	

Electronic Payments to: Routing #067014822 | Account #4384519307

BALANCE DUE**\$7,300.00**

Please Make all checks payable to BusinessFlare, LLC

If you have any questions concerning this invoice, please don't hesitate to
contact me.

THANK YOU FOR YOUR BUSINESS!

Page 1 of 1



Proposal for the Town of Pembroke Park, Florida

Street Economics: A Responsible and Respectful Approach to Municipal Data

Street Economics is a new approach to providing economic and market insights to local governments, similar agencies, and communities. We believe that the real value lies in understanding what is occurring in a community, not only in the data but beyond the data.

All too often, communities and local governments engage consultants and academics to run things like 'gap analysis' and to develop 'retail strategies' when the needs are much deeper and the things that are relevant and meaningful are not as evident. The traditional strategies are limited and often do not truly enhance the community or meet its needs.

Retail and small business development must occur within the context of an overall place-based, quality-of-life economic development approach.

We recognize that data is important, and nobody does data as well as BusinessFlare®. We utilize the latest technology and systems to provide near real-time information, especially related to real estate and customer and employee foot traffic trends.

We developed Street Economics™ to provide an affordable, meaningful solution that respects the limited resources of many local governments because we see the real value in being able to provide real-world, actionable insights that are focused on guiding a community's use of its resources to achieve results, not in paying for often meaningless data.

BusinessFlare® Founder Kevin Crowder once built one of the most robust municipal market research programs in the country, and we always look for creative and innovative ways to do our analysis, data and analysis are important, but what I also found was that as much as they wanted the data, people (investors, entrepreneurs, businesses), they also wanted the stories.

Successful economic development requires an entrepreneurial, not an academic or bureaucratic approach. Not every city even needs an economic development "strategic plan", but not everyone is ready for the Street; but for those that are, it's going to be a great trip. Help us tell your story. Unlike traditional consultants and academics, we will get you quickly through the data and into action.

The data that comprises the Street Economics™ approach are the meaningful and relevant metrics that allow for the development of actionable insights. These metrics will provide a solid foundational update to the Economic Development Plan recently approved by the Town Commission.

This proposal contains two options, a one-time data refresh or an annual subscription with ongoing updates. Both options include time with the team for insights, discovery, and brainstorming.

Kevin S. Crowder, CEcD, EDP

kevin@businessflare.net | 305.281.2279 | 1175 NE 125th Street Suite 601, North Miami, FL 33161



Option 1: Economic Profile: One-Time Data and Insights Package

BusinessFlare® will provide a baseline economic profile in PDF and Powerpoint and data files in Excel format for each of the following areas. Each section of the profile includes BusinessFlare's key takeaways.

- Foot Traffic Trends for the City, Downtown, and one additional area/destination – Total Customer Visits, Time of Day, Day of Week, Customer Income, Customer Loyalty, Visit Frequency, Trade Area, Trade Area Supply and Demand*, Migration, Employee Visits, Remote Work Trends, Tourist Visitation. – Source: Placer Labs.
- Commercial (Retail, Office, Multifamily) and Industrial Real Estate Trends (Vacancy, Rents, Sale Prices, Sales Volume, Absorption, Cap Rates). Source: CoStar and Major Real Estate Firms.
- Residential (For Sale and Rental) Real Estate Trends (Active Listings, Number of Sales, Median Sale/Rent Price, Days on Market, Total Sales Volume, Average per Square Foot Price). Source: Beaches MLS.
- Workforce and Jobs – Business and Jobs Summary, Labor Force Profile, Industry and Occupational Clusters, Commuting, Gross Regional Product, Job Posting Trends, Employment and Unemployment, Wages. Source: ESRI, Lightcast, FLDEO, Bureau of Labor Statistics.
- Demographics – Population, Households, Families, Age, Income, Housing Tenure. Source: ESRI, US Census Bureau.
- Tax Base Analysis (In Miami-Dade County) – Property by Type and Use, Residential Tax Base, Homestead and Non-Homestead, Assessed vs. Taxable Value trends, Food and Beverage sales and tax receipts, hotel room sales and bed tax receipts. (Miami-Dade County)

Insights: BusinessFlare® will provide up to four (4) hours of meeting time to review the data with the Client, brainstorm, and provide insights and ideas. Following the meeting, BusinessFlare will provide the Client with a one-page summary of the investment drivers and the key opportunities and recommendations.

Deliverable: Baseline Economic Profile and Data Files (Excel). Deliver in Week 5.

Cost: \$10,500 due upon delivery of the profile.

Additional time is available for insights or presentations at the rate of \$345 per hour.



Option 2: Economic Dashboard: Ongoing Market Analysis and Insights

BusinessFlare® will implement an online Economic Dashboard that includes the following information to be updated monthly or as fresh data becomes available. BusinessFlare® will also provide an initial economic profile report and data files in Excel.

Each section includes BusinessFlare's key takeaways.

- Foot Traffic Trends for the City, Downtown, and one additional area/destination – Total Customer Visits, Time of Day, Day of Week, Customer Income, Customer Loyalty, Visit Frequency, Trade Area, Trade Area Supply and Demand, Employee Visits, Migration, Remote Work Trends, Tourist Visitation. – *Source: Placer Labs.*
- Commercial (Retail, Office, Multifamily) and Industrial Real Estate Trends (Vacancy, Rents, Sale Prices, Sales Volume, Absorption, Cap Rates). *Source: CoStar and Real Estate Firms.*
- Residential (For Sale and Rental) Real Estate Trends (Active Listings, Number of Sales, Median Sale/Rent Price, Days on Market, Total Sales Volume, Average per Square Foot Price). *Source: Beaches MLS.*
- Workforce and Jobs – Business and Jobs Summary, Labor Force Profile, Industry and Occupational Clusters, Commuting, Gross Regional Product, Job Posting Trends, Employment and Unemployment, Wages. *Source: ESRI, Lightcast, FLDEO, Bureau of Labor Statistics.*
- Demographics – Population, Households, Families, Age, Income, Housing Tenure. *Source: ESRI, US Census Bureau.*
- Tax Base Analysis (In Miami-Dade County) – Property by Type and Use, Residential Tax Base, Homestead and Non-Homestead, Assessed vs. Taxable Value trends, Food and Beverage sales and tax receipts, hotel room sales and bed tax receipts. *Source: Miami-Dade County.*

Insights: In month one, BusinessFlare® will provide up to four (4) hours of meeting time to review the economic profile and data with the Client, brainstorm, and provide insights and ideas. Following the meeting, BusinessFlare will provide the Client with a one-page summary of the investment drivers and the key opportunities and recommendations.

BusinessFlare® will provide up to 2 hours of meeting/discovery time per additional month to review any data updates and review trends, opportunities, and insights.

BusinessFlare® will provide 1 hour per additional month for a live, virtual discovery session on the foot traffic (Placer) data with the client's designated representative.

Deliverables:

1. Baseline Economic Profile and Data Files (Excel). Deliver in Week 5 following engagement.
2. Economic Dashboard updated monthly. Deliver in Week 10.

Cost: \$24,500 per year, billed \$5,000 following economic profile delivery, \$5,000 upon dashboard deployment and the balance paid quarterly.

Additional time is available for insights or presentations at the rate of \$345 per hour.



TOWN OF PEMBROKE PARK
PROCLAMATION

BLACK HISTORY MONTH

WHEREAS, Black History Month is an annual celebration of achievements by black Americans and a time for recognizing the central role of African Americans in U.S. history; and

WHEREAS, since 1976 every U.S. president has officially designated the month of February as Black History Month, and other countries around the world, including Canada and the United Kingdom, also devote a month to celebrating black history; and

WHEREAS, this observance affords a special opportunity to become more knowledgeable about black heritage and to honor the many black leaders who have contributed to the progress of our community. state, and nation; and

WHEREAS, such knowledge can strengthen the understanding of all citizens regarding the issues of human rights, the great strides that have been made in the crusade to eliminate barriers to equality for minority groups, and the continuing struggle against racial discrimination and poverty; and

WHEREAS: Today, Black History Month is a time to honor the contributions and legacy of African Americans across U.S. history and society—from activists and civil rights pioneers to leaders in industry, politics, science, culture and more.

AND urge all residents of the Town of Pembroke Park to take the time and honor achievements of Black and African Americans in every endeavor throughout history.

NOW, THEREFORE WE, Mayor Ashira Mohammed, Vice Mayor Erik Morrisette, Clerk Commissioner William R. Hodgkins, Acting Clerk Commissioner Musfika Kashem and Commissioner Geoffrey Jacobs by virtue of the authority vested by the Town of Pembroke Park do hereby proclaim the month of February as;

Black History Month

Dated this 8th day of February 2024.

Ashira Mohammed Mayor

Erik Morrisette Vice Mayor

William R. Hodgkins Clerk Commissioner

Musfika Kashem Acting Clerk Commissioner

Geoffrey Jacobs Commissioner



**TOWN OF PEMBROKE PARK
PROCLAMATION
PROBLEM GAMBLING AWARENES M ONTH**

WHEREAS, problem gambling is a serious public health issue affecting one to three percent of the general adult population and often results in personal, financial, familial, legal, and other costs, including a high risk of suicide; and

WHEREAS, it is estimated that over 200,000 Florida adults of diverse age, race, ethnicity, and socio-economic status suffer from past-year gambling problems, and 800,000 more are at risk of developing such difficulties, constituting 4.7% of the adult population ages 18 and older; and

WHEREAS, it is further important to note that these statistics do not account for youth, who are increasingly and deceptively exposed to gambling concepts and are at an increased risk for developing gambling-related problems; and

WHEREAS, it is also essential to recognize problem gambling as a societal issue, with 8-10 additional people adversely impacted by every problem gambler, increasing the affected population by an estimated additional 1.5 million individuals, with conservative projected social costs amounting to more than \$9 billion nationally each year; and

WHEREAS, problem gambling is treatable for those who seek help, which minimizes the harm to Floridians and to the State as a whole; and

WHEREAS, the Florida Council on Compulsive Gambling's (FCCG's) public awareness campaign provides an opportunity to educate the public, policymakers, educators, businesses, mental health and criminal justice professionals, and others, about the potential adverse effects of gambling, as well as social, legal, financial, and emotional impacts and available supports; and

WHEREAS, free referrals to problem gambling resources and supports, including to licensed and certified treatment providers, self-help support groups, the FCCG's Online Program for Problem Gamblers (OPPG), the FCCG's Peer Connect Program, financial supports, legal resources, and many more are readily available to all Floridians by calling or texting the 888-ADMIT-IT HelpLine; and

WHEREAS, any individual, professional, or other organization dedicated to assisting those in need can participate in raising awareness and preventing problem gambling by promoting the statewide, confidential, multilingual, toll-free, and 24/7 888-ADMIT-IT Problem Gambling HelpLine; and

WHEREAS, the Town of Pembroke Park can demonstrate its support in addressing problem gambling by raising public awareness through declaration of proclamation of the month of March 2024 as Problem Gambling Awareness Month in Town of Pembroke Park.

NOW, THEREFORE, I, Ashira Mohammed, Mayor of the Town of Pembroke Park, Florida, do hereby proclaim the month of March 2024 as Problem Gambling Awareness Month in Town of Pembroke Park.

Problem Gambling Awareness Month

Dated this 13th day of March 2024.

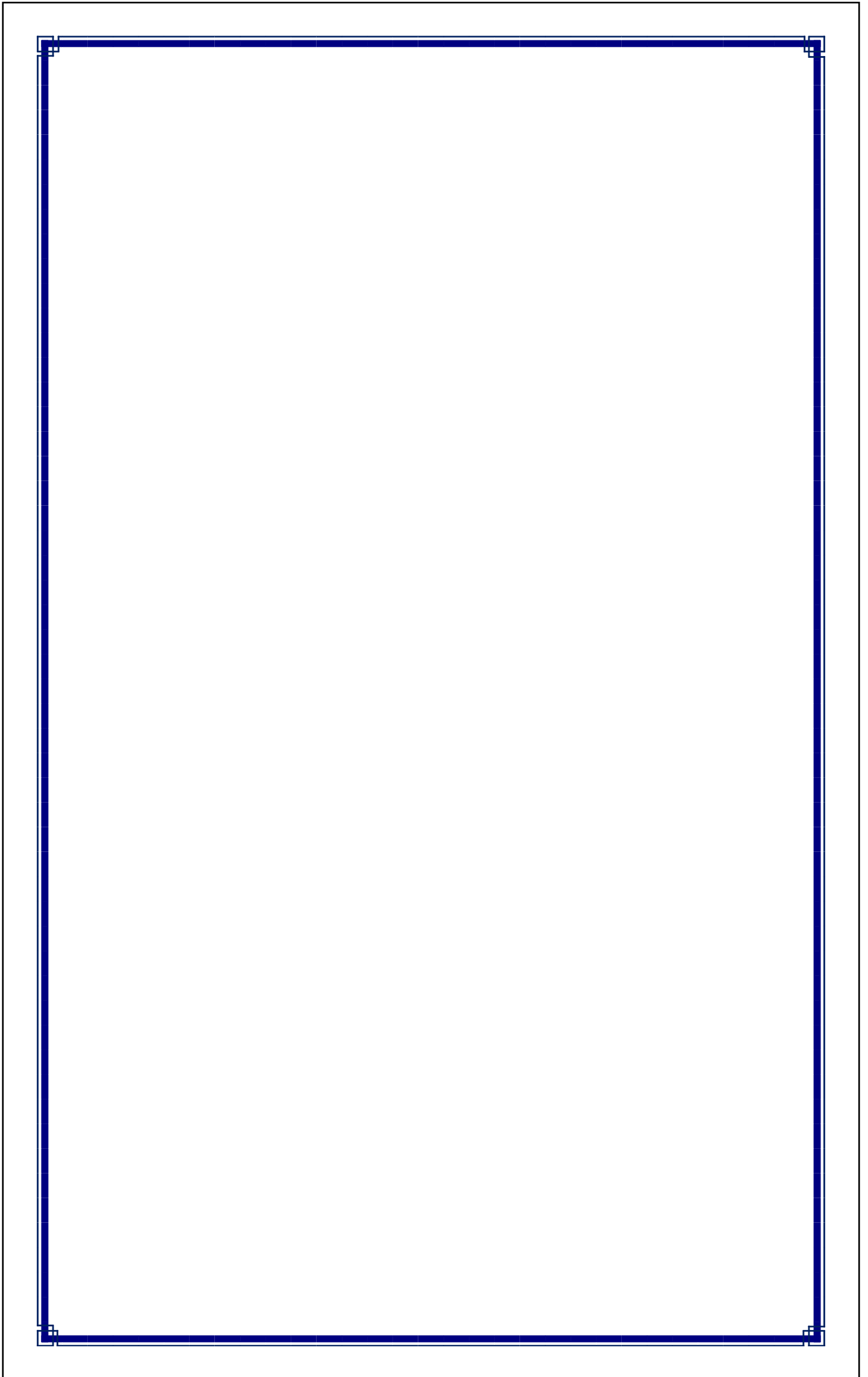
Ashira Mohammed Mayor

Erik Morrisette Vice Mayor

William R. Hodgkins Clerk Commissioner

Musfika Kashem Acting Clerk Commissioner

Geoffrey Jacobs Commissioner





**TOWN OF PEMBROKE PARK
PROCLAMATION**

IRISH AMERICAN HERITAGE MONTH, 2024

WHEREAS: *the Town of Pembroke Park recognizes the month of March as Irish American Heritage Month, and*

WHEREAS: *the first recorded celebration of Irish-Americans in the United States dates back to 1762 with the first St. Patrick's Day parade in New York City. The parade became an annual event which was initially organized by military units. After the War of 1812, Irish fraternal societies took over the parade's organization; and*

WHEREAS: *it seemed natural to choose March (Saint Patrick's Day falls on March 17) for the month-long recognition of the contributions that Irish immigrants and their descendants have made to U.S. society. Virtually every realm of American endeavor, from steelworking to biotechnology to literature, has seen improvement through Irish-descended hands and minds; and*

WHEREAS: *what is less talked about is the anti-immigrant sentiment that was often faced by new Irish-Americans, largely a result of their Catholicism, which clashed with the predominantly Protestant backgrounds of the majority of families whose members had been among the original colonists. Irish-Americans faced bitter competition, even slanted legislation, in their search for good jobs and a place to call home, and*

WHEREAS: *This month we recognize not only the overcoming of those obstacles by Irish-Americans but also the incredible breadth and depth of their contributions to American society, from the Union's edge over the Confederacy in the Civil War to the intellectual contributions that have kept our country on the top tiers of accomplishment, and*

NOW, THEREFORE WE, *Mayor Ashira Mohammed, Vice Mayor Erik Morrisette, Clerk Commissioner William R. Hodgkins, Acting Clerk Commissioner Musfika Kashem and Commissioner Geoffrey Jacobs by virtue of the authority vested by the Town of Pembroke Park do hereby proclaim the month of March as;*

IRISH AMERICAN HERITAGE MONTH

Dated this 13th day of March 2024.

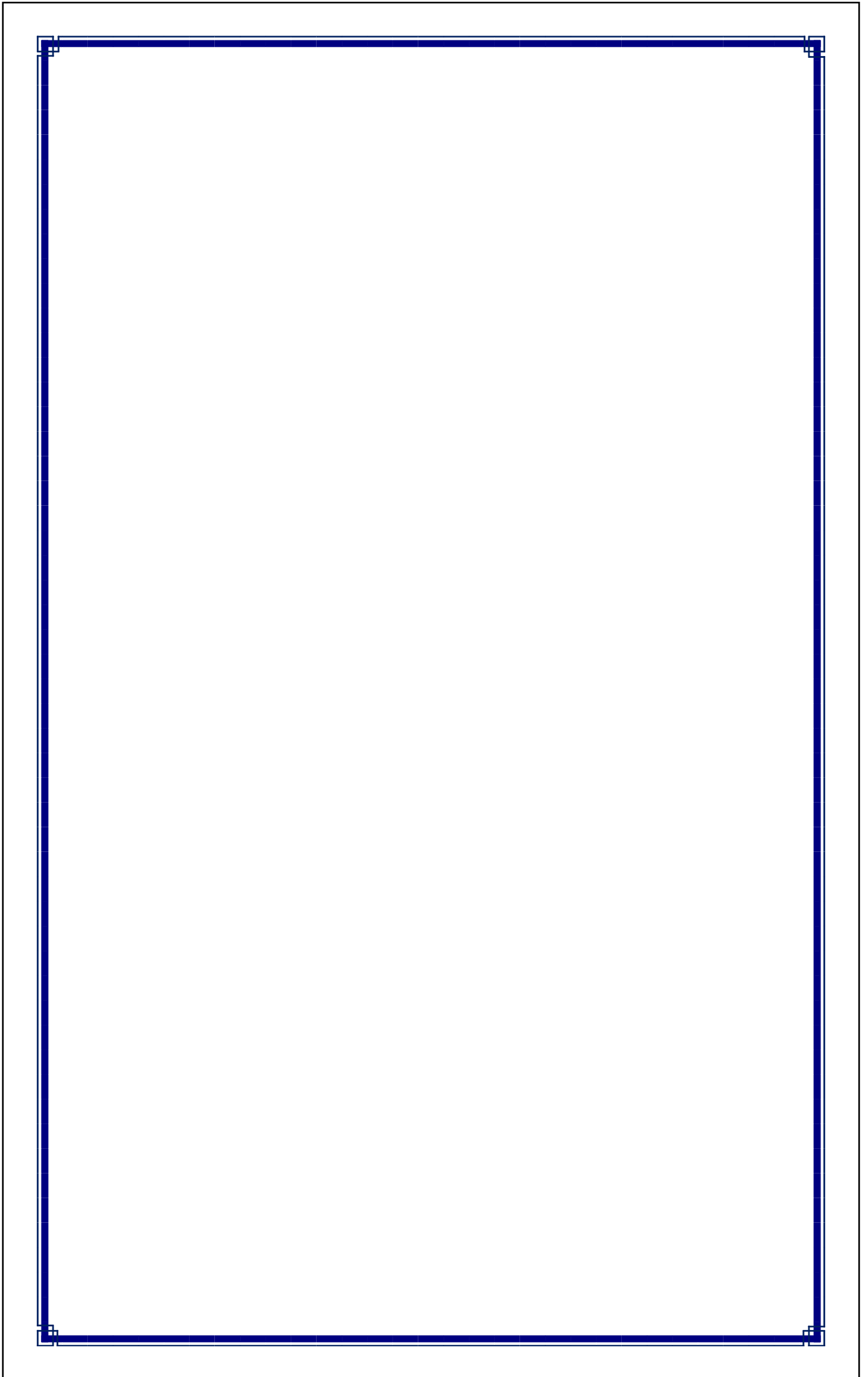
Ashira Mohammed Mayor

Erik Morrisette Vice Mayor

William R. Hodgkins Clerk Commissioner

Musfika Kashem Acting Clerk Commissioner

Geoffrey Jacobs Commissioner





MINUTES EMERGENCY COMMISSION MEETING

6:00 PM - Tuesday, November 14, 2023
Council Chambers

The EMERGENCY COMMISSION MEETING of the Town of Pembroke Park was called to order on Tuesday, November 14, 2023, at 6:00 PM, in the Council Chambers, with the following members present:

PRESENT: Mayor Ashira Mohammed; Vice Mayor Erik Morrisette; Clerk Commissioner Williams Hodgkins; and Acting Clerk Commissioner Musfika Kashem

ABSENT: Commissioner Geoffrey Jacobs

1 CALL TO ORDER

by Mayor Mohammed at 6:15pm

2 PLEDGE OF ALLEGIANCE

Led by Mayor and Commissioners

ROLL CALL

The meeting was called to order at 6:15 pm by Mayor Mohammed. Present at the meeting were Ashira Mohammed, Mayor; Erik Morrisette, Vice Mayor; Williams Hodgkins, Clerk Commissioner; and Musfika Kashem, Acting Clerk Commissioner absent Geoffrey Jacobs, Commissioner.

Additional staff in attendance were Aleem Ghany, Acting Town Manager; Brian Sherman, Interim Town Attorney; Marlen Martell, Town Clerk; Suzi Reutlinger, Assistant to Town Clerk; Mark Pakula, IT Director; Rashana Dabney-Donovan, Chief of Police and Charlene Petit-Beau, Reception

3 PUBLIC COMMENTS RELATED TO AGENDA ITEMS / GOOD & WELFARE

Daniel Lazare spoke on record

6:25pm gavel passed to Vice Mayor Morrisette

Meeting recessed at 6:21 PM

Meeting resumed at 6:29 PM

4 NEW BUSINESS

- a) DISCUSSION of Community Farm - Chickens & Bees - Mayor Mohammed and Acting Town Manager Ghany

MAYOR OPENED THE FLOOR FOR PUBLIC COMMENT
NONE
MAYOR CLOSED THE FLOOR FOR PUBLIC COMMENT

Moved by Clerk Commissioner Williams Hodgkins
Seconded by Vice Mayor Erik Morrisette

MOTION TO DECLARE THE TOWN MANAGER THE AUTHORITY TO
EXPEND THE FUNDS TO HAVE THE BEES REMOVED, AND TO REHOME
THE CHICKENS AS SOON AS POSSIBLE

Ayes: Mayor Ashira Mohammed, Vice Mayor Erik Morrisette, Clerk
Commissioner Williams Hodgkins, and Acting Clerk
Commissioner Musfika Kashem

PASSED 4-0 on a recorded vote

5 ADJOURNMENT

WITH NO FURTHER TOWN BUSINESS, MEETING ADJOURNED AT 6:43PM

Commission approved: _____

ATTEST:

Marlen D. Martell, Town Clerk

In accordance with the provisions of F.S. Section 286.0105, should any person seek to appeal any decision made by the Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record of the proceedings is made; which record includes the testimony and evidence upon which the appeal is to be based.

Any person requiring auxiliary aids and services at this meeting may call the Town Clerks Office at 954-966-4600 at least two calendar days prior to the meeting. If you are hearing or speech impaired please contact the Florida Relay Services by using the following numbers: 1-800-955-8770 (voice) or 1-800-955-8771 (TDD)

DECORUM - All comments must be addressed to the Commission as a body and not to individuals. Any person making impertinent or slanderous remarks, or who becomes boisterous while addressing the Commission, shall be barred from further audience before the Commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the Commission members present. No clapping, applauding, heckling or verbal outbursts in support or in opposition to a speaker or his/her remarks shall be permitted. No signs or placards shall be allowed in the Commission Chambers. Please mute or turn off your cell phone or pager at the start of the meeting. Failure to do so may result in being barred from the meeting. Persons exiting the Chamber shall do so quietly.



MINUTES REGULAR COMMISSION MEETING

7:00 PM - Wednesday, December 13, 2023
Commission Chambers

The REGULAR COMMISSION MEETING of the Town of Pembroke Park was called to order on Wednesday, December 13, 2023, at 7:00 PM, in the Commission Chambers, with the following members present:

PRESENT: Mayor Ashira Mohammed; Vice Mayor Erik Morrisette; Clerk Commissioner Williams Hodgkins; and Commissioner Geoffrey Jacobs

EXCUSED: Acting Clerk Commissioner Musfika Kashem

1 CALL TO ORDER Meeting called to order by Mayor Mohammed at 7:06PM

2 PLEDGE OF ALLEGIANCE

3 ROLL CALL The meeting was called to order at 7:06 pm by Mayor Mohammed. Present at the meeting were Ashira Mohammed, Mayor; Erik Morrisette, Vice Mayor; Williams Hodgkins, Clerk Commissioner; and Geoffrey Jacobs, Commissioner.

Additional staff in attendance were Aleem Ghany, Public Services Director; Jacobs Horowitz, Interim Town Attorney; Marlen Martell, Town Clerk; Mark Pakula, Information Technology Director; Suzi Reutlinger, Assistant to Town Clerk; Ra Shana Dabney-Donovan, Police Chief; and Finance director, Finance & Budget Director

4 DELETIONS OR WITHDRAWALS TO THE AGENDA remove item 11.1

5 PRESENTATIONS / PROCLAMATIONS

1) Ambulance purchase - Vice Mayor Morrisette, Chief Kane
Town clerk to look into previous purchase or lease of an ambulance truck

6 PUBLIC COMMENTS RELATED TO AGENDA ITEMS / GOOD & WELFARE NO PUBLIC COMMENTS

Town of Pembroke Park
Regular Commission Meeting
December 13, 2023

7 CONSENT AGENDA ITEM 11.1 REMOVED
ALL ITEMS IN 7.0 CONSENT AGENDA PULLED

1) Approval of Minutes - Town Clerk Martell

MOTION TO APPROVE MEETING MINUTES 9/27/23 WORKSHOP MEETING,
10/25/23 WORKSHOP MEETING, 11/8/23 REGULAR MEETING AND 11/27/23
CANCELLED WORKSHOP

**MOTION TO APPROVE MADE BY CLERK COMMISSIONER WILLIAMS HODGKINS,
SECONDED BY VICE MAYOR ERIK MORRISSETTE. MOTION PASSED 4-0.**

2) Cost for updated drawings from Calvin, Giordano & Associates for the Police buildout
- IT Director Pakula

MOTION TO APPROVE WITH AN AMOUNT NOT TO EXCEED \$24,000.00

**MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED
BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 3-1
COMMISSIONER GEOFFREY JACOBS OPPOSED.**

3) Approval for FLGISA Winter Convention - IT Director Pakula

MOTION TO APPROVE MR. PAKULA TO ATTEND THE FLGISA IN AN AMOUNT OF
\$1,500.00

**MOTION TO APPROVE MADE BY CLERK COMMISSIONER WILLIAMS HODGKINS,
SECONDED BY VICE MAYOR ERIK MORRISSETTE. MOTION PASSED 4-0.**

4) Upgrade Storage for Town Servers - IT Director Pakula

MOTION TO APPROVE \$26,000 BUDGETED ITEM ON THE DELL DRIVERS

**MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED
BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 3-1
COMMISSIONER GEOFFREY JACOBS OPPOSED.**

5) ClearPoint Strategy software - IT Director Pakula

MOTION TO APPROVE CLEARPOINT IN AN AMOUNT NOT TO EXCEED \$17,001.00

**MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED
BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 4-0.**

6) SonicWall renewal for WIFI - IT Director Pakula

MOTION TO APPROVE THE SONIC WALL IN AN AMOUNT NOT TO EXCEED
\$6,500.00

**MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED
BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 4-0.**

7) Town's Social Media Automation - IT Director Pakula

MOTION TO APPROVE THE SOCIAL MEDIA AUTOMATION IN AN AMOUNT NOT TO EXCEED \$7,000.00

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 3-1 COMMISSIONER GEOFFREY JACOBS OPPOSED.

8) Renewal of website and Mass notification system for emergencies and events - IT Director Pakula

MOTION TO APPROVE THE RENEWAL WEBSITE AND MASS NOTIFICATION SYSTEM IN AN AMOUNT NOT TO EXCEED \$13,487.88 BUDGETED ITEM

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 3-1 COMMISSIONER GEOFFREY JACOBS OPPOSED.

9) CSA Vehicle Revision - Chief Dabney-Donovan

ABEO MANNING SPOKE ON RECORD

MOTION IN AN AMOUNT NOT TO EXCEED \$20,000.00 TO RESTRIPE FOR CSA VEHICLES

MOTION TO APPROVE MADE BY CLERK COMMISSIONER WILLIAMS HODGKINS, SECONDED BY VICE MAYOR ERIK MORRISSETTE. MOTION PASSED 4-0.

10) Purchase of new shed for Public Services - Acting Manager/Public Services Director Ghany

MOTION TO APPROVE ONE SHED IN AN AMOUNT NOT TO EXCEED \$15,000.00

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 4-0.

11) Sanitary Sewer Emergency Repair - Acting Town Manager/Public Services Director Ghany

MOTION TO APPROVE SANITARY SEWER REPAIR BY A TO Z PLUMBING IN AN AMOUNT NOT TO APPROVE \$11,737.50

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 4-0.

8 ORDINANCES 2ND READING

1) Travel Policy Ordinance - Acting Town Manager/Public Services Director Ghany, Interim Town Attorney Horowitz

ORDINANCE NO. 2023-014

AN ORDINANCE OF THE TOWN OF PEMBROKE PARK, FLORIDA AMENDING CHAPTER 2 ENTITLED "ADMINISTRATION," BY CREATING ARTICLE XII OF THE TOWN'S CODE OF ORDINANCES, ENTITLED "TRAVEL REIMBURSEMENT POLICIES AND PROCEDURES;" PROVIDING FOR CODIFICATION; PROVIDING

FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MAYOR OPENED THE FLOOR FOR PUBLIC COMMENT

NONE

MAYOR BROUGHT BACK BEFORE THE COMMISSION

MOTION TO APPROVE 2023-014

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 4-0.

2ND READING DECEMBER 13, 2023

2) Parks and Recreation Advisory Board - Acting Clerk Commissioner Musfika
AN ORDINANCE OF THE TOWN OF PEMBROKE PARK, FLORIDA, **AMENDING CHAPTER 18 OF THE TOWN'S CODE OF ORDINANCES, ENTITLED "PARKS AND RECREATION"; SPECIFICALLY CREATING ARTICLE III; TO BE ENTITLED "PARKS AND RECREATION ADVISORY BOARD;" PROVIDING FOR THE ESTABLISHMENT OF A PARKS AND RECREATION ADVISORY BOARD; PROVIDING FOR COMPOSITION; PROVIDING FOR MEETINGS; PROVIDING FOR DEFINITIONS; PROVIDING FOR DUTIES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

MAYOR OPENED THE FLOOR FOR PUBLIC COMMENT

NONE

MAYOR BROUGHT BACK BEFORE THE COMMISSION

2ND READING SCHEDULED FOR NEXT MEETING

MOTION TO APPROVE ORDINANCE 2023-015 THE PARKS & RECREATION BOARD

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY COMMISSIONER GEOFFREY JACOBS. MOTION PASSED 4-0.

2ND READING DECEMBER 13, 2023

3) Youth Advisory Board - Mayor Mohammed

ORDINANCE NO. 2023-016

AN ORDINANCE OF THE TOWN OF PEMBROKE PARK, FLORIDA, **AMENDING CHAPTER 2 OF THE TOWN'S CODE OF ORDINANCES, ENTITLED "ADMINISTRATION"; SPECIFICALLY CREATING ARTICLE XIII; TO BE ENTITLED "YOUTH AFFAIRS ADVISORY BOARD"; PROVIDING FOR THE ESTABLISHMENT OF A YOUTH AFFAIRS ADVISORY BOARD; PROVIDING FOR COMPOSITION; PROVIDING FOR MEETINGS; PROVIDING FOR DEFINITIONS; PROVIDING FOR**

DUTIES AND RESPONSIBILITIES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MAYOR OPENED THE FLOOR FOR PUBLIC COMMENT
NONE

MAYOR BROUGHT BACK BEFORE THE COMMISSION

2ND READING DECEMBER 13, 2023

MOTION TO APPROVE YOUTH AFFAIRS AND ADVISORY BOARD ORDINANCE NO 2023-016

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 3-1 COMMISSIONER GEOFFREY JACOBS OPPOSED.

RECESS CALLED DUE TO A COMPLAINT MADE BY COMMISSIONER JACOBS

RECESSED CALLED AT 8:14PM

MEETING RESUMED AT 8:36PM

4) Zoning Amendment- Acting Town manager/ Public Services Director Ghany

Applicant: BH 2550 LLC/Rachel Streitfeild, Caldera Law

Address: 2550 SW 30th Avenue

ATTORNEY RACHEL STREITFEILD SPOKE ON RECORD.

FLOOR WAS OPENED FOR PUBLIC COMMENT

NONE

FLOOR WAS CLOSED FOR PUBLIC COMMENT

MOTION TO APPROVED ORDINANCE 2023-017

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 3-1 COMMISSIONER GEOFFREY JACOBS OPPOSED.

ATTORNEY WILL BRING BACK RESOLUTION

2ND READING IS SCHEDULED FOR DECEMBER 17, 2023

9 RESOLUTIONS

1) Temporary Use - Interim Town Attorney

Resolution No. 2023-016

RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA, **APPROVING BH 2550 LLC'S PETITION NO. 23-RZ-01, ATTACHED HERETO AS EXHIBIT "A", UNDER SECTION 28-209(H) OF TOWN CODE AUTHORIZING CERTAIN TEMPORARY USES IN THE MXE MIXED USE ENTERTAINMENT DISTRICT FOR THE PROPERTY LOCATED AT 2550 SW 30TH AVENUE, FOLIO NO. 514228710010; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

MOTION TO APPROVE RESOLUTION 2023-016

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 3-1 COMMISSIONER GEOFFREY JACOBS OPPOSED.

2) FDOT Project Development and Environment Study for I-95 - Acting Town Manager/Public Services Director Ghany

RESOLUTION NO. 2023-027

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA **ENDORING AND SUPPORTING THE FLORIDA DEPARTMENT OF TRANSPORTATION PROJECT DEVELOPMENT AND ENVIRONMENT STUDY FOR THE I-95 CORRIDOR FROM SOUTH OF HALLANDALE BEACH BOULEVARD (SR858) TO NORTH OF HOLLYWOOD BOULEVARD (SR820), AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A," ATTACHED HERETO AND INCORPORATED HEREIN; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE**

MOTION TO APPROVE RESOLUTION 2023-027

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 4-0.

10 ORDINANCES 1ST READING

1) Food Truck Vendor Ordinance - Mayor Mohammed

AN ORDINANCE OF THE TOWN OF PEMBROKE PARK, FLORIDA, **AMENDING THE TOWN CODE OF ORDINANCES BY AMENDING CHAPTER 15 ENTITLED "LICENSES AND BUSINESS REGULATIONS;" CREATING ARTICLE IV, TO BE ENTITLED "MOBILE FOOD DISPENSING VEHICLES;" PROVIDING FOR THE REGULATIONS OF MOBILE FOOD VENDORS IN ACCORDANCE SECTION 509.102, FLORIDA STATUTES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

FLOOR OPENED FOR PUBLIC COMMENT

NONE

FLOOR CLOSED FOR PUBLIC COMMENT, BROUGHT BACK TO THE COMMISSION

SECOND READING JANUARY 10, 2024

MOTION TO APPROVE ORDINANCE 2023-018

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 3-0.

FORM 8B TO BE SENT TO TOWN CLERK

2) Small Disadvantage Business Enterprises - Mayor Mohammed

ORDINANCE NO. 2023-019

AN ORDINANCE OF THE TOWN OF PEMBROKE PARK, FLORIDA **AMENDING CHAPTER 2 ENTITLED "ADMINISTRATION," ARTICLE V "PROCUREMENT," BY CREATING SECTION 2-138 OF THE TOWN'S CODE OF ORDINANCES, ENTITLED "LOCAL BUSINESS PREFERENCE";** PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

FLOOR OPENED FOR PUBLIC COMMENT

NONE

FLOOR CLOSED FOR PUBLIC COMMENT, BROUGHT BACK TO THE COMMISSION
MOTION TO APPROVE ORDINANCE 2023-019

**MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 3-1
COMMISSIONER GEOFFREY JACOBS OPPOSED.**

11 NEW BUSINESS

1) Illuno Donation for AEDs - Chief Dabney-Donovan

ITEM REMOVED FROM THE AGENDA

2) Communications Agreement - Interim Town Attorney

RFP OR RFQ NEEDS TO GO OUT FOR A BID

MOTION TO APPROVE THE ADDITIONAL \$15,000.00 AND AUTHORIZE THE TOWN TO GO OUT FOR A BID

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 4-0.

3) Shutts and Bowen Investigation Attorney Fees - Acting Town Manager/Public Services Director Ghany

MOTION TO APPROVE ADDITIONAL AMOUNT OF \$25,825.00

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 3-0.

MOTION TO INCREASE IN AN AMOUNT NOT TO EXCEED \$15,000.00

MOTION TO APPROVE MADE BY CLERK COMMISSIONER WILLIAMS HODGKINS, SECONDED BY VICE MAYOR ERIK MORRISSETTE. MOTION PASSED 3-0.

4) One-Stop film Permitting Interlocal Agreement - Acting Town Manager/Public Services Director Ghany

Motion to approve the recommendation of the Agreement

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 4-0.

5) Updating Fire Alarm System in Town Hall - Acting Town Manager/Public Services Director Ghany

Motion to approve the request for updating the fire alarm system in Town Hall in the amount of \$14,997.08.

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 4-0.

6) 92 Winter Meeting - US Conference of Mayors in Washington, DC from January 17 to 19, 2024 - Mayor Mohammed

100 Years National League of City - City Summit in Tampa Bay, November 14 thru 16, 2024

TOWN CLERK TO PUT ON AGENDA THE FLC CONFERENCE FOR AUGUST MEETING

Motion to the annual NLC City Summit in Tampa November 14 thru the 16th in an amount not to exceed \$2,500 per person.

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 4-0.

12 OLD BUSINESS

1) Koinonia Trafficways Waiver - Planning Consultant Vonder Meulen

MOTION TO APPROVE 12.1 THE KOINONIA

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 3-1
COMMISSIONER GEOFFREY JACOBS OPPOSED.

13 DISCUSSION

1) Life Rings around water areas in the Town - Mayor Mohammed

DIRECTION WAS GIVEN TO STAFF TO PUT LIFE RINGS ON ALL THE LAKES IN THE CITY

2) Letter to Grants - Mayor Mohammed

MOTION TO SEEK RATIFICATION FOR THE MAYORS PRIOR ACTION REGARDING FUTURE GRANTS

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 3-1 COMMISSIONER GEOFFREY JACOBS OPPOSED.

3) Noise Ordinance Enforcement - Mayor Mohammed

MAYOR DIRECTED STAFF TO UPDATE AND ENHANCE NOISE ORDINANCE TO ALLOW FOR POLICE TO ENFORCE. PURCHASING METERS AND UPDATE TO BE BROUGHT BACK TO THE COMMISSION IN THE FUTURE

4) Implementation of Enhanced Security Measures at Town Hall - Commissioner Jacobs

DISCUSSION ONLY

5) Staff Meetings - Update - Commissioner Jacobs

COMMISSIONER JACOBS CLARIFIED HIS PREVIOUS STATEMENT IN WHICH HE REFERRED TO PAST STAFF MEETINGS AS " A FREE FOR ALL FRIDAY" STATEMENT WAS READ INTO THE RECORD

14 ATTORNEY REPORTS NONE

15 TOWN MANAGER REPORTS 1. Holiday Lighting -Most of the banners completed
2. Town Manager met with Pembroke pines regarding utilizing their not used allocation for sanitary sewer
3. Meeting with Broward County regarding Trinity Lake was held
4. Two meetings with Broward County coming up
a. Local mitigation strategy
b. DEM the Emergency Management meeting
5. Safety Deposit Box at Wells Fargo to be picked up and audited by Town Clerk
6. Senate Bill 102
7. Punch list for the Police Buildout
8. Roof (Building) is completed, 25 year warranty certificate was accepted
9. Finance Director David Delina gave update on JLAC, stated that they are ready for the 2023 audit
Mayor Mohammed left the meeting at 9:16PM

16 COMMISSION REPORTS Commissioner Jacobs - Update regarding Ms. Narlochs contract and would like to talk to the Commissioners. HR contract to be brought back to the commission in January.

Clerk Commissioner Hodgkins - NONE

Vice Mayor Morrisette - NONE

Mayor Mohammed - N/A

17 ANNOUNCEMENTS

1) Shop with a Cop, Saturday, December 16th from 8:00 AM to 1:00 PM

Special Magistrate Hearing, Wednesday, December 20th 2023 at 9:00 AM

Toy Giveaway, Thursday, December 21st from 5:00 PM to 8:00 PM

Workshop Commission meeting, Wednesday, January 3rd at 6:00 PM

Regular Commission meeting, Wednesday, January 10th at 7:00 PM

Special Magistrate Hearing, Wednesday, January 17th at 9:00 AM

Workshop Commission meeting, Wednesday, January 24th at 6:00 PM

18 ADJOURNMENT With no further Town Business, meeting adjourned at 9:20 PM

Commission Approved: _____

ATTEST:

Marlen D. Martell, Town Clerk

In accordance with the provisions of F.S. Section 286.0105, should any person seek to appeal any decision made by the Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record of the proceedings is made; which record includes the testimony and evidence upon which the appeal is to be based.

Any person requiring auxiliary aids and services at this meeting may call the Town Clerks Office at 954-966-4600 at least two calendar days prior to the meeting. If you are hearing or speech impaired please contact the Florida Relay Services by using the following numbers: 1-800-955-8770 (voice) or 1-800-955-8771 (tdt).

DECORUM - All comments must be addressed to the Commission as a body and not to individuals. Any person making impertinent or slanderous remarks, or who becomes boisterous while addressing the Commission, shall be barred from further audience before the Commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the Commission members present. No clapping, applauding, heckling or verbal outbursts in support or in opposition to a speaker or his/her remarks shall be permitted. No signs or placards shall be allowed in the Commission Chambers. Please mute or turn off your cell phone or pager at the start of the meeting. Failure to do so may result in being barred from the meeting. Persons exiting the Chamber shall do so quietly.

Town of Pembroke Park
Regular Commission Meeting
December 13, 2023



MINUTES WORKSHOP COMMISSION MEETING

6:00 PM - Wednesday, January 3, 2024
Commission Chambers

The WORKSHOP COMMISSION MEETING of the Town of Pembroke Park was called to order on Wednesday, January 3, 2024, at 6:00 PM, in the Commission Chambers, with the following members present:

PRESENT: Mayor Ashira Mohammed; Vice Mayor Erik Morrisette; Clerk Commissioner Williams Hodgkins; Acting Clerk Commissioner Musfika Kashem; and Commissioner Geoffrey Jacobs

1. CALL TO ORDER

2 PLEDGE OF ALLEGIANCE

3 ROLL CALL The meeting was called to order at 6:08 pm by Mayor Mohammed. Present at the meeting were Ashira Mohammed, Mayor; Erik Morrisette, Vice Mayor; Williams Hodgkins, Clerk Commissioner; Musfika Kashem, Acting Clerk Commissioner; and Geoffrey Jacobs, Commissioner.

Additional staff in attendance were Jacob Horowitz, Interim Town Attorney; Marlen Martell, Town Clerk; Suzi Reutlinger, Assistant to Town Clerk; Mark Pakula, Information Technology Director; Joseline Ramirez, Chief Code Enforcement Officer; Ra Shana Dabney-Donovan, Police Chief; and Tom Positano, Deputy Public Services Director

4 DELETIONS OR WITHDRAWALS TO THE AGENDA NONE

5 PRESENTATIONS JAMES LAWSON PROCLAMATION READ INTO THE RECORD AND PRESENTED TO MR. LAWSON

1. Lobbyist Proposed 2024 Legislative Program

DAVID SEIGERSON PRESENTED AND SUBMITTED REPORT FOR COMMISSION REVIEW

6 REPORTS OF COMMITTEES AND TOWN STAFF

1. Fire Department - Chief Kane

CHIEF KANE PRESENTED AND SUBMITTED REPORT FOR COMMISSION REVIEW

7 BUILDING DEPARTMENT - INTERIM BUILDING OFFICIAL PIZZILLO

1. Monthly Report
INTERIM BUILDING OFFICIAL PIZZILLO PRESENTED AND SUBMITTED REPORT FOR COMMISSION REVIEW

8 POLICE DEPARTMENT - CHIEF DABNEY-DONOVAN

1. November Stats

CHIEF DABNEY-DONOVAN PRESENTED AND SUBMITTED REPORT FOR COMMISSION REVIEW

2. NFBPA Form 2024 Request for Chief Ra Shana A. Dabney

ITEM PLACED IN THE CONSENT AGENDA

3. Accreditation Services Proposal

ITEM PLACED ON CONSENT AGENDA
CHIEF TO PROVIDE INFORMATION REGARDING THE COP GRANT

4. CERA Software, Inc.

EDWARD MCGOVERN SPOKE ON RECORD
ITEM PLACED ON CONSENT AGENDA

9 PUBLIC SERVICES DEPARTMENT - ACTING TOWN MANAGER/PUBLIC SERVICES DIRECTOR GHANY

1. 42nd Annual Installation Dinner

ITEM PLACED ON CONSENT FOR FAIR SHARE

ITEM PLACED ON CONSENT FOR TICKETS FOR DINNER DEPENDING HOW MANY ARE ATTENDING

2. Finance Consultant's Contract - Extend the contract until the end of the fiscal year September 30, 2024

ITEM PLACED ON CONSENT AGENDA

3. Purchase of (2) new Ford F-150 pick up trucks.

ABEO MANNING SPOKE ON RECORD
ITEM TO PURCHASE 2 TRUCKS PLACED AS A LINE ITEM
ITEM TO SURPLUS 2 OLDER TRUCKS ON CONSENT
ITEM TO SURPLUS THE CRANE VEHICLE ON CONSENT

10 NEW BUSINESS

1. Emergency Meeting items - Vice Mayor Morrisette

ENSURE THAT THERE WILL BE NO FUTURE ISSUES REGARDING LIVESTOCK IN OUR TOWN THAT IS NOT BEING ATTENDED TO. REQUESTING TO PUT AS TO WHAT WE ACTUALLY HAVE IN OUR GARDEN BAN ON HAVING LIVE STOCK AND THAT WE ALSO HAVE ACCOUNTABILITY AS TO WHAT WAS SPENT AND WHAT SUPPLIES WE HAVE ON HAND IN INVENTORY. ATTORNEY WILL BE RESEARCHING CONTRACTS AND RESOLUTIONS OR ORDINANCES ADDRESSING THIS MATTER OR BRING FORTH RECOMMENDATIONS

2. **ORDINANCE NO. 2024-001** - Mayor Mohammed
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA **AMENDING CHAPTER 17 OF THE TOWN'S CODE OF ORDINANCES, ENTITLED "NOISE;" PROVIDING DEFINITIONS FOR NOISE, NOISE DISTURBANCE, AND PLAINLY AUDIBLE; PROVIDING FOR VIOLATIONS WHEN NOISE IS PLAINLY AUDIBLE AT CERTAIN DISTANCES IN VARIOUS ZONING DISTRICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

ITEM PLACED ON THE REGULAR COMMISSION MEETING AS A LINE ITEM

11 DISCUSSION

1. Purchase of office furniture - Acting Clerk Commissioner Kashem

ITEM PLACED ON CONSENT

12 TOWN CLERK COMMENTS

1. 2024 calendar of meetings and holidays

ITEM PLACED ON CONSENT

13 ATTORNEY COMMENTS NONE

14 TOWN MANAGER COMMENTS

BOB CAT WAS RECEIVED AND THE STAFF GETTING TRAINED
SHED WAS ORDERED AND TO BE DELIVERED NEXT WEEK
INFORMED BY BROWARD COUNTY THAT THERE'S GOING TO BE A BUILDING ON
THE ORANGE BOOK GOLF COURSE AND A NEW POLICE STATION TO BE BUILT.
THEY ARE LOOKING FOR COMMENTS. TOWN MANAGER TO FORWARD EMAIL
TO ALL COMMISSIONERS

PERMIT FOR WAREHOUSE ON SW 20TH STREET AND 40TH AVE, PERMIT
APPLICATION IS TO FILL IN A PORTION OF THAT LAKE IN THE BACK OF SENICA,
THE ACTING TOWN MANAGER JUST WANTED TO SHARE THAT THE
APPLICATION WAS RECEIVED.

RECEIVED SITE PLAN FOR PUBLIC STORAGE ON 3080 PEMBROKE ROAD
REGARDING ADDITIONAL DEMO AND RECONSTRUCTION OF A FIVE STORY
STORAGE BUILDING. THIS ITEM WILL BE INCLUDED IN HIS REPORT
RFP FOR HR SERVICES AND RFQ TOWN ATTORNEY ARE OUT
PD BUILDOUT WORKING ON PUNCH LIST

TOWN MANAGER RECRUITMENT - RENEE IS LOOKING ONE HOUR TIME FRAME
WITH EACH OF THE COMMISSIONERS, STEPHANIE TO SET THAT UP

15 COMMISSIONER COMMENTS

1. Commissioner Jacobs - NONE

Acting Clerk Commissioner Kashem - ACTING CLERK COMMISSIONER KASHEM IS
REQUESTING TO REVISIT THE MANAGEMENT PACKAGE FOR NEXT MEETING
DISCUSSION.

Clerk Commissioner Hodgkins- NONE

Vice Mayor Morrisette- NONE

Mayor Mohammed - NONE

16 ANNOUNCEMENTS

1. Regular Commission Meeting, Wednesday, January 10th at 7:00 PM
Town Closed on Monday, January 15th - Martin Luther King Jr. Day

Town of Pembroke Park
Workshop Commission Meeting
January 3, 2024

Special Magistrate Hearing, Wednesday, January 17th at 9:00 AM
Workshop Commission Meeting, Wednesday, January 24th at 6:00 PM

**17 ADJOURNMENT WITH NO OTHER TOWN BUSINESS, MEETING ADJOURNED
AT 7:11PM**

Commission approved: _____

ATTEST:

Marlen D. Martell, Town Clerk

In accordance with the provisions of F.S. Section 286.0105, should any person seek to appeal any decision made by the Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record of the proceedings is made; which record includes the testimony and evidence upon which the appeal is to be based.

Any person requiring auxiliary aids and services at this meeting may call the Town Clerks Office at 954-966-4600 at least two calendar days prior to the meeting. If you are hearing or speech impaired please contact the Florida Relay Services by using the following numbers: 1-800-955-8770 (voice) or 1-800-955-8771 (TDD)

DECORUM - All comments must be addressed to the Commission as a body and not to individuals. Any person making impertinent or slanderous remarks, or who becomes boisterous while addressing the Commission, shall be barred from further audience before the Commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the Commission members present. No clapping, applauding, heckling or verbal outbursts in support or in opposition to a speaker or his/her remarks shall be permitted. No signs or placards shall be allowed in the Commission Chambers. Please mute or turn off your cell phone or pager at the start of the meeting. Failure to do so may result in being barred from the meeting. Persons exiting the Chamber shall do so quietly.



MINUTES REGULAR COMMISSION MEETING

7:00 PM - Wednesday, January 10, 2024
Commission Chambers

The REGULAR COMMISSION MEETING of the Town of Pembroke Park was called to order on Wednesday, January 10, 2024, at 7:00 PM, in the Commission Chambers, with the following members present:

PRESENT: Mayor Ashira Mohammed; Vice Mayor Erik Morrisette; Clerk Commissioner Williams Hodgkins; Acting Clerk Commissioner Musfika Kashem; and Commissioner Geoffrey Jacobs

1 CALL TO ORDER MAYOR MOHAMMED CALLED THE MEETING TO ORDER AT 7:02PM

2 PLEDGE OF ALLEGIANCE

3 ROLL CALL The meeting was called to order at 7:02 pm by Mayor Mohammed. Present at the meeting were Ashira Mohammed, Mayor; Erik Morrisette, Vice Mayor; Williams Hodgkins, Clerk Commissioner; Musfika Kashem, Acting Clerk Commissioner; and Geoffrey Jacobs, Commissioner.

Additional staff in attendance were Aleem Ghany, Public Services Director; Jacobs Horowitz, Interim Town Attorney; Marlen Martell, Town Clerk; Joseline Ramirez, Chief Code Enforcement Officer; Mark Pakula, Information Technology Director; Suzi Reutlinger, Assistant to Town Clerk; and Ra Shana Dabney-Donovan, Police Chief

4 DELETIONS OR WITHDRAWALS TO THE AGENDA ITEM 7.1, 7.2, 7.4, 7.6
WITHDRAWN FROM THE AGENDA

MOTION TO ACCEPT THE CONSENT AGENDA MINUS ITEM 7.1, 7.2, 7.4, 7.6,
MOTION MADE BY ACTING CLERK COMMISSIONER KASHEM, SECONDED BY
CLERK COMMISSIONER HODGKINS, MOTION PASSES

FOR THE RECORD, POLICE CHIEF DABNEY-DONOVAN REQUESTED FROM THE CLERK THAT ITEMS 7.1 AND 7.2 BE REMOVED FROM THE AGENDA, AS THEY WERE NO LONGER NEEDED, NECESSARY OR APPLICABLE.

5 PRESENTATIONS / PROCLAMATIONS

6 PUBLIC COMMENTS RELATED TO AGENDA ITEMS / GOOD & WELFARE RESIDENT NILDA MORRISSETTE SPOKE ON RECORD

7 CONSENT AGENDA

1. NFBPA Form 2024 Request for Chief Ra Shana A. Dabney

ITEM REMOVED FROM THE AGENDA

2. Accreditation Services Proposal

ITEM REMOVED FROM THE AGENDA

3. CERA Software, Inc.

4. 42nd Annual Installation Dinner

PER MAYOR MOHAMMED IF ANY COMMISSIONER WANTS TO ATTEND
CONTACT THE TOWN CLERK BEFORE JANUARY 19, 2024

5. Finance Consultant's Contract - Extend the contract until the end of the fiscal year
September 30, 2024

6. Purchase of office furniture - Acting Clerk Commissioner Kashem

MOTION TO PURCHASE OFFICE FURNITURE IN AN AMOUNT NOT TO EXCEED
\$4,800.00

**MOTION TO APPROVE MADE BY CLERK COMMISSIONER WILLIAMS HODGKINS,
SECONDED BY VICE MAYOR ERIK MORRISSETTE. MOTION PASSED 4-1
COMMISSIONER GEOFFREY JACOBS OPPOSED.**

7. 2024 calendar of meetings and holidays

8. Surplus of vehicles - Acting Town Manager Ghany

9. Fair Share Cost - Area Agency on Aging of Broward County - Acting Town Manager Ghany

8 RESOLUTIONS

9 ORDINANCES 1ST READING

1. **ORDINANCE NO. 2024-001** - Mayor Mohammed
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA **AMENDING CHAPTER 17 OF THE TOWN' S CODE OF ORDINANCES, ENTITLED "NOISE;" PROVIDING DEFINITIONS FOR NOISE, NOISE DISTURBANCE, AND PLAINLY AUDIBLE; PROVIDING FOR VIOLATIONS WHEN NOISE IS PLAINLY AUDIBLE AT CERTAIN DISTANCES IN VARIOUS ZONING DISTRICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

FLOOR OPEN TO THE PUBLIC FOR COMMENT

NONE

MAYOR CLOSED FOR PUBLIC COMMENT

MOTION TO APPROVE ORDINANCE 2024-001

MOTION TO APPROVE MADE BY CLERK COMMISSIONER WILLIAMS HODGKINS, SECONDED BY VICE MAYOR ERIK MORRISSETTE. MOTION PASSED 4-1 COMMISSIONER GEOFFREY JACOBS OPPOSED.

10 ORDINANCES 2ND READING

1. Food Truck Vendor Ordinance - Mayor Mohammed
AN ORDINANCE 2023-018 OF THE TOWN OF PEMBROKE PARK, FLORIDA, **AMENDING THE TOWN CODE OF ORDINANCES BY AMENDING CHAPTER 15 ENTITLED "LICENSES AND BUSINESS REGULATIONS;" CREATING ARTICLE IV, TO BE ENTITLED "MOBILE FOOD DISPENSING VEHICLES;" PROVIDING FOR THE REGULATIONS OF MOBILE FOOD VENDORS IN ACCORDANCE SECTION 509.102, FLORIDA STATUTES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

FLOOR OPEN TO THE PUBLIC FOR COMMENT

NONE

MAYOR CLOSED FOR PUBLIC COMMENT

MOTION TO APPROVE ORDINANCE 2023-018

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 4-0.

COMMISSIONER JACOBS WILL SUBMIT A FORM 8

2. Small Disadvantage Business Enterprises - Mayor Mohammed

ORDINANCE NO. 2023-019

AN ORDINANCE OF THE TOWN OF PEMBROKE PARK, FLORIDA **AMENDING CHAPTER 2 ENTITLED "ADMINISTRATION," ARTICLE V "PROCUREMENT," BY CREATING SECTION 2-138 OF THE TOWN'S CODE OF ORDINANCES, ENTITLED "LOCAL BUSINESS PREFERENCE"; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

FLOOR OPEN TO THE PUBLIC FOR COMMENT

NONE

MAYOR CLOSED FOR PUBLIC COMMENT

MOTION TO APPROVE ORDINANCE 2023-019

**MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 3-1
COMMISSIONER GEOFFREY JACOBS OPPOSED.**

11 NEW BUSINESS

1. Purchase of (2) new Ford F-150 pick up trucks.

ABEO MANNING SPOKE ON RECORD

MOTION TO TABLE THIS ITEM UNTIL ACTING TOWN MANAGER ALEEM GHANY IS BACK

MOTION TO APPROVE MADE BY VICE MAYOR ERIK MORRISSETTE, SECONDED BY CLERK COMMISSIONER WILLIAMS HODGKINS. MOTION PASSED 5-0.

12 OLD BUSINESS

1. Park Lake License Agreement - Acting Town Manager Ghany

NO CHANGE TO AGREEMENT, NO ACTION

13 DISCUSSION

1. MPO 2024 State of the Region Annual Awards Luncheon on Thursday, March 28th 2024

Town of Pembroke Park
Regular Commission Meeting
January 10, 2024

MOTION TO DO SPONSORSHIP SAME AS LAST YEAR OR UP TO \$5,000.00,
CLERK TO CONFIRM

**MOTION TO APPROVE MADE BY CLERK COMMISSIONER WILLIAMS HODGKINS,
SECONDED BY ACTING CLERK COMMISSIONER MUSFIKA KASHEM. MOTION
PASSED 5-0.**

2. Amend work from home benefit - Acting Clerk Commissioner Musfika

ITEM PLACED ON THE WORKSHOP AGENDA FOR DISCUSSION TOWN CLERK TO
SEND TO THE COMMISSION CLOCK IN AND OUT TIMES FROM MAY TO
SEPTEMBER 2023.

14 ATTORNEY REPORTS ACTING TOWN ATTORNEY REMINDED THE
COMMISSIONERS THAT COMMISSIONERS ARE REQUIRED TO FILL OUT A FORM
6 NO LATER THAN JULY 1ST. BROWARD LEAGUE LOOKING TO PUT TOGETHER
A TRAINING SEMINAR AS IT RELATED TO FORM 6, NOT AWARE OF ANYTHING
THAT IS CURRENTLY BEING SCHEDULED, SHOULD SOMETHING BECOME
AVAILABLE, THE INTERIM TOWN ATTORNEY WILL INFORM THE COMMISSION

15 TOWN MANAGER REPORTS N/A

16 COMMISSION REPORTS COMMISSIONER JACOBS - THE COMMISSIONER
SPOKE REGARDING A NOTABLE DELAY IN OBTAINING A POLICE REPORT FROM
THE PD. COMPLAINTS COMING IN REGARDING DISTRICT 3 LIFT STATIONS.
ACTING CLERK COMMISSIONER KASHEM - COMMUNITY GARDEN NEEDS TO BE
MAINTAINED. STAFF PERSON IN THE PUBLIC SERVICES DEPT NICOLAS SUKI
WILL BE HANDLING EVERYTHING THAT HAS TO DO WITH THE GARDEN. SHE IS
REQUESTING THAT EACH COMMISSIONER SELECT ONE OF THEIR
CONSTITUENTS TO SERVE ON THE ADVISORY BOARD COMMITTEE.
APPLICANTS CAN CONTACT SUZI.

CLERK COMMISSIONER HODGKINS - NONE

VICE MAYOR MORRISSETTE - NONE

MAYOR MOHAMMED - MAYOR MOHAMMED STATED TO THE COMMISSIONERS
THAT SUZI TO START PROCUREMENT CERTIFICATION CLASSES JANUARY 24,
2024 TO MEET REQUIREMENTS.

17 ANNOUNCEMENTS

1. Special Magistrate Hearing, Wednesday, January 17, at 9:00 AM
Workshop Commission meeting, Wednesday, January 24, at 6:00 PM
Regular Commission meeting, Wednesday, February 14, at 7:00 PM

**18 ADJOURNMENT WITH NO FURTHER TOWN BUSINESS MEETING WAS
ADJOURNED AT 8:33PM**

ATTEST:

Marlen D. Martell, Town Clerk

In accordance with the provisions of F.S. Section 286.0105, should any person seek to appeal any decision made by the Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record of the proceedings is made; which record includes the testimony and evidence upon which the appeal is to be based.

Any person requiring auxiliary aids and services at this meeting may call the Town Clerks Office at 954-966-4600 at least two calendar days prior to the meeting. If you are hearing or speech impaired please contact the Florida Relay Services by using the following numbers: 1-800-955-8770 (voice) or 1-800-955-8771 (tdd).

DECORUM - All comments must be addressed to the Commission as a body and not to individuals. Any person making impertinent or slanderous remarks, or who becomes boisterous while addressing the Commission, shall be barred from further audience before the Commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the Commission members present. No clapping, applauding, heckling or verbal outbursts in support or in opposition to a speaker or his/her remarks shall be permitted. No signs or placards shall be allowed in the Commission Chambers. Please mute or turn off your cell phone or pager at the start of the meeting. Failure to do so may result in being barred from the meeting. Persons exiting the Chamber shall do so quietly.

3 corrected

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME JACOBS GEOFFREY		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE TOWN OF PEMBROKE PARK	
MAILING ADDRESS 3120 W HEND BCH BLVD 622		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY HALLANDADE	COUNTY BROWARD	☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED 12/13/23		NAME OF POLITICAL SUBDIVISION: TOWN COMMISSION	
		MY POSITION IS: ☒ ELECTIVE ☐ APPOINTEE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; **and**

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

3 corrected

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Geoffrey Jacobs, hereby disclose that on Dec 13, 2023:

(a) A measure came or will come before my agency which (check one or more)

- ☒ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Agenda Item 11.3 - ATTORNEY FEES ON AN
~~INVEST~~ INVESTIGATION INTO MYSELF.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

12/26/23
Date Filed

[Signature]
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

11.3B

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME JACOBS GEOFFREY R		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE TOWN OF PETBRORE PARK	
MAILING ADDRESS 3120 W HIND BCH BLVD 622		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY HALLAU DALE	COUNTY BROWARD	☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED 12/13/2023		NAME OF POLITICAL SUBDIVISION: COMMISSION	
		MY POSITION IS: ☒ ELECTIVE ☐ APPOINTEE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

11.3B

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

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- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Geoffrey Jacobs, hereby disclose that on Dec 13, 20 23:

(a) A measure came or will come before my agency which (check one or more)

- ☒ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

SECOND VOTE ITEM 11.3 W/REGARDS
INTO AN INDEPENDANT INVESTIGATION INTO ME.
AUTHORIZING \$15,000.00 EXTRA.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

12/28/2023
Date Filed

[Signature]
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME JACOBS GEOFFREY RYAN		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE TOWN OF PEMBROKE PARK	
MAILING ADDRESS 3120 W HIND BCH BLVD 622		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
CITY HALLANDALE FL	COUNTY BROWARD	NAME OF POLITICAL SUBDIVISION: COMMISSIONER	
DATE ON WHICH VOTE OCCURRED 12 / 13 / 2023		MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE	

WHO MUST FILE FORM 8B

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Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

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For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

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IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

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APPOINTED OFFICERS (continued)

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DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, GEOFFREY JACOBS, hereby disclose that on DEC 13, 20 23:

(a) A measure came or will come before my agency which (check one or more)

- ☐ inured to my special private gain or loss;
- ☒ inured to the special gain or loss of my business associate, EMELIAS ESPRESSO;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows: I OWN THE ONLY LEGALLY LICENSED FOOD TRUCK IN PEMBROKE PARK, AGENDA ITEM 10.1

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

12/20/2023
Date Filed

[Signature]
Signature

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FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>JACOBS, Geoffrey RYAN</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>TOWN OF PEMBROKE PARK</i>
MAILING ADDRESS <i>3120 W HLND BCH BLVD #622</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY COUNTY <i>HALLANDADE BROWARD</i>	NAME OF POLITICAL SUBDIVISION: <i>COMMISSION</i>
DATE ON WHICH VOTE OCCURRED <i>01/10/2024</i>	MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

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For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

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PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

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APPOINTED OFFICERS (continued)

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DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Geoffrey R. Jacobs, hereby disclose that on January 10th, 20 24:

(a) A measure came or will come before my agency which (check one or more)

- ☒ inured to my special private gain or loss;
- ☒ inured to the special gain or loss of my business associate, EMELIAS ESPRESSO;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Agenda Item 10.1 - Conflict of Interest as my WIFE AND I OWN THE ONLY LEGALLY LICENSED FOOD TRUCK IN THE TOWN OF PEMBROKE PARK.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

01/11/2024
Date Filed

[Signature]
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

PAGE 2

AGENDA ITEM REPORT



To:

Subject: Police Station Build Out - Change Order #4

Meeting: 01 24 2024 WORKSHOP COMMISSION MEETING - Jan 24 2024

Department: Public Works

Staff Contact: Aleem Ghany, Public Services Director

BACKGROUND INFORMATION:

This proposal is for the additional work that is needed for the a/c system.

FINANCIAL IMPACT:

Total cost: \$5,999.06

RECOMMENDATION:

We are recommending approval.

ATTACHMENTS:

[2273_001](#)



Waypoint Contracting, Inc.
Powered by RedTeam

FIXED PRICE

1/12/2024

Miguel Nunez
Town of Pembroke Park
3150 SW 52 Ave
Pembroke Park, FL 33023

Re: Our Change Proposal 22084-05 for **Test & Balance**

Project: Pembroke Park Police Station Build Out | 3150 SW 52nd Ave
Pembroke Park Police Department
Pembroke Park Police Department, 3150 SW 52nd Ave, Pembroke Park, FL 33023

This Proposal is for the Change referenced above and more particularly defined by the Scope of Work comprised of this Proposal, its Attachments, and other Contract Documents incorporated by reference.

Therefore, we propose to change the following:

Provide Professional Services to perform again test & balance of the HVAC system included in Waypoint Contracting Scope of work. Work will consist in isolate existing HVAC System to test New System.

Scope of work includes Final Report, no permitting or processing fees included.

Price: **\$ 5,999.06** *Five Thousand Nine Hundred Ninety Nine Dollars and Six Cents*

Time: The duration of the Work to achieve Substantial Completion will be **UNCHANGED**.

Clarification(s): None.

Expiration: This Proposal shall remain open for 30 calendar day(s).

Attachment(s): Additional Attachments

Please contact me at 7866081406 or via e-mail jlopez@waypointci.com if you have any questions or require additional information.

Regards,

Waypoint Contracting, Inc.

Jorge Lopez

President

ACCEPTANCE OF PROPOSAL

The Scope of Work described above supersedes any and all prior communication about this Change.

Client Signature: _____

Town of Pembroke Park

Date: _____



Waypoint Contracting, Inc.
Powered by RedTeam

ADDITIONAL ATTACHMENTS

Project: 22084 - 05 - Test & Balance

Date:
01/12/2024

FILE

Estimate_0303_from_Klimate_Air_LLC WCI
1 (<https://redteam.link/3ue4wxd>)

Waypoint Master Estimate Sheet 01.12.23
2 (<https://redteam.link/678aq59>)



Detailed Estimate

Project Information:			
Waypoint#:	22084	Completion Time:	
Description:	Pembroke Park Project	Craft Hourly Rate:	\$ 43.27
Location:	3150 SW 52nd Ave, Pembroke Park, FL		
Source:			

SCOPE

Cost Code	Description	Comments	Quan	U.P.	Cost	Comments
01 00 00 General Conditions						
Project Staffing						
01300	Project Executive		1 hrs	\$ 108.17	\$108.17	
01301	Project Manager		- hrs	\$ 86.54	\$0.00	
01302	Assistant Project Manager		3 hrs	\$ 61.30	\$183.89	
01304	Site Supervision (Superintendent)		6 hrs	\$ 86.54	\$519.23	
01304	Site Supervision (Foreman)		- hrs	\$ 61.30	\$0.00	
01305	Miscellaneous General Labor		4 hrs	\$ 43.27	\$173.08	Final Cleaning.
01301	Estimating & Negotiating		- hrs	\$ 86.54	\$0.00	
01741	Progress Cleaning		- hrs	\$ 43.27	\$0.00	
01742	Dumpsters - Trash in General		- con	\$ 600.00	\$0.00	
01412	Permit cost		- ls	\$ -	\$0.00	
01 00 00 General Conditions					\$984.38	Not permitting Fees Included.
Scope of Work						
Provide Professional Services to perform again test & balance of the HVAC system area included in Waypoint Contracting Scope of work. Work will consist in isolate existing HVAC System to test New System, Scope of work includes Final Report, no permitting or processing fees included.						
			1 ls	\$3,800.00	\$3,800.00	Klimate Air
			0 ls	\$0.00	\$0.00	
			0 ls	\$0.00	\$0.00	
			0 ls	\$0.00	\$0.00	
			0 ls	\$0.00	\$0.00	
			0 ls	\$0.00	\$0.00	
			0 ls	\$0.00	\$0.00	
Scope of Work					\$3,800.00	
Total Direct Cost of the Work:					\$4,784.38	
Overhead 10.0%					\$478.44	
Subtotal:					\$5,262.81	
Fee 10.0%					\$526.28	
Subtotal:					\$5,789.09	
Bond 2.50%					\$144.98	
Builder's Risk 1.00%					\$59.99	
GRAND TOTAL					\$5,999.06	\$5,999.00
					Math is OK	
Credits						
			ls	\$ -	\$0.00	
			ls	\$ -	\$0.00	
GRAND TOTAL W/CREDITS					\$5,999.06	

ESTIMATE

Klimate Air LLC
7875 NW 57th St #26852
Tamarac, FL 33351

service@klimateair.com
954-330-7644



Waypoint Contracting, Inc.

Bill to

Waypoint Contracting, Inc.
7955 NW 12th St., Suite 400
Doral, FL 33126

Ship to

Waypoint Contracting, Inc.
7955 NW 12th St., Suite 400
Doral, FL 33126

Estimate details

Estimate no.: 0303
Estimate date: 01/12/2024

Project Name : 22084 Pembroke Park Police
Stat
Project Address: 3150 SW 52 AVE

#	Date	Product or service	SKU	Qty	Rate	Amount
1.		Estimate - 02. Scope of Work SCOPE OF WORK: Klimate Air, LLC is pleased to provided you with the following proposal: Isolate all supply branch ducts that feed the City Hall area and T&B will be recheck the CFM on the new area.		1	\$3,800.00	\$3,800.00
2.		Estimate - 16. Client Approval CLIENT APPROVAL: If these terms and conditions accurately capture and confirm your comprehension of the Contractor-Client relationship, kindly signify your agreement and approval by dating, signing, and returning this proposal to us. We are grateful for the chance to serve you and are confident that this estimate faithfully outlines the key aspects of our agreement. Should you have any inquiries, please do not hesitate to inform us. This arrangement will remain valid for subsequent work following the conclusion of this project, unless terminated by either party.		1	\$0.00	\$0.00

CHANGE ORDER DETAIL

PAGE 7

TO: Town of Pembroke Park
 Alec, Ghany
 3150 SW 52nd Ave
 Pembroke Park, FL 33023

From: Waypoint Contracting, Inc.
 PO BOX 558482
 Miami, FL 33255

Project Name: Pembroke Park Police Station Build Out | 3150 SW 52nd Ave
Project #: 22084
Application #: 109
Period: 10/31/2023

Changes Authorized	Days	Amount (\$)
CO# 01 Change 01 - 03/02/2023 -Scope Change 01: Revision of Drawings - 03/14/2023	0	44,434.40
CO# 03 Change 03 - 04/28/2023 -Scope Change 03: RFI #011-014-015 - 07/19/2023	45	110,229.45
CO# 04 Change 04 - 09/11/2023 -Scope Change 04: Credit Sliding Door Installation - 09/11/2023	0	(1,415.00)
Potential - None	45	153,248.85

Original \$925,000.00
 First 3 change orders \$153,248.85
 New Total 1,078,248.85
 #4 change order 5,999.06
 \$1,084,247.91

Town of Pembroke Park
3150 SW 52nd Avenue • Pembroke Park, Florida 33023
954.966.4600 • www.tppfl.gov



PROJECT EXTENSION REQUEST

PROJECT TITLE: Town of Pembroke Park

PROJECT NUMBER: 4337-393-R

CONTRACT NUMBER: H0484

The Town of Pembroke Park is requesting a 4-month time extension to the Performance of Period (POP). The POP will extend from January 31, 2023 to May 31, 2023.

The design Phase 1 is completed, and the final review has gone over the customary thirty-day period of review. The Town is requesting four additional months to cover any unforeseen situations.

The budget for the project engineering design has increased from \$151,028 to \$246,391 of which HMGP funded \$113,271. This increase is partly due to Covid-19, partly to a 4-year gap since the cost estimate calculations and request were made, and mostly due in part because the true cost is based on the consulting engineering cost proposal. The Town funded the difference, and is requesting for a budget increase as reflected in the budget update submitted along with the POP request, because the engineering design was more than anticipated.

The final letter for the environmental permit has been received, and the design is 100% finalized and has been submitted for reimbursement to the State for their review.

I, Aileen A. Ghany, Public Services Director, certify that the activity/activities shall be completed within ~~the extended~~ period of performance without any modification to the original approved Scope of Work (SOW).

**Florida Division of Emergency Management
Mitigation Bureau - HMGP
EXTENSION REQUEST FORM**

1. Disaster #: 4337 Disaster End Date: 12/31/26

2. Project Number: 4337-393-R (State ID #104)

3. Project Title: Town of Pembroke Park, SW 25th Street, Drainage

4. Project Award Date: February 25, 2020

5. Current Approved Period of Performance Date (POP): January 31, 2023

6. Provide dates of any previous extensions (from – to):
 1) 5/31/21 – 2/28/22
 2) 2/28/22 – 8/31/22
 3) 8/31/22 – 1/31/23

7. Period of time Grant Award has been open: 34 months

8. Requested Project Period of Performance Expiration date: May 31, 2023

9. Type of Extension: Period of Performance Extension – for additional months

10. Is this grant Award restricted by program and/or appropriation specifications, limitations or restrictions? ☒ No ☐ Yes (attach documentation)

11. Provide a detailed justification/explanation of the extenuating circumstances for the requested extension and reason(s) for the delay.
Waiting on the final approval letter for the environment permit that had been submitted to Broward County

12. Is the extension associated with the approval for revised scope of work?
☒ No new work ☐ Yes (attach documentation)

13. Is there work in progress for the approved Scope of Work? If so, please list exactly what work has been completed thus far, and percent completed.
☐ Yes, detailed below and included current QR Milestones-Activities ☒ No, (detailed in request letter)

14. Are there any concerns that would potentially prevent the scope of work to be completed within the extended period of performance?
☒ None identified at this time ☐ Yes, (detailed in request letter)

15. Budget Assurance - Project can be completed with the current awarded funds.
☐ Yes ☒ No (detail in request letter and provide a revised Budget to Project Manager)

16. Provide a detailed explanation or actions of what has been considered instead of the proposed extension?
N/A

17. This request is for a Non-Phased project ☒ Yes (complete #17, Skip #18) ☐ No (complete #18 only)
 Provide the State realistic assurance that the project can be completed within the 36-months timeframe (Provide Milestones and estimated dates for completion).

a)	Milestones	Estimated Completion dates
	State Contracting	September 1, 2020
	Construction Plan / Technical Specifications	January 27, 2021
	Bidding / Local Procurement	January 27, 2021
	Permitting	April 30, 2023
	Construction / Installation	
	Local Compliance	
	State Inspection / Compliance	
	Closeout compliance	May 31, 2023
	Closeout deliverables shall be submitted to FDEM by:	May 31, 2023

18. This request is for a Phased project ☐ Yes (complete #18) ☐ No (completed #17 above)

**Florida Division of Emergency Management
Mitigation Bureau - HMGP
EXTENSION REQUEST FORM**

	Provide the State realistic assurance that the project can be completed within the 36-months timeframe (Provide Milestones and Timelines dates for completion).	
a)	Milestones	Estimated Completion dates
	Phase I – State Contracting	
	Phase I – Bidding / Local Procurement	
	Phase I – Design Specifications	
	Phase I – Permitting	
	Phase I – Compliance	
b)	Phase I deliverables shall be submitted to FDEM by:	
	Phase II – State Contracting	
	Phase II – Construction Plan / Technical Specifications	
	Phase II – Bidding / Local Procurement	
	Phase II – Construction / Installation	
	Phase II – Local Compliance	
	Phase II – State Final Inspection / Compliance	
	Phase II – Closeout Compliance	
c)	Phase II closeout shall be submitted to FDEM by:	

This request includes documented justification that unusual circumstances existed, demonstrates that work is in progress, and the Period of Performance shall not exceed the Disaster End date.

Requested by:

Sub-Recipient: *Town of Pembroke Park*
Name: *Aleem A. Ghany P.E.*
Title: *Public Services Director*
Email: *aghany@tppfl.gov*
Phone: *954-966-460, x212*

I certify, by evidence of my signature below, that this request for a Period of Performance (POP) extension includes documented justification that unusual circumstances existed, demonstrates that work is in progress, and shall not impact the current FEMA Disaster POP end date and provides assurance that the project activities shall be completed prior to the Disaster End date. Acknowledges 2 C.F.R. 200.343, any funds not distributed within the approved POP of the grant will be de-obligated and returned to FEMA.

**Sub-Recipient
Signature:**

Aleem A. Ghany
Signature

06/11/23
Date

This Extension Request form MUST accompany your Official Extension Request letter.

In accordance with Section 287.057(12) Florida Statutes, contract extensions shall be in writing and subject to the same terms and conditions set forth in the initial Agreement (contract) and any written amendments (modifications).

if FEMA/State denies the time extension request, the sub-recipient may, upon completion of the project, be reimbursed for eligible project costs incurred only up to the latest approved completion date. If the project is not completed, no Federal funding will be provided for that project.

Town of PembrokePark
3150 SW 52nd Avenue • Pembroke Park, Florida 33023
954.966.4600 • www.tppfl.gov



BUDGET INCREASE REQUEST

PROJECT TITLE: Town of Pembroke Park

PROJECT NUMBER: 4337-393-R

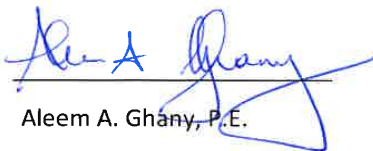
PERIOD of PERFORMANCE: February 25, 2020 to January 31, 2023

CURRENT AWARD: \$151,028.00

ADDITIONAL REQUESTED: \$69,776.00

TOTAL NEW COST: \$220,804.00

The Town of Pembroke Park is requesting a budget increase due to several reasons. One of the reasons is the financial impact of Covid-19, which has caused a significant economic downturn. Another reason is inflation, which has been on the rise for some time now. The cost estimate calculations and request were made nearly four years ago, and since then, there has been a gap in the cost estimate calculations. Finally, the true cost is based on the consulting engineering cost proposal, which has led to an increase in the budget request. The Town has funded the difference and is requesting a budget increase as reflected in the budget update submitted along with this request


Aleem A. Ghany, P.E.

Section IV. Budget/Costs

ID# 4337-393-R (104)

This section, provide details of all the estimated costs of the project. As this information is used for the Benefit-Cost Analysis, reasonable cost estimates are essential. Pre-Award Costs, Construction Management, and any Contingency (maximum 5%) need to be reported as separate line items. **All cost estimates categories rounded to the nearest dollar (no cents).**

A. Materials: Any Material utilized to complete project (include acquisition of property)

Item	Unit	Qty	Cost / Unit	Cost
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
Sub-Total				\$0.00

B. Labor: Include equipment costs. Please indicate all "soft", In-house(***), or In-kind matches-donated (**).

Description of Task	Qty	Rate	Cost
Phase I ONLY- Sub-total		\$0.00	
			\$0.00
			\$0.00
			\$0.00
Non-Phased or Phase II - Sub-total		\$0.00	
Sub-Total			\$0.00

C. Fees Paid Include any other costs associated with the project.

Description of Task	Qty	Rate	Cost
Phase I - Pre-Award with start date of _/_/_			\$0.00
Phase I - Professional Engineering Services	1	\$220,804.00	\$220,804.00
Phase I ONLY- Sub-total		\$220,804.00	
Non-Phased - Pre-Award with start date of _/_/_			\$0.00
			\$0.00
			\$0.00
			\$0.00
Non-Phased or Phase II - Sub-total		\$0.00	
Sub-Total			\$220,804.00

D. Sub-Total Estimated Project Cost **\$220,804.00**

E. Contingency Costs (max 5%) Phase I	0.000%	\$220,804.00	\$0.00
Contingency Costs (max 5%) Non-Phased or Phase II	0.000%	\$0.00	\$0.00
Total Contingency Costs (maximum 5%)		\$220,804.00	\$0.00

F. Final Estimated Project Costs **\$220,804.00**

Phase I Subtotal	\$220,804.00
Non-Phased or Phase II Subtotal	\$0.00
	\$220,804.00

Note: Backup source documentation is required to support costs

Comments:	Federal	Project Cost
Federal Share Percentage Requesting (per LMS)	75.0000000000%	
Sub-Recipient Federal Amount and Project Cost Endorsed by LMS	\$ -	\$0.00
FEMA Approval 02/25/20		

9/22/2023; Reviewed/Submitted by PM: 

Concurrence of SR: _____

AGENDA ITEM REPORT



To:

Subject: ICNA Relief

Meeting: AGENDA - SPECIAL COMMISSION MEETING - Feb 08 2024

Department: Administrative

Staff Contact: Ashira Mohammed, Mayor

FINANCIAL IMPACT:

\$3,000.00 sponsorship

ATTACHMENTS:

[ICNA Relief USA](#)



Mugahed(MG) Alameri
South Florida Area Manager

Office: Ext 866-354-0102 #
2326

Phone : 786-670-0101

mugahed.alameri@icnarelie

www.icnarelie.org



From: Mugahed Alameri
Sent: 24 January 2024 1:39 PM
To: Suzi Reutlinger <sreutlinger@tppl.gov>; Ashira Mohammed <amohammed@tppl.gov>
Cc: South Florida <sfl@icnarelie.org>
Subject: Official Invitation to Sponsor ICNA Relief USA Annual Banquet Dinner

Dear Mayor Ashira,

I trust this message finds you well. We are delighted to express our gratitude for the successful collaboration we had with the City of Pembroke Pines last year in conjunction with ICNA Relief. Our joint efforts included the distribution of school bags, sponsorship of various events, and more. As a cherished strategic partner, ICNA Relief USA is pleased to extend a special invitation to the City of Pembroke Pines Office to sponsor our upcoming Annual ICNA Relief USA Banquet Dinner.

Event Details:

- **Date: February 3, 2024**
- **Time: 6:00 PM**
- **Location: Sheraton Suites Fort Lauderdale at Cypress Creek**
- **555 NW 62nd Street, Fort Lauderdale, FL 33309, US**

The Annual ICNA Relief USA Banquet Dinner is a significant gathering that anticipates the attendance of approximately 400 people. Your sponsorship will not only contribute to the success of the banquet but will also exemplify the City of Pembroke Pines' commitment to community welfare and collaboration.

We believe that your support will play a vital role in making this event both memorable and impactful. Acknowledgment of your sponsorship will be featured through various channels, including event promotions, signage, and verbal recognition during the banquet.

We kindly request you to consider this invitation and explore the potential sponsorship opportunities available. If you have any inquiries or require additional information, please feel free to contact us at [your contact information].

We look forward to the possibility of the City of Pembroke Pines' involvement in sponsoring our Annual ICNA Relief USA Banquet Dinner.

Thank you for your time and consideration.

2023/2024 Upcoming Conferences

Department	Employee	Date	Conference	Registration	Estimated Cost for Lodging	Estimated Transportation Cost (Flight, Fuel, Mileage, Car Service)	Estimated Cost for Per Diem	Estimated Cost for Parking	Total Estimated Cost
Finance	Christian Noel	June 9-12th	118th Annual Gov't Finance Officers Association	\$ 500.00	\$ 1,005.96	TBD	\$ 310.50	\$ 112.00	\$ 1,928.46
Building	Nazly Cardona	May 28-31st	36th Annual Fla. Association of Business Tax Officials	\$ 399.00	\$ 756.00	N/A	\$ 241.50	TBD	\$ 1,396.50
Building	Jeffrey Louis	May 12-17th	2024 Governors Hurricane Conference	\$ 285.00	\$ 636.00	TBD	\$ 310.50	\$ 62.50	\$ 1,294.00
Building	Jeffrey Louis	June 11-14th	35th Florida Association of Code Enforcement	\$ 590.00	\$ 496.00	TBD	\$ 241.50	TBD	\$ 1,327.50
Clerk	Marlen Martell	April 23-26th	2024 Florida Floodplain Managers Association Annual Conference	\$ 475.00	\$ 744.00	N/A	\$ 310.50	TBD	\$ 1,529.50
Clerk	Marlen Martell	October 13-17th	2024 Florida Association of City Clerks Fall Academy (FYE 2025 Budget)	\$ 425.00	\$ 795.00	TBD	\$ 310.50	TBD	\$ 1,530.50
Code	Joseline Ramirez	May 28-31st	36th Annual Fla. Association of Business Tax Officials	\$ 399.00	\$ 756.00	N/A	\$ 241.50	\$ 68.00	\$ 1,464.50
Code	Joseline Ramirez	June 11-14th	35th Florida Association of Code Enforcement	\$ 590.00	\$ 496.00	N/A	\$ 241.50	TBD	\$ 1,327.50
Police	Chief Donovan	June 17-21st	Florida Police Accreditation Conference	\$ 275.00	\$ 745.00	N/A	\$ 379.50	TBD	\$ 1,399.50
Police	Dwaymon Cason	June 17-21st	Florida Police Accreditation Conference	\$ 275.00	\$ 745.00	N/A	\$ 379.50	TBD	\$ 1,399.50
Police	Eva Rimmer	June 17-21st	Florida Police Accreditation Conference	\$ 275.00	\$ 745.00	N/A	\$ 379.50	TBD	\$ 1,399.50
Police	Randean Morgan	June 17-21st	Florida Police Accreditation Conference	\$ 275.00	\$ 745.00	N/A	\$ 379.50	TBD	\$ 1,399.50
Police	Chief Donovan	September 30-October 4th	FL-PAC Accreditation Conference to Accept Award (FYE 2025 Budget)	\$ 275.00	\$ 745.00	N/A	\$ 352.00	TBD	\$ 1,372.00
Police	Dwaymon Cason	September 30-October 4th	FL-PAC Accreditation Conference to Accept Award (FYE 2025 Budget)	\$ 275.00	\$ 745.00	N/A	\$ 352.00	TBD	\$ 1,372.00
Police	Eva Rimmer	September 30-October 4th	FL-PAC Accreditation Conference to Accept Award (FYE 2025 Budget)	\$ 275.00	\$ 745.00	N/A	\$ 352.00	TBD	\$ 1,372.00
Police	Randean Morgan	September 30-October 4th	FL-PAC Accreditation Conference to Accept Award (FYE 2025 Budget)	\$ 275.00	\$ 745.00	N/A	\$ 352.00	TBD	\$ 1,372.00
Police	Chief Donovan	October 19-22nd	International Association of Chiefs of Police	\$ 500.00	\$ 1,636.00	Flight TBD	\$ 355.50	N/A	\$ 2,491.50
Sewer	Thomas Positano	September 8-11th	2024 American Public Works Association Annual Conference (Prices Currently Unavailable)	TBD	TBD	N/A	TBD	TBD	\$ 2,000.00
Sewer	Thomas Positano	June 12-14th	2024 Florida Stormwater Association Annual Conference (Prices Currently Unavailable)	TBD	TBD	N/A	TBD	TBD	\$ 1,500.00
Sewer/Stormwater	Aleem Ghany	June 23-27th	2024 Annual Association of Floodplain Managers	\$ 735.00	\$ 1,145.00	Flight TBD	\$ 288.00	N/A	\$ 2,168.00
Sewer/Stormwater	Aleem Ghany	June 12-14th	2024 Florida Stormwater Association Annual Conference (Prices Currently Unavailable)	TBD	TBD	N/A	TBD	TBD	\$ 1,500.00

Sewer/Stormwater	Aleem Ghany	April 23-26th	2024 Florida Floodplain Managers Association Annual Conference	\$ 475.00	\$ 744.00	N/A	\$ 310.50	TBD	\$ 1,529.50
Sewer/ Stormwater	Aleem Ghany	May 29th- June 1st	2024 Florida City and County Management Association Annual Conference (Prices Currently Unavailable)	TBD	TBD	N/A	TBD	TBD	\$ -
									\$ 34,073.46

Per Diem will be determined by the General Services Administration Website

Meals provided by the convention or hotel will be deducted when Travel forms are submitted prior to conference

* Mileage does not apply to employees with take home vehicles/ only gas*

* Mileage is currently at 67 cents per mile

Conferences Expense After September 30th Will Come Out Of The 2024-25 Budget

January 2024

1/9 - 1/10

2024 Legislative Session Convenes

All Day Event

11

FCCMA Webinar: Rethinking Recycling - A Triangular Perspective Insights from Recycling Offering and Non-Offering Municipalities and Third Parties

2:00 PM to 3:00 PM

17

Legislative Action Days: Know Before You Go Webinar

2:00 PM to 3:00 PM

1/19 - 1/21

FLC Institute for Elected Municipal Officials I (Gainesville)

All Day Event

25

FACC Board of Directors Meeting

10:30 AM to 11:30 AM

1/29 - 1/31

2024 FLC Legislative Action Days

12:00 PM to 2:00 PM

29

FLM Forum: Mental Health Issues in Your Community

2:30 PM to 5:00 PM

29

FLM Dinner

6:30 PM to 9:30 PM

1/30 - 1/31

FLC Youth Council Legislative Action Days Program

9:00 AM to 3:00 PM

1/30 - 2/1

FLGISA 2024 Winter Symposium

2:00 PM to 11:30 AM

31

FLM Board of Directors Meeting

12:00 PM to 2:00 PM

February 2024

1

FCCMA Webinar: Recruiting and Retaining the Next Generation (Gen Z)

2:00 PM to 3:00 PM

22

FACC Board of Directors Meeting

10:30 AM to 11:30 AM

23

Investment Advisory Committee (IAC) Meeting

8:00 AM to 1:00 PM

March 2024

3/21 - 3/23

Florida Municipal Insurance Trust Quarterly Meeting

All Day Event

28

FACC Board of Directors Meeting

10:30 AM to 11:30 AM

April 2024

4/4 - 4/6

2024 Florida Black Caucus of Local Elected Officials Annual Conference

All Day Event

4/9 - 4/13

Southeast Loss Control Group 2024 Conference

All Day Event

4/12 - 4/14

Institute for Elected Municipal Officials II (Altamonte Springs)

All Day Event

26

FACC Budget/Board of Directors Meeting

10:00 AM to 1:00 PM

May 2024

23

FACC Board of Directors Meeting

10:30 AM to 11:30 AM

June 2024

6/7 - 6/9

FLC Institute for Elected Municipal Officials I (Palm Beach Gardens)

All Day Event

6/23 - 6/26

FACC 2024 Summer Conference and Academy

9:00 AM to 12:00 PM

23

FACC Board of Directors Meeting

6:30 PM to 7:30 PM

August 2024

8/15 - 8/18

FLC Annual Conference

October 2024

10/3 - 10/4

FLC Policy Committee Meetings

5:00 PM to 5:00 PM

10/4 - 10/6

FLC Institute for Elected Municipal Officials I (Tampa)

All Day Event

10/21 - 10/26

2024 Florida Redevelopment Association Annual Conference

All Day Event

10/21 - 10/28

FLC Florida City Government Week

All Day Event

10/25 - 10/27

Institute for Elected Municipal Officials II (Altamonte Springs)

All Day Event

November 2024

11/5 - 11/6

General Election Day

All Day Event

11/7 - 11/8

FLC Policy Committee Meetings

5:00 PM to 5:00 PM

11/13 - 11/17

National League of Cities City Summit

All Day Event

Table 1

[illegible]



Policy for Food in the Workplace and Celebratory Events

Policy Statements

There are certain occasions that warrant the provision of food and meals at meetings and/or celebratory events for all town employees. This policy outlines the criteria and provisional guidelines to aid departments in efficiently managing these benefits.

This policy should be managed out of the current operating budget of the department and should not have incremental budget impact. The amounts per person noted here are the absolute maximum; lower amounts are encouraged at the department's discretion. This rule does not apply to the travel and per diem policy for occurrences outside of the statutory 50-mile range.

Business Meals (Restaurant, Catered, and Take-out Meals)

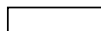
- Business meals are meals with employees, volunteers, vendors, consultants, and board members at other external parties during which specific documented business discussions take place.
- Employees are expected to exercise fiscal responsibility when choosing restaurants.
- The below guidelines are "up-to" guidelines and are inclusive of tax and tip. The expectation is that catered and take-out meal per person pricing is typically lower than restaurant pricing:
 - Breakfast \$18 maximum per person
 - Lunch \$20 maximum per person
 - Dinner \$35 maximum per person
- NOTE: Commissioners, managers and staff are not to take each other out for meals at the Town of Pembroke Park's expense. These types of meals are done at the expense of the employees involved.

Internal Meetings and Celebratory Events

Administration may have different preferences for celebratory events and food in the workplace. Working within approved per person budget parameters, departments have flexibility to pursue different approaches. Please work with your Finance Department and obtain preapproval. **General per person thresholds for the below items range from \$5-\$35 per person unless noted specifically below.**

1. Internal Meetings
 - For longer meetings, please make an effort to not schedule them over a mealtime when possible.
 - For longer meetings that do overlap with a mealtime:
 - If the meetings only include internal team members, please encourage a brown bag lunch.
 - For larger meetings that include participants from other groups or outside of Town of Pembroke Park, please first consult with town manager if you are considering providing food at the meeting. It should not be the norm to offer food at meetings, but there may be an exceptional reason to do so.
 - For meetings that occur after 6pm and extend for more than three and a half hours meals can be purchased for all persons present participating in the meeting.

(Pembroke Park 2022-2023)





2. Celebratory Events – Administration may spend modest pre-approved amounts from appropriate funding sources to recognize employees under certain circumstances.

The use of town funds for a celebratory event is allowable for the following occasions:

- Celebrations for departing or retiring employees.
- The size of the event should correspond with years of service and position level. When possible, these celebrations should include multiple departing or retiring employees.
- Baby Showers
- Birthdays - Birthday celebrations are held once a month for all employees who's birthdays fall in that given month.
- Employee Graduations
- Employee graduations from programs sponsored by the town.

Other Events and Exercises

- Team building exercises
- Staff lead meals
- Staff will occasionally do potluck events and may fall short on items like beverages etc
- Holiday Parties.
- Spending for holiday parties should not exceed \$50 per person. Administration have discretion on whether they have both a Town and/or local department holiday parties. Please first consult with the Finance Director or Town Manager if you are considering having a department holiday party.

3. External Meetings

For travel outside of city boundaries that exceed four hours where meals are not provided, staff may purchase meals and seek reimbursement based on circumstances, subject to the Town's travel reimbursement ordinance and the requirements of Sec. 112.061, F.S.

4. Town Sponsored Events

- Events like food giveaways and fairs, food will be provided to all staff and volunteers working at the events.
- The Town may occasionally sponsor appreciation luncheons for both staff and/or volunteers.

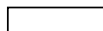
5. Hurricanes and other natural disaster

- Sometimes staff will be required to stay extended hours at town hall for natural occurrences and restaurants may not be available so supplies will be made available for the operation of an onsite EOC.

6. Kitchen Supplies

Alcoholic Beverages

Under no circumstances shall public money be used to purchase alcoholic beverages.



RESOLUTION NO. 2024-003

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA, APPROVING AND AUTHORIZING THE EXECUTION OF THE AGREEMENT BETWEEN THE TOWN OF PEMBROKE PARK AND S. DAVIS & ASSOCIATES, P.A., ATTACHED HERETO AS EXHIBIT “A,” FOR INDEPENDENT AUDITING SERVICES; AUTHORIZING THE TOWN MANAGER TO MAKE CERTAIN NON-SUBSTANTIAL CHANGES TO THE AGREEMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Pembroke Park (“Town”) previously engaged S. Davis & Associates, P.A. (“SDA”), to assist with the preparation of the Town’s audit for FY21-22; and

WHEREAS, the FY21-22 audit was filed with the Florida Department of Financial Services on January 11, 2024, seven (7) months past its due date pursuant to Sec. 218.31, F.S.; and

WHEREAS, due to the delayed completion of the FY21-22 audit, the Town has also been delayed in beginning its audit for FY22-23; and

WHEREAS, the Town’s financial consultant/interim finance director has advised that given SDA’s recent history and familiarity with the Town’s financial statements, SDA is best situated to prepare and complete the FY22-23 audit in a timely manner consistent with the requirements Florida law; and

WHEREAS, the Town Commission seeks to utilize SDA in an additional, limited capacity to prepare and finalize the audit for FY22-23; and

WHEREAS, at the commission workshop on January 24, 2024, the interim Town Attorney advised the Town Commission of the procurement procedures for selecting an independent auditor pursuant to Sec. 218.391, F.S.; and

WHEREAS, the Town's financial consultant/interim finance director has recommended a waiver of procurement procedures pursuant to Sec. 2-125(17) of the Town's Code of Ordinances to finalize the engagement of SDA in order to ensure that the FY22-23 audit is completed and submitted in a timely manner; and

WHEREAS, the Town seeks to utilize SDA to finalize the FY22-23 audit and promptly commence the procurement procedures pursuant to Sec. 218.391, F.S., to engage an independent auditing firm for future audits; and

WHEREAS, the Town Commission of the Town of Pembroke Park, Florida, finds that utilizing SDA to finalize the Town's audit for FY22-23 is in the best interests of the citizens and residents of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA, THAT:

Section 1. The aforementioned "Whereas" clause is hereby ratified and confirmed as being true and correct and is incorporated herein.

Section 2. The Town Commission of the Town of Pembroke Park, Florida, hereby approves and authorizes the execution of the agreement between the Town and S. Davis & Associates, P.A., attached hereto as Exhibit "A" and incorporated herein. The Acting Town Manager is hereby authorized to execute the agreement on behalf of the Town.

Section 3. The Town Manager is authorized to conform and make additional changes to the Manual which are consistent with the Town's ordinances, resolutions and

policies as needed and approved as to form and legality by the Town Attorney without further approval of the Town Commission.

Section 4. All Resolutions or parts of Resolutions in conflict herewith, be and the same are repealed to the extent of such conflict.

Section 5. If any section, sentence, clause or phrase of this Resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution.

Section 6. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED this ____ day of _____, 2024.

ASHIRA MOHAMMED
Mayor

ATTEST:

MARLEN D. MARTELL
Town Clerk

Approved as to form and legal sufficiency

JACOB G. HOROWITZ
Interim Town Attorney

February __, 2024

To the Commissioners and Finance Director
Town of Pembroke Park, Florida
3150 SW 52 Avenue
Pembroke Park, Florida 33023

We are pleased to confirm our understanding of the services we are to provide the Town of Pembroke Park (the "Town") for the year ended September 30, 2023.

Audit Scope and Objectives

We will audit the financial statements of the governmental activities, the business-type activities, each major fund, the remaining fund information, and the fiduciary fund, including the disclosures, which collectively comprise the basic financial statements of the Town as of and for the year ended September 30, 2023. Accounting standards generally accepted in the United States of America (GAAP) provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement of the Town's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to of the Town's RSI in accordance with auditing standards generally accepted in the United States of America (GAAS). These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient appropriate evidence to express an opinion or provide any assurance. The following RSI is required by GAAP and will be subjected to certain limited procedures, but will not be audited:

- 1) Management's Discussion and Analysis
- 2) Budgetary comparison schedule – General Fund
- 3) Schedules required by GASB for Pension Plans and OPEB
- 4) Schedule of Employer Proportionate Share of Net pension Liability - Florida Retirement System Pension Plan.
- 5) Schedule of Employer Proportionate Share of Net pension Liability – Retiree Health Insurance Subsidy Program.
- 6) Schedule of Employer Contributions - Florida Retirement System Pension Plan.

7) Schedule of Employer Contributions - Florida Retirement System Health Insurance Subsidy Pension Plan.

We have also been engaged to report on supplementary information other than RSI that accompanies the Town's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with GAAS, and we will provide an opinion on it in relation to the financial statements as a whole in a report combined with our auditor's report on the financial statements:

1) Schedule of Expenditures of Federal Awards, if applicable.

The objectives of our audit are to obtain reasonable assurance as to whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and issue an auditor's report that includes our opinions about whether your financial statements are fairly presented, in all material respects, in conformity with GAAP, and report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment of a reasonable user made based on the financial statements. The objectives also include reporting on:

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. *Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).

Auditor's Responsibilities for the Audit of the Financial Statements and Single Audit

We will conduct our audit in accordance with GAAS; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major federal program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. As part of an audit in accordance with GAAS and *Government Auditing Standards*, we exercise professional judgment and maintain professional skepticism throughout the audit.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. We will also evaluate the overall presentation of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of waste and abuse is subjective, *Government Auditing Standards* do not expect auditors to perform specific procedures to detect waste or abuse in financial audits nor do they expect auditors to provide reasonable assurance of detecting waste or abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is an unavoidable risk that some material misstatements or noncompliance may not be detected by us, even though the audit is properly planned and performed in accordance with GAAS and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or on major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

In connection with this engagement, we may communicate with you or others via email transmission. As emails can be intercepted and read, disclosed, or otherwise used or communicated by an unintended third party, or may not be delivered to each of the parties to whom they are directed and only to such parties, we cannot guarantee or warrant that emails from us will be properly delivered and read only by the addressee. Therefore, we specifically disclaim and waive any liability or responsibility whatsoever for interception or unintentional disclosure of emails transmitted by us in connection with the performance of this engagement. In that regard, you agree that we shall have no liability for any loss or damage to any person or entity resulting from the use of email transmissions, including any consequential, incidental, direct, indirect, or special damages, such as loss of revenues or anticipated profits, or disclosure or communication of confidential or proprietary information.

We will also conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the government's ability to continue as a going concern for a reasonable period of time.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and direct confirmation of cash, receivables, debt and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial

institutions. We will also request written representations from your attorneys as part of the engagement and they may bill you for responding to this inquiry.

We have identified the following significant risks of material misstatement as part of our audit planning:

1. Cash is not properly recorded.
2. Transfer withdrawals are not recorded in proper period.
3. Investments/revenue are not recorded properly or in the proper period.
4. Unearned revenue are recognized as revenue.
5. Receivables, revenue are not recorded when incurred.
6. Expenses, payable and other liabilities are not recorded properly or in the proper period.
7. Payroll liabilities may be understated due to cut off issues.
8. Assets are not depreciated correctly and recorded in the right category.
9. Noncompliance with agreements.
10. Management override of controls.

We may, from time to time and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

Our audit of financial statements does not relieve you of your responsibilities

Audit Procedures—Internal Control

We will obtain an understanding of the government and its environment, including the system of internal control, sufficient to identify and assess the risks of material misstatement of the financial statements, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and obtain evidence that is sufficient and appropriate to provide a basis for our opinions. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards* and the Uniform Guidance.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Town's compliance with the provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance, issued pursuant to *Government Auditing Standards*.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal and state statutes, regulations, and the terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the Town's major programs. For federal programs that are included in the Compliance Supplement, our compliance and internal control procedures will relate to the compliance requirements that the Compliance Supplement identifies as being subject to audit. The purpose of these procedures will be to express an opinion on the Town's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Other Services

We will also assist in preparing the financial statements, schedule of expenditures of federal awards, and related notes of the Town in conformity with accounting principles generally accepted in the United States of America and the Uniform Guidance based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statements, schedule of expenditures of federal awards, and related notes services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

You agree to assume all management responsibilities for the financial statements, schedule of expenditures of federal awards, and related notes, and any other nonaudit services we provide. You

will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, the schedule of expenditures of federal awards, and related notes and that you have reviewed and approved the financial statements, the schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management (David Dilena, Finance Director, or Acting Finance Director), with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

Responsibilities of Management for the Financial Statements and Single Audit

Our audit will be conducted on the basis that you acknowledge and understand your responsibility for (1) designing, implementing, establishing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including internal controls over federal awards, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal awards, and all accompanying information in conformity with accounting principles generally accepted in the United States of America with the oversight of those charged with governance; and for compliance with applicable laws and regulations (including federal statutes), rules, and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

You are also responsible for making drafts of financial statements, schedule of expenditures of federal awards, all financial records, and related information available to us and for the accuracy and completeness of that information (including information from outside of the general and subsidiary ledgers). You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, identification of all related parties and all related-party relationships and transactions, and other matters; (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance; (3) additional information that we may request for the purpose of the audit; and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence. At the conclusion of our audit, we will require certain written representations from you about the financial statements; schedule of expenditures of federal awards; federal award programs; compliance with laws, regulations, contracts, and grant agreements; and related matters.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected

misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements of each opinion unit taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants. You are also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and prepare a summary schedule of prior audit findings and a separate corrective action plan. The summary schedule of prior audit findings should be available for our review by April 1, 2024.

You are responsible for identifying all federal awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal awards (including notes and noncash assistance received, and COVID-19-related concepts, such as lost revenues, if applicable) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal awards in any document that contains, and indicates that we have reported on, the schedule of expenditures of federal awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal awards that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with GAAP. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from

those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Scope and Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions for the report, and for the timing and format for providing that information.

With regard to publishing the financial statements on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information on the website with the original document.

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash, accounts receivable, or other confirmations and schedules we request and will locate any documents selected by us for testing. We will schedule the engagement based in part on deadlines, working conditions, and the availability of your key personnel. We will plan the engagement based on the assumption that your personnel will cooperate and provide assistance by performing tasks such as preparing requested schedules, retrieving supporting documents, and preparing confirmations. If, for whatever reason, your personnel are unavailable to provide the necessary assistance in a timely manner, it may substantially increase the work we have to do to complete the engagement within the established deadlines, resulting in an increase in fees over our original fee estimate, and/or may significantly delay issuance and delivery of our auditor's reports, your audited financial statements and schedule of expenditures of federal awards, and related reports required by the Uniform Guidance.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to initiate, complete auditee section(s), and electronically submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditor's reports, and corrective action plan) along with the Data Collection Form to the Federal Audit Clearinghouse. We will coordinate with you the electronic submission and certification. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditor's reports or nine months after the end of the audit period, or as extended by federal regulating agencies.

We will provide an electronic copy of our reports to the Town of Pembroke Park; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

Town of Pembroke Park
Engagement Letter February __, 2024

The audit documentation for this engagement is the property of S. Davis & Associates, P.A. ("SDA") and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the Town's cognizant or oversight agency or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for the purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of SDA's personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend or decide to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the Town's cognizant agency, oversight agency or pas through entity. If we are aware that a federal awarding agency or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

Tanya I. Davis is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. To ensure that SDA's independence is not impaired under the AICPA *Code of Professional Conduct*, you agree to inform the engagement partner before entering into any substantive employment discussions with any of our personnel. The Town will be subject to a placement fee for any SDA employee hired by the Town during the term of the audit engagements, including any extensions, and up to two years after the end of the contract including issuance of final audit reports and annual financial statements or annual comprehensive financial report. The placement fee will be made payable to SDA in an amount equal to the greater of \$75,000 or 100% of the offered annual salary of the recruited personnel.

Our audit engagement ends on delivery of our audit report. Any follow-up services that might be required will be a separate, new engagement. The terms and conditions of that new engagement will be governed by a new, specific engagement letter for that service.

Our fee for the financial statement audit and the audit of one major federal program will be \$50,000 and \$8,500, respectively. The fee for the audit of each additional major federal program will be \$5,000. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. Invoices for fees or other compensation will be submitted in sufficient detail to demonstrate compliance with the terms of this agreement. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will keep you informed of any problems we encounter and our fees will be adjusted accordingly.

Reporting

We will issue written reports upon completion of our financial statement and Single Audit. Our report will be addressed to the Board of Commissioners of the Town of Pembroke Park. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions, add a separate section, or add an emphasis-of-matter or other-matter paragraph to our auditor's report, or if necessary, withdraw from this engagement. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If circumstances occur related to the condition of your records, the availability of sufficient, appropriate audit evidence, or the existence of a significant risk of material misstatement of the financial statements caused by error, fraudulent financial reporting, or misappropriation of assets, which in our professional judgment prevent us from completing the audit or forming an opinion on the financial statements, we retain the right to take any course of action permitted by professional standards, including declining to express an opinion or issue reports, or withdrawing from the engagement.

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will state that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will state that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

As is customary for SDA, we will meet with the Town Manager (or designee) and the Finance Director (or designee) prior to finalizing and issuing our reports. We will also meet with the Town Commissioners, individually, to discuss the results of the audit, if they wish to do so.

Any controversy or claim arising out of or relating to the services covered by this letter or hereafter provided by us to the Town (including any such matter involving any subsidiary, affiliate or agent of the Town or SDA) shall be submitted first to voluntary mediation. In addition, you agree that the exclusive venue for any action to collect such unpaid invoices shall be the courts of Broward County, Florida.

Any changes not provided elsewhere herein have to be agreed to by mutual consent of both parties.

Town of Pembroke Park
Engagement Letter February __, 2024

We appreciate the opportunity to be of service to the Town of Pembroke Park and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the attached copy and return it to us.

Very truly yours,

S. Davis & Associates, P.A.

RESPONSE:

This letter correctly sets forth the understanding of the Town of Pembroke Park.

Management signature: _____

Title: _____

Date: _____

Management signature: _____

Title: _____

Date: _____

Governance signature: _____

Title: _____

Date: _____

DISPUTE RESOLUTION PROCEDURES

The following procedures shall be used to resolve any controversy or claim (“dispute”) as provided in our engagement letter of February __, 2024. If any of these provisions are determined to be invalid or unenforceable, the remaining provisions shall remain in effect and binding on the parties to the fullest extent permitted by law.

Mediations

A dispute shall be submitted to mediation by written notice to the other party or parties. In the mediation process, the parties will try to resolve their differences voluntarily with the aid of an impartial mediator, who will attempt to facilitate negotiations. The mediator will be selected by agreement of the parties. If the parties cannot agree on a mediator, a mediator shall be designated by the American Arbitration Association (“AAA”) or such other neutral facilitator acceptable to both parties.

The mediation will be conducted as specified by the mediator and agreed upon by the parties. The parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the dispute.

The mediation will be treated as a settlement discussion and therefore will be confidential. The mediator may not testify for either party in any later proceeding relating to the dispute. No recording or transcript shall be made of the mediation proceedings.

Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the parties.

Arbitration

If a dispute has not been resolved within 90 days after the written notice beginning the mediation process (or a longer period, if the parties agree to extend the mediation), the mediation shall terminate and the dispute will be settled by arbitration. The arbitration will be conducted in accordance with the procedures in this document and the Arbitration Rules for Professional Accounting and Related Services Disputes of the AAA as in effect on the date of the engagement letter (“AAA Rules”). In the event of a conflict, the provisions of this document will control.

The arbitration will be conducted before a panel of three arbitrators, regardless of the size of the dispute, to be selected as provided in the AAA Rules. Any issues concerning the extent to which any dispute is subject to arbitration, or concerning the applicability, interpretation, or enforceability of these procedures, including any contention that all or part of these procedures are invalid unenforceable, shall be governed by the Federal Arbitration Act and resolved by the arbitrators. No potential arbitrator may serve on the panel unless he or she has agreed in writing to abide and be bound by these procedures.

The arbitrators may not award non-monetary or equitable relief of any sort. They shall have no power to award punitive damages or any other damages not measured by the prevailing party’s actual damages, and the parties expressly waive their right to obtain such damages in arbitration or in any other forum. In no event, even if any other portion of these provisions is held to be invalid or unenforceable, shall the arbitrators have power to make an award or impose a remedy that could not be made or imposed by a court deciding the matter in the same jurisdiction.

Discovery may be permitted in connection with the arbitration as authorized by the arbitration panel upon a showing of the need by the party seeking discovery.

DISPUTE RESOLUTION PROCEDURES - Continued

All aspects of the arbitration shall be treated as confidential. Neither the parties nor the arbitrators may disclose the existence, content or results of the arbitration, except as necessary to comply with legal or regulatory requirements. Before making any such disclosure, a party shall give written notice to all other parties and shall afford such parties a reasonable opportunity to protect their interests.

The result of the arbitration will be binding on the parties, and judgment on the arbitrators' award may be entered in any court having jurisdiction.

Each party shall bear its own costs in the arbitration; however, the parties shall share the fees and expenses of the arbitrators equally.

DRAFT

S. DAVIS & ASSOCIATES, P.A.
AUDIT ENGAGEMENT LETTER WITH TOWN OF PEMBROKE PARK
PUBLIC RECORDS LAW NOTIFICATION

Pursuant to Florida Statutes §119.0701, S. Davis & Associates ("SDA") will comply with public records laws, specifically to:

1. Keep and maintain public records required by the Town of Pembroke Park (the "Town") to perform the service.
2. Upon request from the Town or its public records custodian, provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if SDA does not transfer the records to the public agency.
4. Upon completion of the contract, transfer, at no cost, to the Town all public records in possession of SDA or keep and maintain public records required by the Town to perform the service. If SDA transfer all public records to Town upon completion of the contract, Attorney shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If SDA keep and maintain public records upon completion of the contract, SDA shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the, upon request from the Town or its public records custodian, in a format that is compatible with the information technology systems of the Town.

IF SDA HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THEIR DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS:

MARLEN MARTELL, TOWN CLERK
TOWN OF PEMBROKE PARK
3150 SW 52ND AVENUE
PEMBROKE PARK, FL 33023
PHONE: (954) 966-4600
TOWNCLERK@TPPFL.GOV

**S. DAVIS & ASSOCIATES, P.A.
AUDIT ENGAGEMENT LETTER WITH TOWN OF PEMBROKE PARK
PUBLIC RECORDS LAW NOTIFICATION - Continued**

S. DAVIS & ASSOCIATES, P.A.
By: _____

Title: Partner

Date: February , 2024

TOWN OF PEMBROKE PARK

By: _____

Title: Mayor

Date: _____

DRAFT

DRAFT

February __, 2024

To the Commissioners and Finance Director
Town of Pembroke Park, Florida
3150 SW 52 Avenue
Pembroke Park, Florida 33023

We are pleased to confirm our understanding of the services we are to provide the Town of Pembroke Park (the "Town") for the year ended September 30, 2023.

Audit Scope and Objectives

We will audit the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information, including the disclosures, which collectively comprise the basic financial statements of the Town of Pembroke Park (the "Town") as of and for the year ended September 30, 2023. Accounting standards generally accepted in the United States of America (GAAP) provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement of the Town's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to of the Town's RSI in accordance with auditing standards generally accepted in the United States of America (GAAS). These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient appropriate evidence to express an opinion or provide any assurance. The following RSI is required by GAAP and will be subjected to certain limited procedures, but will not be audited:

- 1) Management's Discussion and Analysis
- 2) Budgetary comparison schedule – General Fund
- 3) Schedules required by GASB for Pension Plans and OPEB
- 4) Schedule of Employer Proportionate Share of Net pension Liability - Florida Retirement System Pension Plan.
- 5) Schedule of Employer Proportionate Share of Net pension Liability – Retiree Health Insurance Subsidy Program.
- 6) Schedule of Employer Contributions - Florida Retirement System Pension Plan.

DRAFT

7) Schedule of Employer Contributions - Florida Retirement System Health Insurance Subsidy Pension Plan.

We have also been engaged to report on supplementary information other than RSI that accompanies the Town's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with GAAS, and we will provide an opinion on it in relation to the financial statements as a whole, in a report combined with our auditor's report on the financial statements:

1) Schedule of Expenditures of Federal Awards, if applicable

The objectives of our audit are to obtain reasonable assurance as to whether the financial statements as a whole are free from material misstatement, whether due to fraud or error; issue an auditor's report that includes our opinion about whether your financial statements are fairly presented, in all material respects, in conformity with GAAP and report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment of a reasonable user made based on the financial statements.

The objectives also include reporting on:

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. *Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).

Auditor's Responsibilities for the Audit of the Financial Statements and Single Audit

We will conduct our audit in accordance with GAAS; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and will include tests of accounting records, a determination of major federal, and other procedures we consider necessary to enable us to express such opinions. As part of an audit in accordance with GAAS and *Government Auditing Standards*, we exercise professional judgment and maintain professional skepticism throughout the audit.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. We will also evaluate the overall

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presentation of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of waste and abuse is subjective, *Government Auditing Standards* do not expect auditors to perform specific procedures to detect waste or abuse in financial audits nor do they expect auditors to provide reasonable assurance of detecting waste or abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is an unavoidable risk that some material misstatements or noncompliance may not be detected by us, even though the audit is properly planned and performed in accordance with GAAS and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or on major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

We will also conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the government's ability to continue as a going concern for a reasonable period of time.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and direct confirmation of cash, receivables, debt and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will also request written representations from your attorneys as part of the engagement.

We have identified the following significant risks of material misstatement as part of our audit planning:

1. Cash is not properly recorded.
2. Transfer withdrawals not recorded in proper period.
3. Investments/ revenue are not recorded properly.
4. Unearned revenue are recognized as revenue.
5. Receivables, revenue are not recorded when incurred.
6. Expenses, payable and other liabilities are not recorded properly.
7. Payroll liabilities may be understated due to cut off issue.
8. Internal control over inventory does not exist.

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9. Assets are not depreciate correctly and recorded in the right category.
10. Noncompliance with agreement restriction, and commitments assignments.
11. Noncompliance to debt service agreement.

We may, from time to time and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

Our audit of financial statements does not relieve you of your responsibilities

Audit Procedures—Internal Control

We will obtain an understanding of the government and its environment, including the system internal control, sufficient to identify and assess the risks of material misstatement of the financial statements, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and obtain evidence that is sufficient and appropriate to provide a basis for our opinions. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards* and the *Uniform Guidance*.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Town of Pembroke Park's compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants. However, the

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objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

The Uniform Guidance, require that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal and state statutes, regulations, and the terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the Town of Pembroke Park's major programs. For federal programs that are included in the Compliance Supplement, our compliance and internal control procedures will relate to the compliance requirements that the Compliance Supplement identifies as being subject to audit. The purpose of these procedures will be to express an opinion on the Town of Pembroke Park's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Other Services

We will also assist in preparing the financial statements, schedule of expenditures of federal awards, and related notes of the Town of Pembroke Park in conformity with accounting principles generally accepted in the United States of America based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statements, schedule of expenditures of federal awards, and related notes services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

You agree to assume all management responsibilities for the financial statements, schedule of expenditures of federal awards, and related notes, and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, the schedule of expenditures of federal awards, and related notes and that you have reviewed and approved the financial statements, the schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them

Responsibilities of Management for the Financial Statements and Single Audit

Our audit will be conducted on the basis that you acknowledge and understand your responsibility for (1) designing, implementing, establishing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including internal controls over federal awards, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve

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compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal awards, and all accompanying information in conformity with accounting principles generally accepted in the United States of America; and for compliance with applicable laws and regulations (including federal statutes), rules, and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

You are also responsible for making drafts of financial statements, schedule of expenditures of federal awards, all financial records, and related information available to us and for the accuracy and completeness of that information (including information from outside of the general and subsidiary ledgers). You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, identification of all related parties and all related-party relationships and transactions, and other matters; (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance; (3) additional information that we may request for the purpose of the audit; and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence. At the conclusion of our audit, we will require certain written representations from you about the financial statements; schedule of expenditures of federal awards; federal award programs; compliance with laws, regulations, contracts, and grant agreements; and related matters.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements of each opinion unit taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants. You are also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and prepare a summary schedule of prior audit findings and a separate corrective action plan. The summary schedule of prior audit findings should be available for our review by April 1, 2024.

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You are responsible for identifying all federal awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal awards (including notes and noncash assistance received, and COVID-19-related concepts, such as lost revenues, if applicable) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal awards in any document that contains, and indicates that we have reported on, the schedule of expenditures of federal awards. You also agree to [include the audited financial statements with any presentation of the schedule of expenditures of federal awards that includes our report. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal awards; (2) you believe the schedule of expenditures of federal awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles (GAAP). You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to [include the audited financial statements with any presentation of the supplementary information that includes our report thereon OR make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon]. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Scope and Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions for the report, and for the timing and format for providing that information.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

You agree to assume all management responsibilities relating to the financial statements and related notes and any other nonaudit services we provide. You will be required to acknowledge in

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the management representation letter our assistance with preparation of the financial statements and related notes and that you have reviewed and approved the financial statements and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably the Finance Director, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

In connection with this engagement, we may communicate with you or others via email transmission. As emails can be intercepted and read, disclosed, or otherwise used or communicated by an unintended third party, or may not be delivered to each of the parties to whom they are directed and only to such parties, we cannot guarantee or warrant that emails from us will be properly delivered and read only by the addressee. Therefore, we specifically disclaim and waive any liability or responsibility whatsoever for interception or unintentional disclosure of emails transmitted by us in connection with the performance of this engagement. In that regard, you agree that we shall have no liability for any loss or damage to any person or entity resulting from the use of email transmissions, including any consequential, incidental, direct, indirect, or special damages, such as loss of revenues or anticipated profits, or disclosure or communication of confidential or proprietary information

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditor's reports, and corrective action plan) along with the Data Collection Form to the Federal Audit Clearinghouse. We will coordinate with you the electronic submission and certification. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditor's reports, nine months after the end of the audit period or as extended by federal regulating agencies.

We will provide copies of our reports to the Town of Pembroke Park; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of S. Davis & Associates, P.A. ("SDA") and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the Town or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for the purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of SDA's personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend or decide to distribute the copies or information contained therein to others, including other governmental agencies.

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The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the Town's oversight agency. If we are aware that a federal awarding agency or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

Tanya I. Davis is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. To ensure that SDA's independence is not impaired under the AICPA *Code of Professional Conduct*, you agree to inform the engagement partner before entering into any substantive employment discussions with any of our personnel. The Town will be subject to a placement fee for any SDA employee hired by the Town during the term of the audit engagements, including any extensions, and up to two years after the end of the contract including issuance of final audit reports and annual financial statements or annual comprehensive financial report. The placement fee will be made payable to SDA in an amount equal to the greater of \$75,000 or 100% of the offered annual salary of the recruited personnel.

Our fee for the financial statement audit and the audit of one major federal program will be \$50,000 and \$8,500, respectively. The fee for the audit of each additional major federal program will be \$5,000 for fiscal year ended September 30, 2023. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. Invoices for fees or other compensation will be submitted in sufficient detail to demonstrate compliance with the terms of this agreement. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

Reporting

We will issue a written report upon completion of our Single Audit. Our report will be addressed to the Board of Commissioners of the Town of Pembroke Park (the "Town"). Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions, add a separate section, or add an emphasis-of-matter or other-matter paragraph to our auditor's report, or if necessary, withdraw from this engagement. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or we may withdraw from this engagement.

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will state that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in

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considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will state that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance Both reports will state that the report is not suitable for any other purpose.

As is customary for SDA, we will meet with the Town Manager (or designee) and the Finance Director (or designee) prior to finalizing and issuing our reports. We will also meet with the Town Commissioners, individually, to discuss the results of the audit if they wish to do so.

Any controversy or claim arising out of or relating to the services covered by this letter or hereafter provided by us to the Town (including any such matter involving any subsidiary, affiliate or agent of the Town or SDA) shall be submitted first to voluntary mediation. In addition, you agree that the exclusive venue for any action to collect such unpaid invoices shall be the courts of Broward County, Florida.

Any changes not provided elsewhere herein have to be agreed to by mutual consent of both parties.

We appreciate the opportunity to be of service to the Town of Pembroke Park ("the Town") and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the attached copy and return it to us.

Very truly yours,

S. Davis & Associates, P.A.

RESPONSE:

This letter correctly sets forth the understanding of the Town of Pembroke Park.

Management signature: _____

Title: _____

Date: _____

Governance signature: _____

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Title: _____

Date: _____

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Member: American Institute of Certified Public Accountants | Florida Institute of Certified Public Accountants

June 1, 2023

To the Commissioners and Finance Director
Town of Pembroke Park, Florida
3150 SW 52 Avenue
Pembroke Park, Florida 33023

We are pleased to confirm our understanding of the services we are to provide the Town of Pembroke Park (the "Town") for the year ended September 30, 2022. We will audit the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements of the Town of Pembroke Park as of and for the year ended September 30, 2022. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement the Town of Pembroke Park's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the Town of Pembroke Park's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by U.S. generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

- 1) Management's Discussion and Analysis.
- 2) Budgetary comparison schedule – General Fund
- 3) Schedules required by GASB for Pension Plans and OPEB
- 4) Schedule of Employer Proportionate Share of Net pension Liability - Florida Retirement System Pension Plan.
- 5) Schedule of Employer Proportionate Share of Net pension Liability – Retiree Health Insurance Subsidy Program.
- 6) Schedule of Employer Contributions - Florida Retirement System Pension Plan.
- 7) Schedule of Employer Contributions - Florida Retirement System Health Insurance Subsidy Pension Plan.

Audit Objectives

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second

paragraph when considered in relation to the financial statements as a whole. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and will include tests of the accounting records of the Town of Pembroke Park and other procedures we consider necessary to enable us to express such opinions. We will issue a written report upon completion of our audit of the Town of Pembroke Park's financial statements. Our report will be addressed to the Honorable Mayor and Members of the Town Commission of the Town of Pembroke Park. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or may withdraw from this engagement.

We will also provide a report (that does not include an opinion) on internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements as required by *Government Auditing Standards*. The report on internal control and on compliance and other matters will include a paragraph that states (1) that the purpose of the report is solely to describe the scope of testing of internal control and compliance, and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control on compliance, and (2) that the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The paragraph will also state that the report is not suitable for any other purpose. If during our audit we become aware that the Town of Pembroke Park is subject to an audit requirement that is not encompassed in the terms of this engagement, we will communicate to management and those charged with governance that an audit in accordance with U.S. generally accepted auditing standards and the standards for financial audits contained in *Government Auditing Standards* may not satisfy the relevant legal, regulatory, or contractual requirements.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of waste and abuse is subjective, *Government Auditing Standards* do not expect the auditors to perform specific procedures to detect waste or abuse in financial audits nor do they expect auditors to provide reasonable assurance of detecting waste or abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, an unavoidable risk exists that some material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations

that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, fraudulent financial reporting, or misappropriation of assets that comes to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include direct confirmation of cash, receivables, debt and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards and *Government Auditing Standards*.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Town of Pembroke Park's compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

Other Services

We will also assist in preparing the financial statements and related notes of the Town of Pembroke Park in conformity with U.S. generally accepted accounting principles based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statement services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Management Responsibilities

Management is responsible for designing, implementing, establishing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met; following laws and regulations; and ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles, for the preparation and fair presentation of the financial statements and all accompanying information in conformity with U.S. generally accepted accounting principles, and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, including identification of all related parties and all related-party relationships and transactions, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and for confirming to us in the written representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements of each opinion unit taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants and for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, or contracts or grant agreements that we report.

With regard to including the auditor's report in an exempt offering document, you agree that the aforementioned auditor's report, or reference to S. Davis and Associates, P.A., will not be included in any such offering document without our prior permission or consent. Any agreement to perform work in connection with an exempt offering document, including an agreement to provide permission or consent, will be a separate engagement.

You are responsible for the preparation of the supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly

Town of Pembroke Park
Engagement Letter June 1, 2023

presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

You agree to assume all management responsibilities relating to the financial statements and related notes and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements and related notes and that you have reviewed and approved the financial statements and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably the Finance Director, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

In connection with this engagement, we may communicate with you or others via email transmission. As emails can be intercepted and read, disclosed, or otherwise used or communicated by an unintended third party, or may not be delivered to each of the parties to whom they are directed and only to such parties, we cannot guarantee or warrant that emails from us will be properly delivered and read only by the addressee. Therefore, we specifically disclaim and waive any liability or responsibility whatsoever for interception or unintentional disclosure of emails transmitted by us in connection with the performance of this engagement. In that regard, you agree that we shall have no liability for any loss or damage to any person or entity resulting from the use of email transmissions, including any consequential, incidental, direct, indirect, or special damages, such as loss of revenues or anticipated profits, or disclosure or communication of confidential or proprietary information.

Engagement Administration, Fees, and Other

We may from time to time and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent

Town of Pembroke Park
Engagement Letter June 1, 2023

prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that your employees will prepare all cash, accounts receivable, debt, or other confirmations and schedules we request and will locate any documents selected by us for testing.

We will provide copies of our reports to the Town of Pembroke Park; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of S. Davis & Associates, P.A. ("SDA") and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the Town's oversight agency or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of SDA's personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the Town's oversight agency. If we are aware that a federal awarding agency or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

Tanya I. Davis is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. To ensure that SDA's independence is not impaired under the AICPA *Code of Professional Conduct*, you agree to inform the engagement partner before entering into any substantive employment discussions with any of our personnel. The Town will be subject to a placement fee for any SDA employee hired by the Town during the term of the audit engagements, including any extensions, and up to two years after the end of the contract including issuance of final audit reports and annual financial statements or annual comprehensive financial report. The placement fee will be made payable to SDA in an amount equal to the greater of \$75,000 or 100% of the offered annual salary of the recruited personnel.

Our fee for your audit services will not exceed \$50,000 for fiscal year ended September 30, 2022, unless there is a change in activity, readiness, cooperation, or preparation of audit schedules that results in additional audit work or debt is issued. The compensation for additional audit work will be calculated according to the standard hourly rate schedule set forth in Tab VIII of SDA's proposal in response to RFP #20-07. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. Invoices for fees or other compensation will be submitted in sufficient detail to demonstrate compliance with the terms of this agreement. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through

Town of Pembroke Park
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the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

As is customary for SDA, we will meet with the Town Manager (or designee) and the Finance Director (or designee) prior to finalizing and issuing our reports. We will also meet with the Town Commissioners, individually, to discuss the results of the audit if they wish to do so.

Any controversy or claim arising out of or relating to the services covered by this letter or hereafter provided by us to the Town (including any such matter involving any subsidiary, affiliate or agent of the Town or SDA) shall be submitted first to voluntary mediation. In addition, you agree that the exclusive venue for any action to collect such unpaid invoices shall be the courts of Broward County, Florida.

Any changes not provided elsewhere herein have to be agreed to by mutual consent of both parties.

We appreciate the opportunity to be of service to the Town of Pembroke Park and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

S. Davis & Associates, P.A.

S. Davis & Associates, P.A.

Town of Pembroke Park
Engagement Letter June 1, 2023

RESPONSE:

This letter correctly sets forth the understanding of the Town of Pembroke Park.

Management signature: 

Title: Budget & Finance Director

Date: 07/17/2023

Governance signature: 

Title: Mayor

Date: _____

DISPUTE RESOLUTION PROCEDURES

The following procedures shall be used to resolve any controversy or claim ("dispute") as provided in our engagement letter of June 1, 2023. If any of these provisions are determined to be invalid or unenforceable, the remaining provisions shall remain in effect and binding on the parties to the fullest extent permitted by law.

Mediation

A dispute shall be submitted to mediation by written notice to the other party or parties. In the mediation process, the parties will try to resolve their differences voluntarily with the aid of an impartial mediator, who will attempt to facilitate negotiations. The mediator will be selected by agreement of the parties. If the parties cannot agree on a mediator, a mediator shall be designated by the American Arbitration Association ("AAA") or such other neutral facilitator acceptable to both parties.

The mediation will be conducted as specified by the mediator and agreed upon by the parties. The parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the dispute.

The mediation will be treated as a settlement discussion and therefore will be confidential. The mediator may not testify for either party in any later proceeding relating to the dispute. No recording or transcript shall be made of the mediation proceedings.

Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the parties.

Arbitration

If a dispute has not been resolved within 90 days after the written notice beginning the mediation process (or a longer period, if the parties agree to extend the mediation), the mediation shall terminate and the dispute will be settled by arbitration. The arbitration will be conducted in accordance with the procedures in this document and the Arbitration Rules for Professional Accounting and Related Services Disputes of the AAA as in effect on the date of the engagement letter ("AAA Rules"). In the event of a conflict, the provisions of this document will control.

The arbitration will be conducted before a panel of three arbitrators, regardless of the size of the dispute, to be selected as provided in the AAA Rules. Any issues concerning the extent to which any dispute is subject to arbitration, or concerning the applicability, interpretation, or enforceability of these procedures, including any contention that all or part of these procedures are invalid unenforceable, shall be governed by the Federal Arbitration Act and resolved by the arbitrators. No potential arbitrator may serve on the panel unless he or she has agreed in writing to abide and be bound by these procedures.

The arbitrators may not award non-monetary or equitable relief of any sort. They shall have no power to award punitive damages or any other damages not measured by the prevailing party's actual damages, and the parties expressly waive their right to obtain such damages in arbitration or in any other forum. In no event, even if any other portion of these provisions is held to be invalid or unenforceable, shall the arbitrators have power to make an award or impose a remedy that could not be made or imposed by a court deciding the matter in the same jurisdiction.

No discovery will be permitted in connection with the arbitration unless it is expressly authorized by the arbitration panel upon a showing of substantial need by the party seeking discovery.

All aspects of the arbitration shall be treated as confidential. Neither the parties nor the arbitrators may disclose the existence, content or results of the arbitration, except as necessary to comply with legal or regulatory requirements. Before making any such disclosure, a party shall give written notice to all other parties and shall afford such parties a reasonable opportunity to protect their interests.

The result of the arbitration will be binding on the parties, and judgment on the arbitrators' award may be entered in any court having jurisdiction.

ORDINANCE NO. 2024-001

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA AMENDING CHAPTER 17 OF THE TOWN' S CODE OF ORDINANCES, ENTITLED "NOISE;" PROVIDING DEFINITIONS FOR NOISE, NOISE DISTURBANCE, AND PLAINLY AUDIBLE; PROVIDING FOR VIOLATIONS WHEN NOISE IS PLAINLY AUDIBLE AT CERTAIN DISTANCES IN VARIOUS ZONING DISTRICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Town staff recently reviewed the Town's noise ordinances and desire to update the ordinance to provide for clarified definitions and improved enforceability; and

WHEREAS, the Town's noise ordinance was last updated in 2001; and

WHEREAS, the Town staff desire to use the plainly audible standard in addition to decibel readings to aid in the enforcement of the Town's noise ordinances ; and

WHEREAS, the use of a plainly audible standard will improve the health, safety, and welfare of the residents of the Town; and

WHEREAS, the Town Commission has conducted a public hearing and considered the input of the public; and

WHEREAS, the Town Commission finds that updating the Town code to provide for definitions for noise, noise disturbance, and plainly audible, in addition to providing for violations when noise is plainly audible at certain distances in various zoning districts is in the best interests of the citizens and residents of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA, THAT:

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

Section 2. Chapter 17 of the Town's Code of Ordinances entitled "Noise," is amended as follows:

Chapter 17 - NOISE

Sec. 17-1. - Declaration of intent.

The Commission of the Town of Pembroke Park finds and declares that excessive sound is a serious hazard to the public health, welfare, safety and quality of life; that a substantial body of science and technology exists by which excessive sound may be substantially abated; and that people have a right to and should be ensured an environment free from excessive sound that may jeopardize their health, welfare or safety or degrade the quality of life.

Sec. 17-2. - Definitions.

(a) All terminology used in this chapter, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

(b) 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:

A weighting is the electronic filtering in sound level meters that models human hearing frequency sensitivity.

Background sound level is the total sound pressure level in the area of interest excluding the noise source of interest.

Commercial area is all property which is used primarily for the sale of merchandise or goods, or for the performances of services, or for office or clerical work.

Construction means any site preparation, assembly, erection, repair, alteration, demolition or similar action on public or private right of way, structures, buildings, utilities or similar property.

Decibel (dB) means a unit for describing the amplitude of sound, equal to twenty (20) times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).

dBA is the A-weighted unit of sound pressure level.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action; economic loss shall not be a factor in the determination of an emergency. It shall be the burden of an alleged violator to prove an "emergency".

Emergency work means any work performed for the purpose of preventing or alleviating the physical trauma or property damage, but not economic loss, threatened or caused by an emergency.

Impulsive sound means a sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound includes explosions and the discharge of firearms.

Industrial area is any property which is used primarily for manufacturing or processing.

Legal holidays recognized by the Town of Pembroke Park include New Years Day, Martin Luther King Jr. Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day After Thanksgiving and Christmas Day.

Muffler, means a sound-dissipative device or system for attenuating the sound of escaping gases of an internal combustion engine.

Multi-family dwelling is any building or other shelter that has been divided into separate units to house more than one (1) family.

Noise means for the purposes of this chapter, any sound that is in violation of any provision of this chapter. ~~any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.~~

Noise disturbance means any sound which is unreasonably loud, raucous, or jarring to reasonable persons of ordinary sensibilities, or any sound which affects the health, safety, or welfare of other persons, or exceeds the noise levels as defined. ~~is any sound that (a) endangers the safety or health of any person, (b) disturbs a reasonable person of normal sensitivities, or (c) endangers personal or real property.~~

Octave band is all of the components in a sound spectrum whose frequencies are between two (2) sine waves components separated by an octave.

Person means any natural person, individual, public corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, or any other entity whatsoever or any combination of such, jointly or severally.

Plainly audible means any sound that can be detected by a person using his or her unaided hearing faculties.

Public right-of-way means any street, avenue, boulevard, highway, sidewalk, or alley, or similar place normally accessible to the public which is owned or controlled by a governmental entity.

Public space is any real property or structures thereon that is owned, leased, or controlled by a governmental entity.

Real property line means any imaginary line along the surface, and its vertical plane extension, which separates the real property owned, rented or leased by one (1) person from that owned, rented or leased by another person, excluding intrabuilding real property divisions.

Residential area is all property on which people live and sleep, or parks or hospitals or schools or nursing homes of that which is not commercial or industrial.

Sound means an oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound level means the weighted sound pressure level obtained by the use of a metering characteristic and weighting A, B or C as specified in American National Standards Institute specifications for sound level meters ANSI 51.4-1983, or in successor publications. If the weighting employed is not indicated, the A-weighting shall apply.

Sound level meter (SLM) is an instrument used to measure sound pressure levels conforming to Type 1 or Type 2 standards as specified in ANSI Standard 51.4-1983 or the latest version thereof.

Sound pressure level (SPL) is twenty (20) multiplied by the logarithm, to the base 10, of the measured sound pressure divided by the sound pressure associated with the threshold of human hearing, in units of decibels.

Weekday means any day, Monday through Friday, that is not a legal holiday.

Sec. 17-3. - Sound level limitations.

(a) No person shall cause, suffer, allow, or permit the operation of any sound source in such a manner as to create a sound level that exceeds the sound level limits set forth in Table 1 when measured at or within the real property line of the receiving property using the slow response setting unless otherwise noted. Such a sound source would constitute a noise disturbance.

TABLE 1
SOUND LEVEL LIMITS BY RECEIVING PROPERTY

Receiving Property Category	Time	Sound Level Limit (dBA)
Residential, Public Space, or Institutional	7:00 a.m.—7:00 p.m.	60
	7:00 p.m.—7 a.m.	50
Commercial or Business	7:00 a.m. - 7:00 p.m.	65
	7:00 p.m.—7:00 a.m.	60
Industrial or Manufacturing	At all times	70

(1) If the noise is an impulsive sound, the fast response setting shall be used and the daytime (7:00 a.m.—7:00 p.m.) limits of Table 1 shall be increased by ten (10) dBA.

(2) In a multi-family dwelling, it shall be unlawful to create or permit to be created any noise that exceeds the daytime (7:00 a.m.—7:00 p.m.) limit of fifty-five (55) dBA and the nighttime (7:00 p.m. - 7:00 a.m.) limit of forty-five (45) dBA as measured from a neighbor's dwelling.

(3) In addition to the limits of Table 1 and section (a)(2), for any sound source which impacts residential, public space or institutional property, the maximum allowable sound level limits for the individual octave bands whose centers are sixty-three (63), one hundred twenty-five (125), two hundred fifty (250) and five hundred (500) Hertz shall not exceed sixty-five (65) dB.

(b) The following are exempt from the sound level limits of subsection (a):

(1) Noise from emergency signaling devices;

(2) Sound from church bells and chimes when a part of a religious observance or service;

(3) Noise from landscape and yard equipment when operated between 8:00 a.m. and 8:00 p.m. on weekdays and between 9:00 a.m. and 8:00 p.m. on weekends and legal holidays, provided all motorized equipment are equipped with functioning mufflers.

(4) Noise from construction activity between 7:00 a.m. and 6:00 p.m. on weekdays and between 9:00 a.m. and 6:00 p.m. on weekends and legal holidays provided all motorized equipment used in such activity are equipped with functioning mufflers.

(c) No person shall cause, allow, or permit the operation of any amplified sound device from the following use districts or locations in the following manner:

1. Residential use:

i. Sound shall not be plainly audible for a period of one (1) minute or longer at a distance of twenty-five (25) feet or more when measured from the source property line between the hours of 7:00 p.m. and 7:00 a.m. daily.

ii. Sound shall not be plainly audible for a period of one (1) minute or longer at a distance of fifty (50) feet or more when measured from the source property line between the hours of 7:00 a.m. and 7:00 p.m. daily.

2. Commercial, mixed-use, or industrial, or other uses. No person shall cause, allow, or permit the operation of any amplified sound device plainly audible for a period of one (1) minute or longer at a distance of fifty (50) feet or more when measured from the source property line.

Sec. 17-4. - Exemptions.

The provisions of this chapter shall not apply to:

- (a) The generation of sound for the purpose of alerting persons to the existence of an emergency;
- (b) The generation of sound in the performance of emergency work; or
- (c) Noise generated from municipal sponsored or approved celebrations or events.

Sec. 17-5. - Enforcement procedures.

- (a) The Town of Pembroke Park may prosecute noise related violations by issuance of a Town of Pembroke Park Ordinance Citation, in which case, the penalty for a violation shall be as set in Chapter 7 of the Code of Ordinances. If the violation is of a continuing nature, each day during which it occurs shall constitute a separate violation.
- (b) In lieu of issuing a citation as provided in subsection (a), the certified code enforcement officer or law enforcement officer of the Town of Pembroke Park may issue an order requiring immediate abatement of any sound source alleged to be in violation of this chapter.
- (c) No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this chapter or from other law.

Sec. 17-6. - Reserved.

Sec. 17-6.1. - Noise and businesses, restriction on hours of operation.

It shall be unlawful for any person to perform labor or work, or to operate or conduct any business or enterprise in the Town except between the hours of 7:00 a.m. and 7:00 p.m. Monday through Saturday at a location within two hundred (200) feet of inhabited dwellings, apartments, mobile homes, or hotels which emits noise from the operation of such business or enterprise that disturbs or is detrimental to the health, peace and quiet of any occupants thereof. In the event that any emergency exists, or conditions with reference to the operation of any business are such that it would be unjust and inequitable for same not to be operated during the prohibited hours, upon application made to the Town Manager, and after an investigation has been conducted by him or her, the Town Manager may issue a permit authorizing any business to operate for only a limited period of time.

Sec. 17-7. - Construction operations.

It shall be unlawful for any person to engage in the erection, including excavating, demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on any day except in case of urgent necessity in the interest of public health and safety and then only with a permit from the Building Official. Such permit may be granted for a period not to exceed three (3) days or less while the emergency continues, and may be renewed for periods of three (3) days or less while the emergency continues. If the Building Official shall

determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6:00 p.m. and 7:00 a.m., and if he shall further determine that no loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is awarded or during the progress of the work.

Secs. 17-8—17-10. - Reserved.

Sec. 17-11. - Enforcement.

- (a) The Town may prosecute noise related violations by issuance of a notice of violation, which violation will be brought before the Town Code Enforcement Board and a penalty for a violation shall be as set forth in Chapter 162, Florida Statutes. If the violation is of a continuing nature, each day during which it occurs shall constitute a separate violation.
- (b) In lieu of issuing a notice of violation, the Town may institute a judicial proceeding requesting the immediate abatement of any sound source alleged to be in violation of this article.
- (c) No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this article or from other law.

Section 3. It is the intention of the Town Commission of the Town of Pembroke Park that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Pembroke Park, Florida, and that the Sections of this ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention.

Section 4. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5. If any clause, section, or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the remaining portions or applications remaining in full force and effect.

Section 6. This Ordinance shall become effective upon passage and adoption.

**PASSED AND ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF
PEMBROKE PARK, FLORIDA, ON THE FIRST READING, THIS ____ DAY OF
_____, 2024.**

**PASSED ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF PEMBROKE
PARK, FLORIDA, ON THE SECOND AND FINAL READING, THIS ____ DAY OF
_____, 2024.**

ATTEST:

ASHIRA MOHAMMED
Mayor

MARLEN D. MARTELL
Town Clerk

Approved as to form and legal sufficiency:

JACOB G. HOROWITZ
Interim Town Attorney

VOTE

ASHIRA MOHAMMED	_____
ERIK MORRISSETTE	_____
WILLIAM R. HODGKINS	_____
MUSFIKA KASHEM	_____
GEOFFREY JACOBS	_____

AGENDA ITEM REPORT



To:

Subject: Purchase of (2) new Ford F-150 pick up trucks.

Meeting:

Department: Public Works

Staff Contact: Aleem Ghany, Public Services Director

BACKGROUND INFORMATION:

Presently the Parks division has a 2004 Dodge pick up truck that is currently inoperable due to several issues and is in need of repairs that would most likely cost more than the vehicle is worth. This vehicle has been in service for 20 years, has nearly a 100,000 miles and is past it's useful life. Similarly the Sewer division has a 2007 Ford pick up truck with 17 years of service and 136,500 miles that is also in need of repairs. Staff recommends we purchase two new trucks that are required for daily operations.

FINANCIAL IMPACT:

Not to exceed \$82,000.00. Pricing is based on the Florida Sheriffs Association Cooperative Purchasing Program Contract FSA23-VEL31.0.

POLICY IMPLICATIONS:

None

RECOMMENDATION:

Staff is recommending the approval for the purchase of two new pick up trucks for the Public Services Department.

ALTERNATIVES:

Continue to pay for costly repairs to vehicles that are past their useful life.

ATTACHMENTS:

[Q#7697536 2023 Ford F-150 Supercab](#)

	Status:
Christian Noel, Accounts Payable	None
Jacobs Horowitz, Interim Town Attorney	None
Aleem Ghany, Public Services Director	None

Marlen Martell, Town Clerk

None

Prepared For: Town of Pembroke Park, Florida
Vickers, Horace

Date 12/20/2023
AE/AM JG9/A0M

Unit #

Year 2023 **Make** Ford **Model** F-150

Series XL 4x2 SuperCab 6.5 ft. box 145 in. WB

Vehicle Order Type In-Stock **Term** 48 **State** FL **Customer#** 597381

\$ 40,375.26	Capitalized Price of Vehicle ¹
\$ 0.00	* Sales Tax <u>0.0000%</u> State <u>FL</u>
\$ 450.00	* Initial License Fee
\$ 0.00	Registration Fee
\$ 0.00	Other: (See Page 2)
\$ 40,371.22	* Capitalized Price Reduction
\$ 0.00	* Tax on Capitalized Price Reduction
\$ 0.00	Gain Applied From Prior Unit
\$ 0.00	* Tax on Gain On Prior
\$ 0.00	* Security Deposit
\$ 0.00	* Tax on Incentive (Taxable Incentive Total : \$0.00)

\$ 4.04	Total Capitalized Amount (Delivered Price)
\$ 0.06	Depreciation Reserve @ <u>1.5000%</u>
\$ 63.12	Monthly Lease Charge (Based on Interest Rate - Subject to a Floor) ²
\$ 60.56	

\$ 63.18 Total Monthly Rental Excluding Additional Services

Additional Fleet Management

Master Policy Enrollment Fees

\$ 0.00 Commercial Automobile Liability Enrollment
Liability Limit \$0.00

\$ 0.00 Physical Damage Management

\$ 48.38 Full Maintenance Program³ Contract Miles 40,000
Incl: # Brake Sets (1 set = 1 Axle) 0

\$ 48.38 Additional Services SubTotal

\$ 0.00 Sales Tax 7.0000%

\$ 111.56 Total Monthly Rental Including Additional Services

\$ 1.16 Reduced Book Value at 48 Months

\$ 400.00 Service Charge Due at Lease Termination

All language and acknowledgments contained in the signed quote apply to all vehicles that are ordered under this signed quote.

Order Information

Driver Name Please Provide

Exterior Color (0 P) Oxford White

Interior Color (0 I) Black w/Medium Dark Slate w/Vinyl 40/20

Lic. Plate Type Government

GVWR 0

Comp/Coll Deductible 0 / 0

OverMileage Charge \$ 0.0648 Per Mile

Tires 0

Loaner Vehicle Not Included

State FL

Quote based on estimated annual mileage of 10,000

(Current market and vehicle conditions may also affect value of vehicle)

(Quote is Subject to Customer's Credit Approval)

Notes

Enterprise FM Trust will be the owner of the vehicle covered by this Quote. Enterprise FM Trust (not Enterprise Fleet Management) will be the Lessor of such vehicle under the Master Open - End (Equity) Lease Agreement and shall have all rights and obligations of the Lessor under the Master Open - End (Equity) Lease Agreement with respect to such vehicle. Lessee must maintain insurance coverage on the vehicle as set forth in Section 11 of the Master Open-End (Equity) Lease Agreement until the vehicle is sold.

ALL TAX AND LICENSE FEES TO BE BILLED TO LESSEE AS THEY OCCUR.

Lessee hereby authorizes this vehicle order, and agrees to lease the vehicle on the terms set forth herein and in the Master Equity Lease Agreement. In the event Lessee fails or refuses to accept delivery of the ordered vehicle, Lessee agrees that Lessor shall have the right to collect damages, including, but not limited to, a \$500 disposal fee, interest incurred, and loss of value.

LESSEE Town of Pembroke Park, Florida

BY _____ **TITLE** _____ **DATE** _____

* INDICATES ITEMS TO BE BILLED ON DELIVERY.

¹ Capitalized price of vehicle may be adjusted to reflect final manufacturer's invoice, plus a pre delivery interest charge. Lessee hereby assigns to Lessor any manufacturer rebates and/or manufacturer incentives intended for the Lessee, which rebates and/or incentives have been used by Lessor to reduce the capitalized price of the vehicle.

² Monthly lease charge will be adjusted to reflect the interest rate on the delivery date (subject to a floor).

³ The inclusion herein of references to maintenance fees/services are solely for the administrative convenience of Lessee. Notwithstanding the inclusion of such references in this [Invoice/Schedule/Quote], all such maintenance services are to be performed by Enterprise Fleet Management, Inc., and all such maintenance fees are payable by Lessee solely for the account of Enterprise Fleet Management, Inc., pursuant to that certain separate [Maintenance Agreement] entered into by and between Lessee and Enterprise Fleet Management, Inc.; provided that such maintenance fees are being billed by Enterprise FM Trust, and are payable at the direction

of Enterprise FM Trust, solely as an authorized agent for collection on behalf of Enterprise Fleet Management, Inc.

Aftermarket Equipment Total

Description	(B)illed or (C)apped	Price
Legacy Liftgate	C	\$ 5,244.00
Legacy Auto Transporter	C	\$ 0.00
Total Aftermarket Equipment Billed		\$ 0.00
Total Aftermarket Equipment Capitalized		\$ 5,244.00
Aftermarket Equipment Total		\$ 5,244.00

Other Totals

Description	(B)illed or (C)apped	Price
Initial Administration Fee	B	\$ 200.00
Courtesy Delivery Fee	C	\$ 0.00
Total Other Charges Billed		\$ 200.00
Total Other Charges Capitalized		\$ 0.00
Other Charges Total		\$ 200.00

VEHICLE INFORMATION:

2023 Ford F-150 XL 4x2 SuperCab 6.5 ft. box 145 in. WB - US

Series ID: X1C

Pricing Summary:

	INVOICE	MSRP
Base Vehicle	\$37,431	\$39,195.00
Total Options	\$-4,354.74	\$-6,118.74
Destination Charge	\$1,995.00	\$1,995.00
Total Price	\$35,071.26	\$35,071.26

SELECTED COLOR:

Exterior: YZ-(0 P) Oxford White

Interior: AS-(0 I) Black w/Medium Dark Slate w/Vinyl 40/20/40 Front Seat

SELECTED OPTIONS:

CODE	DESCRIPTION	INVOICE	MSRP
101A	Equipment Group 101A Standard	\$-683.00	\$-750.00
145WB	145" Wheelbase	STD	STD
425	50 State Emissions	STD	STD
44G	Transmission: Electronic 10-Speed Automatic	Included	Included
53B	Class IV Trailer Hitch Receiver	\$286.00	\$315.00
64C	Wheels: 17" Silver Steel	Included	Included
99B	Engine: 3.3L V6 PFDI	Included	Included
A	Vinyl 40/20/40 Front Seat	NC	NC
AS_02	(0 I) Black w/Medium Dark Slate w/Vinyl 40/20/40 Front Seat	NC	NC
DEA ADJ	Dealer Adjustment	\$-3,957.74	\$-5,683.74
PAINT	Monotone Paint Application	STD	STD
STDGV	GVWR: 6,250 lbs Payload Package	Included	Included
STDRD	Radio: AM/FM Stereo w/6 Speakers	Included	Included
STDTR	Tires: 245/70R17 BSW A/S	Included	Included
SYNC	SYNC 4	Included	Included
WARANT	Fleet Customer Powertrain Limited Warranty	NC	NC
X19	3.55 Axle Ratio	Included	Included
YZ_01	(0 P) Oxford White	NC	NC

CONFIGURED FEATURES:

Body Exterior Features:

Number Of Doors: 4
Rear Driver Door: reverse opening rear passenger doors
Rear Cargo Door Type: tailgate
Driver And Passenger Mirror: power remote heated manual folding side-view door mirrors
Door Handles: black
Front And Rear Bumpers: black front and rear bumpers with body-coloured rub strip
Rear Step Bumper: rear step bumper
Box Style: regular
Body Material: aluminum body material
: class IV trailering with harness, hitch
Grille: black grille

Convenience Features:

Air Conditioning: manual air conditioning
Air Filter: air filter
Cruise Control: cruise control with steering wheel controls
Power Windows: power windows with driver and passenger 1-touch down
Remote Keyless Entry: keyfob (front doors) remote keyless entry
Illuminated Entry: illuminated entry
Integrated Key Remote: integrated key/remote
Auto Locking: auto-locking doors
Remote Engine Start: remote start - smart device only (subscription required)
Steering Wheel: steering wheel with manual tilting, manual telescoping
Day-Night Rearview Mirror: day-night rearview mirror
Emergency SOS: SYNC 4 911 Assist emergency communication system
Front Cupholder: front and rear cupholders
Overhead Console: mini overhead console with storage
Glove Box: locking glove box
Driver Door Bin: driver and passenger door bins
Rear Door Bins: rear door bins
Dashboard Storage: dashboard storage
Interior Concealed Storage: interior concealed storage
IP Storage: bin instrument-panel storage
Retained Accessory Power: retained accessory power
Power Accessory Outlet: 1 12V DC power outlet

Entertainment Features:

radio: AM/FM stereo with seek-scan
Radio Data System: radio data system
Voice Activated Radio: voice activated radio
Speed Sensitive Volume: speed-sensitive volume
Steering Wheel Radio Controls: steering-wheel mounted audio controls
Speakers: 6 speakers
Internet Access: FordPass Connect 4G internet access
1st Row LCD: 2 1st row LCD monitor
Wireless Connectivity: wireless phone connectivity
Antenna: fixed antenna

Lighting, Visibility and Instrumentation Features:

Headlamp Type: delay-off aero-composite halogen headlamps
Auto-Dimming Headlights: Ford Co-Pilot360 - Auto High Beam auto high-beam headlights
Cab Clearance Lights: cargo bed light
Front Wipers: variable intermittent wipers
Tinted Windows: light-tinted windows
Dome Light: dome light with fade
Front Reading Lights: front reading lights
Variable IP Lighting: variable instrument panel lighting
Display Type: analog appearance

Tachometer: tachometer
 Voltmeter: voltmeter
 Compass: compass
 Exterior Temp: outside-temperature display
 Low Tire Pressure Warning: tire specific low-tire-pressure warning
 Park Distance Control: Reverse Sensing System rear parking sensors
 Trip Computer: trip computer
 Trip Odometer: trip odometer
 Lane Departure Warning: lane departure
 Front Pedestrian Braking: front pedestrian detection
 Forward Collision Alert: forward collision
 Oil Pressure Gauge: oil pressure gauge
 Water Temp Gauge: water temp. gauge
 Transmission Oil Temp Gauge: transmission oil temp. gauge
 Clock: in-radio display clock
 Rear Vision Camera: rear vision camera
 Oil Pressure Warning: oil-pressure warning
 Water Temp Warning: water-temp. warning
 Battery Warning: battery warning
 Lights On Warning: lights-on warning
 Key in Ignition Warning: key-in-ignition warning
 Low Fuel Warning: low-fuel warning
 Door Ajar Warning: door-ajar warning
 Brake Fluid Warning: brake-fluid warning

Safety And Security:

ABS four-wheel ABS brakes
 Number of ABS Channels: 4 ABS channels
 Brake Assistance: brake assist
 Brake Type: four-wheel disc brakes
 Vented Disc Brakes: front and rear ventilated disc brakes
 Daytime Running Lights: daytime running lights
 Spare Tire Type: full-size spare tire
 Spare Tire Mount: underbody mounted spare tire w/crankdown
 Driver Front Impact Airbag: driver and passenger front-impact airbags
 Driver Side Airbag: seat-mounted driver and passenger side-impact airbags
 Overhead Airbag: Safety Canopy System curtain 1st and 2nd row overhead airbag
 Occupancy Sensor: front passenger airbag occupancy sensor
 Height Adjustable Seatbelts: height adjustable front seatbelts
 Seatbelt Pretensioners: front seatbelt pre-tensioners
 3Point Rear Centre Seatbelt: 3 point rear centre seatbelt
 Side Impact Bars: side-impact bars
 Tailgate/Rear Door Lock Type: tailgate/rear door lock included with power door locks
 Ignition Disable: SecuriLock immobilizer
 Security System: security system
 Panic Alarm: panic alarm
 Electronic Stability: AdvanceTrac with Curve Control electronic stability stability control with anti-roll
 Traction Control: ABS and driveline traction control
 Front and Rear Headrests: manual adjustable front head restraints
 Rear Headrest Control: 3 rear head restraints

Seats And Trim:

Seating Capacity max. seating capacity of 6
 Front Bucket Seats: front split-bench 40-20-40 seats
 Number of Driver Seat Adjustments: 4-way driver and passenger seat adjustments
 Reclining Driver Seat: manual reclining driver and passenger seats
 Driver Fore/Aft: manual driver and passenger fore/aft adjustment
 Front Centre Armrest Storage: front centre armrest
 Rear Seat Type: rear 60-40 split-bench seat
 Rear Folding Position: rear seat fold-up cushion
 Leather Upholstery: vinyl front and rear seat upholstery

Headliner Material: full cloth headliner

Floor Covering: full vinyl/rubber floor covering

Cabback Insulator: cabback insulator

Shift Knob Trim: urethane shift knob

Interior Accents: metal-look interior accents

Standard Engine:

Engine 290-hp, 3.3-liter V-6 (regular gas)

Standard Transmission:

Transmission 10-speed automatic w/ OD and PowerShift automatic

Prepared For: Town of Pembroke Park, Florida
Vickers, Horace

Date 02/07/2024
AE/AM JG9/A0M

Unit #

Year 2024 **Make** Ford **Model** Explorer

Series XLT 4dr 4x2

Vehicle Order Type Ordered **Term** 60 **State** FL **Customer#** 597381

\$ 40,205.00	Capitalized Price of Vehicle ¹
\$ 0.00	* Sales Tax <u>0.0000%</u> State <u>FL</u>
\$ 450.00	* Initial License Fee
\$ 0.00	Registration Fee
\$ 300.00	Other: (See Page 2)
\$ 6,075.75	* Capitalized Price Reduction
\$ 0.00	* Tax on Capitalized Price Reduction
\$ 0.00	Gain Applied From Prior Unit
\$ 0.00	* Tax on Gain On Prior
\$ 0.00	* Security Deposit
\$ 0.00	* Tax on Incentive (Taxable Incentive Total : \$0.00)

\$ 34,429.25	Total Capitalized Amount (Delivered Price)
\$ 571.53	Depreciation Reserve @ <u>1.6600%</u>
\$ 153.57	Monthly Lease Charge (Based on Interest Rate - Subject to a Floor) ²
\$ 725.10	Total Monthly Rental Excluding Additional Services

Additional Fleet Management

	Master Policy Enrollment Fees
\$ 0.00	Commercial Automobile Liability Enrollment
	Liability Limit <u>\$0.00</u>

\$ 0.00	Physical Damage Management
\$ 73.95	Full Maintenance Program ³ Contract Miles <u>75,000</u>
	Incl: # Brake Sets (1 set = 1 Axle) <u>0</u>

\$ 73.95 Additional Services SubTotal

\$ 0.00 Sales Tax 7.0000%

State FL

\$ 799.05 Total Monthly Rental Including Additional Services

\$ 137.45 Reduced Book Value at 60 Months

\$ 400.00 Service Charge Due at Lease Termination

All language and acknowledgments contained in the signed quote apply to all vehicles that are ordered under this signed quote.

Order Information

Driver Name Tom positano
Exterior Color (0 P) Carbonized Gray Metallic
Interior Color (0 I) Sandstone w/Heated Unique Cloth Captain
Lic. Plate Type Government
GVWR 0

Comp/Coll Deductible	<u>0 / 0</u>
OverMileage Charge	<u>\$ 0.0648</u> Per Mile
# Tires <u>0</u>	Loaner Vehicle Not Included

Quote based on estimated annual mileage of 15,000

(Current market and vehicle conditions may also affect value of vehicle)

(Quote is Subject to Customer's Credit Approval)

Notes

Enterprise FM Trust will be the owner of the vehicle covered by this Quote. Enterprise FM Trust (not Enterprise Fleet Management) will be the Lessor of such vehicle under the Master Open - End (Equity) Lease Agreement and shall have all rights and obligations of the Lessor under the Master Open - End (Equity) Lease Agreement with respect to such vehicle. Lessee must maintain insurance coverage on the vehicle as set forth in Section 11 of the Master Open-End (Equity) Lease Agreement until the vehicle is sold.

ALL TAX AND LICENSE FEES TO BE BILLED TO LESSEE AS THEY OCCUR.

Lessee hereby authorizes this vehicle order, and agrees to lease the vehicle on the terms set forth herein and in the Master Equity Lease Agreement. In the event Lessee fails or refuses to accept delivery of the ordered vehicle, Lessee agrees that Lessor shall have the right to collect damages, including, but not limited to, a \$500 disposal fee, interest incurred, and loss of value.

LESSEE Town of Pembroke Park, Florida

BY **TITLE** **DATE**

* INDICATES ITEMS TO BE BILLED ON DELIVERY.

¹ Capitalized price of vehicle may be adjusted to reflect final manufacturer's invoice, plus a pre delivery interest charge. Lessee hereby assigns to Lessor any manufacturer rebates and/or manufacturer incentives intended for the Lessee, which rebates and/or incentives have been used by Lessor to reduce the capitalized price of the vehicle.

² Monthly lease charge will be adjusted to reflect the interest rate on the delivery date (subject to a floor).

³ The inclusion herein of references to maintenance fees/services are solely for the administrative convenience of Lessee. Notwithstanding the inclusion of such references in this [Invoice/Schedule/Quote], all such maintenance services are to be performed by Enterprise Fleet Management, Inc., and all such maintenance fees are payable by Lessee solely for the account of Enterprise Fleet Management, Inc., pursuant to that certain separate [Maintenance Agreement] entered into by and between Lessee and Enterprise Fleet Management, Inc.; provided that such maintenance fees are being billed by Enterprise FM Trust, and are payable at the direction of Enterprise FM Trust, solely as an authorized agent for collection on behalf of Enterprise Fleet Management, Inc.

Other Totals

Description	(B)illed or (C)apped	Price
Initial Administration Fee	B	\$ 200.00
Courtesy Delivery Fee	C	\$ 300.00
Total Other Charges Billed		\$ 200.00
Total Other Charges Capitalized		\$ 300.00
Other Charges Total		\$ 500.00

VEHICLE INFORMATION:

2024 Ford Explorer XLT 4dr 4x2 - US
Series ID: K7D

Pricing Summary:

	INVOICE	MSRP
Base Vehicle	\$37,123	\$38,670.00
Total Options	\$1,427.00	\$-120.00
Destination Charge	\$1,595.00	\$1,595.00
Total Price	\$40,145.00	\$40,145.00

SELECTED COLOR:

Exterior: M7-(0 P) Carbonized Gray Metallic
Interior: 8N-(0 I) Sandstone w/Heated Unique Cloth Captain's Chairs

SELECTED OPTIONS:

CODE	DESCRIPTION	INVOICE	MSRP
119WB	119.1" Wheelbase	STD	STD
153	Front License Plate Bracket	NC	NC
200A	Equipment Group 200A	NC	NC
425	50 State Emissions System	STD	STD
44T	Transmission: 10-Speed Automatic	Included	Included
59W	4G LTE Wi-Fi Hotspot Credit	\$-18.00	\$-20.00
8	Heated Unique Cloth Captain's Chairs	Included	Included
8N_02	(0 I) Sandstone w/Heated Unique Cloth Captain's Chairs	NC	NC
91X	Rear Auxiliary Controls Credit	\$-94.00	\$-100.00
99H	Engine: 2.3L EcoBoost I-4	Included	Included
CONNECT	FordPass Connect	Included	Included
INV ADJ	Inventory Adjustment	\$1,539.00	\$0.00
M7_05	(0 P) Carbonized Gray Metallic	NC	NC
PAINT	Monotone Paint Application	STD	STD
STDAX	3.58 Non-Limited-Slip Rear Axle Ratio	Included	Included
STDGV	GVWR: TBD	Included	Included
STDRD	Radio: AM/FM Stereo	Included	Included
STDTR	Tires: P255/65R18 AS BSW	Included	Included
STDWL	Wheels: 18" 5-Spoke Silver-Painted Aluminum	Included	Included
SYNC	SYNC 3 Communications & Entertainment System	Included	Included

CONFIGURED FEATURES:

Body Exterior Features:

Number Of Doors: 4
Driver And Passenger Mirror: power remote heated manual folding side-view door mirrors
Spoiler: rear lip spoiler
Door Handles: body-coloured
Front And Rear Bumpers: body-coloured front and rear bumpers
Front License Plate Bracket: front license plate bracket
Body Material: galvanized steel/aluminum body material
Roof Rack: rails only
Body Side Cladding: black bodyside cladding
Grille: grille with chrome bar

Convenience Features:

Air Conditioning: automatic dual-zone front air conditioning
Air Filter: air filter
Voice Activated A/C: voice activated air conditioning
Cruise Control: cruise control with steering wheel controls
Trunk/Hatch/Door Remote Release: power cargo access remote release
Power Windows: power windows with driver and passenger 1-touch down
1/4 Vent Rear Windows: power rearmost windows
Remote Keyless Entry: keyfob (all doors) remote keyless entry
Illuminated Entry: illuminated entry
Integrated Key Remote: integrated key/remote
Auto Locking: auto-locking doors
Passive Entry: Intelligent Access proximity key
Trunk FOB Controls: keyfob trunk/hatch/door release
Remote Engine Start: remote start - smart device only (subscription required)
Steering Wheel: steering wheel with manual tilting, manual telescoping
Day-Night Rearview Mirror: day-night rearview mirror
Driver and Passenger Vanity Mirror: illuminated auxiliary driver and passenger-side visor mirrors
Emergency SOS: SYNC 3 911 Assist emergency communication system
Front Cupholder: front and rear cupholders
Floor Console: full floor console with covered box
Overhead Console: mini overhead console with storage
Glove Box: locking glove box
Driver Door Bin: driver and passenger door bins
Rear Door Bins: rear door bins
Seatback Storage Pockets: 2 seatback storage pockets
Driver Footrest: driver's footrest
Retained Accessory Power: retained accessory power
Power Accessory Outlet: 4 12V DC power outlets

Entertainment Features:

radio: SiriusXM AM/FM/Satellite with seek-scan
Voice Activated Radio: voice activated radio
Speed Sensitive Volume: speed-sensitive volume
Steering Wheel Radio Controls: steering-wheel mounted audio controls
Speakers: 6 speakers
Internet Access: FordPass Connect 4G internet access
1st Row LCD: 2 1st row LCD monitor
Wireless Connectivity: wireless phone connectivity
Antenna: integrated roof antenna

Lighting, Visibility and Instrumentation Features:

Headlamp Type: delay-off aero-composite LED low/high beam headlamps
Auto-Dimming Headlights: Auto High Beam auto high-beam headlights
Front Wipers: variable intermittent speed-sensitive wipers wipers
Rear Window wiper: fixed interval rear window wiper with heating wiper park
Rear Window Defroster: rear window defroster

Tinted Windows: deep-tinted windows
Dome Light: dome light with fade
Front Reading Lights: front and rear reading lights
Ignition Switch: ignition switch light
Variable IP Lighting: variable instrument panel lighting
Display Type: analog appearance
Tachometer: tachometer
Compass: compass
Exterior Temp: outside-temperature display
Low Tire Pressure Warning: tire specific low-tire-pressure warning
Park Distance Control: Reverse Sensing System rear parking sensors
Trip Computer: trip computer
Trip Odometer: trip odometer
Lane Departure Warning: lane departure
Blind Spot Sensor: blind spot
Front Pedestrian Braking: front pedestrian detection
Following Distance Indicator: following distance alert
Forward Collision Alert: forward collision
Water Temp Gauge: water temp. gauge
Oil Level Gauge: oil level gauge
Clock: in-radio display clock
Systems Monitor: driver information centre
Check Control: redundant digital speedometer
Rear Vision Camera: rear vision camera
Oil Pressure Warning: oil-pressure warning
Water Temp Warning: water-temp. warning
Battery Warning: battery warning
Lights On Warning: lights-on warning
Key in Ignition Warning: key-in-ignition warning
Low Fuel Warning: low-fuel warning
Low Washer Fluid Warning: low-washer-fluid warning
Bulb Failure Warning: bulb-failure warning
Door Ajar Warning: door-ajar warning
Trunk Ajar Warning: trunk-ajar warning
Brake Fluid Warning: brake-fluid warning
Transmission Fluid Temperature Warning: transmission-fluid-temperature warning

Safety And Security:

ABS four-wheel ABS brakes
Number of ABS Channels: 4 ABS channels
Brake Assistance: brake assist
Brake Type: four-wheel disc brakes
Vented Disc Brakes: front and rear ventilated disc brakes
Daytime Running Lights: daytime running lights
Spare Tire Type: compact spare tire
Spare Tire Mount: spare tire mounted inside under cargo
Driver Front Impact Airbag: driver and passenger front-impact airbags
Driver Side Airbag: seat-mounted driver and passenger side-impact airbags
Overhead Airbag: Safety Canopy System curtain 1st, 2nd and 3rd row overhead airbag
Knee Airbag: knee airbag
Occupancy Sensor: front passenger airbag occupancy sensor
Height Adjustable Seatbelts: height adjustable front seatbelts
Seatbelt Pretensioners: front seatbelt pre-tensioners
Side Impact Bars: side-impact bars
Perimeter Under Vehicle Lights: remote activated w/puddle lights perimeter/approach lights
Tailgate/Rear Door Lock Type: tailgate/rear door lock included with power door locks
Rear Child Safety Locks: rear child safety locks
Ignition Disable: SecuriLock immobilizer
Security System: security system
Panic Alarm: panic alarm

Electronic Stability: AdvanceTrac w/Roll Stability Control electronic stability control with anti-roll

Traction Control: ABS and driveline traction control

Front and Rear Headrests: manual adjustable front head restraints

Rear Headrest Control: 2 rear head restraints

3rd Row Headrests: 2 manual adjustable third row head restraints

Seats And Trim:

Seating Capacity max. seating capacity of 6

Front Bucket Seats: front bucket seats

Front Heated Cushion: driver and passenger heated-cushions

Front Heated Seatback: driver and passenger heated-seatbacks

Number of Driver Seat Adjustments: 8-way driver and passenger seat adjustments

Reclining Driver Seat: power reclining driver and passenger seats

Driver Lumbar: power 2-way driver and passenger lumbar support

Driver Height Adjustment: power height-adjustable driver and passenger seats

Driver Fore/Aft: power driver and passenger fore/aft adjustment

Driver Cushion Tilt: power driver and passenger cushion tilt

Front Centre Armrest Storage: front centre armrest

Rear Seat Type: rear manual reclining captain seat

Rear Seat Fore/Aft: manual rear seat fore/aft adjustment

Rear Folding Position: rear seat fold-forward seatback

Rear Seat Mounted Armrests: rear seat mounted armrest

3rd Row Seat Type: fixed third row 50-50 bench seat

3rd Row Electric Control: fold into floor third row seat

Leather Upholstery: premium cloth front and rear seat upholstery

Door Trim Insert: cloth door panel trim

Headliner Material: full cloth headliner

Floor Covering: full carpet floor covering

Dashboard Console Insert, Door Panel Insert Combination: piano black/metal-look instrument panel insert, door panel insert, console insert

LeatherSteeringWheel: leather steering wheel

Floor Mats: carpet front and rear floor mats

Interior Accents: chrome/metal-look interior accents

Cargo Space Trim: carpet cargo space

Trunk Lid: plastic trunk lid/rear cargo door

Cargo Tie Downs: cargo tie-downs

Cargo Light: cargo light

Concealed Cargo Storage: concealed cargo storage

Standard Engine:

Engine 300-hp, 2.3-liter I-4 (premium)

Standard Transmission:

Transmission 10-speed automatic w/ OD

Prepared For: Town of Pembroke Park, Florida
Vickers, Horace

Date 02/07/2024
AE/AM JG9/A0M

Unit #

Year 2024 **Make** Ford **Model** Explorer

Series XLT 4dr 4x2

Vehicle Order Type Ordered **Term** 60 **State** FL **Customer#** 597381

\$ 40,205.00	Capitalized Price of Vehicle ¹
\$ 0.00	* Sales Tax <u>0.0000%</u> State <u>FL</u>
\$ 450.00	* Initial License Fee
\$ 0.00	Registration Fee
\$ 300.00	Other: (See Page 2)
\$ 40,500.95	* Capitalized Price Reduction
\$ 0.00	* Tax on Capitalized Price Reduction
\$ 0.00	Gain Applied From Prior Unit
\$ 0.00	* Tax on Gain On Prior
\$ 0.00	* Security Deposit
\$ 0.00	* Tax on Incentive (Taxable Incentive Total : \$0.00)

\$ 4.05	Total Capitalized Amount (Delivered Price)
\$ 0.07	Depreciation Reserve @ <u>1.6600%</u>
\$ 43.04	Monthly Lease Charge (Based on Interest Rate - Subject to a Floor) ²

\$ 43.11 Total Monthly Rental Excluding Additional Services

Additional Fleet Management

	Master Policy Enrollment Fees
\$ 0.00	Commercial Automobile Liability Enrollment
	Liability Limit <u>\$0.00</u>

\$ 0.00	Physical Damage Management
\$ 73.95	Full Maintenance Program ³ Contract Miles <u>75,000</u>
	Incl: # Brake Sets (1 set = 1 Axle) <u>0</u>

\$ 73.95 Additional Services SubTotal

\$ 0.00	Sales Tax <u>7.0000%</u> State <u>FL</u>
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\$ 117.06 Total Monthly Rental Including Additional Services

\$ -0.15	Reduced Book Value at <u>60</u> Months
\$ 400.00	Service Charge Due at Lease Termination

All language and acknowledgments contained in the signed quote apply to all vehicles that are ordered under this signed quote.

Order Information

Driver Name Tom positano
Exterior Color (0 P) Carbonized Gray Metallic
Interior Color (0 I) Sandstone w/Heated Unique Cloth Captain
Lic. Plate Type Government
GVWR 0

Comp/Coll Deductible	<u>0 / 0</u>
OverMileage Charge	<u>\$ 0.0648</u> Per Mile
# Tires <u>0</u>	Loaner Vehicle Not Included

Quote based on estimated annual mileage of 15,000
(Current market and vehicle conditions may also affect value of vehicle)
(Quote is Subject to Customer's Credit Approval)
Notes

Enterprise FM Trust will be the owner of the vehicle covered by this Quote. Enterprise FM Trust (not Enterprise Fleet Management) will be the Lessor of such vehicle under the Master Open - End (Equity) Lease Agreement and shall have all rights and obligations of the Lessor under the Master Open - End (Equity) Lease Agreement with respect to such vehicle. Lessee must maintain insurance coverage on the vehicle as set forth in Section 11 of the Master Open-End (Equity) Lease Agreement until the vehicle is sold.

ALL TAX AND LICENSE FEES TO BE BILLED TO LESSEE AS THEY OCCUR.

Lessee hereby authorizes this vehicle order, and agrees to lease the vehicle on the terms set forth herein and in the Master Equity Lease Agreement. In the event Lessee fails or refuses to accept delivery of the ordered vehicle, Lessee agrees that Lessor shall have the right to collect damages, including, but not limited to, a \$500 disposal fee, interest incurred, and loss of value.

LESSEE Town of Pembroke Park, Florida

BY **TITLE** **DATE**

* INDICATES ITEMS TO BE BILLED ON DELIVERY.

¹ Capitalized price of vehicle may be adjusted to reflect final manufacturer's invoice, plus a pre delivery interest charge. Lessee hereby assigns to Lessor any manufacturer rebates and/or manufacturer incentives intended for the Lessee, which rebates and/or incentives have been used by Lessor to reduce the capitalized price of the vehicle.

² Monthly lease charge will be adjusted to reflect the interest rate on the delivery date (subject to a floor).

³ The inclusion herein of references to maintenance fees/services are solely for the administrative convenience of Lessee. Notwithstanding the inclusion of such references in this [Invoice/Schedule/Quote], all such maintenance services are to be performed by Enterprise Fleet Management, Inc., and all such maintenance fees are payable by Lessee solely for the account of Enterprise Fleet Management, Inc., pursuant to that certain separate [Maintenance Agreement] entered into by and between Lessee and Enterprise Fleet Management, Inc.; provided that such maintenance fees are being billed by Enterprise FM Trust, and are payable at the direction of Enterprise FM Trust, solely as an authorized agent for collection on behalf of Enterprise Fleet Management, Inc.

Other Totals

Description	(B)illed or (C)apped	Price
Initial Administration Fee	B	\$ 200.00
Courtesy Delivery Fee	C	\$ 300.00
Total Other Charges Billed		\$ 200.00
Total Other Charges Capitalized		\$ 300.00
Other Charges Total		\$ 500.00

VEHICLE INFORMATION:

2024 Ford Explorer XLT 4dr 4x2 - US
Series ID: K7D

Pricing Summary:

	INVOICE	MSRP
Base Vehicle	\$37,123	\$38,670.00
Total Options	\$1,427.00	\$-120.00
Destination Charge	\$1,595.00	\$1,595.00
Total Price	\$40,145.00	\$40,145.00

SELECTED COLOR:

Exterior: M7-(0 P) Carbonized Gray Metallic
Interior: 8N-(0 I) Sandstone w/Heated Unique Cloth Captain's Chairs

SELECTED OPTIONS:

CODE	DESCRIPTION	INVOICE	MSRP
119WB	119.1" Wheelbase	STD	STD
153	Front License Plate Bracket	NC	NC
200A	Equipment Group 200A	NC	NC
425	50 State Emissions System	STD	STD
44T	Transmission: 10-Speed Automatic	Included	Included
59W	4G LTE Wi-Fi Hotspot Credit	\$-18.00	\$-20.00
8	Heated Unique Cloth Captain's Chairs	Included	Included
8N_02	(0 I) Sandstone w/Heated Unique Cloth Captain's Chairs	NC	NC
91X	Rear Auxiliary Controls Credit	\$-94.00	\$-100.00
99H	Engine: 2.3L EcoBoost I-4	Included	Included
CONNECT	FordPass Connect	Included	Included
INV ADJ	Inventory Adjustment	\$1,539.00	\$0.00
M7_05	(0 P) Carbonized Gray Metallic	NC	NC
PAINT	Monotone Paint Application	STD	STD
STDAX	3.58 Non-Limited-Slip Rear Axle Ratio	Included	Included
STDGV	GVWR: TBD	Included	Included
STDRD	Radio: AM/FM Stereo	Included	Included
STDTR	Tires: P255/65R18 AS BSW	Included	Included
STDWL	Wheels: 18" 5-Spoke Silver-Painted Aluminum	Included	Included
SYNC	SYNC 3 Communications & Entertainment System	Included	Included

CONFIGURED FEATURES:

Body Exterior Features:

Number Of Doors: 4
Driver And Passenger Mirror: power remote heated manual folding side-view door mirrors
Spoiler: rear lip spoiler
Door Handles: body-coloured
Front And Rear Bumpers: body-coloured front and rear bumpers
Front License Plate Bracket: front license plate bracket
Body Material: galvanized steel/aluminum body material
Roof Rack: rails only
Body Side Cladding: black bodyside cladding
Grille: grille with chrome bar

Convenience Features:

Air Conditioning: automatic dual-zone front air conditioning
Air Filter: air filter
Voice Activated A/C: voice activated air conditioning
Cruise Control: cruise control with steering wheel controls
Trunk/Hatch/Door Remote Release: power cargo access remote release
Power Windows: power windows with driver and passenger 1-touch down
1/4 Vent Rear Windows: power rearmost windows
Remote Keyless Entry: keyfob (all doors) remote keyless entry
Illuminated Entry: illuminated entry
Integrated Key Remote: integrated key/remote
Auto Locking: auto-locking doors
Passive Entry: Intelligent Access proximity key
Trunk FOB Controls: keyfob trunk/hatch/door release
Remote Engine Start: remote start - smart device only (subscription required)
Steering Wheel: steering wheel with manual tilting, manual telescoping
Day-Night Rearview Mirror: day-night rearview mirror
Driver and Passenger Vanity Mirror: illuminated auxiliary driver and passenger-side visor mirrors
Emergency SOS: SYNC 3 911 Assist emergency communication system
Front Cupholder: front and rear cupholders
Floor Console: full floor console with covered box
Overhead Console: mini overhead console with storage
Glove Box: locking glove box
Driver Door Bin: driver and passenger door bins
Rear Door Bins: rear door bins
Seatback Storage Pockets: 2 seatback storage pockets
Driver Footrest: driver's footrest
Retained Accessory Power: retained accessory power
Power Accessory Outlet: 4 12V DC power outlets

Entertainment Features:

radio: SiriusXM AM/FM/Satellite with seek-scan
Voice Activated Radio: voice activated radio
Speed Sensitive Volume: speed-sensitive volume
Steering Wheel Radio Controls: steering-wheel mounted audio controls
Speakers: 6 speakers
Internet Access: FordPass Connect 4G internet access
1st Row LCD: 2 1st row LCD monitor
Wireless Connectivity: wireless phone connectivity
Antenna: integrated roof antenna

Lighting, Visibility and Instrumentation Features:

Headlamp Type: delay-off aero-composite LED low/high beam headlamps
Auto-Dimming Headlights: Auto High Beam auto high-beam headlights
Front Wipers: variable intermittent speed-sensitive wipers wipers
Rear Window wiper: fixed interval rear window wiper with heating wiper park
Rear Window Defroster: rear window defroster

Tinted Windows: deep-tinted windows
 Dome Light: dome light with fade
 Front Reading Lights: front and rear reading lights
 Ignition Switch: ignition switch light
 Variable IP Lighting: variable instrument panel lighting
 Display Type: analog appearance
 Tachometer: tachometer
 Compass: compass
 Exterior Temp: outside-temperature display
 Low Tire Pressure Warning: tire specific low-tire-pressure warning
 Park Distance Control: Reverse Sensing System rear parking sensors
 Trip Computer: trip computer
 Trip Odometer: trip odometer
 Lane Departure Warning: lane departure
 Blind Spot Sensor: blind spot
 Front Pedestrian Braking: front pedestrian detection
 Following Distance Indicator: following distance alert
 Forward Collision Alert: forward collision
 Water Temp Gauge: water temp. gauge
 Oil Level Gauge: oil level gauge
 Clock: in-radio display clock
 Systems Monitor: driver information centre
 Check Control: redundant digital speedometer
 Rear Vision Camera: rear vision camera
 Oil Pressure Warning: oil-pressure warning
 Water Temp Warning: water-temp. warning
 Battery Warning: battery warning
 Lights On Warning: lights-on warning
 Key in Ignition Warning: key-in-ignition warning
 Low Fuel Warning: low-fuel warning
 Low Washer Fluid Warning: low-washer-fluid warning
 Bulb Failure Warning: bulb-failure warning
 Door Ajar Warning: door-ajar warning
 Trunk Ajar Warning: trunk-ajar warning
 Brake Fluid Warning: brake-fluid warning
 Transmission Fluid Temperature Warning: transmission-fluid-temperature warning

Safety And Security:

ABS four-wheel ABS brakes
 Number of ABS Channels: 4 ABS channels
 Brake Assistance: brake assist
 Brake Type: four-wheel disc brakes
 Vented Disc Brakes: front and rear ventilated disc brakes
 Daytime Running Lights: daytime running lights
 Spare Tire Type: compact spare tire
 Spare Tire Mount: spare tire mounted inside under cargo
 Driver Front Impact Airbag: driver and passenger front-impact airbags
 Driver Side Airbag: seat-mounted driver and passenger side-impact airbags
 Overhead Airbag: Safety Canopy System curtain 1st, 2nd and 3rd row overhead airbag
 Knee Airbag: knee airbag
 Occupancy Sensor: front passenger airbag occupancy sensor
 Height Adjustable Seatbelts: height adjustable front seatbelts
 Seatbelt Pretensioners: front seatbelt pre-tensioners
 Side Impact Bars: side-impact bars
 Perimeter Under Vehicle Lights: remote activated w/puddle lights perimeter/approach lights
 Tailgate/Rear Door Lock Type: tailgate/rear door lock included with power door locks
 Rear Child Safety Locks: rear child safety locks
 Ignition Disable: SecuriLock immobilizer
 Security System: security system
 Panic Alarm: panic alarm

Electronic Stability: AdvanceTrac w/Roll Stability Control electronic stability control with anti-roll

Traction Control: ABS and driveline traction control

Front and Rear Headrests: manual adjustable front head restraints

Rear Headrest Control: 2 rear head restraints

3rd Row Headrests: 2 manual adjustable third row head restraints

Seats And Trim:

Seating Capacity max. seating capacity of 6

Front Bucket Seats: front bucket seats

Front Heated Cushion: driver and passenger heated-cushions

Front Heated Seatback: driver and passenger heated-seatbacks

Number of Driver Seat Adjustments: 8-way driver and passenger seat adjustments

Reclining Driver Seat: power reclining driver and passenger seats

Driver Lumbar: power 2-way driver and passenger lumbar support

Driver Height Adjustment: power height-adjustable driver and passenger seats

Driver Fore/Aft: power driver and passenger fore/aft adjustment

Driver Cushion Tilt: power driver and passenger cushion tilt

Front Centre Armrest Storage: front centre armrest

Rear Seat Type: rear manual reclining captain seat

Rear Seat Fore/Aft: manual rear seat fore/aft adjustment

Rear Folding Position: rear seat fold-forward seatback

Rear Seat Mounted Armrests: rear seat mounted armrest

3rd Row Seat Type: fixed third row 50-50 bench seat

3rd Row Electric Control: fold into floor third row seat

Leather Upholstery: premium cloth front and rear seat upholstery

Door Trim Insert: cloth door panel trim

Headliner Material: full cloth headliner

Floor Covering: full carpet floor covering

Dashboard Console Insert, Door Panel Insert Combination: piano black/metal-look instrument panel insert, door panel insert, console insert

LeatherSteeringWheel: leather steering wheel

Floor Mats: carpet front and rear floor mats

Interior Accents: chrome/metal-look interior accents

Cargo Space Trim: carpet cargo space

Trunk Lid: plastic trunk lid/rear cargo door

Cargo Tie Downs: cargo tie-downs

Cargo Light: cargo light

Concealed Cargo Storage: concealed cargo storage

Standard Engine:

Engine 300-hp, 2.3-liter I-4 (premium)

Standard Transmission:

Transmission 10-speed automatic w/ OD

01/24/2024

Total Cost of Ownership

Town of Pembroke Park, Florida

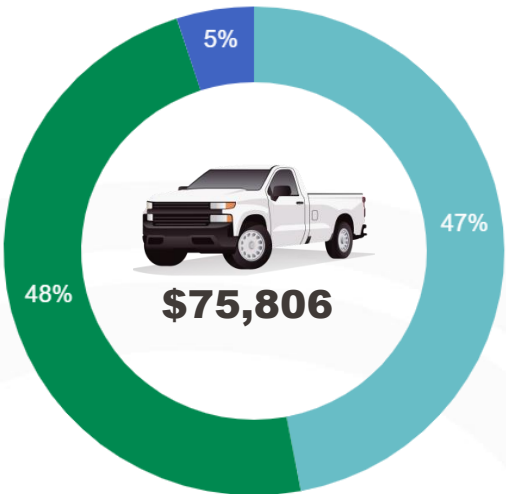
Proposed Recommendation

Current vs Proposed EFM Recommendation

2024 Ford F-150 | XL 4x2 SuperCab 6.5 ft. box 145 in. WB

Current

For 10 years



- Total operating cost
- Total capital cost
- Total administrative cost

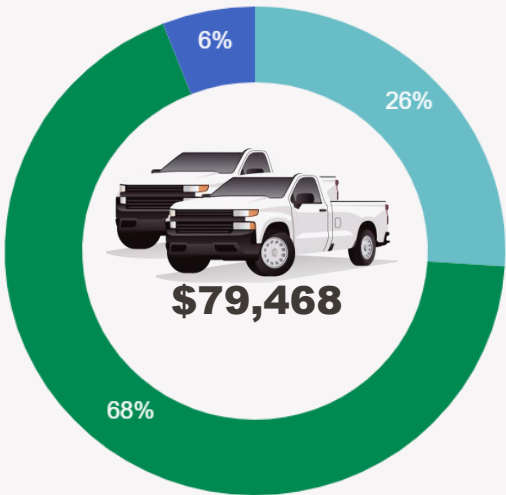
After cash flow from vehicle sale(s) and
income tax deduction

DIFFERENCE

(\$3,662)

Recommendation

For 5 years each



- Total operating cost
- Total capital cost
- Total administrative cost

After cash flow from vehicle sale(s) and
income tax deduction

PRESENT VALUE ANALYSIS

	Vehicle #1										
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Totals
EFM Lease(5)											
Payment Management Fee	\$420	\$420	\$420	\$420	\$420	\$420	\$420	\$420	\$420	\$420	\$4,200
License, Title and Tax	\$450	\$69	\$71	\$72	\$74	\$75	\$77	\$78	\$80	\$81	\$1,127
Cap Price Reduction (if applicable)	\$46,558	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$46,558
Maintenance Fee	\$595	\$595	\$595	\$595	\$595	\$0	\$0	\$0	\$0	\$0	\$2,973
Preventative Maintenance	\$0	\$0	\$0	\$1,363	\$0	\$1,517	\$1,547	\$1,578	\$1,610	\$1,642	\$9,256
Non-Preventative Maintenance	\$0	\$0	\$0	\$0	\$0	\$886	\$971	\$1,152	\$1,183	\$1,538	\$5,729
Downtime from Maintenance	\$71	\$207	\$311	\$943	\$560	\$842	\$504	\$1,799	\$793	\$819	\$6,849
Fuel	\$1,522	\$1,528	\$1,535	\$1,545	\$1,556	\$1,842	\$1,944	\$2,059	\$2,188	\$2,500	\$18,219
Sale of Vehicle	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	(\$3,786)	(\$3,786)
Service Charge at End of Lease	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$400	\$400
Sub-total of Cash Outlay	\$49,616	\$2,820	\$2,932	\$4,938	\$3,204	\$5,581	\$5,463	\$7,085	\$6,273	\$3,614	\$91,525
Total Cash Outlay	\$49,616	\$2,820	\$2,932	\$4,938	\$3,204	\$5,581	\$5,463	\$7,085	\$6,273	\$3,614	\$91,525
Present Value of Annual Cash Outlay	\$49,494	\$2,495	\$2,392	\$3,712	\$2,221	\$3,565	\$3,216	\$3,844	\$3,138	\$1,729	\$75,806
Present Value of Total Payments	\$75,806										

PRESENT VALUE ANALYSIS

	Vehicle #1					Vehicle #2					Totals
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	
Enterprise Fleet Management Lease(5)											
Payment Depreciation	\$7,893	\$7,893	\$7,893	\$7,893	\$7,893	\$8,715	\$8,715	\$8,715	\$8,715	\$8,715	\$83,041
Payment Management Fee	\$559	\$559	\$559	\$559	\$559	\$618	\$618	\$618	\$618	\$618	\$5,885
Payment Interest	\$1,584	\$1,584	\$1,584	\$1,584	\$1,584	\$1,748	\$1,748	\$1,748	\$1,748	\$1,748	\$16,661
License, Title and Tax	\$450	\$69	\$71	\$72	\$74	\$450	\$69	\$71	\$72	\$74	\$1,472
Cap Price Reduction (if applicable)	\$6,993	\$0	\$0	\$0	\$0	\$7,721	\$0	\$0	\$0	\$0	\$14,713
Maintenance Fee	\$595	\$595	\$595	\$595	\$595	\$656	\$656	\$656	\$656	\$656	\$6,255
Preventative Maintenance	\$0	\$0	\$0	\$1,363	\$0	\$0	\$0	\$0	\$1,390	\$0	\$2,752
Downtime from Maintenance	\$71	\$207	\$311	\$943	\$560	\$73	\$211	\$318	\$962	\$572	\$4,228
Fuel	\$1,522	\$1,528	\$1,535	\$1,545	\$1,556	\$1,250	\$1,254	\$1,259	\$1,266	\$1,273	\$13,988
Sale of Vehicle	\$0	\$0	\$0	\$0	(\$21,008)	\$0	\$0	\$0	\$0	(\$23,195)	(\$44,203)
Undepreciated Book Value at Time of Sale	\$0	\$0	\$0	\$0	\$159	\$0	\$0	\$0	\$0	\$175	\$333
Service Charge at End of Lease	\$0	\$0	\$0	\$0	\$400	\$0	\$0	\$0	\$0	\$400	\$800
Sub-total of Cash Outlay	\$19,667	\$12,436	\$12,548	\$14,554	(\$7,629)	\$21,231	\$13,273	\$13,385	\$15,427	(\$8,964)	\$105,927
Total Cash Outlay	\$19,667	\$12,436	\$12,548	\$14,554	(\$7,629)	\$21,231	\$13,273	\$13,385	\$15,427	(\$8,964)	\$105,927
Present Value of Annual Cash Outlay	\$19,161	\$11,005	\$10,235	\$10,941	(\$4,715)	\$13,764	\$7,813	\$7,262	\$7,715	(\$3,713)	\$79,468
Present Value of Total Payments	\$79,468										

ASSUMPTIONS

General Assumptions				
			EFMLEASE	EFM Lease(10)
Company's Income Tax Rate	0.00%	Annual Mileage	10,000	10,000
Company's Cost of Capital	8.18%	Sales Tax Rate	0.00%	0.00%
Daily Cost of Driver Downtime	\$250	Bonus Depreciation	\$0	\$0

Vehicle Purchase		
	EFMLEASE	EFM Lease(10)
Vehicle Invoice Cost	\$42,064	\$42,064
Invoice Incentives	(\$750)	(\$750)
Off-Invoice Incentives	\$0	\$0
Markup (Down)%	0.14%	0.00%
Aftermarket Equipment	\$5,244	\$5,244
Other Costs & Deductions	\$0	\$0
Sales Tax Capped in with Vehicle	\$0	\$0
Vehicle Price	\$46,618	\$46,558
Down Payment	\$6,993	\$46,558
Amount of Deposit	\$0	\$0
Capitalized Price / Amount Financed	\$39,625	\$0

ASSUMPTIONS (cont.)

Cost Components		
Lease & Finance Components	EFMLEASE	EFM Lease(10)
Monthly Depreciation Rate	1.66%	1.66%
Interest Factor	7.68%	7.68%
Management Fee	0.1000%	0.0000%
Lease / Finance Term (Months)	60	60
Monthly Payment with Tax	\$836	\$3
Taxes		
Monthly Use Tax Amount	\$0	\$0
Up-front Sales Tax Amount	\$0	\$0
Products		
Oil Change Mileage Interval (Miles)	6,000	6,000
Full Maintenance Rate	\$50	\$50
Maintenance Management Rate	\$0	\$0
Monthly Physical Damage Rate	\$0	\$0
Monthly Liability Rate	\$0	\$0
Insurance Premium	\$0	\$0
% of Premium Paid Upfront	0.00%	0.00%
Productivity Savings		
	EFMLEASE	EFM Lease(10)
Daily Cost of Driver Downtime	\$250	\$250
Annual Cost of Administrative Time	\$0	\$0
Vehicle Resale		
	EFMLEASE	EFM Lease(10)
RBV at Term	\$159	\$0
Sale Of Vehicle	\$21,008	\$3,786
Service Charge	\$400	\$400
Amount of Deposit	\$0	\$0
Estimated Net Gain (Loss) on Vehicle	\$20,450	\$3,386
	5 Years Old	10 Years Old

AGENDA ITEM REPORT



To:

Subject: Megawattage - Renewal of Generator Maintenance contract
Meeting: PUBLIC NOTICE - SPECIAL COMMISSION MEETING - Feb 08 2024
Department: Public Works
Staff Contact: Aleem Ghany, Public Services Director

FINANCIAL IMPACT:

Total cost: \$25,650.31

POLICY IMPLICATIONS:

This is a piggyback contract with the City of Weston.

RECOMMENDATION:

We are recommending approval.

ATTACHMENTS:

[2292_001](#)
[2293_001](#)



Generator Maintenance Agreement

This SERVICE "AGREEMENT" is entered into this 1st day of February 2024 between MEGAWATTGE, LLC 850 SW 21st Terrace, Ft. Lauderdale, FL 33312 (MEGAWATTAGE, LLC) and Town of Pembroke Park, 3150 SW 52nd Avenue Pembroke Park, FL 33023 (TOPP).

Whereas MEGAWATTAGE, LLC is in the business of maintaining generators and providing certain specified services related to those generators to its clients; and

Whereas TOPP is to retain MEGAWATTAGE, LLC to provide the services, specified below, under the terms and conditions of this Agreement; and

Now, therefore, in consideration of the mutual covenants and agreements and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Term:

This Agreement shall be in effect for a term of one year from the effective date and shall be renewed each year thereafter unless terminated by either party at least 30 days prior to the anniversary of the effective date.

2. Consideration:

The TOPP agrees to pay MEGAWATTAGE, LLC **\$25,650.31** a year at the signing of this Agreement and on the same date each year thereafter for the performance of services as defined below as long as such agreement remains in effect.

3. Services Provided:

During the term of this Agreement, as may be applicable to **seven (7) 100kw, one (1) 230kw and one (1) 350kw Generator**, MEGAWATTAGE, LLC agrees to provide the following services four times within three hundred and sixty-five (365) days. Annual oil and filter changes are included. All other change outs would be additional and billed on a time and material basis.

Price Breakdown:

3 Quarterly PM's for the 100kw units @ \$495.66 per unit per pm service.

1 Annual service includes an OFC @ \$1,239.14 per unit.

3 Quarterly PM's for the 230kw unit @ \$619.57 per unit per pm service.

1 Annual service includes an OFC @ \$1,858.72 per unit.

3 Quarterly PM's for the 350kw unit @ \$619.57 per unit per pm service.

1 Annual service includes an OFC @ \$2,478.29 per unit.

Labor Rate: \$101.42

OT labor rate: \$104.86

Material markup: 20%



As per factory specs, Megawattage, LLC will conduct the following inspections:

- Check all filters (*oil, fuel, and air*)
- Check lubricating oil Check air inlets and outlets for debris.
- Check battery electrolyte level.
- Check and record battery voltage.
- Check and record battery amperage.
- Check battery connection terminals and clean as necessary.
- Clean battery posts and terminals
- Check battery charger and adjust float rate (if necessary)
- Check crankcase oil level.
- Check crankcase blowby.
- Visual inspection of front and rear crankshaft seals and lubrication system gaskets
- Check coolant level.
- Visual inspection of *radiator/heat* exchanger
- Inspect radiator cap, gaskets and sealing surfaces.
- Visually inspect engine coolant
- Visually inspect water pump and cooling system gaskets
- Inspect engine belts.
- Check jacket water heaters.
- Check and adjust belt tension.
- Inspect hoses.
- Check and record engine coolant antifreeze protection.
- Check exhaust system, engine mounts and control panel.
- Check generator and voltage regulator.
- Complete operational checks as per factory specs
- Conduct visual on-site inspections of the generators and tanks.

A report will be made available to TOPP of any condition that may require additional service from MEGAWATTAGE, LLC or that may fall under the manufacturer's warranty (parts and labor are not included). This report will also be kept on file at MEGAWATTAGE, LLC for future reference. The parties agree that the list of services to be provided is limited to those set forth in this Agreement. This is a generator maintenance agreement only.

4. Governing Law:

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Florida, without regard to the conflicts of law rules thereof.

5. Complete Agreement:

This Agreement represents the entire agreement of the parties.

Date

MEGAWATTAGE, LLC

Date

Title

**CITY OF WESTON, FLORIDA
RESOLUTION NO. 2024-12**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WESTON, FLORIDA, AND AS THE GOVERNING BOARD OF THE INDIAN TRACE DEVELOPMENT DISTRICT, AND AS THE GOVERNING BOARD OF THE BONAVENTURE DEVELOPMENT DISTRICT, APPROVING THE FIRST AMENDMENT TO THE AGREEMENT WITH MEGAWATTAGE, LLC FOR STANDBY GENERATORS MAINTENANCE SERVICES, RFP NO. 2018-08, RENEWING FOR AN ADDITIONAL FIVE-YEAR TERM.

WHEREAS, First, the Indian Trace Development District ("ITDD") and the Bonaventure Development District ("BDD") are dependent special districts of the City of Weston ("City") for the purpose of exercising all those rights, powers and authority contained in Chapter 189 and 190, Florida Statutes; and

WHEREAS, Second, the City Commission of the City serves as the governing board of both Indian Trace Development District and the Bonaventure Development District; and

WHEREAS, Third, funding is appropriated in the Fiscal Year 2024 Budget, Operating Expenditures within the City, the ITDD and the BDD budgets; and

WHEREAS, Fourth, on October 15, 2018 the City Commission adopted Resolution No. 2018-148 approving and awarding an agreement with Megawattage, LLC, pursuant to RFP No. 2018-08, a Request for Proposals for Standby Generators Maintenance Services (the "RFP"); and

WHEREAS, Fifth, on November 18, 2018, the City Commission approved Resolution No. 2018-158 amending Resolution No. 2018-148 providing for the correct version of the agreement with Megawattage, LLC; and

WHEREAS, Sixth, Section 1.1 of the Agreement provides for one additional five-year renewal term by mutual consent of the parties; and

WHEREAS, Seventh, Section 8.5-E of the Agreement provides that on October 1, 2019 and each October 1st thereafter, the Contractor shall receive an annual adjustment in the unit rates based on the annual change in the April Consumer Price Index (CPI), All Urban Consumers, Not Seasonally Adjusted, All Items, Miami-Fort Lauderdale Area-West Palm Beach, 1982-84=100, Series ID: CUURS35BSA0, CUUSS35BSA0, except that the annual adjustment to the costs shall not exceed 5% (increase or decrease); and

WHEREAS, Eighth, the parties are desirous of entering into a First Amendment to the Agreement (the "Amendment") renewing the Agreement, currently due to expire March 31, 2024, for an additional five-year term to expire on March 31, 2029, under the current terms of the Agreement; and

WHEREAS, Ninth, the City and Contractor agree that the Amendment and any other documents to be delivered in connection to the Agreement may be electronically signed, and that any electronic signatures appearing on the Amendment or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility; and

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WESTON, FLORIDA, AND AS THE GOVERNING BOARD OF THE INDIAN TRACE DEVELOPMENT DISTRICT, AND AS THE GOVERNING BOARD OF THE BONAVENTURE DEVELOPMENT DISTRICT, APPROVING THE FIRST AMENDMENT TO THE AGREEMENT WITH MEGAWATTAGE, LLC FOR STANDBY GENERATORS MAINTENANCE SERVICES, RFP NO. 2018-08, RENEWING FOR AN ADDITIONAL FIVE-YEAR TERM.

WHEREAS, Tenth, the City Commission believes it is in the best interest of the City to renew the Agreement with Megawattage, LLC, for an additional five-year term, from April 1, 2024 through March 31, 2029.

NOW THEREFORE, BE IT RESOLVED by the City Commission of the City of Weston, Florida, and as the governing board of the Indian Trace Development District, and as the governing board of the Bonaventure Development District:

Section 1: The foregoing recitals contained in the preamble to this Resolution are incorporated by reference herein.

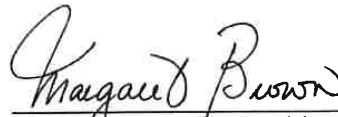
Section 2: The City Commission approves the renewal of the Agreement for Standby Generators Maintenance Services with Megawattage, LLC for an additional five-year term, due to expire on March 31, 2029.

Section 3: The First Amendment to the Agreement for Standby Generators Maintenance Services, RFP No. 2018-08 with Megawattage, LLC, is approved, in substantially the form attached as Exhibit "A," together with such non-substantial changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney.

Section 4: The appropriate City officials are authorized to execute all necessary documents and to take any necessary action to effectuate the intent of this Resolution.

Section 5: This Resolution shall take effect upon its adoption.

ADOPTED by the City Commission of the City of Weston, Florida, and as the governing board of the Indian Trace Development District, and as the governing board of the Bonaventure Development District, this 16th day of January 2024.



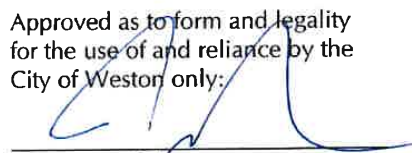
Margaret Brown, Mayor of the City of Weston
Chair of the Indian Trace Development District
Chair of the Bonaventure Development District

ATTEST:



Patricia A. Bates, MMC, City Clerk

Approved as to form and legality
for the use of and reliance by the
City of Weston only:


Jamie Alan Cole, City Attorney

Roll Call:

Commissioner Mead	<u>Yes</u>
Commissioner Eddy	<u>Yes</u>
Commissioner Molina-Macfie	<u>Yes</u>
Commissioner Jaffe	<u>Yes</u>
Mayor Brown	<u>Yes</u>

FIRST AMENDMENT TO THE AGREEMENT
AMONG THE
CITY OF WESTON, FLORIDA
INDIAN TRACE DEVELOPMENT DISTRICT
BONAVENTURE DEVELOPMENT DISTRICT
AND
MEGAWATTAGE, LLC
FOR
STANDBY GENERATORS MAINTENANCE SERVICES
RFP NO. 2018-08

This First Amendment to the Agreement is made and entered into the 17th day of January, 2024, among the City of Weston, Florida, Indian Trace Development District and Bonaventure Development District (the "CITY") and Megawattage, LLC (the CONTRACTOR) for Standby Generators Maintenance Services, RFP No. 2018-08 (the "First Amendment").

WITNESSETH:

WHEREAS, First, on October 15, 2018 the City Commission adopted Resolution No. 2018-148 approving and awarding an agreement with Megawattage, LLC, pursuant to RFP No. 2018-08, a Request for Proposals for Standby Generators Maintenance Services (the "RFP"); and

WHEREAS, Second, on November 18, 2018, the City Commission approved Resolution No. 2018-158 amending Resolution No. 2018-148 providing for the correct version of the agreement with Megawattage, LLC; and

WHEREAS, Third, Section 1.1 of the Agreement provides for one additional five-year renewal term by mutual consent of the parties; and

WHEREAS, Fourth, Section 8.5-E of the Agreement provides that on October 1, 2019 and each October 1st thereafter, the CONTRACTOR shall receive an annual adjustment in the unit rates. The adjustment shall be based on the annual change in the April Consumer Price Index (CPI), All Urban Consumers, Not Seasonally Adjusted, All Items, Miami-Fort Lauderdale Area-West Palm Beach, 1982-84=100, Series ID: CUURS35BSA0, CUUSS35BSA0, except that the annual adjustment to the costs shall not exceed 5% (increase or decrease); and

WHEREAS, Fifth, the parties are desirous of entering into a First Amendment to the Agreement (the "Amendment") renewing the Agreement, currently due to expire March 31, 2024, for an additional five-year term to expire on March 31, 2029, under the current terms of the Agreement for maintenance services; and

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WESTON, FLORIDA, AND AS THE GOVERNING BOARD OF THE INDIAN TRACE DEVELOPMENT DISTRICT, AND AS THE GOVERNING BOARD OF THE BONAVENTURE DEVELOPMENT DISTRICT, APPROVING THE FIRST AMENDMENT TO THE AGREEMENT WITH MEGAWATTAGE, LLC FOR STANDBY GENERATORS MAINTENANCE SERVICES, RFP NO. 2018-08, RENEWING FOR AN ADDITIONAL FIVE-YEAR TERM.

Exhibit "A"

First Amendment to the Agreement among the City of Weston, Florida, Indian Trace Development District and Bonaventure Development District and Megawattage, LLC, for Standby Generators Maintenance Services, RFP No. 2018-08.

(See Following 8 Pages)

FIRST AMENDMENT TO THE AGREEMENT AMONG THE CITY OF WESTON, FLORIDA, INDIAN TRACE DEVELOPMENT DISTRICT AND BONAVENTURE DEVELOPMENT DISTRICT AND MEGAWATTAGE, LLC, FOR STANDBY GENERATORS MAINTENANCE SERVICES, RFP NO. 2018-08.

IN WITNESS WHEREOF, the parties hereto have made and executed this First Amendment to the Agreement on the respective dates under each signature: City of Weston through its City Commission, signing by and through its Mayor, authorized to execute same by Commission action on the 16th day of January 2024.

CITY OF WESTON, through its
City Commission

By: Margaret Brown
Margaret Brown, Mayor
16th day of January, 2024

ATTEST:

Patricia A. Bates
Patricia A. Bates, MMC, City Clerk

By: Donald P. Decker
Donald P. Decker, City Manager/CEO
17th day of January, 2024

Approved as to form and legality
for the use of and reliance by the
City of Weston only:

By: Jamie Alan Cole
Jamie Alan Cole, City Attorney
16th day of January, 2024

(CITY SEAL)

FIRST AMENDMENT TO THE AGREEMENT AMONG THE CITY OF WESTON, FLORIDA, INDIAN TRACE DEVELOPMENT DISTRICT AND BONAVENTURE DEVELOPMENT DISTRICT AND MEGAWATTAGE, LLC, FOR STANDBY GENERATORS MAINTENANCE SERVICES, RFP NO. 2018-08.

WHEREAS, Sixth, the City Commission believes it is in the best interest of the City to renew the Agreement with Megawattage, LLC, for an additional five-year term, from April 1, 2024 through March 31, 2029.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

1. The above recitals are true and correct and are incorporated herein as set forth in full hereunder.
2. Pursuant to Section 8.5-E. of the Agreement, the Contract Price Schedule is attached as Exhibit "A."
3. The term of the Agreement is hereby extended for an additional five-year term expiring on March 31, 2029.
4. Section 8.14(X) shall be added to read as follows:

X. Electronic Signatures. The CITY and CONTRACTOR agree that this Agreement and any other documents to be delivered in connection herewith may be electronically signed, and that any electronic signatures appearing on this Agreement or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

5. Except as herein amended, all other provisions of the Agreement shall remain in full force and effect.

[THIS SPACE INTENTIONALLY LEFT BLANK]

FIRST AMENDMENT TO THE AGREEMENT AMONG THE CITY OF WESTON, FLORIDA, INDIAN TRACE DEVELOPMENT DISTRICT AND BONAVENTURE DEVELOPMENT DISTRICT AND MEGAWATTAGE, LLC, FOR STANDBY GENERATORS MAINTENANCE SERVICES, RFP NO. 2018-08.

BONAVENTURE DEVELOPMENT DISTRICT

By: Margaret Brown
Margaret Brown, Chair
16th day of January, 2024

ATTEST:

Patricia A. Bates
Patricia A. Bates, MMC, District Clerk

Approved as to form and legality
for the use of and reliance by the
City of Weston only:

By: Jamie Alan Cole
Jamie Alan Cole, City Attorney
16th day of January, 2024

By: Donald P. Decker
Donald P. Decker, City Manager/CEO
17th day of January, 2024

(CITY SEAL)

FIRST AMENDMENT TO THE AGREEMENT AMONG THE CITY OF WESTON, FLORIDA, INDIAN TRACE DEVELOPMENT DISTRICT AND BONAVENTURE DEVELOPMENT DISTRICT AND MEGAWATTAGE, LLC, FOR STANDBY GENERATORS MAINTENANCE SERVICES, RFP NO. 2018-08.

INDIAN TRACE DEVELOPMENT DISTRICT

By: Margaret Brown
Margaret Brown, Chair
16th day of January, 2024

ATTEST:

Patricia A. Bates
Patricia A. Bates, MMC, District Clerk

By: Donald P. Decker
Donald P. Decker, City Manager/CEO
17th day of January, 2024

Approved as to form and legality
for the use of and reliance by the
City of Weston only:

By: Jamie Alan Cole
Jamie Alan Cole, City Attorney
16th day of January, 2024

(CITY SEAL)

FIRST AMENDMENT TO THE AGREEMENT AMONG THE CITY OF WESTON, FLORIDA, INDIAN TRACE DEVELOPMENT DISTRICT AND BONAVENTURE DEVELOPMENT DISTRICT AND MEGAWATTAGE, LLC, FOR STANDBY GENERATORS MAINTENANCE SERVICES, RFP NO. 2018-08.

**EXHIBIT A
Contract Price Schedule**

Contract: RFP No. 2018-08 Standby Generator Maintenance Services								
Vendor: Megawattage, LLC								
Effective: December 20, 2018								
Exp. Date: March 31, 2029								
Renewals: 1 - 5 yr.								
CPI: April								
NOTE: CPI increase shall not exceed 5%.								
				CPI 2.21%	CPI -0.49%	CPI 4.14%	CPI 5%	CPI 5%
			Price Awarded	10/1/19 - 9/30/20	10/1/20 - 9/30/21	10/1/21 - 9/30/22	10/1/22 - 9/30/23	10/1/23 - 9/30/24
Item	Generator Group and Tasks	Qty	Unit Cost	Unit Cost	Unit Cost	Unit Cost	Unit Cost	Unit Cost
Public Works Service Center Generator								
1	Annual Preventive Maintenance and Exercising	1	\$ 1,055.92	\$ 1,079.26	\$ 1,079.26	\$ 1,123.94	\$ 1,180.13	\$ 1,239.14
2	Quarterly Inspection and Exercising	3	\$ 420.37	\$ 429.66	\$ 429.66	\$ 447.45	\$ 469.82	\$ 493.31
City Hall Stationary Generator								
3	Annual Preventive Maintenance and Exercising	1	\$ 1,583.89	\$ 1,618.89	\$ 1,618.89	\$ 1,685.92	\$ 1,770.21	\$ 1,858.72
4	Quarterly Inspection and Exercising	3	\$ 527.96	\$ 539.63	\$ 539.63	\$ 561.97	\$ 590.07	\$ 619.57
Administrative Services Center Generator								
5	Annual Preventive Maintenance and Exercising	1	\$ 2,111.85	\$ 2,158.52	\$ 2,158.52	\$ 2,247.88	\$ 2,360.28	\$ 2,478.29
6	Quarterly Inspection and Exercising	3	\$ 527.96	\$ 539.63	\$ 539.63	\$ 561.97	\$ 590.07	\$ 619.57
Community Center Generator								
7	Annual Preventive Maintenance and Exercising	1	\$ 2,111.85	\$ 2,158.52	\$ 2,158.52	\$ 2,247.88	\$ 2,360.28	\$ 2,478.29
8	Quarterly Inspection and Exercising	3	\$ 527.96	\$ 539.63	\$ 539.63	\$ 561.97	\$ 590.07	\$ 619.57
Police Services Center Generator								
9	Annual Preventive Maintenance and Exercising	1	\$ 1,583.89	\$ 1,618.89	\$ 1,618.89	\$ 1,685.92	\$ 1,770.21	\$ 1,858.72
10	Quarterly Inspection and Exercising	3	\$ 527.96	\$ 539.63	\$ 539.63	\$ 561.97	\$ 590.07	\$ 619.57
Fire Stations #81, #67, #55 Generators								
11	Annual Preventive Maintenance and Exercising	3	\$ 1,055.92	\$ 1,079.26	\$ 1,079.26	\$ 1,123.94	\$ 1,180.13	\$ 1,239.14
12	Quarterly Inspection and Exercising	9	\$ 422.37	\$ 431.70	\$ 431.70	\$ 449.58	\$ 472.06	\$ 495.66
Bonaventure Pump Stations 1 & 2 Generators								
13	Annual Preventive Maintenance and Exercising	2	\$ 211.18	\$ 215.85	\$ 215.85	\$ 224.78	\$ 236.02	\$ 247.82
14	Quarterly Inspection and Exercising	6	\$ 105.59	\$ 107.92	\$ 107.92	\$ 112.39	\$ 118.01	\$ 123.91
Indian Trace Pump Stations 1 & 2 Generators								
15	Annual Preventive Maintenance and Exercising	2	\$ 1,583.89	\$ 1,618.89	\$ 1,618.89	\$ 1,685.92	\$ 1,770.21	\$ 1,858.72
16	Quarterly Inspection and Exercising	6	\$ 527.96	\$ 539.63	\$ 539.63	\$ 561.97	\$ 590.07	\$ 619.57
Fire Stations #21 (Future) Stationary Generator								
17	Annual Preventive Maintenance and Exercising	1	\$ 1,583.89	\$ 1,618.89	\$ 1,618.89	\$ 1,685.92	\$ 1,770.21	\$ 1,858.72
18	Quarterly Inspection and Exercising	3	\$ 527.96	\$ 539.63	\$ 539.63	\$ 561.97	\$ 590.07	\$ 619.57
New Community Center (Future) Stationary Generator								
19	Annual Preventive Maintenance and Exercising	1	\$ 2,300.00	\$ 2,350.83	\$ 2,350.83	\$ 2,448.15	\$ 2,570.56	\$ 2,699.09
20	Quarterly Inspection and Exercising	3	\$ 550.00	\$ 562.16	\$ 562.16	\$ 585.43	\$ 614.70	\$ 645.43
All Trailer-Mounted Lift Station Generators								
21	Annual Preventive Maintenance and Exercising	16	\$ 1,055.92	\$ 1,079.26	\$ 1,079.26	\$ 1,123.94	\$ 1,180.13	\$ 1,239.14
22	Annual Inspection and Exercising	16	\$ 316.78	\$ 323.78	\$ 323.78	\$ 337.19	\$ 354.04	\$ 371.75
B. LABOR RATES FOR "AS REQUESTED REPAIR WORK"								
23	Technical: Standard Hourly Rate	100	\$ 90.00	\$ 91.99	\$ 91.99	\$ 91.99	\$ 96.59	\$ 101.42
24	Technical: Non-Standard Hourly Rate	50	\$ 125.00	\$ 127.76	\$ 127.76	\$ 127.76	\$ 134.15	\$ 140.86
C. MATERIALS MARK-UP/DISCOUNT RATES FOR "REPAIR WORK" AS REQUESTED BY THE CITY								
Materials Mark-up (+)/ Discount (-) for parts used on repair services only, include cost of taxes and delivery.			\$2,000	20%				

**FIRST AMENDMENT TO THE AGREEMENT AMONG THE CITY OF WESTON, FLORIDA, INDIAN TRACE
DEVELOPMENT DISTRICT AND BONAVENTURE DEVELOPMENT DISTRICT AND MEGAWATTAGE, LLC,
FOR STANDBY GENERATORS MAINTENANCE SERVICES, RFP NO. 2018-08.**

CONTRACTOR: MEGAWATTAGE, LLC

By: David Welch
David Welch (Dec 20, 2023 10:06 EST)
David A. Welch, CEO

Date: Dec 20, 2023

FIRST AMENDMENT TO THE AGREEMENT AMONG THE CITY OF WESTON, FLORIDA, INDIAN TRACE DEVELOPMENT DISTRICT AND BONAVENTURE DEVELOPMENT DISTRICT AND MEGAWATTAGE, LLC, FOR STANDBY GENERATORS MAINTENANCE SERVICES, RFP NO. 2018-08.

Renewal Letter



December 8, 2023

Mrs. Martha Perez-Garviso
Director of Procurement
City of Weston
17200 Royal Palm Boulevard
Weston, Florida 33326

Re: RFP NO. 2018-08 for Standby Generators Maintenance Services

Dear Mrs. Perez-Garviso:

The agreement between the City of Weston and Megawattage, LLC for Standby Generators Maintenance Services expires on March 31, 2024. The agreement provides an option to renew the agreement for one (1) additional five (5) year renewal, as mutually agreed upon by the City of Weston and Contractor.

This letter is to confirm that Megawattage, LLC would like to proceed with exercising the renewal term for this agreement with the City of Weston, for an additional five (5) year period, to be made effective April 1, 2024.

Megawattage, LLC further understands that this renewal must also be approved by the Weston City Commission.

Sincerely,

David A. Welch
CEO
Megawattage, LLC



850 SW 21st Terrace
Fort Lauderdale, Florida 33312
Direct (954) 376-0260 After Hours (954) 328-0232

AGREEMENT

THIS IS AN AGREEMENT (“Agreement”), dated this ____ day of ____ 2024, by and between:

TOWN OF PEMBROKE PARK, FLORIDA, a municipal corporation organized and operating pursuant to the laws of the State of Florida, with a business address of 3150 S.W. 52nd Avenue, Pembroke Park, Florida 33023, hereinafter referred to as “Town”;

and

MEGAWATTAGE, LLC, a corporation authorized to do business in the State of Florida, with a principal address of 850 SW 21st Terrace, hereinafter “Contractor,” who is authorized to do business in the State of Florida.

Town and Contractor may each be referred to herein as “party” or collectively as “parties”.

WHEREAS, the Town desires to enter into this Agreement with Contractor to provide certain standby generator maintenance services; and

WHEREAS, the Town is authorized to select and contract through the use of the competitive bid process of another government entity as an exception to the otherwise required formal bidding process; and

WHEREAS, the parties wish to incorporate the terms and conditions of the agreement entered into on or about October 15, 2018, as amended by the First Amendment, dated January 17, 2024, between the Contractor and the City of Weston, Indian Trace Development District and Bonaventure Development District (the “Agreement”), attached hereto as **Exhibit “A,”** and incorporated herein; and

WHEREAS, the Parties agree to incorporate the provisions of this agreement into to **Exhibit “A”** as set forth herein; and

WHEREAS, Contractor has agreed to honor and extend the prices, terms, and conditions set forth in the Agreement to Town; and

WHEREAS, Town desires to retain the services of Contractor by "piggybacking" the terms and requirements set forth in **Exhibit "A"** and as modified herein.

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

Section 1. The foregoing recitals are true and correct and are hereby incorporated into this Agreement.

Section 2. The prices, terms, and conditions set forth in **Exhibit "A"** shall govern the relationship between the Town and Contractor, except as amended below:

- A. The Scope of Services to be performed under this Agreement shall be as set forth in **Exhibit "A,"** except said services shall be performed in and for the Town.
- B. This Agreement may be terminated at any time by the Town for convenience upon providing thirty days (30) notice to the Contractor. This agreement may also be terminated for cause at any time.
- C. This Agreement shall be effective upon execution by both parties, and shall expire in accordance with the terms set forth in **Exhibit "A."**
- D. The Contractor agrees at all times to indemnify, hold the Town harmless and, at the Town's option, defend or pay for any attorney selected by the Town to defend the Town, its trustees, elected and appointed officers, agents, servants and employees, from and against any and all claims, demands, losses, liabilities, expenditures or causes of action of whatsoever kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees, sustained by the Town or any third party arising out of, or by reason of, or resulting from the Contractor's negligent acts, errors, or omissions.
- E. Contractor shall provide Town with proof of insurance as required by **Exhibit "A"**. Contractor hereby confirms that the Town is named as an additional insured under the provisions of Contractor's insurance.

- F. Contractor shall not commence performance under this Agreement unless and until the requirements for insurance have been fully met by Contractor and appropriate evidence thereof, in the Town's sole discretion, has been provided to and approved by the Town.
- G. All payments shall be governed by the Local Government Prompt Payment Act as provided under §§218.70-.80, Florida Statutes.
- H. The term of this Agreement shall commence upon execution by both parties and shall terminate on March 31, 2029, subject to any renewals set forth in the Agreement.

Section 3. In all other respects, the terms and conditions of **Exhibit "A"** are hereby ratified and shall remain in full force and effect under this "piggybacking" arrangement, as provided by the terms of this Agreement. All recitals, representations, and warranties of Contractor made in **Exhibit "A"** are restated as if set forth fully herein, made for the benefit of the Town, and incorporated herein. In the event of any conflicts between this Agreement and Exhibit "A," this Agreement shall prevail, followed by Exhibit "A."

Section 4. Public Records.

- A. Contractor shall comply with the Florida Public Records Act as follows:
 - 1. Keep and maintain public records in the Contractor's possession or control in connection with the Contractor's performance under this Agreement that ordinarily and necessarily would be required by the Town in order to perform the service.
 - 2. Upon request by Town's records custodian, provide Town with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
 - 3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement.
 - 4. Upon completion of this Agreement or in the event of termination of this Agreement by either party, any and all public records relating to this Agreement in the possession of Contractor shall be delivered by Contractor to Town, at no cost to Town, within seven days. All records stored electronically by Contractor shall be delivered to Town in a format that is compatible with Town's information technology systems. Once the public records have been delivered to Town upon completion or termination of this Agreement, Contractor shall destroy any and all

duplicate public records that are exempt or confidential and exempt from public record disclosure requirements.

5. Contractor's failure or refusal to comply with the provisions of this Section shall result in the immediate termination of this Agreement by the Town.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE TOWN CLERK AT 954-966-4600, TOWNCLERK@TPPFL.GOV OR BY MAIL: 3150 SW 52nd AVENUE, PEMBROKE PARK, FL 33023.

Section 5. E-Verify. Contractor certifies that it is aware of and complies with the requirements of Section 448.095, Florida Statutes, as may be amended from time to time and briefly described herein below.

A. **Definitions** for this Section:

1. "*Contractor*" means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration. "Contractor" includes, but is not limited to, a contractor or consultant.
2. "*Subcontractor*" means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.
3. "*E-Verify system*" means an Internet-based system operated by the United States Department of Homeland Security that allows participating employers to electronically verify the employment eligibility of newly hired employees.

B. **Registration Requirement; Termination:** Pursuant to Section 448.095, Florida Statutes, effective January 1, 2021, Contractors, shall register with and use the E-verify system in order to verify the work authorization status of all newly hired employees. Contractor shall register for and utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of:

1. All persons employed by a Contractor to perform employment duties within Florida during the term of the contract;
2. All persons (including subvendors/subconsultants/subcontractors) assigned by Contractor to perform work pursuant to the contract with the Town. The Contractor acknowledges and agrees that registration and use of the U.S. Department of Homeland Security's E-Verify System during the term of the contract is a condition of the contract with the Town; and

3. The Contractor shall comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes, but is not limited to registration and utilization of the E-Verify System to verify the work authorization status of all newly hired employees. Contractor shall also require all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The Contractor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. Termination of this Contract under this Section is not a breach of contract and may not be considered as such. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract for a period of one (1) year after the date of termination.

Section 6. Scrutinized Companies.

- A. Contractor certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the Town may immediately terminate this Agreement at its sole option if the Contractor or its subcontractors are found to have submitted a false certification; or if the Contractor, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- B. If this Agreement is for more than one million dollars, the Contractor certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Town may immediately terminate this Agreement at its sole option if the Contractor, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Contractor, its affiliates, or its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- C. The Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.
- D. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

Section 7. Assignment. Neither party may assign its rights or obligations under this Agreement without the written consent of the other.

Section 8. Notice. Notice hereunder shall be provided in writing by certified mail, return receipt requested, or customarily used overnight transmission with proof of delivery, to the following parties, with mandatory copies, as provided below:

For Town: Town Manager
Town of Pembroke Park
3150 S.W. 52nd Avenue
Pembroke Park, FL 33023
aghany@tppfl.gov

Copy to: Goren, Cherof, Doody, and Ezrol, P.A.
3099 E. Commercial Boulevard, Suite 200
Fort Lauderdale, Florida 33308
jhorowitz@gorencherof.com

Contractor: David Welch, CEO
Megawattage, LLC
850 S.W. 21st Terrace
Fort Lauderdale, FL 33312

Section 9. Severability. This Agreement sets forth the entire agreement between Contractor and Town with respect to the subject matter of this Agreement. This Agreement supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, between the parties. This Agreement may not be modified except by the parties' mutual agreement set forth in writing and signed by the parties.

Section 10. Governing Law/Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any dispute under this Agreement shall be an appropriate court of competent jurisdiction in Broward County, Florida.

(REMAINDER INTENTIONALLY LEFT BLANK)

IN WITNESS OF THE FOREGOING, the parties have hereunto set their hands and seals on the dates written below.

TOWN OF PEMBROKE PARK

BY: _____
MAYOR ASHIRA MOHAMMED

APPROVED AS TO LEGAL FORM:

BY: _____
JACOB G. HOROWITZ
Interim Town Attorney

MEGAWATTAGE, LLC

BY: _____
Name: _____
Title: _____

STATE OF _____)
COUNTY OF _____)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, by means of ☐ physical presence or ☐ online notarization, on this ____ day of _____, 2024, as _____ of _____, and acknowledged that he has executed the foregoing instrument for the use and purposes mentioned in it and that the instrument is the act and deed of _____, as _____ of _____ and who is personally known to me or has produced _____ as identification.

IN WITNESS WHEREOF, I have set my hand and seal in the State and County aforesaid this ____ day of _____, 2024.

NOTARY PUBLIC

Print or Type Name

My Commission Expires:

AGENDA ITEM REPORT



To:

Subject: Proposed Management Package

Meeting: 05 24 2023 DRAFT AGENDA WORKSHOP COMMISSION MEETING - May 24 2023

Department: Administrative

Staff Contact:

FINANCIAL IMPACT:

\$15,000 Annually

RECOMMENDATION:

Staff recommends approval.

ATTACHMENTS:

[memo management package](#)
[2023 New Employee Benefit Summary](#)

Roy Brown, Finance & Budget Director	Status: Approved - May 18 2023
Jacobs Horowitz, Interim Town Attorney	Approved - May 18 2023
JC Jimenez, Town Manager	Pending
Marlen Martell, Town Clerk	None



Date: May 24, 2023

To: Mayor and Town Commissioners

Via: Juan Carlos (JC) Jimenez, Town Manager

From: Babette Friedman, Human Resources Director 

RE: Proposed Management Package

At this time, we are proposing adding a management package for Directors to assist in retention efforts and future recruitments.

The current state of the job market is an employee's market, and the competition is aggressive. The goal is to be competitive with other municipalities who offer similar benefits to Executive Staff as we all compete for the same pool of applicants. Attached is the proposed package. The Car allowance will not go into effect until October 1, 2023.

We are requesting your approval to adopt this management package.

As always, if you have further questions or comments, do not hesitate to contact me at your earliest convenience.



New Employee Benefit Summary

The benefits described in this summary are subject to change.

Executive Staff

Vacation Leave

Vacation leave is based on the employee's work week, and is calculated in the following manner:

Service	Vacation Leave
0 to 48 months	6.1539 hours per pay period = 160 hours per year
48 months to 120 months	6.9240 hours per pay period = 180 hours per year
120 months or more	7.6924 hours per pay period = 200 hours per year

Vacation leave can be used after successful completion of three (3) months of employment. Only two (2) weeks can be used consecutively. Employees with accrued vacation leave in excess of eighty (80) hours and who have utilized at least eight (80) hours of leave time during the fiscal year, may be allowed to make an election during one month of the year (to be determined by the Town Manager or designee) to sell the excess vacation leave time back to the Town, subject to available funds, at the discretion of the Town Manager or designee.

Telecommuting

Telecommuting allows Department Heads to work at home, on the road or in a satellite location for a part of their workweek. The Town considers telecommuting to be a viable, flexible work benefit when both the employee and the job are suited to such an arrangement. Telecommuting may be appropriate for some employees and jobs but not for others. Telecommuting is not an entitlement, it is not a Town-wide benefit, and it in no way changes the terms and conditions of employment with the Town.

The telecommuting benefit may only be utilized by Department Directors for a maximum five (5) days per month. The days cannot be used consecutively. Any exceptions must be pre-approved by the Town Manager.

Car Allowance

Employees holding the position of Assistant Town Manager, Director, and Assistant Director shall be provided a \$250 a month car allowance for use of privately owned automobiles on official business. The only Department Heads who may receive a take-home vehicles in lieu of a car allowance are the Public Services Director, Assistant Public Services Director, Police Chief, or Police Command Staff.

Severance

Six (6) weeks of base pay; payable for termination of employment after completion of three-month period.

April xxxx, 2020

Honorable Jason Fischer, Chair
Joint Legislative Auditing Committee
111 West Madison Street, Room 876
Claude Pepper Building
Tallahassee, Florida 32399-1400

Dear Mr. Fischer,

I received your letter dated March 16, 2020 requesting an explanation from the Town of Pembroke Park regarding specific audit findings as it relates to the audited Annual Financial Statements for the Town of Pembroke Park for the fiscal year 2017-2018.

As per the request of the Joint Legislative Auditing Committee ("Committee"), below is the Towns' response to the specific audit findings that have been included on the current audit report and the two preceding audit reports.

During the last two years, the Town has experienced some major changes in senior management. The Town Manager of over twenty years resigned from his position in January 2018. The Budget & Finance Director as well as the Assistant Town Manager were relieved of their duty in April & May 2018. The Town hired a third party consultant to manage the day to day finances of the Town and to oversee the FY 2016 – 2017 financial audit. In October 2018, the Town hired an Interim Budget & Finance Director, Harry Taubenfeld, to complete the 2016 - 2017 audit and prepare for the 2017 -2018 audit. Mr. Taubenfeld was given a permanent position of Assistant Budget & Finance Director in June 2019. The FY 2016 – 2017 annual report was completed and submitted to the State in December 2018, therefore, there wasn't a sufficient opportunity to allow management to review the FY 2016 - 2017 findings and take the necessary corrective action. This resulted in duplicated findings in consecutive years from the auditors.

Since June 2019, the Assistant Budget & Finance Director has diligently worked to correct the audit findings on the FY 2017 – 2018 audited Financial Statements. The Town has taken the following actions to correct the audit findings:

2018 – 02 – Internal Control over Disbursements

Subsequent to the resignation of the former Town Manager, the Town has secured a company credit card for the Town and its employees. Each cardholder has its own authorized spending limits and employees are not allowed to use their own personal credit card without the approval of their department head. In addition, a credit card policy has been adopted and it details the consequences if no receipt is provided. All cardholders have signed the policy prior to receiving their credit card.

2018 – 03 – Internal Controls over Payroll and Payroll Documentation

The town hired a consultant in 2018 who recommend to the Town Commission that all employees (exempt and non-exempt) utilize the time clock to record their time. Staff was directed to implement the directive from the commission, however, due to the major turnover of staff it was not implemented. This has been corrected and ALL employees are currently utilizing the time clock. In addition, the Town has hired an HR consultant to review and revamp the Towns personnel and procedure policies to create a more detailed and comprehensive manual. In addition, beginning July 2019, the review process of the weekly payroll has been reassigned to the Assistant Budget & Finance Director. Finally, the Assistant Budget & Finance Director implemented a procedure where all employees must sign off on their timesheets as well as leave slips to eliminate any confusion or discrepancy in the time paid and the time worked per the time cards.

2018 – 04 – Internal Controls over Procurement and Procurement Documentation

The Assistant Budget & Finance Director is currently working with the software company, Cougar Mountain Software, to review the options available to the Town for procurement procedures. In addition, we are taking steps in training and informing all personnel of the policies and procedures that have been implemented with Town ordinance that was adopted in April 2019.

2018 – 05 – Budget

As previously mentioned, the Town was going through some major changes in senior management and a Budget amendment was not prepared for FY 2017 - 2018. The Town prepared a budget amendment listing actual income and expenses which the Town commission approved for FY 2018-2019.

2018 – 06 – Reconciliation of Separate Accounting Systems

We are developing a process ensure that a reconciliation is done on a monthly basis. The third party software doesn't have the capability to produce an Accounts Receivable Aging, therefore, customer balances are being tracked manually. The finance department is in talks with its software provider to see what steps will be needed to "bring back" the Town billing to its integrated financial software and away from the third party software.

If you should have any questions or require any additional information, please contact our Assistant Budget & Finance Director, Harry Taubenfeld at 954.966.4600 x232.

Sincerely,

Ashira Mohammed
Mayor
Town of Pembroke Park
3150 SW 52nd Avenue
Pembroke Park, Florida 33023

**Oel Wingo Management
Consulting Services**

Memo

To: Ashira Mohammed, Mayor, Town of Pembroke Park
From: Oel Wingo, Ph.D. ICMA-CM
CC:
Date: March 15, 2018
Re: Exempt Employees and Time Clock Use

Per your request, the following outlines the latest legal opinion regarding Fair Labor Standards Act regarding the questions of whether or not employers may require exempt employees to use a time clock. **The simple answer is YES.** The following provides the details.

The following legal analysis was extracted from the "FindLaw for Legal Professionals" online site: In addition, I have attached the referenced FLSA2005-5 DOL to this memo. DOL 29CFR541 is attached as a separate pdf file to the email.

Timekeeping and Exempt Employees

<http://corporate.findlaw.com/human-resources/timekeeping-and-exempt-employees.html>

The Department of Labor (DOL) has issued an opinion letter clarifying confusion about timekeeping and exempt employees. [DOL: [FLSA2005-5](#)] The opinion is supported by the preamble to the new DOL regulations [29 C.F.R. 541](#).

Non-Exempt Employee Time Keeping

Under the [Fair Labor Standards Act](#) ("FLSA"), employers are required to track and record time for non-exempt employees. The information that employers are required to maintain for each employee is codified in [29 CFR 516.2](#).

The FLSA does not mandate what type of timekeeping device should be utilized for nonexempt employees as long as accurate records of time are kept. Employers can use a variety of methods, such as time clocks, time cards, or timesheets. The employer is ultimately responsible for the accuracy of the time records, even though it is possible for employees to track or record their own time. As long as the

employer is able to correctly pay the employee for all time worked, including overtime, then the employer is in compliance with the statute.

Who is an Exempt Employee?

The [FLSA](#) calls for an exemption from minimum wage and overtime pay for executive, administrative, profession, outside sales, and computer employees. To be considered exempt a basic duties test was established that has remain unchanged since 1954. The basic test requires three criteria to be met:

the employee must be paid a predetermined and fixed salary, not an hourly wage;

the amount of the salary must meet minimum specified amounts; and

the employee's job duties must primarily involve managerial, administrative, or professional skills.

Changes to the FLSA exemption rules allow for [salary deductions](#) for absences for suspensions for violation of work place conduct rules. Salary deductions are not allowed for short-term business needs, if the employee is ready, willing and able to work. However, deductions can be allowed for employee instigated voluntary time off work. [See DOL Opinion Letter [FLSA2009-14](#) (January 15, 2009).]

Exempt Employee Time Keeping

How does timekeeping relate to exempt employees? According the FLSA, nonexempt employees must be paid a minimum wage, as well as time and one-half their regular rate for all hours worked over 40 in a defined work week. Conversely, exempt employees are paid on a salary basis and based on other qualifying reasons, are exempt from overtime wages even if they work more than the designated 40 hours in a defined work week.

Employers, though, for a myriad of reasons, may still ultimately decide to track the time worked by exempt employees. Some of those reasons include easier payroll administration and benefits management. Even though an employee may be exempt from both minimum and overtime pay requirements, federal regulation still require employers to maintain and preserve employment records. [29 CFR 516.11](#).

Record Keeping Should be Separate

Employers should track time for nonexempt and exempt employees differently. Nonexempt employees time worked is calculated by the hour. Calculating exempt employees time can be a bit more challenging. This can be done in different ways. Some employers track the days worked by [exempt employees](#), yet do not track hours. Other employers track time worked by applying any vacation or sick leave. In other words, the assumption is made that an exempt employee will be paid a regular salary unless any vacation or sick leave is utilized.

This way, an employer can correctly record the time an exempt employee has worked, calculate any vacation time or sick leave that was used, yet avoid tracking the exempt employee by the hour. As long as the timekeeping method does not conflict with the salary basis test under the FLSA, employers will be in good shape.

FLSA2005-5, January 7, 2005

Dear **Name** Note: * The actual name(s) was removed to preserve privacy.

This is in response to your request for an opinion on whether a draft timekeeping policy would be inconsistent with the requirement of the Fair Labor Standards Act (FLSA) that certain exempt employees must be paid on a salary basis.

You have enclosed a copy of the timekeeping rules which you say are intended "to assist the City in keeping track of the amount of time in an employee's leave bank, as well as determine whether any full day deductions are warranted" consistent with the provisions of the FLSA. Weekly time sheets are to be completed. The policy includes provisions which require exempt employees to notify their supervisors or directors when they plan to arrive after 9:00 a.m., and of the reason for full days of absence, such as for illness, vacation, jury duty, or compensatory time off.

As you know, in order to qualify for exemption under Section 13(a)(1) of the FLSA, an employee must meet all of the pertinent tests relating to duties, responsibilities, and salary, as discussed in 29 CFR Part 541. As section 541.602(a) explains, subject to exceptions found in Section 541.602(b), "an employee will be considered to be paid 'on a salary basis' within the meaning of these regulations if the employee regularly receives each pay period on a weekly, or less frequent basis, a predetermined amount constituting all or part of the employee's compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed." You state that the timekeeping policy "has NOT been established for the purpose of wage payment tied to hours actually worked." Based on the information you have provided, the requirements of the policy do not conflict with the "salary basis" of payment under the FLSA. As the preamble to the new Part 541 Regulations explains, employers may require exempt employees to record and track their hours and to work a specified schedule, and may take deductions from accrued leave accounts without affecting the employees' exempt status (69 Fed. Reg. 22122, 22178(April 23, 2004)).

This opinion is based exclusively on the facts and circumstances described in your request and is given on the basis of your representation, explicit or implied, that you have provided a full and fair description of all the facts and circumstances which would be pertinent to our consideration of the question presented. Existence of any other factual or historical background not contained in your request might require a different conclusion than the one expressed herein. You have represented that this opinion is not sought by a party to pending private litigation concerning the issue addressed herein. You have also represented that this opinion is not sought in connection with an investigation or litigation between a client or firm and the Wage and Hour Division or the Department of Labor.

We trust that the above information is responsive to your inquiry.

Sincerely, Alfred B. Robinson, Jr. Acting Administrator

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 541

RIN 1215-AA14

Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Proposed Rule and Request for Comments.

SUMMARY: The Department of Labor proposes to update and revise the regulations issued under the Fair Labor Standards Act (FLSA) implementing the exemption from minimum wage and overtime pay for executive, administrative, professional, outside sales and computer employees. These exemptions are often referred to as the FLSA's "white collar" exemptions. To be considered exempt, employees must meet certain minimum tests related to their primary job duties and be paid on a salary basis at not less than specified minimum amounts. The basic "duties" tests were originally established in 1938 and revised in 1940. The duties tests were last modified in 1949 and have remained essentially unchanged since that time. The "salary basis" test has remained essentially unchanged since 1954. The salary levels required for exemption were last updated in 1975, and the amounts adopted at that time were intended as an interim adjustment. Suggested changes to the Part 541 regulations have been the subject of public commentary for years, including a review of the regulations by the U.S. General Accounting Office (GAO) in 1999. GAO recommended that the Secretary of Labor comprehensively review and make necessary changes to the Part 541 regulations to better meet the needs of both employers and employees in the modern work place, and to anticipate future work place trends. During 2002, the Department of Labor convened a series of stakeholder meetings, and heard suggestions for changes from over 40 interest groups representing employees and employers. The Department of Labor has carefully examined issues of concern raised by various interested parties in developing this proposed rule. The Department now invites public comment on all aspects of the proposed rule.

DATES: Submit written comments on or before (insert the date that is 90 days after publication in the Federal Register).

ADDRESS: Address written comments to Tammy D. McCutchen, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, D.C. 20210. Commenters who would like to be notified that their comments were received should include with their comments a self-addressed, stamped postcard or submit them certified mail, return receipt requested. As a convenience, comments of 20 pages or less may be submitted by facsimile ("FAX") machine to (202) 693-1432, which is not a toll-free number, or by e-mail to: whd-reg@fenix2.dol-esa.gov. Because we continue to experience delays in receiving mail in our area, commenters are encouraged to submit any comments by mail early, or to transmit them electronically by FAX or e-mail.

FOR FURTHER INFORMATION CONTACT: Richard M. Brennan, Deputy Director, Office of Enforcement Policy, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3506, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 693-0745 (this is not a toll-free number). Copies of this proposed rule may be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling

(202) 693-0023 (not a toll-free number). TTY/TDD callers may dial toll-free 1-877-889-5627 to obtain information or request materials in alternative formats.

Questions of interpretation and/or enforcement of regulations issued by this agency or referenced in this notice may be directed to the nearest Wage and Hour Division District Office. Locate the nearest office by calling our toll-free help line at 1-866-4USWAGE (1-866-487-9243) between 8:00 am and 5:00 p.m. in your local time zone, or log onto the Wage and Hour Division's website for a nationwide listing of Wage and Hour District and Area Offices at:

<http://www.dol.gov/esa/contacts/whd/america2.htm>

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This proposed rule contains no new information collection requirements subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). The information collection requirements for employers who claim exemption under 29 CFR Part 541 are contained in the general FLSA recordkeeping requirements codified at 29 CFR Part 516, which were approved by the Office of Management and Budget under OMB Control number 1215-0017. See 29 CFR §§ 516.0 and 516.3.

II. Background

The FLSA generally requires covered employers to pay their employees at least the federal minimum wage (which is currently \$5.15 an hour), and overtime premium pay of time-and-one-half the regular rate of pay for all hours worked over 40 in a work week. However, the FLSA includes a number of exemptions from the minimum wage and overtime requirements. Section 13(a)(1) of the FLSA, codified at 29 U.S.C. § 213(a)(1), exempts from both minimum wage and overtime pay “any employee employed in a bona fide executive, administrative, or professional capacity ... or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act...).”

The FLSA does not define the terms “executive,” “administrative,” “professional,” or “outside salesman.” However, pursuant to Congress’ grant of rulemaking authority, implementing regulations have been issued, at 29 CFR Part 541, defining the scope of the Section 13(a)(1) exemptions. Because the FLSA delegates to the Secretary of Labor the power to define and delimit the specific terms of the exemptions through notice-and-comment rulemaking, the regulations so issued have the binding effect of law.¹

These exemptions have engendered considerable confusion over the years regarding who is, and who is not, exempt. The implementing regulations generally require each of three tests to be met for the exemption to apply: (1) the employee must be paid a predetermined and fixed salary, not an hourly wage that is subject to reductions because of variations in the quality or quantity of work performed (the “salary basis test”); (2) the amount of salary paid must meet minimum specified amounts (the “salary level test”); and (3) the employee’s job duties must primarily involve managerial, administrative or professional skills as defined by the regulations (the “duties tests”).

Legislative History

Section 13(a)(1) was included in the original FLSA of 1938, and was based on provisions contained in the earlier National Industrial Recovery Act and state law precedents. Specific references in the legislative history to the employee exemptions contained in Section 13(a)(1) are scant. However, the

¹ See *Batterton v. Francis*, 432 U.S. 416, 425 n. 9 (1977).

exemptions were premised on the belief that the workers exempted typically earned salaries well above the minimum wage, and they were presumed to enjoy other compensatory privileges such as above average fringe benefits, greater job security and better opportunities for advancement, setting them apart from the nonexempt workers entitled to overtime pay.² Further, the type of work they performed was difficult to standardize to any time frame and could not be easily spread to other workers after 40 hours in a week, making enforcement of the overtime provisions difficult and generally precluding the potential job expansion intended by the FLSA's time-and-a-half overtime premium.³

Initially, persons employed in a "local retailing capacity" were also exempt, but Congress eliminated that language from the Section 13(a)(1) exemptions in 1961 when the FLSA was expanded to cover retail and service enterprises.⁴ Teachers and academic administrative personnel were added to the exemption when elementary and secondary schools were made subject to the FLSA in 1966. The Education Amendments of 1972 made the Equal Pay provisions, Section 6(d) of the FLSA, expressly applicable to employees who were otherwise exempt from the FLSA under Section 13(a)(1). A 1990 enactment expanded the exemption to include computer systems analysts, computer programmers, software engineers, and similarly skilled professional workers, including those paid on an hourly basis if paid at least 6 _ times the minimum wage.⁵ The compensation test for computer-related occupations was subsequently capped at \$27.63 an hour (6 _ times the former \$4.25 minimum wage) when Congress increased the minimum wage to its current \$5.15 rate and enacted the new Section 13(a)(17) exemption for such computer employees as part of the 1996 FLSA Amendments.⁶

Regulatory History

The FLSA became law on June 25, 1938, and the first version of Part 541 was issued later that year in October (3 FR 2518; Oct. 20, 1938). In 1940, after receiving many comments on the original regulations, the Wage and Hour Division convened a series of public hearings for interested parties to express views on the regulations and to propose amendments. Revised regulations were issued in October 1940 (5 FR 4077; Oct. 15, 1940).⁷ Further hearings were initiated in 1947, leading to revised regulations that were issued in December 1949 (14 FR 7705; Dec. 24, 1949).⁸ An explanatory bulletin interpreting some of the terms used in the regulations was published as Subpart B of Part 541 on December 28, 1949 (14 FR 7730), and became effective on January 25, 1950. On March 9, 1954, the Department issued proposed revisions to the regulatory interpretations of "salary basis" (19 FR 1321), followed by a final rule issued on July 17, 1954 (19 FR 4405). The regulations were revised in 1958 to adjust the salary levels (23 FR 8962; Nov. 18, 1958).⁹ Further changes were made to accommodate

² Report of the Minimum Wage Study Commission, Volume IV, pp. 236 and 240 (June 1981).

³ Id.

⁴ Public Law 87-30, 75 Stat. 65 (May 5, 1961). Although Congress eliminated the separate, broad exemption for retail employees in 1961, such employees could still qualify as exempt executive, administrative or professional employees if they met the requirements for these exemptions, and Congress relaxed the duties tests solely to make it easier for such firms to meet the exemption requirements.

⁵ Public Law 101-583, 104 Stat. 2871 (Nov. 15, 1990).

⁶ 29 U.S.C. § 213(a)(17), as added by the 1996 FLSA Amendments (Sec. 2105(a), Public Law 104-188, 110 Stat. 1755 (Aug. 20, 1996)).

⁷ See, "Executive, Administrative, Professional ... Outside Salesman" Redefined, Wage and Hour Division, U.S. Department of Labor, Report and Recommendations of the Presiding Officer (Harold Stein) at Hearings Preliminary to Redefinition (Oct. 10, 1940) ("Stein Report").

⁸ See, Report and Recommendations on Proposed Revisions of Regulations, Part 541, by Harry Weiss, Presiding Officer, Wage and Hour and Public Contracts Divisions, U.S. Department of Labor (June 30, 1949) ("Weiss Report").

⁹ See, Report and Recommendations on Proposed Revisions of Regulations, Part 541, under the Fair Labor Standards Act, by Harry S. Kantor, Presiding Officer, Wage and Hour and Public Contracts Divisions, U.S. Department of Labor (March 3, 1958) ("Kantor Report").

statutory amendments to the FLSA and/or to increase the salary levels in 1961, 1963, 1967, 1970, 1973, and 1975.¹⁰ The existing salary rates were last revised on an interim basis in 1975 (see 40 FR 7092; Feb. 19, 1975). Revisions to increase the salary rates in January 1981 (issued at the end of the Carter Administration) were stayed indefinitely by the incoming Reagan Administration (46 FR 11972; Feb. 12, 1981). Based on petitions from industry groups to address other parts of the rules, and developing case law, the Department began a more comprehensive review leading to a 1985 Advance Notice of Proposed Rulemaking (ANPRM) that reopened the public comment period and broadened the review to all aspects of the regulations (50 FR 47696; Nov. 11, 1985).

The Department revised these regulations in the early 1990s to address two specific issues. A 1990 law (Public Law 101-583; Nov. 15, 1990) required regulations to be issued permitting computer systems analysts, computer programmers, software engineers, and other similarly-skilled workers in the computer field to be exempt, including those paid on an hourly basis if the hourly rate exceeded 6 times the applicable minimum wage. (57 FR 46744; Oct. 9, 1992). Also, in 1992, the Department issued a final rule to modify the exemption's requirement for payment on a "salary basis" as applied in the public sector for otherwise exempt employees paid according to pay and leave systems based on principles of public accountability. Under 29 CFR § 541.5d (57 FR 37677; Aug. 19, 1992), an otherwise exempt public sector employee does not lose exempt status under a regulated public sector pay and leave system that requires partial-day (or hourly) deductions from pay for employee absences not covered by accrued leave, or for budget-driven furloughs.

Overview of Existing Requirements

The implementing regulations in Part 541 contain specific criteria that define each category of exemption provided by Section 13(a)(1). The applicability of any particular exemption is not presumed under the FLSA, but must be affirmatively established. Job titles, nomenclature, or job descriptions do not determine the exemptions, nor does paying a "salary" rather than an hourly rate. Rather, whether an exemption applies depends on the specific duties and responsibilities of each employee's job, how much salary the employee is paid, and whether the salary is guaranteed without regard to the quality or quantity of work performed, as defined by the regulations.

The duties tests differ for each category of exemption. Two different salary (or fee) levels exist for each of the exemptions for executive, administrative, and professional employees. The salary requirements do not apply to certain licensed or certified doctors, lawyers and teachers, or to outside sales employees. Employees paid below the applicable lower salary rate are not exempt regardless of their duties. Those paid above the higher (or "upset") salary rate are exempt if they meet a "short" duties test. Those paid between the higher and lower salary rates must meet a more detailed "long" duties test.

The salary tests were originally designed to operate as a ready guide to assist employers in deciding which employees were more likely to meet the duties tests in the exemptions. In fact, the salary levels specified in the regulations were once viewed as the best indicator of exempt status. As last revised effective April 1, 1975, the salary required for executive and administrative employees under the current "long" test is \$155 per week; professional employees are exempt at \$170 per week. The short test salary level (requiring fewer duties to be satisfied) for all three exemptions is \$250 per week. Because these salary levels have not been raised in 28 years, virtually all employees are tested for exemption today under the "short" duties tests. Moreover, while the existing salary tests (\$155, \$170, and \$250 per week) still reflect the interim 1975 rates, a full-time minimum wage worker today earns \$206 per week for a 40-hour work week. Consequently, the existing salary tests no longer provide employees or employers any help in distinguishing between bona fide executive, administrative, and

¹⁰ See, 26 FR 8635 (Sept. 15, 1961); 28 FR 9505 (Aug. 30, 1963); 32 FR 7823 (May 30, 1967); 35 FR 883 (Jan. 22, 1970); 38 FR 11390 (May 7, 1973); and 40 FR 7091 (Feb. 15, 1975).

professional employees and those who should not be considered for exemption. Moreover, the outdated salary tests and complex duties tests in the current regulation cause employees to be erroneously misclassified as exempt and thus not paid properly.

Under the currently applicable “short” test exemption requirements, an exempt “executive” employee must be paid at least \$250 per week on a salary basis, have a primary duty is to manage the enterprise or a customarily recognized department or subdivision thereof, and regularly direct the work of two or more other employees. An exempt “administrative” employee must be paid at least \$250 per week on a salary or fee basis, have a primary duty of office or non-manual work directly related to management policies or general business operations of the employer or the employer’s customers (or similar functions in the administration of a school system or educational institution in work directly related to academic instruction), and perform work requiring the exercise of discretion and independent judgment. An exempt “professional” employee must be paid at least \$250 per week on a salary or fee basis; have a primary duty of (1) work requiring knowledge of an advanced type in a field of science or learning customarily acquired by prolonged, specialized, intellectual instruction and study, or (2) work that is original and creative in a recognized field of artistic endeavor, or (3) teaching in a school system or educational institution, or (4) work as a computer systems analyst, computer programmer, software engineer, or other similarly-skilled worker in the computer software field; and perform work requiring the consistent exercise of discretion and judgment, or work requiring invention, imagination, or talent in a recognized field of artistic endeavor. Under the professional exemption, the salary or fee requirement does not apply to certain licensed or certified doctors, lawyers and teachers; or to certain computer-related occupations if paid on an hourly basis at \$27.63 or more per hour. An “outside sales” employee who is customarily and regularly engaged away from the employer’s places of business making sales or obtaining orders or contracts for services or use of facilities, and who does not exceed a twenty percent tolerance per work week performing duties unrelated to his or her own outside sales or solicitations, is exempt. There are no salary or fee requirements for outside sales employees.

Employees meeting the foregoing requirements are excluded from the Act’s minimum wage and overtime protections. Thus, they may work any number of hours in the work week and are not subject to the Federal law’s overtime pay requirements. Some state laws have stricter exemption standards than those just described. The FLSA does not preempt any such stricter State standards. If a State or local law establishes a higher standard than the provisions of the FLSA, the higher standard applies. See Section 18 of the FLSA, 29 U.S.C. § 218.

The executive and administrative exemptions apply generally to certain management and staff-level positions within an employer’s organization. For example, department heads with management as their primary duty, who regularly supervise two or more full time employees in their department, may qualify as executives if they are paid a predetermined salary of \$250 or more per week. An administrative employee must primarily perform office or nonmanual work of substantial importance to the management of the business, but is not required to supervise other employees. Persons with functional (rather than departmental) management authority, or who perform “staff” rather than production or sales work, may qualify as administrative employees if their duties include “discretion and independent judgment” or decision-making responsibilities on important matters in managing the employer’s general business operations (*e.g.*, if they primarily determine or affect management policies in a particular area, such as credit, personnel, or labor relations). Executive assistants delegated decision-making authority to carry out parts of an exempt executive or administrative employee’s management responsibilities may also qualify as exempt administrative employees.

The professional exemption (aside from the artistic, teaching, and computer-related categories) applies to the recognized professions requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study (*i.e.*, the “learned” professions, such as doctor, lawyer, architect, engineer, *etc.*), and is typically characterized

by possession of the appropriate academic degree for the particular profession. Outside sales employees must regularly work away from their employer's place of business making sales or obtaining orders or contracts; they may not exceed a 20 percent tolerance for performing duties unrelated to their own outside sales work. "Inside sales" employees are not included within the scope of the exemption for "outside sales" employees.

Under the regulatory "salary basis" test codified at 29 CFR § 541.118, partial-day deductions from pay based on the number of hours worked ("pay-docking") are generally not allowed in the private sector (unless made in the first or last weeks of employment or due to unpaid leave taken pursuant to the Family and Medical Leave Act, 29 U.S.C. 2601 *et seq.*). Disciplinary deductions from pay also violate the "salary basis" test (except for safety rules of major significance, such as no-smoking rules in oil refineries and coal mines). These concepts clarify the intended meaning of the requirements for payment of a guaranteed salary – *i.e.*, the predetermined salary amount may not be reduced because of variations in either the quality or quantity of the work performed by the employee. Pay practices not meeting the guaranteed "salary basis" requirements cause the exemption to be declared inapplicable, in some cases for entire classes of employees.¹¹

Public Commentary and the GAO Report

Suggested changes to the Part 541 regulations have been the subject of extensive public commentary for years, including a report issued by the General Accounting Office (GAO) in September 1999.¹² In this report, GAO chronicled the background and history of the exemptions, estimated the number of workers who might be included within the scope of the exemptions, identified the major concerns of employers and employees regarding the exemptions, and suggested possible solutions to the issues of concern raised by the affected interests. In general, the employers contacted by GAO were concerned that the regulatory tests are too complicated, confusing, and outdated for the modern work place, and create potential liability for violations when errors in classification occur.¹³

Employers were particularly concerned about potential liability for violations of the complex "salary basis" test and the exacting requirements of the so-called "no-docking" rule, which has been the focus of lawsuits against employers in recent years brought collectively by groups of highly paid managerial and professional employees. This test in effect limits employers' ability to "dock" exempt employees' pay for partial-day personal absences and disciplinary violations, which limits employers' ability to hold exempt employees accountable for their time and actions. In addition, employers believed that limiting the administrative and professional exemptions to "nonproduction" employees did not account for the effects of modern technology on employment today. They also noted the traditional limits of the exemptions have blurred in the modern work place, citing highly skilled and highly paid technical workers without college degrees who do not qualify as exempt professionals but who perform essentially the same job as exempt engineers who have the required academic degrees. Manufacturing employers pointed to new technology used in factories, which requires advanced technical skills but far less traditional "manual" labor. They also told GAO that, while these workers may have to follow precise written guidelines to perform their work, prescribed procedures were important to modern quality control. Employers also believed adherence to precise written guidelines – one major distinction between exempt and nonexempt workers under the existing regulations – is necessary in a

¹¹ As noted, a special rule applies to employees of public agencies paid according to regulated pay and leave systems that require deductions for partial-day absences not covered by accrued leave, and for budget-driven furloughs (see 29 CFR § 541.5d).

¹² *Fair Labor Standards Act: White Collar Exemptions in the Modern Work Place* (GAO/HEHS-99-164, September 30, 1999).

¹³ Under the FLSA, employees may sue their employer (individually or collectively) for up to two, or in some cases three, years of back wages, plus an equal amount in liquidated damages and attorney fees and court costs, for violations of the FLSA's minimum wage and overtime requirements.

modern, efficient work place. Employers also complained that the discretion and independent judgment requirements for administrative and professional employees are confusing and applied inconsistently by Wage and Hour Division investigators in classifying similarly-situated employees, and are particularly difficult to apply. Thus, employers were unsure how to classify administrative personnel. GAO's discussions with employers and Wage and Hour Division investigators, and its review of compliance cases, confirmed that this part of the duties test involved particularly difficult and subjective determinations, for both the employers and the investigators, and that it was a source of contention in Department audits.

Employee representatives contacted by GAO, in contrast, were most concerned that the use of the exemptions be limited to preserve existing overtime work hour limits and the 40-hour standard work week for as many employees as possible. They believed the tests have become weakened as applied today by judicial rulings and do not adequately restrict employers' use of the exemptions. When combined with the low salary test levels, the employee representatives felt that few protections remain, particularly for low-income supervisory employees. They believed that inflation has severely eroded the salary-level limitations originally envisioned by the regulations. Because of inflation, according to the employee representatives, the current salary test levels are now near the minimum wage level, rendering application of the regulations to the current work force virtually meaningless.

GAO's report noted that the conflicting interests affected by these rules have made consensus difficult and that, since the FLSA was enacted, the interests of employers to expand the white collar exemptions have competed with those of employees to limit use of the exemptions. To resolve the issues presented, GAO suggested that employers' desires for clear and unambiguous regulatory standards must be balanced with employees' desires for fair and equitable treatment in the work place. The GAO recommended that the Secretary of Labor comprehensively review the regulations and restructure the exemptions to better accommodate today's workplace and to anticipate future work place trends.

The House Subcommittee on Workforce Protections of the Committee on Education and the Workforce held a hearing in May 2000 to receive testimony from GAO and other interested parties on GAO's September 1999 report. Testimony provided by the GAO, representatives of business and labor organizations, and the Department of Labor confirmed GAO's assessment of the issues and the difficulty in moving forward with constructive changes due to the differing views of the many affected and interested parties, and the potential impact of possible changes. Representatives of worker interests opposed making changes that would remove overtime protections for workers now covered, while business interests and employer groups advocated modernizing the regulations to exempt more classifications of workers from overtime pay.

III. Summary of Current Regulatory Proposal

Structure and Organization

Part 541 presently contains two subparts. Subpart A provides the regulatory tests that define each category of the exemption (executive, administrative, professional, and outside sales). Subpart B provides interpretations of the terms used in the exemptions. Subpart B was first issued as an explanatory bulletin effective in January 1950 to provide guidance to the public on how the Wage and Hour Division interpreted and applied the exemption criteria when enforcing the FLSA. The Department proposes to eliminate the current distinction between the “regulations” in Subpart A and the “interpretations” in Subpart B. This will consolidate and streamline the regulatory text, reduce redundancies, and make the regulations more understandable and easier to decipher when applying them to particular factual situations, providing much-requested simplification. In addition, eliminating the distinction between the Subpart A “regulations” and the Subpart B “interpretations” will eliminate confusion regarding the appropriate level of deference to be given to the provisions in each subpart.

The proposed rule reorganizes the subparts according to each category of exemption, and consolidates common elements (such as a new subpart containing common definitions), in order to eliminate unnecessary duplication and repetition of regulatory text. Thus, after several introductory provisions in Subpart A, the proposed new Subpart B would pertain to the executive exemption; Subpart C would pertain to the administrative exemption; Subpart D would pertain to the professional exemption; Subpart E would contain provisions regarding computer employees; and Subpart F would contain provisions regarding outside sales employees. The proposed Subpart G would include provisions regarding salary requirements applicable to most of the exemptions, including salary levels and the salary basis test. Subpart G would also include a section on highly compensated employees. Proposed Subpart H would contain definitions and other miscellaneous provisions applicable to all or several of the exemptions. Finally, numerous editorial changes are proposed throughout the rule to streamline and improve its clarity, delete outdated references and illustrations, and remove gender-specific references.

Current Section 541.6, entitled “Petition for amendment of regulations,” has been deleted in this proposed rule. The substance of that section, originally adopted in 1938 and providing for interested persons to petition the Administrator for desired changes in these regulations, has been superseded and supplanted by enactment of the Administrative Procedure Act, 5 U.S.C. § 553(e).

Finally, the proposed rule deletes a number of discussions regarding application of the exemption to specific occupations. These discussions appeared to be outdated, relating to occupations and duties which may not exist in the 21st Century economy. However, because most stakeholders find such examples useful in applying the regulations to specific occupations, we invite comments on specific occupations and duties which should be discussed in the regulations. In particular, we invite comments on occupations the exempt status of which has been the subject of confusion and litigation including but not limited to pilots, athletic trainers, funeral directors, insurance salespersons, loan officers, stock brokers, hotel sales and catering managers, and dietary managers in retirement homes. The Department anticipates that the final rule will include additional provisions on the application of the exemptions to such borderline occupations, but requires more information about the particular job duties and responsibilities generally found in such occupations. We invite comments on which occupations should be included in the final rule and whether such occupations should be treated as exempt or nonexempt, including detailed information about job duties in such occupations.

Subpart A, General Regulations, §§ 541.000 - .002

The current regulations have several general, introductory provisions scattered in various locations. The proposed regulations would gather these provisions together into proposed Subpart A. Thus, the

proposed Section 541.000 combines an introductory statement currently located at Section 541.99 and information currently located at Section 541.5b regarding the application of the equal pay provisions in Section 6(d) of the FLSA to employees exempt from the minimum wage and overtime provisions of the FLSA under Section 13(a)(1). Proposed Section 541.000 also contains new language to reflect legislative changes to the FLSA regarding computer employees and information regarding the new organizational structure of the proposed regulations. Proposed Section 541.001 relocates definitions of “Act” and “Administrator” from their current location in Section 541.0. Finally, proposed Section 541.002 contains a general statement that job titles alone are insufficient to establish the exempt status of an employee. This fundamental concept, equally applicable to all the exemption categories, currently appears in Section 541.201(b) regarding administrative employees.

Subpart B. Executive Employees, §§ 541.100 - .107

To qualify as an exempt executive under the current regulations, an employee must be compensated on a salary basis at a rate of not less than \$155 per week and meet the “long” duties test, or at a rate of not less than \$250 per week and meet an abbreviated “short” duties test. The long test requires that an exempt executive employee: have a primary duty of managing the enterprise (or a recognized department or subdivision thereof); customarily and regularly direct the work of two or more other employees; have authority to hire or fire other employees or have particular weight given to suggestions and recommendations as to hiring, firing, advancement, promotion or other change of status; customarily and regularly exercise discretionary powers; and devote no more than 20 percent (or as much as 40 percent in retail or service establishments) of hours worked per week to activities that are not directly and closely related to performing exempt managerial work. The percentage restrictions on performing nonexempt work in the long test do not apply to an employee who is in sole charge of an independent or physically separate branch establishment, or to an owner of at least a 20 percent interest in the enterprise in which the employee is employed. The executive short duties test requires that the employee have a primary duty of managing the enterprise (or a recognized department or subdivision thereof) and customarily and regularly direct the work of two or more other employees.

The proposed regulations would streamline the current regulations by eliminating the separate long and short tests, and substituting a single standard duties test in proposed Section 541.100. The proposed standard duties test would provide that an exempt executive employee must: (1) have a primary duty of managing the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof; (2) customarily and regularly direct the work of two or more other employees; and (3) have the authority to hire or fire other employees or have particular weight given to suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees. This standard test, consisting of the current short test requirements plus a third objective requirement taken from the long test, represents a middle ground between the current long and short tests.

This streamlining and simplification of the current executive exemption regulations will eliminate the long test subsections regarding the percentage restrictions on nonexempt work and the discretionary powers requirement. We propose to eliminate these subsections for several reasons. Because of its outdated salary level, the long test has, as a practical matter, not been operative for many years. Reintroducing its requirements now would add new complexity and burdens to the exemption tests. The tests are complex and require time-testing managers for the duties they perform, hour-by-hour in a typical work week. Employers are not generally required to maintain any records of daily or weekly hours worked by exempt employees (see 29 CFR § 516.3), let alone perform a moment-by-moment examination of an employee’s specific duties performed or discretionary powers exercised. Yet reactivating the long test’s limitations on nonexempt work could impose such significant new monitoring requirements (and, indirectly, new recordkeeping burdens) for employers to analyze the substance of each particular employee’s daily and weekly tasks in order to be confident

of any claimed exemption. Further, historically, deciding which specific activities were not inherently an “essential part of and necessarily incident to” the exempt work proved to be a subjective and difficult standard to apply for employers, employees, as well as Wage and Hour Division investigators. The discretionary powers test has similarly proved to be a subjective and difficult standard to apply. Moreover, making such finite determinations would be made even more difficult in the aftermath of the decisions in *Donovan v. Burger King, Corp.*, 675 F.2d 516 (2nd Cir. 1982), *Donovan v. Burger King Corp.*, 672 F.2d 221 (1st Cir. 1982), and similar judicial rulings which hold that an exempt employee’s managerial duties can be carried out at the same time the employee performs nonexempt manual tasks. Accordingly, given these developments in judicial construction of the law, the Department is of the view that the discretionary powers provision and the percentage limitations on particular duties formerly applied under the now dormant long test are not useful criteria that should be reintroduced for defining the executive exemption in today’s work place.

The proposed regulations at Section 541.101 would recognize as an exempt executive any employee who owns at least a 20 percent equity interest in the enterprise in which the employee is employed. Section 541.102 of the proposed regulations would continue the principle that an employee in “sole charge” of an independent establishment or a physically separated branch establishment may qualify as an exempt executive. “Sole charge” of an establishment is defined to include the senior employee with authority to make decisions regarding day-to-day operations and to direct the work of other employees. These provisions appear in the current regulations as exceptions to the percentage restrictions on non-exempt work under the former long test, in recognition of the due weight to be given the freedom from direct supervision and the high degree of executive responsibility enjoyed by the top person in charge of a separate business location, as well as the special status of a partial equity owner of an enterprise. The Department believes that these continue to be valid concepts for special status as executives under the proposed restructured regulations as well. The Department seeks comments on whether the salary level and/or salary basis requirements should be eliminated as unnecessary for sole charge executives and business owners. We have proposed to eliminate those requirements only for the 20 percent owner, based upon our belief that such an individual likely will share in the profits of the enterprise and that this is an adequate substitute indicator of exempt status.

The proposed regulations also would reorganize, simplify, streamline and update the regulations in other ways. The proposed regulations utilize objective, plain language in an attempt to make the regulations understandable to employees and employee representatives, small business owners and human resource professionals. We also propose to eliminate outdated and uninformative examples and to update definitions of key terms and phrases. The proposed regulations would move a number of sections pertaining to salary issues (current §§ 541.117, 541.118) to a new Subpart G (discussed below), where all such provisions will be consolidated. Other sections relevant to several or all of the exemption categories (such as the definition of primary duty and a section regarding application of the exemptions to trainees) would move to a proposed new Subpart H (Definitions and Miscellaneous Provisions) to eliminate unnecessary repetition. The following sections of the current regulations have been edited and moved to proposed new Subpart H:

<u>Current Section...</u>	<u>Moved to...</u>	<u>Proposed Section</u>
541.101 General		541.702
541.103 Primary duty		541.700
541.108 Work directly and closely related		541.703
541.109 Emergencies		541.705
541.110 Occasional tasks		541.706
541.111 Nonexempt work generally		541.702
541.116 Trainees		541.704

Section 541.102 of the current regulations, entitled “Management,” has been modified and moved to proposed Section 541.103.

Section 541.115 of the current regulations, entitled “Working foremen,” has been moved to proposed Section 541.106 and renamed, “Working supervisors,” although no substantive changes are intended. A new provision on supervisors in retail establishments has been added as proposed Section 541.107. Both 541.106 and 541.107 address the difficult issue of classifying employees who have both exempt supervisory duties and non-exempt duties, and the Department invites comments on whether these sections have appropriately distinguished exempt and non-exempt employees. Section 541.106 provides, as in the current regulation, that an employee with a primary duty of ordinary production work is not exempt even if the employee also has some supervisory responsibilities. This situation often occurs in a factory setting where a collective bargaining unit employee who works on a production line also has some responsibility to direct the work of other bargaining unit employees. Another example is a police officer who directs the work of other police officers on the conduct of an investigation but is also a member of a bargaining unit. Bargaining unit members do not become exempt employees simply because they are given some supervisory responsibilities.

The definition of the term “department or subdivision” remains at Section 541.104, and the definition of “two or more employees” remains at Section 541.105. The Department invites comments on whether the supervision of “two or more employees” required for exemption should be modified to include “the customary or regular leadership, alone or in combination with others, of two or more other employees.”

Section 541.106 of the current regulations, entitled “Authority to hire or fire,” is proposed to be deleted. The text in this section does not contribute to any further explanation of the requirement, and no further explanation seems necessary. Section 541.107 of the current regulations, entitled “Discretionary powers,” and Section 541.112 of the current regulations, “Percentage limitations on nonexempt work,” are also deleted from the proposed rule for the reasons discussed above.

Subpart C, Administrative Employees, §§ 541.200 - .207

To qualify as an exempt administrative employee under the current regulations, an employee must be paid on a salary or fee basis at a rate of not less than \$155 per week and meet the “long” duties test, or earn \$250 per week and meet the “short” duties test. The long test requires that an exempt administrative employee have a primary duty of either performing office or non-manual work directly related to management policies or general business operations of the employer or the employer’s customers; or performing functions in the administration of a school system, or educational establishment or institution, in work directly related to academic instruction or training. In addition, the current regulations require that an administrative employee: customarily and regularly exercise discretion and independent judgment; regularly and directly assist another exempt employee *or* perform work along specialized or technical lines requiring special training, experience or knowledge under only general supervision or perform special assignments and tasks under only general supervision; and devote no more than 20 percent (or as much as 40 percent in retail or service establishments) of work hours in a week to activities that are not directly and closely related to the performance of exempt work. The short test requires that the employee have a primary duty of performing office or non-manual work directly related to management policies or general business operations, which must include work requiring the exercise of discretion and independent judgment. Under both tests, when considering whether an employee’s work is “directly related to management policies or general business operations” the regulations and the courts assess whether the work is “related to the administrative operations of the business as distinguished from production” – known as the “production versus staff dichotomy” – and whether the work is “of substantial importance to the management or operation of the business.”

The current duties test for administrative employees is the most difficult to apply of all the duties tests. The requirement that the employee exercise “discretion and independent judgment,” for instance, has generated significant confusion and litigation, as noted in the GAO report discussed above. This rule has been interpreted to deny the exemption to an employee who follows a procedures manual, even though most employees in the modern workplace are required to operate within standard procedures. The “production versus staff dichotomy” also is difficult to apply uniformly in the 21st Century workplace.

The proposed regulations at Section 541.200 would retain the requirement that an exempt administrative employee have a “primary duty” of “performing office or non-manual work related to the management or general business operations of the employer or the employer’s customers,” but replace the “discretion and independent judgment” requirement with a new requirement that the employee hold “a position of responsibility” with the employer.

The primary duty requirement of “performing office or non-manual work related to the management or general business operations” is defined in a new Section 541.201. New Section 541.201 clarifies that this requirement refers to the type of work performed by the employee and includes an illustrative list of the types of work areas that meet this requirement: tax, finance, accounting, auditing, quality control, purchasing, procurement, advertising, marketing, research, safety and health, personnel management, human resources, employee benefits, labor relations, public relations, government relations and similar activities. The Department invites comments on any other areas that should be included in this list and on any areas that should be deleted. Like the proposed changes to the executive exemption, the proposed administrative exemption focuses on “primary duty” and eliminates the percentage restrictions on non-exempt work currently required by the now-inoperative long duties test, for the same reasons discussed above under the executive exemption.

The proposed rule would also reduce the emphasis on the so-called “production versus staff” dichotomy in distinguishing between exempt and non-exempt workers, while retaining the concept that an exempt administrative employee must be engaged in work related to the management or general business operations of the employer or of the employer’s customers. These changes are needed to reflect emerging case law in this area. For example, the court in *Piscione v. Ernst & Young*, 171 F.3d 527 (7th Cir. 1999), examined whether an employee’s duties were directly related to Ernst & Young’s management policies or general business operations or those of the firm’s clients. The employee worked as a consultant in the firm’s Human Resources Consulting Group on several multi-million dollar defined benefit plans and defined contribution plans in which thousands of individuals participated. The employee’s work involved benefits calculations, actuarial valuations, government filings, compliance testing, and client advice. The court stated that this work influenced the internal business operations and policies of Ernst & Young’s clients with regard to their benefit plans. The employee was the primary contact for several clients; the employee identified problems with their plans and suggested solutions, and the employee offered suggestions to clients regarding how to improve their efficiency. The court rejected the argument that, because the employee provided clients with reports and government forms to file, the work was production work. Rather, the employee was an advisory specialist or consultant whose work was exempt. In addition, the court found that the employee contributed to the management policies of Ernst & Young because the employee played a major role in developing new methods for improving client services and the timeliness of firm operations.

The proposed Section 541.200 also contains a second requirement for the administrative exemption relating to the importance of the work performed or the high level of competence required by the work performed – a requirement that an exempt employee must hold a “*position of responsibility*.” The term “position of responsibility” is defined in the proposed regulations at new Section 541.202. To meet this new “position of responsibility” requirement, an employee must either (1) perform work of substantial importance, or (2) employ a high level of skill or training. The concept of “work of

substantial importance” has been in the interpretive regulations since 1950, as a factor for determining whether a worker is an exempt administrative employee. The proposed regulations at new Section 541.204 define this phrase based on language in the current regulations and include a revised list illustrating the types of activities that are generally considered of “substantial importance” for purposes of the exemption including: formulating or interpreting management policies; providing consultation and expert advice to management; making or recommending decisions that have a substantial impact on business operations or finances; analyzing and recommending changes to operating practices; planning long or short-term business objectives; analyzing data, drawing conclusions and recommending changes; and handling complaints, arbitrating disputes or resolving grievances. The Department invites comments on any additional activities that should be included in this list and on any activities that should be deleted. The second alternative for meeting the “position of responsibility” requirement, “work requiring a high level of skill or training,” defined in the proposed regulations at new Section 541.205, would ensure that the administrative exemption is not denied to a highly trained and skilled employee who performs administrative functions merely because the employee uses a procedures manual, so long as the manual contains information that can only be interpreted properly by someone with a high level of specialized skills or training, as opposed to a manual in which the employee simply looks up the correct answer for a particular set of circumstances. As reflected in the GAO report noted above, it has become commonplace for employees in the modern work place to use procedures manuals and written guidelines as standard practices for achieving quality control and efficiency.

The administrative exemption is the most challenging of the Section 13(a)(1) exemptions to define and delimit, and the “discretion and independent judgment” requirement has become increasingly difficult to apply with uniformity in the 21st Century workplace. Thus, the Department proposes to delete this requirement and replace it with the requirement that an employee hold a “position of responsibility.” The Department specifically seeks comments on whether the “discretion and independent judgment” requirement should be deleted entirely, retained as a third alternative for meeting the “position of responsibility” requirement, or retained by itself but modified to provide better guidance on distinguishing exempt administrative employees. The Department invites commenters to submit alternative proposed regulatory language for either “discretion and independent judgment” or “position of responsibility.” The Department solicits comment on how employers currently interpret the “discretion and independent judgment” requirement, and whether individuals currently exempt under that requirement would continue to be exempt under the new “position of responsibility” requirement.

Finally, the proposed regulations also would reorganize, simplify, streamline and update the regulations in other ways. The proposed regulations utilize objective, plain language; eliminate outdated and uninformative examples; and update definitions of key terms and phrases. As with the executive exemption, the proposal for the administrative exemption would move a number of sections pertaining to salary issues (current §§ 541.211, 541.212 and 541.213) to Subpart G, and other sections relevant to several or all of the exemption categories would move to the proposed Subpart H (Definitions and Miscellaneous Provisions) to eliminate unnecessary repetition. For example, current Section 541.203 entitled “Nonmanual work” is moved to proposed new Section 541.703. Current Section 541.206 entitled “Primary duty” is merged with current Section 541.103 and moved to proposed new Section 541.700. Current Section 541.208 entitled “Directly and closely related” is combined with current Sections 541.108, 541.202, and 541.307 and moved to proposed new Section 541.702. Current Section 541.210 entitled “Trainees, administrative” is combined with current Section 541.116 (“Trainees, executive”) and current Section 541.310 (“Trainees, professional”) and moved to proposed new Section 541.704. Provisions related to the administration of educational institutions in current Sections 541.2, 541.201(c), 541.202(e), and 541.215 have been consolidated and moved to new Section 541.206; no substantive changes are intended by this consolidation.

Subpart D, Professional Employees, §§ 541.300 - .304

The current regulations pertaining to the professional exemption contain four separate categories of exempt employees: learned professionals, artistic professionals, teachers, and computer professionals. As with the executive and administrative exemptions, the regulations contain both “short” and “long” duties tests, depending upon the salary level of the employee. The long test contains a separate primary duty requirement for each of the four categories of employees. The long test for learned professionals requires that the primary duty consist of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes. For creative professionals, the primary duty must consist of work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee. For teachers, the primary duty must consist of teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge by an employee who is employed and engaged in this activity as a teacher in the school system or educational establishment or institution by which the person is employed. The duties tests for computer employees are discussed in Subpart E. The long test also requires that an exempt employee: perform work requiring the consistent exercise of discretion and judgment; do work that is predominantly intellectual and varied in character, such that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and devote no more than 20 percent of work hours in a week to activities that are not an essential part of and necessarily incident to exempt work. The short test in the current regulations for both learned professionals and teachers contains the specific primary duty requirement discussed above, and requires that the employee perform work requiring the consistent exercise of discretion and judgment. For artistic professionals, the work must require invention, imagination or talent in a recognized field of artistic endeavor.

The proposed regulations pertaining to the professional employee exemption would make changes similar to those we propose for the executive and administrative exemptions. The goal is to clarify and simplify the regulations defining the professional employee exemption, while remaining consistent with the purposes of the FLSA. For ease of reference, and making no substantive changes, we propose to move the provisions pertaining to computer professionals to new Subpart E, which will contain all information pertinent to such employees. We also propose to simplify the regulations by eliminating the separate short and long tests for each of the remaining three categories and substituting a single standard duties test for each. This restructuring and simplification would eliminate the percentage limitation on nonexempt work and the consistent exercise of discretion and judgment requirement. As discussed above in connection with similar proposed changes to the executive and administrative exemptions, we are proposing to eliminate these subsections because they have proven difficult standards to apply uniformly.

For learned professionals, the proposed new standard test in Section 541.301 would provide that employees qualify for exemption as a learned professional if they have a primary duty of performing office or non-manual work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction, but which also may be acquired by an equivalent combination of intellectual instruction and work experience. This proposed standard test for learned professionals would focus on the knowledge of the employee and how that knowledge is used in everyday work, not on the educational path followed to obtain that knowledge. Although some flexibility to focus on the worker’s knowledge exists in the current regulation, it is very limited and rarely used. The clarified test reflects changes in the 21st Century workplace in how some “knowledge workers”

acquire specialized learning and skills: in the modern workplace, some employees acquire advanced knowledge through a combination of formal college-level education, training and work experience, even where other employees in that field customarily acquire advanced knowledge by obtaining a baccalaureate or advanced degree. The proposed changes would clarify that, so long as such an employee's level of advanced knowledge is equivalent to the knowledge possessed by an employee with the typical academic degree generally required by the profession, the employee may qualify as an exempt professional. Thus, for example, an employee who obtained advanced knowledge by completing college courses in a field such as engineering, and who worked in that field for a number of years, could qualify for exemption if the knowledge acquired was equivalent to that of an employee with a baccalaureate degree in engineering. We have not proposed any specific formula in the regulations for determining the equivalencies of intellectual instruction and qualifying work experience, although some examples from the current rule have been included and expanded. Public comments are invited on whether the regulations should specify such equivalencies.

The view that several years of specialized training plus intensive on-the-job training for a number of additional years may be equated with a college degree in certain fields has found support in reported judicial decisions. For example, the professional exemption has been applied to employees with a combination of training and academics in *Leslie v. Ingalls Shipbuilding, Inc.*, 899 F. Supp. 1578 (D. Miss. 1995). In *Leslie*, the court concluded that an employee who had completed three years of engineering study at a university and had many years of experience in the field of engineering was properly classified as a professional employee, even though the employee did not satisfy one of the usual minimum qualifications for an engineering position of having a bachelor's degree in an engineering discipline. The court considered the employee's combination of education and experience as satisfying the requirement for a prolonged course of specialized intellectual instruction and study.

For creative professionals, we propose to adopt the current short test, slightly modified, as the new standard test in proposed Section 541.302. This new standard test would apply the creative professional exemption to any employee with the primary duty of "performing work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor." This language, although simplified, is not intended to make any material changes from the existing regulations. This standard was applied in the case of *Freeman v. National Broadcasting Company, Inc.*, 80 F.3d 78 (2nd Cir. 1996), in which employees who researched facts, developed story elements, interviewed subjects, wrote scripts, and supervised the editing of videotape were deemed to have been correctly classified as artistic professional employees. On the other hand, employees of small news organizations who spent their time gathering facts about routine community events such as municipal, school board, and city council meetings, and gathering information from the police blotter and real estate transaction reports, and then reporting those facts in a standard format were deemed not to be artistic professional employees in *Reich v. Newspapers of New England*, 44 F.3d 1060 (1st Cir. 1995) and *Reich v. Gateway Press, Inc.*, 13 F.3d 685 (3^d Cir. 1994).

The standard test for teachers in proposed Section 541.303 would be unchanged from the current short test, with the exception of the deletion of the requirement that the employee's work require the consistent exercise of discretion and judgment, a requirement that, as discussed above, has engendered significant confusion. Provisions on teachers from current Sections 541.3, 541.301(g), and 541.314 have been consolidated into proposed new Section 541.303. The minor editorial changes are not intended to cause any substantive changes.

In addition, the proposed regulations utilize objective, plain language that can be easily understood by employees, small business owners and human resource professionals, and eliminate outdated and uninformative examples. The proposed regulations also would address a number of specific occupations that have been the subject of ambiguity and litigation. For example, we propose to update and clarify the circumstances under which employees working as newspaper journalists or as radio or

television commentators are exempt, because the case law regarding such employees has been evolving over the years, and the existing regulations discussing such employees are outdated.

Provisions of the current regulations in Sections 541.3 and 541.314 that provide an exception to the salary or fee requirements for physicians and lawyers have been consolidated and moved to proposed Section 541.304. Current Section 541.307 entitled “Essential part of and necessarily incident to” has been combined with current Section 541.108 (“Work directly and closely related”), 541.202 (“Categories of work”), and Section 541.208 (“Directly and closely related”), and moved to proposed new Section 541.702 (“Directly and closely related”), for a streamlined discussion of the principles for distinguishing exempt and nonexempt work. Although these sections have been consolidated and simplified, we do not intend any substantive changes.

Finally, we propose to move sections that pertain to salary issues (§§ 541.311, 541.312 and 541.313) to Subpart G, where all such issues will be consolidated. Other sections relevant to several or all of the exemption categories (such as the definition of primary duty, a section regarding application of the exemption to trainees, and a section discussing nonexempt work generally) would move to the proposed Subpart H (Definitions and Miscellaneous Provisions) to eliminate unnecessary repetition. Current Section 541.305 entitled “Discretion and judgment” and current Section 541.309 entitled “20-percent nonexempt work limitation” have been deleted from the proposed regulations for the same reasons similar changes are being proposed in the executive and administrative exemptions as discussed above.

Subpart E. Computer Employees Exemption, §§ 541.400 - .403

The exemption for employees in computer occupations has a unique legislative and regulatory history. Prior to 1991, the interpretative regulations acknowledged that employees in various computer-related occupations could have supervisory or managerial duties meeting the exemption for “executive” or “administrative” employees, provided that all the applicable regulatory tests were otherwise met. However, the regulations did not recognize computer employees as exempt “learned” professionals absent a showing that specialized, prolonged academic education and training was an essential prerequisite for entry into the computer field. At the time, colleges and universities did not consistently recognize computer sciences as a bona fide academic discipline under which standard licensing, certification, or registration procedures were being followed. Thus, before 1990, employees in computer occupations were rarely recognized as exempt “learned” professionals and many also did not perform duties meeting all the requirements for the executive or administrative exemptions. Of course, much has changed since then, and today “computer scientists” who possess advanced academic degrees in the computer field are routinely recognized as exempt professionals.

In November 1990, Congress enacted legislation directing the Department to issue regulations permitting computer systems analysts, computer programmers, software engineers, and other similarly-skilled professional workers to qualify for exemption under FLSA Section 13(a)(1). This enactment also extended the exemption to employees in such computer occupations if paid on an hourly basis at a rate at least 6 _ times the minimum wage. Final implementing regulations were issued in 1992 following public notice and comment procedures (see 29 CFR §§ 541.3(a)(4) and 541.303; 57 FR 46744, Oct. 9, 1992; 57 FR 47163, Oct. 14, 1992). However, when Congress increased the minimum wage in 1996, that law included some of the Department’s regulatory language as a separate statutory exemption under a new FLSA Section 13(a)(17). The 1996 enactment also froze the hourly compensation test at \$27.63 (which equaled 6 _ times the former \$4.25 minimum wage). The original 1990 statute was not affected by the 1996 enactment.

Accordingly, under the current regulations, an exempt computer employee must have a primary duty of performing work requiring theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, or software engineering. In addition, an exempt computer employee must be engaged in performing these activities as a computer systems analyst, computer

programmer, software engineer, or other similarly-skilled worker in the computer software field. Finally, under the current regulations, an exempt computer employee must consistently exercise discretion and judgment, and be paid not less than \$250 per week on a salary basis or not less than \$27.63 an hour if paid an hourly rate.

The proposed regulations would consolidate and condense all of the regulatory guidance on the computer occupations exemption into a new regulatory Subpart E by combining provisions of the current regulations found at Sections 541.3(a)(4), 541.205(c)(7), and 541.303. This new subpart will collect in one place the substance of the original 1990 enactment, the 1992 final regulations, and the 1996 enactment. The key regulatory language that resulted from the 1990 enactment is now substantially codified in Section 13(a)(17) of the Act, and thus no substantive changes have been made to that language. However, consistent with changes in the professional exemption, the proposal deletes the additional requirement that an exempt computer employee must consistently exercise discretion and judgment. Further, the former regulatory text has been edited and streamlined to provide a more concise presentation, and the structure has been modified to conform to similar changes proposed in the professional exemption. Because of the tremendously rapid pace of significant changes occurring in the information technology industry, we have avoided citing specific job titles as examples of exempt workers, as they tend to quickly become outdated once included in the regulatory text. The Department recognizes that the computer employee exemption has been particularly confusing, and invites comments on any further clarifications possible under the statute.

Subpart F, Outside Sales Employees, §§ 541.500 - .504

Section 13(a)(1) of the FLSA contains a specific and separate exemption for any employee employed “in the capacity of outside salesman.” Under the existing regulations, outside sales employees must be customarily and regularly engaged away from the employer’s places of business making sales or obtaining orders or contracts for services or the use of facilities. (“Inside sales” employees are not within the scope of this statutory exemption for “outside sales” employees.) The regulatory interpretations examine whether any given employee’s chief duty or primary function is to make sales or take orders while away from the employer’s premises, by analyzing the character of the job as a whole, to distinguish exempt outside sales employees from other nonexempt occupations (e.g., route delivery personnel).

Under the current regulations, outside sales employees also may not exceed a 20 percent tolerance, per work week, performing duties unrelated to their own outside sales or solicitations. Activities that are incidental to, and in conjunction with, their own outside sales or solicitations, including incidental deliveries and collections, are not counted against the 20 percent nonexempt work limitation. The 20 percent limit is based not upon the employee’s own hours of work performed, but upon the hours worked by other nonexempt employees of the employer who perform the kind of nonexempt work performed by the outside sales employee. If no one else performs such nonexempt work, the base applied is 40 hours, and the amount of nonexempt work allowed is eight hours per week. There is no salary or fee requirement for the outside sales employee exemption.

In keeping with similar proposed changes to the other exemptions in this part, and to simplify the outside sales exemption, the Department proposes to adopt a primary duty concept similar to the other exemptions, and to eliminate the particularly confusing 20 percent restriction on nonexempt work by outside sales employees. By eliminating this percentage limitation, the Department proposes to avoid any necessity that the employer track hours of outside sales employees. This will provide a consistent approach between this exemption and the exemptions for executive, administrative and professional employees. The essential elements required for exemption would continue, *i.e.*, the outside sales employee’s primary duty must be to make sales or obtain orders or contracts for services or the use of facilities, and the employee must be customarily and regularly engaged away from the employer’s place of business performing such duty. Outdated illustrations and redundant examples have also been deleted from the regulations, but no substantive changes are intended by these deletions. Finally,

although the FLSA refers to the “outside *salesman*,” we propose replacing this gender-specific term and refer instead to the “outside sales employee.” The discussion of nonexempt work generally in current Section 541.506 has been incorporated into proposed new Section 541.701, and the discussion of outside sales trainees in current Section 541.508 has been incorporated into proposed new Section 541.704. As noted above and in connection with similar proposed changes to the executive, administrative and professional exemptions, the 20-percent limitation on nonexempt work in current Section 541.507 is proposed to be deleted.

Subpart G, Compensation Requirements, §§ 541.600 - .606

Salary Levels

Salary level tests have been included as part of the exemption criteria since the original regulations of 1938. Under the current rules, most executive, administrative and professional employees must earn a minimum salary level to qualify for the exemption.¹⁴ Employees paid below the minimum salary level are not exempt, irrespective of their job duties and responsibilities. Employees paid a salary above the minimum level in the regulations may be exempt if they also meet the salary basis and job duties tests.

To qualify for exemption under the existing regulations, an employee currently must earn a minimum salary of \$155 per week for the executive and administrative exemptions, and \$170 per week for the professional exemption. Employees paid above these minimum salary levels must meet a “long” duties test to qualify for the exemption. The current regulations also provide that employees paid above a higher (or “upset”) salary rate of \$250 per week are exempt if they meet a “short” duties test. As explained above, the short tests contain fewer requirements and are less burdensome to meet.¹⁵

The most recent updates to these minimum salary levels were in 1975. In January 1981, revisions to increase the salary rates by the outgoing Carter Administration were stayed indefinitely by the incoming Reagan Administration. Because the salary levels have not been increased since 1975, the existing salary levels are outdated and no longer useful in distinguishing between exempt and nonexempt employees.

Proposed Standard Test. Under the proposal, the minimum salary level to qualify for exemption from the FLSA minimum wage and overtime requirements as an executive, administrative, or professional employee would be increased from \$155 per week to *\$425 per week*. This salary level would be referred to as the “standard test,” thus eliminating the “short test” and “long test” terminology. The separate, higher salary level test for professional employees also would be eliminated.

Most stakeholders agreed that the salary levels need to be increased. A full-time minimum wage worker earns \$206 per week (\$5.15/hour x 40 hours) – an amount above the current long test levels and closely approaching the current short test level. As a result, under the current regulations, no full-time salaried worker is automatically exempt by earning below the long test level, and most salaried employees are tested for exemption under the short tests. Salary level was once viewed as being the best indicator of exempt status. Today, the existing salary level tests are of no help in distinguishing exempt employees from non-exempt workers. Accordingly, the question is not whether the Department should raise the salary levels, but by how much.

One suggestion for increasing the current salary levels is to adjust the existing rates, adopted in 1975, to account for inflation. The 1999 General Accounting Office report adjusted the 1975 salary levels for inflation based on 1998 BLS Consumer Price Index (CPI) data, resulting in the following salary

¹⁴ There is no salary level test for outside sales employees and some professional employees (teachers, doctors, lawyers). Such employees are exempt regardless of their salary.

¹⁵ Also, in 1996, Congress amended the FLSA to exempt certain *hourly-paid* computer professionals paid at least \$27.63 per hour (\$57,470 per year, assuming 40 hours per week).

levels: \$470/week for the executive and administrative long test; \$515/week for the professional long tests; and \$757/week for the short test.¹⁶ In January 2001, the Department published a report that applied 1999 CPI data to inflation adjust the current salary levels to \$480/week for the long test and \$774/week for the short test.¹⁷

However, several considerations weigh against mechanically adjusting the 1975 salary levels for inflation. First, the Department is proposing a different, standard duties test. Consequently, equivalency to either the current long and short test salary levels is not appropriate. Second, although adjusting the existing rates for inflation might provide the simplest, mechanical approach, the Department is concerned about the impact such adjusted salary levels would have on certain segments of industry and geographic areas of the country, particularly in the retail industry and in rural areas in the South, which tend to pay lower salaries. Third, mechanically adjusting for inflation presumes that the salary levels set in 1975 are precisely the appropriate baseline; and that the nature of work and the relationship between job duties and compensation practices have not changed in the intervening years since 1975. Fourth, the regulatory history has looked to information on actual salaries and incomes, not inflation-adjusted amounts. The 1949 Weiss Report, for example, considered and rejected proposals to increase salary levels based upon the change in the cost of living from the 1940 levels.¹⁸

Because of these concerns, the Department believes it would be more appropriate to examine available data on actual salary levels currently being paid in the economy. We reviewed a preliminary report on actual salary levels based on the BLS year 2000 Current Population Survey (CPS) Outgoing Rotations data set. This data included full-time, salaried workers aged 16 and above, but excluded the self-employed, agricultural workers, volunteers and federal employees (who are all not subject to the salary level tests in the Part 541 regulations), broken out by industry and geographic area.

In considering this data and various salary levels in the development of this proposal, the Department was guided by the prescient analysis of a 1958 Department of Labor report recommending changes to the salary levels:

The salary tests have thus been set for the country as a whole . . . with appropriate consideration given to the fact that the same salary cannot operate with equal effect as a test in high-wage and low-wage industries and regions, and in metropolitan and rural areas, in an economy as complex and diversified as that of the United States. Despite the variation in effect, however, it is clear that the objectives of the salary tests will be accomplished if the levels selected are set at points near the lower end of the current range of salaries for each of the categories. Such levels will assist in demarcating the “bona fide” executive, administrative and professional employees without disqualifying any substantial number of such employees.

* * *

It is my conclusion, from all the evidence, that the lower portion of the range of prevailing salaries will be most nearly approximated if the tests are set at about the levels at which no more than about 10 percent of those in the lowest-range region, or in the smallest size establishment group, or in the smallest-sized city group, or in the

¹⁶ *Fair Labor Standards Act: White Collar Exemptions in the Modern Work Place*, GAO/HEHS-99-164, September 30, 1999.

¹⁷ *The “New Economy” and Its Impact on Executive, Administrative and Professional Exemptions to the Fair Labor Standards Act (FLSA)*, January 2001, pp. 71-73.

¹⁸ “Actual data showing the increases in the prevailing minimum salary levels of bona fide executive, administrative and professional employees since October 1940 would be the best evidence of the appropriate salary increases for the revised regulations. * * * The change in the cost of living which was urged by several witnesses as a basis for determining the appropriate levels is, in my opinion, not a measure of the rise in prevailing minimum salary levels.” Weiss Report, p. 12.

lowest-wage industry of each of the categories would fail to meet the tests. Although this may result in loss of exemption for a few employees who might otherwise qualify for exemption, . . . in the light of the objectives discussed above, this is a reasonable exercise of the Administrator's authority to "delimit" as well as define.¹⁹

As in the 1958 analysis, the Department looked to "points near the lower end of the current range of salaries" to determine an appropriate salary level for the standard test – although we settled upon on the lowest 20 percent, rather than the lowest 10 percent, because of the proposed change from the "short" and "long" test structure in the proposed rule and because the data included some salaried employees who would not meet the duties tests for exemption. Applying this analysis, and also considering adjustments to the current salary levels for inflation, the Department proposes a standard salary level test of \$425/week. Under this level, approximately the bottom 20 percent of salaried employees would fall below the minimum salary requirement and be automatically entitled to overtime pay.

Proposed special rule for highly compensated employees. The proposed regulations also include in Section 541.601 a special, streamlined rule for employees paid \$65,000 or more annually. Under this proposed rule for highly compensated employees, employees paid \$65,000 or more annually and performing non-manual work would be exempt if they have an identifiable executive, administrative or professional function as described in the standard duties tests. These highly compensated employees would not have to meet all the elements of the standard duties test to qualify for the exemption as a highly compensated employee. For example, an employee who supervises two workers but does not participate in any hiring or termination decisions in the company would still be exempt because the employee has a function that is identifiable as an executive function. In addition, the proposed special rule for highly compensated employees would permit counting base salary, commissions, non-discretionary bonuses and other non-discretionary compensation in determining whether an employee earns \$65,000 or more annually. To qualify as a highly compensated employee under the proposed regulation, any commissions or non-discretionary bonuses would have to be settled and paid out to the employee as due on at least a monthly basis. An employee who works only a portion of a year, whether because the employee begins work during the year or leaves before the end of the year, must be guaranteed a pro rata portion of the \$65,000 annual guarantee. The pro rata portion should be based upon the number of weeks the employee works in such a position. If an employee's total annual compensation does not total at least the guaranteed \$65,000 by the end of the year, the proposed regulation would allow the employer to make a payment by the next pay period sufficient to bring the employee to the guaranteed level. The employer is not required to make this payment; however, if the employer elects not to make the one-time payment, the employee is not exempt as a highly compensated employee.²⁰

To determine an appropriate salary level for highly compensated employees, the Department looked to points near the higher end of the current range of salaries and found that the top 20 percent of all salaried employees earned above \$65,000 annually. This level is consistent with setting the proposed standard test salary level at the bottom 20 percent of salaried employees.

Puerto Rico, Virgin Islands and American Samoa. Prior to the Fair Labor Standards Amendments of 1989 (Pub. Law 101-157), Puerto Rico, the Virgin Islands, and American Samoa were subject to wage order proceedings under the Act, in lieu of the FLSA minimum wage, and consequently lower salary

¹⁹ *Report and Recommendations on Proposed Revision of Regulations, Part 541 under the Fair Labor Standards Act*, March 3, 1958, by Harry S. Kantor, Assistant Administrator, Presiding Officer.

²⁰ Of course, if all of the requirements in either the executive, administrative or professional employee tests established in §§ 541.100, 541.200 or 541.300 are satisfied, the employer still would be able to claim the appropriate exemption.

test levels traditionally were established for employees in these jurisdictions. The 1989 Amendments removed Puerto Rico and the Virgin Islands from the Act's wage order proceedings, and provided that the U.S. mainland minimum hourly wage rates under section 6(a)(1) of the Act would apply in Puerto Rico and the Virgin Islands. For this reason, the proposed regulations would apply the mainland salary test level of \$425 per week in Puerto Rico and the Virgin Islands. Employees in American Samoa remain subject to wage order proceedings under the Act. Consequently, the proposed regulations would apply a special, lower salary test level of \$360 per week for executive, administrative and professional employees in American Samoa. This special salary level maintains approximately the same ratio to the mainland test in the current regulations (84% for executive and administrative workers). Similarly, the proposal would apply a special test for highly compensated employees in American Samoa of \$55,000 annually. Comments are invited on whether the 84 percent ratio is appropriate.

Comments on salary levels. The Department invites comments on these proposed salary levels and on any alternative salary level amounts or methodologies for determining the appropriate salary level. In addition, the Department invites comments on the alternative of removing the salary tests from the regulations entirely and on how the regulations could be structured without the need for any specific salary amounts (relying only on duties tests, for example). The Department also invites comments on the alternative of adopting a "salary only" test for highly compensated employees. Under such an alternative, for example, employees performing non-manual or office work and earning a total annual compensation over a certain amount would automatically be considered exempt, without any reference to the employee's duties.

Salary Basis Test

Under the current regulations, to qualify for the executive, administrative or professional exemption, an employee must be paid on a "salary basis" as defined in Section 541.118. The employee must regularly receive a predetermined amount of salary, on a weekly or less frequent basis, that "is not subject to reduction because of variations in the quality or quantity of the work performed." Thus, with a few exceptions described below, the employee must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked.

The salary basis test prohibits an employer from making deductions from the salary "for absences occasioned by the employer or by the operating requirements of the business." In other words, "if the employee is ready, willing, and able to work, deductions may not be made for time when work is not available." However, the employee does not have to be paid for any work week in which he or she performs no work.

The current salary basis test also prohibits deductions from pay for disciplinary problems, performance issues or for absences caused by jury duty, attendance as a witness, or temporary military leave (although employers may take offsets for jury or military pay) in any week in which an employee performs any work.

The current regulations contain several exceptions to these salary basis rules: An employer may make deductions from the guaranteed pay "when the employee absents himself from work for a day or more for personal reasons, other than sickness or accident." Deductions also are permitted for absences of a day or more due to sickness or disability, if taken in accordance with a bona fide plan, policy or law (workers compensation, for example) providing wage replacement benefits. Employers also may make deductions from an exempt employee's salary for any hours not worked in the initial and final weeks of employment or for hours taken as unpaid FMLA leave without affecting the exempt status of the employee. Finally, less than full week deductions from pay are permitted for violations of major safety rules.

Under the current rules, an employer can lose the exemption for an entire class of employees for making improper deductions from guaranteed pay, even for highly paid employees. Depending on the

facts, improper deductions can “indicate that there was no intention to pay the employee on a salary basis. In such a case, the exemption would not be applicable to him during the entire period when such deductions were being made.” For inadvertent mistakes, however, the regulations provide employers with a “window of correction.” If the facts demonstrate that the prohibited deduction from guaranteed pay was inadvertent, the exemption is not lost if the employer reimburses the employee for such deductions and promises to comply in the future.

In developing options for its proposed rule, the Department considered whether to eliminate the salary basis test. We carefully weighed the need for the salary basis test and concluded that the underlying concept of the test – guaranteed pay, not subject to reduction because of variations in the quality or quantity of the work performed – should be retained. The nearly universal practice of paying employees with the requisite status to be bona fide executive, administrative, or professional employees on a salary basis, as the 1949 hearings on the exemption revealed, reflected the understanding that such employees have discretion to manage their time and are not answerable for the number of hours worked or the number of tasks performed. Such employees are not paid by the hour or task, but for the general value of services performed. The salary basis test also describes the *quid pro quo* enjoyed by exempt employees, which distinguishes them from non-exempt workers. Exempt employees are not paid overtime for working over 40 hours in a week. In exchange, the employer must provide a guaranteed salary that cannot be reduced when an employee works less than 40 hours.

The Department also considered amending the salary basis test to permit deductions from pay for cases in which an exempt employee chooses to be absent for a part of a day. But allowing such “pay docking” for partial-day absences would breach the *quid pro quo* and blur the line between exempt and non-exempt employees. An exempt manager, for example, does not receive extra pay for working 16 hours on a Thursday to complete a project; thus, as a matter of fundamental fairness, an employer should not be allowed to dock the employee’s salary for leaving work early on Friday. Of course, an employer can terminate an employee who abuses this salary arrangement.

Although the proposed rule retains the salary basis test and its concept of guaranteed pay in proposed Section 541.602, two significant updates are included in the proposal:

Disciplinary Deductions. The proposed regulations would allow an exception to the no pay-docking rule for deductions from pay for full-day *disciplinary* suspensions. For example, an employer would be permitted to suspend an exempt employee without pay for reasons such as sexual harassment or workplace violence. The current regulations permit such deductions only for penalties imposed for infractions of safety rules of major significance and for unpaid suspensions for one or more full work weeks (*i.e.*, Monday to Friday). The proposed change would allow employers to suspend exempt employees without pay for discriminatory harassment for two days, four days or ten days, as appropriate to respond to the misconduct. The Department believes this is a common-sense change that will permit employers to uniformly hold exempt employees to the same standards of conduct as that required of nonexempt, hourly workers.

Safe Harbor Provision. Under the current regulations, an employer who makes improper deductions from pay can lose the exemption for an entire class of employees. However, as mentioned above, the current rules also include a “window of correction” provision at Section 541.118(a)(6) under which an employer who inadvertently makes impermissible deductions can, in some circumstances, retain the exemption by reimbursing employees for any improper deductions. Unfortunately, the “window of correction” has proved difficult for the Department to administer and has been the source of considerable litigation. The proposed rule, at Section 541.603, would clarify the circumstances and the extent to which an improper deduction causes an employee or groups of employees to become nonexempt. The proposed rule maintains the underlying purpose of the current rule that an employer does not lose the FLSA exemption because of isolated incidents of improper pay deductions. Under the proposal, the exemption would be lost only if there is a pattern and practice of improper deductions, and then only for employees in the same job classification and working for the same

manager who is responsible for the improper pay docking decision or policy. For example, if one manager at a single company facility routinely docks the pay of engineers for partial-day absences, then all engineers at that one facility whose pay could have been docked by that same manager are not exempt. Engineers at other facilities or working for other managers would remain exempt. Further, the proposed rule would create a new “safe harbor” provision: If an employer has a written policy prohibiting improper pay deductions, notifies employees of that policy and reimburses employees for any improper deductions, then that employer would not lose the exemption for any employees unless the employer’s policy prohibiting improper deductions is repeatedly and willfully violated. The Department believes this approach would be much easier to apply uniformly and more consistent with the purposes of the FLSA.

Proposed Section 541.604 continues the guidance from current Section 541.118(b) on allowing payments of additional compensation besides the salary as not being inconsistent with the salary basis of payment, and on pay plans that compute an exempt employee’s salary from daily or shift rates if accompanied by the minimum guarantee. The language has been clarified to add hourly compensation plans that include such guarantees, consistent with established enforcement practices, if a reasonable relationship exists between the guaranteed amount and an employee’s usual earnings for a normal scheduled work week.

Proposed Section 541.605 contains updated guidance on the “fee basis” of payment permitted for administrative and professional employees, taken from current Sections 541.213 and 541.313. Proposed Section 541.606 provides guidance on payment of required salary amounts “exclusive of board, lodging or other facilities” or “free and clear,” taken from Sections 541.117(c), 541.211(d), and 541.311(d) of the current regulations and expanded to cross-reference 29 CFR § 531.32 for more guidance on qualifying “other facilities” similar to board and lodging.

The former “upset salary” provisions that were part of the short tests for executive, administrative and professional employees have been deleted from this proposed rule (current §§ 541.119, 541.214, and 541.315).

Subpart H, Definitions and Miscellaneous Provisions, §§ 541.700 - .708

To eliminate unnecessary repetition, the proposed regulations would move definitions and other provisions applicable to several or all of the exemption categories to a new Subpart H, Definitions and Miscellaneous Provisions. The proposed Subpart H would define “primary duty” in proposed Section 541.700; “directly and closely related” in proposed Section 541.702; “exempt and nonexempt work” in proposed Section 541.701; and “office or non-manual work” in proposed Section 541.703. Subpart H would also contain provisions regarding trainees, emergencies and occasional tasks, combination exemptions, the motion picture producing industry, and employees of public agencies. Most of these provisions have been moved from the existing regulations without substantial change, although some changes have been made to simplify and update the current regulations. Current Section 541.602, containing guidance on the percentage limitations on performing nonexempt work for executive and administrative employees in multi-store retailing operations, is proposed to be deleted for the same reasons noted above for eliminating those former long duties test requirements from the executive and administrative exemptions.

IV. Executive Order 12866 and the Small Business Regulatory Enforcement Fairness Act

This proposed rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Department has determined that the proposed rule is an economically significant regulatory action under section 3(f)(1) of Executive Order 12866. Based on a preliminary analysis of the data the rule could have an annual effect on the economy of \$100 million or more. However, the proposed rule is not likely to adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or

state, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; or materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof.

For similar reasons, the Department has concluded that this proposed rule also is a major rule under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 et seq.). Although it could result in an annual effect on the economy of \$100 million or more, it is not likely to result in a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

As a result, the Department has prepared a Preliminary Regulatory Impact Analysis (PRIA) in connection with this proposed rule as required under Section 6(a)(3) of the Order and the Office of Management and Budget has reviewed the rule. Copies of the complete PRIA may be obtained from the Department by contacting the Wage and Hour Division at the address and telephone number provided above. The results of the PRIA are summarized below.

Preliminary Regulatory Impact Analysis

Overview

The proposed changes in the rules for determining whether an employee is exempt as an executive, administrative, or professional (EAP) worker under the Fair Labor Standards Act (FLSA) will affect virtually all employers covered by the FLSA that employ workers within the scope of the exemptions in 29 CFR 541. Employers will be affected unless all of their employees are expressly excluded from FLSA coverage by the statute. Excluded from these regulations are the self-employed, agricultural workers, railroad workers, selected occupations in the transportation industries and in automobile dealerships, and most federal employees subject to separate rules administered by the U.S. Office of Personnel Management. However, 29 CFR 541 regulations apply to the following federal agencies: Library of Congress, U.S. Postal Service, Postal Rate Commission, and Tennessee Valley Authority (*see* 29 U.S.C. 204(f)).

Therefore, employers in all industrial sectors except agriculture, railroads, and private households are subject to the existing and proposed regulations. The regulations also apply to state and local governmental employees.

The PRIA indicates that there are 6.5 million establishments with 109.5 million employees, annual payrolls totaling \$2.8 trillion, annual sales revenues of \$17.9 trillion, and annual pre-tax profits of \$769.5 billion in the industry sectors affected by the proposed rule. Corresponding data based on SBA's size standards for small business entities indicates that over 5.2 million of these establishments are considered to be small businesses. These small firms employ approximately 38.7 million workers with an annual payroll of \$940.0 billion. Their total annual sales are estimated to be \$5.7 trillion and their annual pre-tax profits are estimated to be \$233.9 billion. Approximately 79.8 percent of the affected establishments are considered to be small businesses and they account for 38.8 percent of the employment, 33.7 percent of the payroll, 31.8 percent of the annual sales, and 30.4 percent of the annual pre-tax profits.

Over 87,400 state and local governmental entities will be affected by the proposed rule (3,043 county governments, 19,372 municipal governments, 16,629 township governments, 34,683 special district governments, and 13,726 school district governments). Nationwide, these entities receive more than \$1.4 trillion in general revenues, including revenues from taxes, some categories of fees and charges, and intergovernmental transfers. Their direct expenditures exceed \$1.6 trillion in the aggregate. State and local governments employ more than 4 million workers and their payrolls exceed \$12.6 billion per month.

The following tables summarize the provisions of the current 29 CFR 541 and the proposed rule that were analyzed in the PRIA.

Table 1: Weekly Salary Levels in the Current and Proposed Rules

Current Rule		Proposed Rule	
Long Test	Executives: \$155 Administrative: \$155 Professionals: \$170	Standard Test	\$425
Short Test	\$250	Highly Compensated	\$1,250

Table 2: The Current and Proposed Duties Tests for Executive Employees

	Current Long Test	Current Short Test	Proposed Standard Test
Salary	\$155 per week	\$250 per week	\$425 per week
Duties	Primary duty of the management of the enterprise or a recognized department or subdivision. Customarily and regularly directs the work of two or more other employees. Has authority to hire or fire other employees (or recommendations as to hiring, firing, promotion or other change of status of other employees is given particular weight). Customarily and regularly exercises discretionary powers. Does not devote more than 20 percent (40 percent in retail or service establishments) of time to activities that are not directly and closely related to exempt work.	Primary duty of the management of the enterprise or a recognized department or subdivision. Customarily and regularly directs the work of two or more other employees.	Primary duty of the management of the enterprise or a recognized department or subdivision. Customarily and regularly directs the work of two or more other employees. Has authority to hire or fire other employees (or recommendations as to hiring, firing, promotion or other change of status of other employees is given particular weight).

Table 3: The Current and Proposed Duties Tests for Administrative Employees

	Current Long Test	Current Short Test	Proposed Standard Test
Salary	\$155 per week	\$250 per week	\$425 per week
Duties	Primary duty of performing office or non-manual work directly related to management policies or general business operations of the employer or the employer's customers. Customarily and regularly exercises discretion and independent judgment. Regularly and directly assists a proprietor, or exempt executive or administrative employee; <i>or</i> performs specialized or technical work requiring special knowledge under only general supervision; <i>or</i> executes special assignments under only general supervision. Does not devote more than 20 percent (40 percent in retail or service establishments) of time to activities that are not directly and closely related to exempt work.	Primary duty of performing office or non-manual work directly related to management policies or general business operations of the employer or the employer's customers. Customarily and regularly exercises discretion and independent judgment.	Primary duty of performing office or non-manual work directly related to the management or general business operations of the employer or the employer's customers. Holds a "position of responsibility" with the employer, defined as either (1) performing work of substantial importance or (2) performing work requiring a high level of skill or training.

Table 4: The Current and Proposed Duties Tests for Learned Professional Employees

	Current Long Test	Current Short Test	Proposed Standard Test
Salary	\$170 per week	\$250 per week	\$425 per week
Duties	Primary duty of performing work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study. Consistently exercises discretion and judgment. Performs work that is predominantly intellectual and varied in character and is of such character that the output produced or result accomplished cannot be standardized in relation to a given period of time. Does not devote more than 20 percent of time to activities that are not an essential part of and necessarily incident to exempt work.	Primary duty of performing work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study. Consistently exercises discretion and judgment.	Primary duty of performing office or non-manual work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction, but which also may be acquired by alternative means such as an equivalent combination of intellectual instruction and work experience.

Table 5: The Current and Proposed Duties Tests for Creative Professional Employees

	Current Long Test	Current Short Test	Proposed Standard Test
Salary	\$170 per week	\$250 per week	\$425 per week
Duties	Primary duty of performing work that is original and creative in character in a recognized field of artistic endeavor, and the result of which depends primarily on the invention, imagination, or talent of the employee. Consistently exercises discretion and judgment. Performs work that is predominantly intellectual and varied in character and is of such character that the output produced or result accomplished cannot be standardized in relation to a given period of time. Does not devote more than 20 percent of time to activities that are not directly and closely related to exempt work.	Performs work requiring invention, imagination, or talent in a recognized field of artistic endeavor.	Primary duty of performing work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.

Table 6: The Current and Proposed Duties Tests for Computer Employees

	Current Long Test	Current Short Test	Section 13(a)(17) Test	Proposed Standard Test
Salary	\$170 per week	\$250 per week	\$27.63 an hour	\$425 per week <i>or</i> \$27.63 an hour
Duties	Primary duty of performing work requiring theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering. Employed as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field. Consistently exercises discretion and judgment. Performs work that is predominantly intellectual and varied in character and is of such character that the output produced or result accomplished cannot be standardized in relation to a given period of time. Does not devote more than 20 percent of time to activities that are not directly and closely related to exempt work.	Primary duty of performing work requiring theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering. Employed as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field. Consistently exercises discretion and judgment.	Primary duty of (A) application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional applications; <i>or</i> (B) design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications; <i>or</i> (C) design, documentation, testing, creation or modification of computer programs related to machine operating systems; or (D) a combination of duties described in (A), (B) and (C), the performance of which requires the same level of skills. Employed as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer field.	Primary duty of (A) application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional applications; <i>or</i> (B) design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications; <i>or</i> (C) design, documentation, testing, creation or modification of computer programs related to machine operating systems; or (D) a combination of duties described in (A), (B) and (C), the performance of which requires the same level of skills. Employed as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer field.

Table 7: The Current and Proposed Duties Tests for Outside Sales Employees

	Current Long Test	Current Short Test	Proposed Standard Test
Salary	None required.	None required.	None required.
Duties	Employed for the purpose of and customarily and regularly engaged away from the employer's place of business in making sales; <i>or</i> in obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer. Does not devote more than 20 percent of the hours worked by nonexempt employees of the employer to activities that are not incidental to and in conjunction with the employee's own outside sales or solicitations.	No separate "short" test.	Primary duty of making sales; <i>or</i> of obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer. Customarily and regularly engaged away from the employer's place or places of business.

Methodology for Estimating Costs

The principal database used in the PRIA is the 2001 Current Population Survey (CPS). A complete description of the methodology used for determining the employees who are potentially exempt and nonexempt from the overtime requirements of the current and proposed rule is contained in the PRIA available by contacting the Wage and Hour Division at the address and telephone number provided above.

The economic impact of the proposed rule includes two components: one-time implementation costs; and recurring incremental payroll costs incurred by employers for those employees presently treated as exempt from overtime under the current rule, who become nonexempt.

The implementation costs contain two parts. The first part includes the amount of time employers would take to: (1) read and understand the proposed rule; (2) update and formulate their overtime policies; (3) notify employees of any changes; and (4) all other time taken to implement the proposed rule. The second part of the implementation costs is the amount of time employers would take to review their job categories to determine (1) whether or not a particular job category is exempt or nonexempt under the proposed rule, and (2) how to adjust to the new salary levels and duties tests. To estimate the implementation costs of the proposed rule, the department contacted six human resource specialists from around the country to obtain information on the amount of time small and large businesses would take for each of these activities. High and low estimates of the implementation costs were estimated by varying the amount of time taken to review job categories and other time taken to implement the proposed rule.

The second component of the economic impact of the proposed rule is the recurring incremental payroll costs incurred by employers for those employees presently treated as exempt from overtime under the current rule, who become nonexempt as a result of raising the salary levels and revising the duties tests.

Affected employers would have four choices concerning potential payroll costs: (1) adhering to a 40 hour work week; (2) paying statutory overtime premiums for affected workers' hours worked beyond 40 per week; (3) raising employees' salaries to levels required for exempt status by the proposed rule; or (4) converting salaried employees' basis of pay to an hourly rate (no less than the federal minimum wage) that results in virtually no (or only a minimal) changes to the total compensation paid to those workers. Employers could also change the duties of currently exempt and nonexempt workers to comply with the proposed rule.

For the second choice above, paying overtime premium pay, employers typically have two options, with differing cost implications, for meeting their statutory overtime obligations. For example, assume an employer paid an employee a fixed salary of \$400 per week with no overtime premium pay, for which the employee worked 45 hours per week, and the employer must now begin to pay this employee overtime pay. As one option, the employer could assume that the former weekly salary of \$400 represents compensation for a standard 40-hour workweek, and pay this employee in the future time-and-one-half the \$10 hourly rate for any overtime hours worked beyond 40 per week. For a 45-hour workweek, total compensation due, including overtime, would equal \$475 ((40 hours x \$10/hour) + (5 hours x \$15/hour) = \$475), compared to \$400 formerly. As a second option, the employer could pay the fixed salary of \$400 per week as total straight time pay for all hours worked in the week (provided it equals or exceeds the federal minimum wage), and pay additional "half-time" for each hour worked beyond 40 in the week. This method of payment is known as a "fixed salary for fluctuating hours" (see 29 CFR §778.114). For a 45-hour workweek, total compensation due under this method, including overtime, would equal \$422.22 ($\$400 + ((\$400 \div 45) \times 5) = \422.22).

The third choice above is straightforward – an employer could simply raise the salary level for currently exempt salaried workers earning less than \$22,100 to at least the new proposed salary level or more and have them remain exempt salaried workers.

Nothing in the FLSA would prohibit an employer affected by the proposed rule, or under the current rule, from implementing the fourth choice above that results in virtually no (or only a minimal) increase in labor costs. For example, to pay an hourly rate and time and one-half that rate for 5 hours of overtime in a 45-hour workweek and incur approximately the same total costs as the former \$400 weekly salary, the regular hourly rate would compute to \$8.421 $((40 \text{ hours} \times \$8.421) + (5 \text{ hours} \times (1.5 \times \$8.421)) = \$399.99)$.

Most employers affected by the proposed rule would be expected to choose the most cost-effective compensation adjustment method that maintains the stability of their work force, pay structure, and output levels. Given the range of options available to an employer confronted with paying overtime to employees previously treated as exempt, the actual payroll cost impact for individual employers could range from near zero to up to the maximum cost impacts estimated in the Department's PRIA. However, for the PRIA it was assumed that, for any nonexempt employee who satisfies the pertinent duties test, the employer will choose to pay the smaller of either the additional weekly salary required to qualify the employee for exemption or the usual weekly overtime payment for the employee. Thus, the Department's assessment of costs of the proposed rule reflects a range of upper bound estimates. Actual payroll costs would be expected to be lower than the estimates summarized below and presented in the PRIA because of the payroll adjustment option employers have that could offset the impact of the proposed rule. Moreover, some of the cost is likely to be passed on to consumers in the form of higher prices, some of the cost is likely to be passed on to business owners and shareholders in the form of lower profits, and some of the cost is likely to be passed on to workers in the form of fewer overtime hours.

Finally, estimated costs are presented as ranges because data limitations prevent the Department from identifying exactly which workers are exempt and nonexempt based on the current and proposed duties tests. The estimates were determined using previous Department and U.S. General Accounting Office methodology and the latest data from the Bureau of Labor Statistics, the Census Bureau, and Dunn and Bradstreet. The ranges result from estimating a minimum and maximum number of workers that are likely to change from exempt to nonexempt employees. To estimate the recurring payroll costs of the proposed rule, it was necessary to apply some assumptions to the PRIA data to identify which employees are exempt and nonexempt under the current and proposed rules. Specifically, the Department assumed that for employees in occupations with a combination of exempt and nonexempt duties those with lower salaries would more likely be non-exempt. The Department also assumed that six years or more of work experience would be considered equivalent to a bachelor's degree for the learned professional exemption. For each occupational category with a combination of exempt and nonexempt duties a lower bound and an upper bound estimate of the number of employees who are exempt has been calculated. Finally, it was assumed that for each executive, administrative, or professional employee who becomes nonexempt, the likely incremental payroll cost is the smaller of the additional weekly salary required to qualify for exemption or the usual weekly overtime payment required to be paid to that worker.

Methodology for Estimating Benefits

The benefit estimates are lower bound estimates based on PRIA data and a Minimum Wage Study Commission report that estimated overtime violation rates by industry. The Department applied these rates to the overtime hours worked by salaried employees in the PRIA data, and then reduced these estimates by two-thirds to account for other types of overtime violations (off-the-clock-work, straight time for all hours) that occur in addition to violations of the "white collar" exemptions. The Department's high and low benefit estimates result from different assumptions on the lower costs associated with determining the exempt status of employees including conducting expensive time-and-motion studies and lower litigation costs, as well as the updated window of correction and safe harbor

provisions in the proposed rule. The benefit estimates summarized below are lower bound estimates because they exclude significant, but difficult to quantify, benefits such as avoidance of the following additional costs which could be incurred by an employer who has misclassified employees as exempt: (1) the second and third years of overtime back pay allowed under the FLSA; (2) an amount equal to the back pay as liquidated damages; and (3) litigation costs, including attorney's fees. The benefit estimates also exclude the reduced human resource and legal costs for classifying workers under the proposed rule, and improved management productivity from reduced Department of Labor investigations and private litigation.

Three assumptions were applied to the PRIA data to estimate the benefits of the proposed rule; the Department requests comments on these and all assumptions used for the impact analysis. First, the overtime violation rates published by the Minimum Wage Study Commission in 1980 were assumed to apply today. Second, the Commission's overtime violation rates were reduced to account for other types of overtime violations (off-the-clock-work, straight time for all hours) that occur in addition to violations of the "white collar" exemptions. Finally, the Department's range of benefit estimates result from different assumptions on the impact of the updated window-of-correction and safe harbor provisions in the proposed rule. The Department welcomes comments and estimates from the public on the amount of benefits associated with these provisions and other significant, but difficult to quantify, benefits such as the reduced human resource and legal costs for classifying workers under the proposed rule, and improved management productivity from reduced investigations and litigation.

Total Costs and Benefits

The upper bound total cost estimate for the proposed rule ranges from \$870.3 million to \$1,575.5 million. This includes one-time implementation costs ranging from \$535.4 million to \$680.0 million and recurring payroll costs ranging from \$334.8 million to \$895.5 million. The lower bound total benefit estimate for the proposed rule ranges from \$1,109.8 million to \$1,972.7 million.

Private Sector Costs and Benefits

The upper bound private sector cost estimate for the proposed rule ranges from \$849.2 million to \$1,531.9 million. This includes one-time implementation costs ranging from \$521.4 million to \$660.3 million and recurring payroll costs ranging from \$327.8 million to \$871.6 million. The total private sector costs as a percentage of total payroll range from 0.03 percent to 0.05 percent for all industries, and from 0.11 percent to 0.21 percent of total pre-tax profits for all industries.

The lower bound private sector benefit estimate for the proposed rule ranges from \$1,061.3 million to \$1,886.5 million. These estimates include the impact of updating the window of correction and safe harbor provisions in the proposed rule but do not include significant, but difficult to quantify, benefits such as the reduced human resource and legal costs for classifying workers under the proposed rule, and improved management productivity from reduced investigations and litigation.

The largest total costs are incurred by the Health Services industry (\$85.3 million to \$163.4 million), Construction (\$71.2 million to \$119.1 million), Business Services (\$54.1 million to \$86.4 million), Personal Services (\$38.1 million to \$83.8 million), and Real Estate (\$32.2 million to \$71.4 million). The ten industries with the highest costs account for over 50.4 percent of the total private sector costs.

Although the benefits of the proposed rule exceed the costs at the total level and for many of the major industry levels, there are some industries where the costs exceed the benefits (see Table 8). This result arises for three reasons. First, the costs are upper bound estimates and the benefits are lower bound estimates (see Methodology section above). The true net benefit for most industries could very well be positive. Second, a large increase in the salary levels raises the potential costs of the proposed rule. Finally, the industries most likely to bear the cost of the proposed rule are not necessarily the industries most likely to receive the benefits. Most of the benefits come from the reduction in the

potential legal liability from unintentionally misclassifying fairly high paid salaried workers working more than 40 hours per week in occupations with exempt and nonexempt duties, while most of the costs come from increasing the salary level tests for relatively low paid salaried workers. The PRIA data suggest that the number of workers in these two groups is often not equal at a detailed industry level. For example, because of the historical pattern of compensation levels in the Personal Services and Automotive Repair, Services, and Parking industries one would expect to find far more relatively low paid salaried workers affected by the proposed salary level tests than relatively high paid salaried workers unintentionally misclassified.

The largest total costs as a percentage of payroll are incurred by the Educational Services industry (0.37 percent to 0.98 percent), Agricultural Services (0.22 percent to 0.53 percent), Personal Services (0.21 percent to 0.46 percent), Automotive Repair, Services, and Parking (0.13 percent to 0.29 percent), and Transportation by Air (0.11 percent to 0.22 percent).

The largest recurring payroll costs as a percentage of pre-tax profits are incurred by the Educational Services industry (1.95 percent to 5.22 percent), Personal Services (1.38 percent to 3.03 percent), Automotive Repair, Services, and Parking (0.84 percent to 1.81 percent), Agricultural Services (0.54 percent to 1.26 percent), and Transportation by Air (0.54 percent to 1.07 percent).

Table 8: Summary of Costs and Benefits for Industry Sectors Affected by the Proposed Rule

SIC	Industry Description	Low Implementation Costs	High Implementation Costs	Low Payroll Costs	High Payroll Costs	Low Total Costs	High Total Costs	Low Benefits	High Benefits	Low Difference	High Difference
07	Agricultural Services (4)	\$2,895	\$4,020	\$14,833	\$37,529	\$17,729	\$41,549	\$2,032	\$3,612	-\$15,697	-\$37,937
08	Forestry (4)	\$83	\$113	\$27	\$58	\$110	\$171	\$346	\$614	\$235	\$444
09	Fishing, Hunting, & Trapping (4)	\$63	\$88	\$121	\$381	\$184	\$469	\$195	\$346	\$11	-\$123
Agriculture Subtotal		\$3,042	\$4,221	\$14,981	\$37,968	\$18,023	\$42,188	\$2,572	\$4,573	-\$15,451	-\$37,616
10	Metal mining	\$121	\$146	\$0	\$0	\$121	\$146	\$185	\$328	\$64	\$182
12	Coal mining	\$239	\$293	\$119	\$346	\$358	\$639	\$647	\$1,150	\$289	\$511
13	Oil & gas extraction	\$1,431	\$1,820	\$856	\$1,882	\$2,287	\$3,701	\$4,525	\$8,044	\$2,238	\$4,342
14	Nonmetallic minerals, except fuels	\$475	\$602	\$8	\$13	\$483	\$615	\$520	\$924	\$37	\$309
Mining Subtotal		\$2,266	\$2,860	\$984	\$2,242	\$3,250	\$5,102	\$5,877	\$10,447	\$2,627	\$5,345
15-17	Construction	\$48,090	\$64,024	\$23,096	\$55,046	\$71,186	\$119,070	\$33,486	\$59,524	-\$37,700	-\$59,545
20	Food & kindred products	\$5,587	\$6,577	\$1,767	\$3,793	\$7,354	\$10,370	\$3,654	\$6,495	-\$3,700	-\$3,875
21	Tobacco products	\$87	\$100	\$83	\$197	\$169	\$297	\$110	\$195	-\$60	-\$102
22	Textile mill products	\$1,855	\$2,176	\$488	\$1,192	\$2,343	\$3,368	\$538	\$956	-\$1,806	-\$2,412
23	Apparel & other textile products	\$4,367	\$5,212	\$960	\$1,896	\$5,327	\$7,108	\$790	\$1,405	-\$4,537	-\$5,703
24	Lumber & wood products	\$5,746	\$6,917	\$804	\$2,103	\$6,550	\$9,021	\$922	\$1,639	-\$5,628	-\$7,382
25	Furniture & fixtures	\$2,454	\$2,918	\$371	\$1,068	\$2,824	\$3,986	\$727	\$1,292	-\$2,098	-\$2,694
26	Paper & allied products	\$2,034	\$2,383	\$826	\$1,754	\$2,860	\$4,137	\$1,484	\$2,638	-\$1,376	-\$1,500
27	Printing & publishing	\$10,260	\$12,319	\$3,607	\$16,921	\$13,867	\$29,240	\$3,554	\$6,318	-\$10,313	-\$22,922
28	Chemicals & allied products	\$3,118	\$3,678	\$2,969	\$11,299	\$6,087	\$14,977	\$5,892	\$10,473	-\$196	-\$4,504
29	Petroleum & coal products	\$481	\$569	\$910	\$1,637	\$1,390	\$2,206	\$776	\$1,380	-\$614	-\$826
30	Rubber & miscellaneous plastics products	\$4,040	\$4,775	\$819	\$2,313	\$4,860	\$7,088	\$1,586	\$2,820	-\$3,274	-\$4,268
31	Leather & leather products	\$373	\$443	\$179	\$459	\$552	\$902	\$261	\$465	-\$291	-\$437
32	Stone, clay, & glass products	\$2,915	\$3,487	\$642	\$1,616	\$3,558	\$5,104	\$998	\$1,774	-\$2,560	-\$3,329
33	Primary metal industries	\$2,125	\$2,485	\$1,078	\$3,017	\$3,203	\$5,501	\$1,596	\$2,837	-\$1,607	-\$2,664
34	Fabricated metal products	\$7,498	\$8,927	\$1,993	\$4,837	\$9,491	\$13,764	\$1,942	\$3,452	-\$7,549	-\$10,311
35	Industrial machinery & equipment	\$10,509	\$12,543	\$2,778	\$6,887	\$13,287	\$19,430	\$7,515	\$13,359	-\$5,772	-\$6,071

SIC	Industry Description	Low Implementation Costs	High Implementation Costs	Low Payroll Costs	High Payroll Costs	Low Total Costs	High Total Costs	Low Benefits	High Benefits	Low Difference	High Difference
36	Electronic & other electric equipment	\$5,180	\$6,076	\$3,768	\$8,860	\$8,948	\$14,936	\$6,759	\$12,014	-\$2,189	-\$2,922
37	Transportation equipment	\$4,689	\$5,469	\$5,207	\$11,883	\$9,896	\$17,352	\$5,352	\$9,513	-\$4,545	-\$7,839
38	Instruments & related products	\$3,032	\$3,573	\$1,911	\$4,940	\$4,943	\$8,512	\$3,057	\$5,435	-\$1,885	-\$3,078
39	Misc. manufacturing industries	\$2,886	\$3,470	\$1,281	\$3,727	\$4,167	\$7,196	\$1,220	\$2,169	-\$2,947	-\$5,027
Manufacturing Subtotal		\$79,235	\$94,095	\$32,442	\$90,399	\$111,678	\$184,494	\$48,733	\$86,628	-\$62,944	-\$97,866
40	Railroad Transportation (5)	nc	nc	\$528	\$1,890	\$528	\$1,890	\$1,510	\$2,684	\$982	\$793
41	Local & interurban passenger transportation	\$1,500	\$1,881	\$1,216	\$2,652	\$2,716	\$4,533	\$861	\$1,531	-\$1,854	-\$3,003
42	Motor freight transportation & warehousing	\$8,873	\$11,271	\$3,415	\$7,879	\$12,288	\$19,150	\$7,722	\$13,727	-\$4,566	-\$5,423
43	U.S. Postal Service (6)	\$2,875	\$3,610	\$1,359	\$5,147	\$4,234	\$8,757	\$643	\$1,143	-\$3,591	-\$7,614
44	Water transportation	\$655	\$827	\$380	\$1,255	\$1,036	\$2,082	\$1,694	\$3,010	\$658	\$928
45	Transportation by air (7)	\$986	\$1,225	\$11,213	\$22,633	\$12,200	\$23,858	\$4,588	\$8,155	-\$7,612	-\$15,703
46	Pipelines, except natural gas	\$59	\$74	\$6	\$14	\$65	\$89	\$31	\$54	-\$35	-\$34
47	Transportation services	\$3,125	\$4,014	\$822	\$2,407	\$3,947	\$6,421	\$963	\$1,712	-\$2,984	-\$4,710
48	Communications	\$3,815	\$4,740	\$5,424	\$13,690	\$9,239	\$18,430	\$14,516	\$25,804	\$5,277	\$7,374
49	Electric, gas, & sanitary services	\$2,052	\$2,537	\$2,623	\$7,136	\$4,675	\$9,673	\$5,977	\$10,625	\$1,302	\$952
Trans., Comm., & Pub. Util. Subtotal		\$23,940	\$30,180	\$26,460	\$62,813	\$50,400	\$92,993	\$36,994	\$65,761	-\$13,406	-\$27,233
50	Wholesale trade - durable goods	\$25,544	\$32,579	\$4,334	\$10,296	\$29,877	\$42,875	\$38,356	\$68,182	\$8,479	\$25,307
51	Wholesale trade - nondurable goods	\$14,764	\$18,738	\$4,538	\$10,934	\$19,302	\$29,672	\$31,512	\$56,016	\$12,210	\$26,344
Wholesale Subtotal		\$40,308	\$51,318	\$8,871	\$21,229	\$49,179	\$72,547	\$69,868	\$124,198	\$20,689	\$51,650
52	Building materials, hardware, garden supply, & mobile home dealers	\$4,608	\$5,874	\$949	\$2,380	\$5,557	\$8,254	\$10,553	\$18,758	\$4,995	\$10,504
53	General merchandise stores	\$5,222	\$6,352	\$2,961	\$7,041	\$8,183	\$13,393	\$14,966	\$26,604	\$6,783	\$13,210
54	Food stores	\$13,060	\$16,499	\$6,487	\$16,941	\$19,547	\$33,441	\$19,519	\$34,698	-\$28	\$1,257
55	Automotive dealers & gasoline service stations	\$13,380	\$17,101	\$3,942	\$10,470	\$17,322	\$27,571	\$38,529	\$68,490	\$21,207	\$40,919
56	Apparel & accessory stores	\$7,926	\$10,182	\$959	\$1,905	\$8,885	\$12,087	\$5,547	\$9,860	-\$3,339	-\$2,227
57	Home furniture, furnishings, & equipment stores	\$7,015	\$9,032	\$1,627	\$3,795	\$8,641	\$12,827	\$20,518	\$36,472	\$11,876	\$23,646

SIC	Industry Description	Low Implementation Costs	High Implementation Costs	Low Payroll Costs	High Payroll Costs	Low Total Costs	High Total Costs	Low Benefits	High Benefits	Low Difference	High Difference
58	Eating & drinking places	\$33,346	\$42,414	\$9,310	\$26,857	\$42,656	\$69,271	\$38,054	\$67,646	-\$4,601	-\$1,626
59	Miscellaneous retail	\$22,326	\$28,755	\$6,152	\$14,028	\$28,478	\$42,783	\$31,195	\$55,452	\$2,717	\$12,669
Retail Subtotal		\$106,884	\$136,210	\$32,387	\$83,417	\$139,271	\$219,627	\$178,881	\$317,979	\$39,611	\$98,353
60	Depository institutions	\$6,943	\$8,924	\$2,677	\$8,836	\$9,620	\$17,760	\$23,042	\$40,960	\$13,422	\$23,200
61	Nondepository credit institutions	\$2,727	\$3,580	\$1,795	\$4,701	\$4,522	\$8,281	\$13,449	\$23,907	\$8,927	\$15,625
62-67	Holding & other investment offices, except trusts, & Security & commodity brokers, dealers, exchanges, & services	\$4,055	\$5,302	\$8,260	\$20,789	\$12,315	\$26,091	\$30,936	\$54,992	\$18,620	\$28,901
63-64	Insurance carriers, Insurance agents, brokers, & services	\$9,454	\$12,342	\$6,016	\$11,003	\$15,470	\$23,345	\$26,681	\$47,428	\$11,211	\$24,083
65	Real estate	\$10,801	\$14,565	\$21,401	\$56,982	\$32,202	\$71,546	\$21,773	\$38,703	-\$10,429	-\$32,843
Fin., Insure., & Real Est. Subtotal		\$33,980	\$44,713	\$40,150	\$102,311	\$74,130	\$147,024	\$115,881	\$205,990	\$41,751	\$58,966
70	Hotels, rooming houses, camps, & other lodging places	\$6,394	\$7,899	\$2,707	\$7,492	\$9,101	\$15,391	\$10,461	\$18,595	\$1,359	\$3,204
72	Personal services	\$12,705	\$16,505	\$25,351	\$67,270	\$38,055	\$83,775	\$8,112	\$14,419	-\$29,943	-\$69,355
73	Business services	\$37,518	\$46,860	\$16,606	\$39,540	\$54,124	\$86,401	\$109,491	\$194,631	\$55,367	\$108,230
75	Automotive repair, services, & parking	\$11,698	\$15,230	\$19,375	\$51,798	\$31,073	\$67,028	\$9,480	\$16,851	-\$21,593	-\$50,177
76	Miscellaneous repair services	\$4,164	\$5,406	\$1,373	\$4,213	\$5,537	\$9,618	\$1,586	\$2,819	-\$3,951	-\$6,800
78	Motion pictures	\$3,470	\$4,419	\$4,283	\$19,485	\$7,753	\$23,904	\$10,446	\$18,570	\$2,693	-\$5,334
79	Amusement & recreation services	\$7,987	\$10,088	\$5,622	\$16,716	\$13,609	\$26,804	\$10,573	\$18,795	-\$3,035	-\$8,009
80	Health services	\$48,132	\$60,026	\$37,155	\$103,356	\$85,287	\$163,382	\$114,546	\$203,617	\$29,259	\$40,235
81	Legal services	\$10,263	\$13,361	\$2,246	\$8,969	\$12,509	\$22,329	\$42,821	\$76,119	\$30,313	\$53,790
82	Educational services	\$1,878	\$2,412	\$14,052	\$40,243	\$15,930	\$42,655	\$155,178	\$275,844	\$139,248	\$233,189
83	Social services	\$12,637	\$16,039	\$9,438	\$21,396	\$22,075	\$37,435	\$12,498	\$22,216	-\$9,577	-\$15,219
84	Museums, art galleries, & botanical & zoological gardens	\$455	\$574	\$294	\$858	\$749	\$1,432	\$1,009	\$1,794	\$260	\$362
86	Membership organizations	\$4,425	\$5,701	\$1,396	\$9,151	\$5,821	\$14,851	\$8,252	\$14,668	\$2,430	-\$183
87	Engineering, accounting, research, management, & related services	\$20,847	\$26,721	\$7,828	\$23,332	\$28,675	\$50,053	\$71,813	\$127,656	\$43,138	\$77,602
89	Services, not elsewhere classified (4)	\$1,080	\$1,405	\$206	\$488	\$1,286	\$1,892	\$1,205	\$2,143	-\$81	\$251

SIC	Industry Description	Low Implementation Costs	High Implementation Costs	Low Payroll Costs	High Payroll Costs	Low Total Costs	High Total Costs	Low Benefits	High Benefits	Low Difference	High Difference
	Services Subtotal	\$183,651	\$232,645	\$147,933	\$414,307	\$331,584	\$646,952	\$567,471	\$1,008,736	\$235,887	\$361,784
	Private Industry	\$521,396	\$660,266	\$327,832	\$871,621	\$849,228	\$1,531,887	\$1,061,273	\$1,886,519	\$212,045	\$354,632
	State & Local Government	\$14,033	\$19,695	\$7,012	\$23,911	\$21,045	\$43,606	\$48,495	\$86,205	\$27,450	\$42,599
	Total	\$535,429	\$679,961	\$334,844	\$895,532	\$870,273	\$1,575,493	\$1,109,768	\$1,972,724	\$239,495	\$397,231

Note: Unless otherwise noted, data are from USDOC (2001a)

Na Data not available.

Nc Not calculable.

(1) Number of employers are derived from the U.S. Department of Commerce, Bureau of Census, 1992 Enterprise Statistics.

(2) Employment is estimated when data suppression occurs.

(3) Sales data for industries 07, 08, 09, and 89 are from the D&B (2001a) database.

(4) Number of establishments, number of employees, and annual payroll are derived from the USDOC (1999) database. Sales data are derived from the D&B (2001a) database.

(5) Only includes Railroad Switching and Terminal Establishments (SIC 4013).

(6) All data for the U.S. Postal Service are from USPS (1997).

(7) Data do not include large certificated passenger carriers that report to the Office of Airline Statistics, U.S. Department of Transportation.

Sources: CONSAD Research Corporation and the U.S. Department of Labor

U.S. Department of Commerce, Bureau of the Census (USDOC, 2001a), 1997 Economic Census: Comparative Statistics, downloaded from <http://www.census.gov/epcd/ec97sic/index.html#download>;

U.S. Department of Commerce, Bureau of the Census (USDOC (1999), 1997 County Business Patterns; Dun & Bradstreet (D&B, 2001a) National Profile of Businesses Database for Fiscal Year 2000;

Dun & Bradstreet (D&B, 2001b), Industry Norms and Key Business Ratios for Fiscal Year 2000/2001; U.S. Department of the Treasury, Internal Revenue Service (IRS, 2000) Corporate Tax Returns for

Active Corporations for 1997; and U.S. Postal Service (USPS, 1997), 1997 Annual Report.

Small Business Cost Estimates

The upper bound small business cost estimate for the proposed rule ranges from \$502.4 million to \$835.9 million. This includes one-time implementation costs ranging from \$349.3 million to \$451.7 million and recurring payroll costs ranging from \$153.1 million to \$384.2 million. The recurring payroll costs as a percentage of total payroll range from 0.02 percent to 0.04 percent, and from 0.07 percent to 0.16 percent of total pre-tax profits.

The lower bound small business benefit estimate for the proposed rule ranges from \$629.8 million to \$1,119.4 million. These estimates do not include significant, but difficult to quantify, benefits such as the reduced human resource and legal costs for classifying workers under the proposed rule, and improved management productivity from reduced investigations and litigation.

The largest recurring payroll costs are incurred by the Personal Services industry (\$17.6 million to \$46.6 million), Construction (\$16.7 million to \$39.4 million), Automotive Repair, Services, and Parking (\$13.9 million to \$37.1 million), Agricultural Services (\$10.4 million to \$26.4 million), and Real Estate (\$9.9 million to \$26.3 million). The ten industries with the highest costs account for 57.4 percent to 67.0 percent of the total small business costs.

The largest recurring payroll costs as a percentage of payroll are incurred by the Educational Services industry (0.4 percent to 1.0 percent), Agricultural Services (0.2 percent to 0.6 percent), Personal Services (0.2 percent to 0.4 percent), Transportation by Air (0.1 percent to 0.3 percent), and Automotive Repair, Services, and Parking (0.1 percent to 0.2 percent).

The largest recurring payroll costs as a percentage of pre-tax profits are incurred by the General Merchandise Stores (4.5 percent to 10.6 percent), Educational Services (2.0 percent to 5.3 percent), Agricultural Services (1.1 percent to 2.8 percent), Personal Services (0.9 percent to 2.4 percent), and Eating and Drinking Places (0.8 percent to 2.2 percent).

State and Local Government Cost and Benefit Estimates

The upper bound cost estimate for state and local governments for the proposed rule ranges from \$21.0 million to \$43.6 million. This includes one-time implementation costs ranging from \$14.0 million to \$19.7 million and recurring payroll costs ranging from \$7.0 million to \$23.9 million. The cost estimates represents less than 0.005 percent of the \$1.4 trillion in general revenues received by all state and local governmental entities nationwide, and 0.01 percent to 0.03 percent of the \$150 billion in total payrolls for those entities.

The lower bound benefit estimate for state and local governments for the proposed rule ranges from \$48.5 million to \$86.2 million. These estimates do not include significant, but difficult to quantify, benefits such as the reduced human resource and legal costs for classifying workers under the proposed rule, and improved management productivity from reduced investigations and litigation.

The largest costs are incurred by California (\$2.6 million to \$5.3 million), New York (\$2.3 million to \$4.7 million), Texas (\$1.3 million to \$2.8 million), Illinois (\$1.2 million to \$2.5 million), and Florida (\$1.1 million to \$2.2 million).

The largest recurring payroll costs as a percentage of payroll are incurred by Arizona (0.2 percent to 0.4 percent), Wyoming (0.2 percent to 0.4 percent), Alabama (0.1 percent to 0.3 percent), Illinois (0.1 percent to 0.3 percent), and West Virginia (0.1 percent to 0.3 percent). As a percentage of total state and local government revenues, the recurring payroll costs do not exceed 0.01 percent in any state.

Economic Impact of Updating the Duties Tests

The economic impact of updating the duties tests includes two components. First, determining whether an employee satisfies the requirements of the updated duties tests will be less difficult than determining whether that employee satisfies the requirements of the current duties tests. As a result, employers will likely incur much lower costs associated with determining the exempt status of employees, including conducting expensive time-and-motion studies, and responding to litigation

contesting their exemption decisions. The second component is the incremental payroll costs that employers would be required to pay to the employees who satisfy the updated duties test but do not satisfy the current duties test if the proposed salary level tests were adopted without simultaneously adopting the proposed duties tests.

The possible magnitude of the cost savings of the first component is indicated by the estimated numbers of employees with salaries between \$425 per week and \$1,250 per week who would have failed to satisfy the current duties tests but would pass the updated duties tests. Because very little evidence is available on the costs for this component, the only indicator that is available is the potential number of employees who might require time-and-motion studies or involve litigation. The PRIA indicates an additional 1.5 million to 2.7 million employees will be more readily identified as exempt from the overtime requirements of the FLSA because the updated duties tests will replace the current duties tests in determining their exemption. Although certification and adjudication costs would only have been incurred on behalf of some portion of those employees, the large number of employees who could bring litigation under the current regulations and their relatively high levels of compensation indicate that the impact of revising the duties tests is probably substantial.

The second component of the economic impact of the revised duties tests is the additional incremental payroll costs that employers would be required to pay if the revised salary level tests were adopted without updating duties tests. If the proposed rule had increased the standard salary level test and highly compensated salary levels to \$425 per week and \$1,250 per week, respectively, without replacing the current long duties tests with the updated duties test, employers would have incurred incremental payroll costs for all executive, administrative, and professional employees in that salary range who would satisfy the updated duties test but would not satisfy the current long duties tests. The PRIA estimates that the incremental payroll costs for those 1.5 million to 2.7 million employees will be between \$1.839 billion and \$3.370 billion, in addition to the \$870.2 million to \$1,575.5 million for the regulation as proposed.

Finally, revising the duties tests could result in some paid hourly workers becoming salaried employees. PRIA data indicate there are 644,000 paid hourly workers working overtime in occupations with exempt administrative and professional duties that could be converted to salaried employees. All of these workers have either an associate degree or 4 year college degree or more and their average income ranges from \$50,100 to \$54,700 per year. This is an upper bound estimate based on the number of professional and administrative workers in occupations with mixed exempt and nonexempt duties employing a high level of skill or training.

V. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. § 601 et seq., requires agencies to prepare regulatory flexibility analyses, and make them available for public comment, when proposing regulations that will have “a significant economic impact on a substantial number of small entities.” Accordingly, the following analysis assesses the impact of these regulations on small entities as defined by the applicable SBA size standards.

In accordance with E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” this proposed rule has been reviewed to assess its potential impact on small businesses, small governmental jurisdictions, and small organizations, as provided by the Regulatory Flexibility Act. The Chief Counsel for Advocacy of the Small Business Administration was notified of a draft of this rule upon submission of the rule to the Office of Management and Budget under E.O. 12866, Regulatory Planning and Review.

(1) Reasons Why Action by Agency is Being Considered

Section 13(a)(1) of the Fair Labor Standards Act (FLSA), 29 U.S.C. 213(a)(1), directs the Secretary of Labor to define and delimit from time to time, by regulations subject to the Administrative Procedure Act, “any employee employed in a bona fide executive, administrative, or professional capacity ... or in the capacity of outside salesman” Employees meeting the criteria specified in these regulations are completely exempt from minimum wage and overtime pay under the FLSA. The existing regulations contain requirements for payment “on a salary basis,” at not less than specified minimum amounts, and certain additional tests related to an employee’s primary job duties and responsibilities. The duties tests were last modified in 1949 and have remained essentially unchanged since contributing to higher human resource and legal costs in the economy. The salary levels required for exemption were last updated in 1975 on an interim basis. In 1999, the U.S. General Accounting Office reviewed these regulations and recommended that the Secretary of Labor comprehensively review and update them, and make necessary changes to better meet the needs of both employers and employees in the modern work place. These regulations were also suggested as a candidate for reform in public comments submitted on OMB’s 2001 and 2002 Reports to Congress on the Costs and Benefits of Regulations. The Department is proposing revisions to these regulations in response to the concerns that have been raised over the years, to update, clarify and simplify them for the 21st Century workplace.

(2) Objectives of and Legal Basis for Rule

This proposed rule is issued pursuant to the authority provided by Section 13(a)(1) of the FLSA. Its objective is to provide clear and concise regulatory guidance, in plain language, that will assist employers and employees in determining whether an employee is exempt from the FLSA as a bona fide executive, administrative, professional, or outside sales employee.

(3) Number of Small Entities Covered by the Rule

The estimated number of small entities covered by this rule is presented in the Department’s Preliminary Regulatory Impact Analysis (PRIA). A copy of the Department’s complete PRIA may be obtained by contacting the Wage and Hour Division at the address and telephone number provided above. Data based on SBA’s size standards for small business entities indicates that 5.2 million establishments that will be affected by the proposed rule are considered to be small businesses. These small businesses employ approximately 38.7 million workers with an annual payroll of \$940.0 billion. Their total annual sales are estimated to be \$5.7 trillion and their annual pre-tax profits are estimated to be \$233.9 billion. Approximately 79.8 percent of all affected establishments are considered to be small businesses and they account for 38.8 percent of the employment, 33.7 percent of the payroll, 31.8 percent of the annual sales, and 30.4 percent of the annual pre-tax profits.

(4) Reporting, Recordkeeping and Other Compliance Requirements of the Rule

Although an employer claiming an exemption from the FLSA under 29 CFR Part 541 must be prepared to establish affirmatively that all required conditions for the exemption are met, this proposed rule contains no reporting or recordkeeping requirements as a condition for the exemption. However, the recordkeeping requirements for employers claiming exemptions from the FLSA under 29 CFR Part 541 for particular employees are contained in the general FLSA recordkeeping regulations, applicable to all employers covered by the FLSA (codified at 29 CFR Part 516; see 29 CFR §516.0 and 516.3) and have been approved by the Office of Management and Budget Control Number 1215-0017. There are no other compliance requirements under the proposed rule.

(5) Relevant Federal Rules Duplicating, Overlapping or Conflicting With the Rule

No other Federal rules duplicate or conflict with the requirements contained in these rules. Federal employees subject to the jurisdiction of the U.S. Office of Personnel Management (OPM) are governed by separate regulations administered by OPM and not these regulations. Some state laws have exemption standards applied under state law that differ from the exemption standards provided by these Federal rules. The FLSA does not preempt any stricter exemption standards that may apply under state law. *See* 29 U.S.C. § 218.

(6) Differing Compliance and Reporting Requirements for Small Entities

The FLSA generally requires employers to pay covered non-exempt employees at least the federal minimum wage of \$5.15 an hour, and time-and-one-half overtime premium pay for hours worked over 40 per week. Under the terms of the statute, Congress excluded some smaller businesses (those with annual revenues less than \$500,000) from the definition of covered “enterprises” (although individual workers who are engaged in interstate commerce or who produce goods for such commerce may be individually covered by the FLSA). This proposed rule clarifies and updates the criteria for the statutory exemption from the FLSA for executive, administrative, professional, and outside sales employees for all employers covered by the FLSA. Moreover, given the purpose of the FLSA, Congressional intent, and the statutory provisions regarding the coverage for smaller businesses, adopting different compliance requirements for small entities under this rule was not considered feasible.

(7) Clarification, Consolidation and Simplification of Compliance and Reporting Requirements for Small Entities

As previously noted, the purpose of this proposed rule is to clarify, consolidate, simplify, and update the existing criteria for compliance with the exemption from the FLSA for executive, administrative, professional, and outside sales employees, for all businesses including small businesses. The proposed rule contains no new reporting requirements.

(8) Use of Performance Rather Than Design Standards

The FLSA requires that employers comply with the minimum wage and overtime pay requirements and permits a number of ways in which employers can achieve these “performance standards.”

The Department considered a number of alternatives to the proposed rule that would impact small entities. One alternative would be not to change the existing regulations. This alternative was rejected because the Department has determined that the existing salary tests, which have not been raised in over 27 years, no longer provide any help in distinguishing between bona fide executive, administrative, and professional employees and those who should not be considered for exemption, and that the duties tests, which were last modified in 1949, are too complicated, confusing, and outdated for the modern workplace.

Two other alternatives would be to raise the salary levels and not update the duties tests or conversely to update the duties tests without raising the salary levels. However, the Department has concluded that raising the salary levels is necessary to reestablish a clear relevant bright-line test between exempt and nonexempt workers for both employers and employees. Moreover, increasing the salary levels without updating the duties tests would increase the cost of the proposed rule by \$1.839 billion to \$3.370 billion per year – much of which would be incurred by small business. The duties tests were last revised in 1949 and have remained essentially unchanged since that time. The salary levels were last updated in 1975. The Department has determined that updating both the salary level and duties tests are necessary to better meet the needs of both employees and employers in the modern workplace and to anticipate future workplace trends.

Another alternative could be to adjust the salary levels for the proposed standard test for inflation. However, the Department has never relied solely on inflation adjustments to determine the appropriate salary levels, and has decided to continue its long-standing regulatory practice to reject such mechanical adjustments for inflation. In addition, the Department has determined that this alternative would be far too burdensome on small businesses. The PRIA indicates that adjusting the salary levels for inflation would more than double the recurring payroll costs of the proposed rule from a range of \$335 million to \$896 million per year to \$747 million to \$1,966 million per year.

Another alternative would be to adjust the salary levels for the proposed standard test and highly compensated test to levels consistent with the 1958 Department of Labor report – no more than 10 percent of those [workers] in the lowest-range – instead of the 20 percent range in the proposed rule. However, the Department has concluded that this would exclude overtime protections for a significant number of workers without having much of an impact on the cost of the proposed rule. The PRIA indicates that adjusting the salary levels consistent with the 1958 report could exempt 319,000 to 360,000 employees from overtime and reduce the cost of the proposed rule to \$265 million to \$719 million per year. The Department invites comments on the appropriate salary levels for the proposed standard test and highly compensated test.

(9) Exemption from Coverage of the Rule for Small Entities

As discussed above in section (6) of this analysis, under the terms of the statute, Congress excluded smaller businesses with annual revenues less than \$500,000 from the definition of covered enterprises under the FLSA. Given the purpose of the FLSA, Congressional intent, and the statutory provisions regarding the coverage for smaller businesses, adopting different compliance requirements for small entities under this rule was not considered feasible.

VI. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. § 1501, requires agencies to prepare a written statement that identifies the: (1) authorizing legislation; (2) cost-benefit analysis; (3) macro-economic effects; (4) summary of state, local, and tribal government input; and (5) identification of reasonable alternatives and selection, or explanation of non-selection, of the least costly, most cost-effective or least burdensome alternative; for proposed rules that include any federal mandate that may result in increased expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year.

(1) Authorizing Legislation

This rule is issued pursuant to Section 13(a)(1) of the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1). The section exempts from the FLSA's minimum wage and overtime pay requirements "any employee employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act ...)." The requirements of the exemption provided by this section of the Act are contained in this rule, 29 CFR Part 541.

Section 3(e) of the Fair Labor Standards Act, 29 U.S.C. 203(e) defines employee to include most individuals employed by a state, political subdivision of a state, or interstate governmental agency. Section 3(x) of the Fair Labor Standards Act, 29 U.S.C. 203(x), also defines public agencies to include the government of a state or political subdivision thereof, or any interstate governmental agency.

(2) Cost-Benefit Analysis

Over 87,400 state and local governmental entities will be affected by the proposed rule (3,043 county governments, 19,372 municipal governments, 16,629 township governments, 34,683 special district governments, and 13,726 school district governments). Nationwide, these entities receive more than \$1.4 trillion in general revenues, including revenues from taxes, some categories of fees and charges, and intergovernmental transfers. Their direct expenditures exceed \$1.6 trillion in the aggregate. State and local governments employ more than 4 million workers and their payrolls exceed \$12.6 billion per month.

The Department's Preliminary Regulatory Impact Analysis (PRIA) includes estimates of the implementation costs, incremental payroll costs, and benefits of the proposed rule for all state and local government sectors in the aggregate in each state. The results indicate that the total first year costs of the proposed rule on state and local government entities range from \$21.0 to \$43.6 million. This includes \$14.0 to \$19.7 million in first year (nonrecurring) implementation costs and \$7.0 to \$23.9 million in recurring incremental payroll costs. The first year costs represent less than three one-thousandths percent (0.003 percent) of the \$1.434 trillion in general revenues received by all state and local government entities nationwide, and three one-hundredths percent (0.03 percent) of the \$150.8 billion in total payrolls for those entities. The recurring incremental payroll costs are about one-half these very small amounts.

The Department's PRIA estimates that the benefits of the proposed rule for all state and local government sectors range from \$48.5 to \$86.2 million. These estimates exclude difficult to quantify benefits such as lower human resource costs and additional lower legal and settlement costs stemming from unintentionally misclassifying workers. The PRIA results indicate that the benefits of the proposed rule will exceed the costs for state and local governments in every year. However, state and local governments, as employers covered by the monetary requirements of the FLSA, will need to raise any such additional revenues required, however minimal, to meet their future compliance obligations if the proposed rule is adopted. The FLSA does not provide for Federal financial assistance or other Federal resources to meet the requirements of its intergovernmental mandates. The Federal mandate imposed by the rule is not expected to have measurable effects on health, safety, or the natural environment.

(3) Macro-Economic Effects

Agencies are expected to estimate the effect of a regulation on the national economy, such as the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services, if accurate estimates are reasonably feasible and the effect is relevant and material. 5 U.S.C. § 1532(a)(4). However, OMB guidance on this requirement notes that such macro-economic effects tend to be measurable in nationwide econometric models only if the economic impact of the regulation reaches 0.25 percent to 0.5 percent of Gross Domestic Product, or in the range of \$1.5 billion to \$3.0 billion. A regulation with smaller aggregate effect is not likely to have a measurable impact in macro-economic terms unless it is highly focused on a particular geographic region or economic sector, which is not the case with this proposed rule.

The Department's PRIA estimates that the total aggregate economic impact of this proposed rule ranges from \$870.3 million to \$1,575.5 million. However, as noted in the previous section summarizing the Department's PRIA, these are upper bound estimates and the actual costs and impacts expected to be incurred by employers, including state and local governments, if the proposed rule were adopted, are likely to be lower. Therefore, given OMB's guidance, the Department has determined that a full macro-economic analysis is not likely to show any measurable impact on the economy.

(4) Summary of State, Local, and Tribal Government Input

Congress amended the FLSA in 1985 to readjust how the Act would apply to the public sector. The 1985 amendments allowed compensatory time off in lieu of cash overtime pay, partial overtime exemptions for police and fire departments, the use of unpaid volunteers in certain circumstances, and a temporary phase-in period for meeting FLSA compliance obligations. However, Congress enacted no special provisions for public agencies related to the Section 13(a)(1) exemptions or the 541 regulations. Consequently, the same rules for distinguishing 541-exempt employees from nonexempt employees that apply in the private sector were initially applied to the public sector following the 1985 amendments.

Since 1985, state and local governments have confronted FLSA compliance issues and the 541 regulations have been among the foremost of their concerns, particularly in the administrative exemption category. Many state and local governments classified nearly all of their non-supervisory “white collar” workers as exempt administrative employees without regard to whether their primary duty relates directly to agency management policies or general business operations or meets the discretion and independent judgment test. In the late 1980s, several Governors and state and local government agencies urged the Department to exempt classifications such as social workers, detectives, probation officers, and others, to avoid disrupting the level of public services that would result from increasing costs or limiting the hours of service due to overtime requirements. In 1989, former Labor Secretary Elizabeth Dole, in a widely disseminated response to 13 Governors, confirmed the nature of the administrative exemption’s duties test as applied to public sector employees but solicited specific input with accompanying rationale for what should be changed. Responses were limited but argued generally that government services are unique because of the impact on health, safety, welfare or liberty of citizens. This, they argued, should allow exemption of positions in law enforcement and criminal justice, human services, health care and rehabilitation services, and the unemployment compensation systems, regardless of whether any particular employee’s job duties include important decision-making on how the agency is operated or managed internally. They also urged the Department to redefine the professional exemption to recognize a broader contemporary use of that term in government employment.

In the midst of a growing wave of private lawsuits filed by public employees against their employers challenging their exempt status, a series of court decisions were rendered that sharply limited public employers’ ability to successfully assert exemption under the “salary basis” rule. This led the Department to alter the “salary basis” rules to provide specific relief to public employers in a final rule issued in August 1992 (57 FR 37666; Aug. 19, 1992). Under this special rule, the fact that a public sector pay and leave system includes partial-day deductions from pay for absences not covered by accrued paid leave becomes irrelevant to determining any public sector employee’s eligibility for exemption.

Public sector employers have been less vocal over FLSA issues since the Department’s 1992 rulemaking allowing partial-day (or hourly) deductions from pay for employee absences not covered by accrued leave and other special “salary basis” rules for budget-driven furloughs (29 CFR § 541.5d). The U.S. Supreme Court’s 1997 decision in *Auer v. Robbins*, 519 U.S. 452 (1997), a public sector case involving the City of St. Louis Police Department and disciplinary deductions from pay, may also have relieved many concerns of public agencies over pay docking for discipline.

Although public agency organizations were invited to the Department’s stakeholder meetings to address concerns over the 541 regulations, they mostly did not respond to the invitations. The International Personnel Management Association, accompanied by the National Public Employers Labor Relations Association and the U.S. Conference of Mayors, suggested that progressive discipline systems are common in the public sector (some collectively bargained) and the “salary basis” rule for exempt workers, which prohibits disciplinary deductions except for major safety rules, threatens such systems. Representatives of the Interstate Labor Standards Association (ILSA) submitted written

views suggesting that the salary threshold be indexed to the current minimum wage or some multiple thereof (e.g., 3 times the minimum wage for a 40-hour workweek or \$618 per week). One additional idea was to relate the salary levels to those of the supervised employees.

The proposed rule would revise and simplify the exemptions' duties tests, but would continue to apply the same basic duties tests in both the public and private sectors. The public sector is governed by a different set of pay-docking rules and additional proposed revisions in this rule would broaden permissible disciplinary deductions to include sanctions for infractions such as sexual harassment and work place violence. However, a broader or separate duties test rule applicable solely to the public sector does not seem warranted at this time, as the case has not been made for such separate treatment. The Department is interested in receiving specific public comments on any issues of concern to public employees and public employers, and will carefully examine any such public comments submitted on this proposal during the rulemaking process.

(5) Least Burdensome Option or Explanation Required

The Department's consideration of various options is described in the preceding section in the preamble on the Regulatory Flexibility Act and Executive Order 13272. The Department believes that it has chosen the least burdensome option that updates, clarifies, and simplifies the rule. One alternative option would have set the exemptions' salary level at a rate lower than the proposed \$425 per week, which might impose lower direct payroll costs on employers but may not necessarily be the most cost-effective or least burdensome alternative for employers. A lower salary level could result in a less effective "bright-line" test that separates exempt workers from those nonexempt workers whom Congress intended to cover by the Act. Greater ambiguity regarding who is exempt and nonexempt increases the potential legal liability from unintentionally misclassifying workers, and thus the ultimate cost of the regulation.

VII. Effects on Families

This rule has been assessed under section 654 of the Treasury and General Government Appropriations Act, 1999, for its effect on family well-being and the undersigned hereby certifies that the rule will not adversely affect the well-being of families.

VIII. Executive Order 13045, Protection of Children

In accordance with Executive Order 13045, the Department has evaluated this rule and determined that it has no environmental health risk or safety risk that may disproportionately affect children.

IX. Executive Order 13132, Federalism

This rule will not have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under the terms of section 6 of E.O. 13132, it has been determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

This rule is issued pursuant to Section 13(a)(1) of the Fair Labor Standards Act, 29 U.S.C. 213(a)(1). The section exempts from the FLSA's minimum wage and overtime pay requirements "any employee employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act ...)." The requirements of the exemption provided by this section of the Act are contained in this rule, 29 CFR Part 541.

Section 3(e) of the Fair Labor Standards Act, 29 U.S.C. 203(e), defines employee to include most individuals employed by a state, political subdivision of a state, or interstate governmental agency. Section 3(x) of the Fair Labor Standards Act, 29 U.S.C. 203(x), also defines public agencies to include the government of a state or political subdivision thereof, or any interstate governmental agency.

The Department's Preliminary Regulatory Impact Analysis (PRIA) estimates the implementation costs, incremental payroll costs, and benefits of the proposed rule for all state and local government sectors in the aggregate in each state. The results indicate that the total first year costs of the proposed rule on state and local government entities range from \$24.1 to \$43.6 million. This includes \$14.0 to \$19.7 million in first year (nonrecurring) implementation costs and \$10.1 to \$23.9 million in recurring incremental payroll costs. The first year costs represent less than three one-thousandths percent (0.003 percent) of the \$1.434 trillion in general revenues received by all state and local government entities nationwide, and three one-hundredths percent (0.03 percent) of the \$150.8 billion in total payrolls for those entities. The recurring incremental payroll costs are about one-half these very small amounts.

The Department's PRIA also estimates that the benefits of the proposed rule for all state and local government sectors range from \$48.5 to \$86.2 million. These estimates exclude difficult to quantify benefits such as lower human resource costs and additional lower legal and settlement costs stemming from unintentionally misclassifying workers. The PRIA results indicate that the benefits of the proposed rule will exceed the costs for state and local governments in every year. The Federal mandate imposed by the rule is not expected to have substantial direct effects on the states and will not affect the current relationship between the national government and the states or the distribution of power and responsibilities among the various levels of government.

X. Executive Order 13175, Indian Tribal Governments

This rule was reviewed under the terms of E.O. 13175 and determined not to have "tribal implications." The rule does not have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." As a result, no tribal summary impact statement has been prepared.

XI. Executive Order 12630, Constitutionally Protected Property Rights

This rule is not subject to E.O. 12630 because it does not involve implementation of a policy "that has takings implications" or that could impose limitations on private property use.

XII. Executive Order 12988, Civil Justice Reform Analysis

This rule was drafted and reviewed in accordance with E.O. 12988 and will not unduly burden the federal court system. The rule was: (1) reviewed to eliminate drafting errors and ambiguities; (2) written to minimize litigation; and (3) written to provide a clear legal standard for affected conduct, and to promote burden reduction.

XIII. Executive Order 13211, Energy Supply

This rule is not subject to E.O. 13211. It will not have a significant adverse effect on the supply, distribution, or use of energy.

XIV. Environmental Impact Assessment

The Department has reviewed this rule in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.), the regulations of the Council on Environmental Quality (40 U.S.C. part 1500), and the Department's NEPA procedures (29 CFR part 11). The rule will not have a significant impact on the quality of the human environment, and, thus, the Department has not conducted an environmental assessment or an environmental impact statement.

XV. List of Subjects in 29 CFR Part 541

Labor, Minimum wages, Overtime pay, Salaries, Teachers, Wages.

For the reasons set forth above, 29 CFR part 541 is proposed to be amended as set forth below.

Signed at Washington, DC, this _____ day of _____, 2003.

Tammy D. McCutchen

Administrator, Wage and Hour Division

PART 541

DEFINING AND DELIMITING THE EXEMPTIONS FOR EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL, COMPUTER AND OUTSIDE SALES EMPLOYEES

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AUTHORITY: 29 U.S.C. 213; Public Law 101-583, 104 Stat. 2871; Reorganization Plan No. 6 of 1950 (3 CFR 1945-53 Comp. p. 1004); Secretary's Order No. 4-2001 (66 FR 29656).

SUBPART A – GENERAL REGULATIONS

§ 541.000 Introductory statement.

(a) Section 13(a)(1) of the Fair Labor Standards Act, as amended, provides an exemption from the Act's minimum wage and overtime requirements for any employee employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of an outside sales employee, as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act. Section 13(a)(17) of the Act provides an exemption from the minimum wage and overtime requirements for computer systems analysts, computer programmers, software engineers, and other similarly skilled computer employees.

(b) The requirements for these exemptions are contained in this part as follows: executive employees, subpart B; administrative employees, subpart C; professional employees, subpart D; computer employees, subpart E; outside sales employees, subpart F. Subpart G contains regulations regarding salary requirements applicable to most of the exemptions, including salary levels and the salary basis test. Subpart G also contains a provision for exempting certain highly compensated employees. Subpart H contains definitions and other miscellaneous provisions applicable to all or several of the exemptions.

(c) Effective July 1, 1972, the Fair Labor Standards Act was amended to include within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of an outside sales employee under section 13(a)(1) of the act. The equal pay provisions in section 6(d) of the Fair Labor Standards Act are administered and enforced by the United States Equal Employment Opportunity Commission.

§ 541.001 Terms defined.

Act means the Fair Labor Standards Act of 1938, as amended.

Administrator means the Administrator of the Wage and Hour Division, United States Department of Labor. The Secretary of Labor has delegated to the Administrator the functions vested in the Secretary under sections 13(a)(1) and 13(a)(17) of the Fair Labor Standards Act.

§ 541.002 Job titles insufficient.

A job title alone is insufficient to establish the exempt status of an employee. The exempt or nonexempt status of any particular employee must be determined on the basis of whether the employee's salary and duties meet the requirements of these regulations.

SUBPART B – EXECUTIVE EMPLOYEES

§ 541.100 General rule for executive employees.

The term "employee employed in a bona fide executive capacity" in section 13(a)(1) of the Act shall mean any employee:

- (a) Compensated on a salary basis at a rate of not less than \$425 per week (or \$360 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities;
- (b) With a primary duty of the management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof;
- (c) Who customarily and regularly directs the work of two or more other employees; and
- (d) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees will be given particular weight.

The phrase "salary basis" is defined at § 541.602; "board, lodging or other facilities" is defined at § 541.606; "primary duty" is defined at § 541.700; and "customarily and regularly" is defined at § 541.701.

§ 541.101 Business owner.

The term "employee employed in a bona fide executive capacity" in section 13(a)(1) of the Act also includes any employee who owns at least a 20-percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization.

The requirements of Subpart G (salary requirements) of these regulations do not apply to the business owners described in this section.

§ 541.102 Sole charge executive.

(a) The term “employee employed in a bona fide executive capacity” in section 13(a)(1) of the Act also includes any employee compensated on a salary basis at a rate of not less than \$425 per week (or \$360 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities, who is in sole charge of an independent establishment or a physically separated branch establishment.

(b) The term “sole charge” means that the employee ordinarily must be in charge of the company activities at the location where the employee is employed. Thus, to qualify as a “sole charge” executive, the employee must have authority to make decisions regarding the day-to-day operations of the establishment and to direct the work of any other employees at the establishment or branch. Only one person in any establishment can qualify as a sole charge executive, and then only if that person is the top person in charge at that location. The “sole-charge” status of an employee will not be considered lost because of an occasional visit to the establishment or branch office of a superior.

(c) The phrase “independent establishment or a physically separated branch establishment” means an establishment that has a fixed location and is geographically separated from other company property. The management of operations within one of several buildings located on single or adjoining tracts of company property does not qualify for the exemption under this section. In the case of a branch, there must be a true and complete physical separation from the main office.

(d) A leased department may qualify as an independent establishment when the lessee operates under a separate trade name, with its own separate employees and records, and in other respects conducts the lessee’s business independently of the lessor’s. In such a case the leased department would enjoy the same status as a physically separated branch establishment. A leased department cannot be considered an independent establishment when the lessor has authority over such matters as hiring and firing of employees, other personnel policies, advertising, purchasing, pricing, credit operations, insurance and taxes.

§ 541.103 Management of the enterprise.

Generally, “management of the enterprise” includes activities such as interviewing, selecting, and training of employees; setting and adjusting their rates of pay and hours of work; directing the work of employees; maintaining production or sales records for use in supervision or control; appraising employees’ productivity and efficiency; handling employee complaints and grievances; disciplining employees; planning the work; determining the techniques to be used; apportioning the work among the employees; determining the type of materials, supplies, machinery or tools to be used or merchandise to be bought, stocked and sold; controlling the flow and distribution of materials or merchandise and supplies; and providing for the safety of the employees or the property.

§ 541.104 Department or subdivision.

(a) The phrase “a customarily recognized department or subdivision” is intended to distinguish between a mere collection of employees assigned from time to time to a specific job or series of jobs and a unit with permanent status and function. A customarily recognized department or subdivision must have a permanent status and a continuing function. For example, a large employer’s human resources department might have subdivisions for labor relations, pensions and other benefits, equal employment opportunity, and personnel management, each of which has a permanent status and function.

(b) When an enterprise has more than one establishment, the employee in charge of each establishment may be considered in charge of a recognized subdivision of the enterprise. The

employee also may qualify for the sole charge exemption, if all of the requirements of § 541.102 are satisfied.

(c) A recognized department or subdivision need not be physically within the employer's establishment and may move from place to place. The mere fact that the employee works in more than one location does not invalidate the exemption if other factors show that the employee is actually in charge of a recognized unit with a continuing function in the organization.

(d) Continuity of the same subordinate personnel is not essential to the existence of a recognized unit with a continuing function. An otherwise exempt employee will not lose the exemption merely because the employee draws and supervises workers from a pool or supervises a team of workers drawn from other recognized units, if other factors are present that indicate that the employee is in charge of a recognized unit with a continuing function.

§ 541.105 Two or more other employees.

(a) To qualify as an exempt executive under § 541.100, the employee must customarily and regularly direct the work of two or more other employees. The phrase "two or more other employees" means two full-time employees or their equivalent. One full-time and two half-time employees, for example, are equivalent to two full-time employees. Four half-time employees are also equivalent.

(b) The supervision can be distributed among two, three or more employees, but each such employee must customarily and regularly direct the work of two or more other full-time employees or the equivalent. Thus, for example, a department with five full-time non-exempt workers may have up to two exempt supervisors if each such supervisor customarily and regularly directs the work of two of those workers.

(c) An employee who merely assists the manager of a particular department and supervises two or more employees only in the actual manager's absence does not meet this requirement.

(d) Hours worked by an employee cannot be credited more than once for different executives. Thus, a shared responsibility for the supervision of the same two employees in the same department does not satisfy this requirement. However, a full-time employee who works four hours for one supervisor and four hours for a different supervisor, for example, can be credited as a half-time employee for both supervisors.

§ 541.106 Working supervisors.

Employees, sometimes called "working foremen" or "working supervisors," who have some supervisory functions, such as directing the work of other employees, but also perform work unrelated or only remotely related to the supervisory activities are not exempt executives if, instead of having management as their primary duty as required in § 541.100, their primary duty consists of either the same kind of work as that performed by their subordinates; work that, although not performed by their own subordinates, consists of ordinary production or sales work; or routine, recurrent or repetitive tasks.

§ 541.107 Supervisors in retail establishments.

Supervisors in retail establishments often perform work such as serving customers, cooking food, stocking shelves, cleaning the establishment or other non-exempt work. Performance of such non-exempt work by a supervisor in a retail establishment does not disqualify the employee from the exemption if the requirements of § 541.100 are otherwise met. Thus, an assistant manager whose primary duty includes such activities as scheduling employees, assigning work, overseeing product quality, ordering merchandise, managing inventory, handling customer complaints, authorizing payment of bills or performing other management functions may be an exempt executive even though the assistant manager spends the majority of the time on non-exempt work.

SUBPART C – ADMINISTRATIVE EMPLOYEES

§ 541.200 General rule for administrative employees.

The term “employee employed in a bona fide administrative capacity” in section 13(a)(1) of the Act shall mean any employee:

(a) Compensated on a salary or fee basis at a rate of not less than \$425 per week (or \$360 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities;

(b) With a primary duty of the performance of office or non-manual work related to the management or general business operations of the employer or the employer’s customers; and

(c) Who holds a position of responsibility with the employer.

The term “salary basis” is defined at § 541.602; “fee basis” is defined at § 541.605; “board, lodging or other facilities” is defined at § 541.606; and “primary duty” is defined at § 541.700.

§ 541.201 Related to management or general business operations.

(a) To qualify for the administrative exemption, an employee must perform work related to the management or general business operations of the employer or the employer’s customers. The phrase “related to management or general business operations” refers to the type of work performed by the employee. To meet this requirement, an employee must perform work related to assisting with the running or servicing of the business, as distinguished, for example, from working on a manufacturing production line or selling a product.

(b) Work related to management or general business operations includes, for example, work in areas such as tax, finance, accounting, auditing, insurance, quality control, purchasing, procurement, advertising, marketing, research, safety and health, personnel management, human resources, employee benefits, labor relations, public relations, government relations and similar activities. Some of these activities may be performed by employees who also would qualify for another exemption. For example, a tax attorney and an accountant likely are performing work that qualifies for the professional exemption.

(c) An employee may qualify for the administrative exemption if the employee performs work related to the management or general business operations of the employer’s customers. Thus, for example, employees acting as advisers and consultants to their employer’s clients or customers (as tax experts or financial consultants, for example) may be exempt.

§ 541.202 Position of responsibility.

To qualify for the administrative exemption, an employee must hold a position of responsibility with the employer. The phrase “position of responsibility” refers to the importance to the employer of the work performed or the high level of competence required by the work performed. To meet this requirement, an employee must either customarily and regularly perform work of substantial importance or perform work requiring a high level of skill or training. The phrase “customarily and regularly” is defined at § 541.710.

§ 541.203 Work of substantial importance.

(a) The phrase “work of substantial importance” means work that, by its nature or consequence, affects the employer’s general business operations or finances to a significant degree.

(b) Work of substantial importance includes activities such as formulating, interpreting or implementing management policies; providing consultation or expert advice to management; making or recommending decisions that have a significant impact on general business operations or finances; analyzing and recommending changes to operating practices; planning long or short-term business

objectives; analyzing data, drawing conclusions and recommending changes; handling complaints, arbitrating disputes or resolving grievances; representing the company during important contract negotiations; and work of similar impact on general business operations or finances. Work of substantial importance thus is not limited to employees who participate in the formulation of management policies or in the operation of the business as a whole. It includes the work of employees who carry out major assignments in conducting the operations of the business, or whose work affects general business operations to a significant degree, even though their assignments are tasks related to the operation of a particular segment of the business.

(1) For example, an employee who is a buyer of a particular type of equipment in an industrial plant or who is an assistant buyer for a retail or service establishment may have a significant impact on the business, even though the work may be limited to purchasing for a particular department. Similarly, although comparison shopping by an employee who merely reports findings on a competitor's prices is not work of substantial importance, the buyer who evaluates such reports to set the employer's prices does perform work of substantial importance.

(2) Insurance claims adjusters also generally perform work of substantial importance, whether they work for an insurance company or other type of company, if their duties include activities such as interviewing insureds, witnesses and physicians; inspecting property damage; reviewing factual information to prepare damage estimates; evaluating and making recommendations regarding coverage of claims; determining liability and total value of a claim; negotiating settlements; and making recommendations regarding litigation.

(3) An employee who leads a team of other employees assigned to complete a major project for the employer (such as purchasing, selling or closing all or part of the business, negotiating a real estate transaction or a collective bargaining agreement, or designing and implementing productivity improvements) performs work of substantial importance, even if the employee does not have direct supervisory responsibility over the other employees on the team.

(4) Other employees that perform work of substantial importance, even if their decisions or recommendations are reviewed for possible modification or rejection at a higher level, include: a human resources manager who formulates employment policies; a management consultant who studies the operations of a business and proposes change in organization; a purchasing agent who is required to consult with top management officials when making a purchase commitment for raw materials in excess of the contemplated plant needs; or an executive or administrative assistant to a proprietor or chief executive of a business if such employee, without specific instructions or prescribed procedures, has been delegated authority to arrange meetings, handle callers and answer correspondence.

(c) Work of substantial importance does not include clerical or secretarial tasks, recording or tabulating data, or performing other mechanical, repetitive, recurrent or routine work. For example, an employee who simply tabulates data is not exempt, even if labeled as a "statistician." An example of an employee who does not perform work of substantial importance is a personnel clerk engaged in "screening" of applicants (collecting data and rejecting applicants who do not meet basic qualifications), but who is not involved in making the decision to hire.

(d) An employer's volume of business may make it necessary to employ a number of employees to perform the same or similar work. The fact that many employees perform identical work or work of the same relative importance does not mean that the work of each such employee is not work of substantial importance.

(e) The work of an employee does not meet this requirement merely because the employer will experience financial losses if the employee fails to perform the job properly. For example, a messenger who is entrusted with carrying large sums of money does not perform work of substantial importance even though serious consequences may flow from the employee's neglect. An employee who operates very expensive equipment is not performing work of substantial importance merely

because improper performance of the employee's duties may cause serious financial loss to the employer.

§ 541.204 High level of skill or training.

(a) The phrase "work requiring a high level of skill or training" means administrative work requiring specialized knowledge or abilities, or advanced training. The specialized knowledge or abilities need not be acquired through any particular course of academic training or study. Also, the high level of training required may involve advanced academic instruction or advanced on-the-job training, or a combination of both. Administrative work that satisfies the "high level of skill or training" standard includes advisory work performed for the management of the company (or for the management of the company's customers), as is typically performed by financial advisors, tax advisors, insurance experts, credit managers, employee benefits experts, human resource consultants, labor relations consultants, marketing consultants, safety directors, account executives of advertising agencies and stock brokers. Employees with a high level of skill or training also may perform special assignments, including assignments performed away from their employer's place of business if the employee serves as a field representative for the employer.

(b) Work requiring a high level of skill or training may include work by employees who use a reference manual. The use of such a manual can require a high level of skill and training if the manual contains highly technical, scientific, legal, financial or other similarly complex information that can be interpreted properly only by those with advanced training or specialized knowledge or skills. Such manuals are used to provide guidance in addressing very difficult or novel circumstances. Thus, if an employee performs administrative work that satisfies the "high level of skill or training" standard, using this type of reference manual would not affect the employee's exempt status.

(c) Work requiring a high level of skill or training does not include work requiring the employee simply to look up information (from a handbook, for example) to determine the correct response to an inquiry or set of circumstances. Nor does it include clerical or secretarial work, recording or tabulating data, or other mechanical, repetitive, recurrent or routine work. Employees such as inspectors, examiners and graders who use established techniques, procedures or standards to accept or reject a product do not perform work requiring a high level of skill or training, even though such employees may have some leeway in the performance of their work.

§ 541.205 Educational establishments.

(a) The term "employee employed in a bona fide administrative capacity" in section 13(a)(1) of the Act also includes employees:

(1) Compensated for services on a salary or fee basis at a rate of not less than \$425 per week (or \$360 per week, if employed in American Samoa by employers other than the Federal Government) exclusive of board, lodging or other facilities, or on a salary basis which is at least equal to the entrance salary for teachers in the educational establishment by which employed; and

(2) With a primary duty of performing administrative functions directly related to academic instruction or training in an educational establishment or department or subdivision thereof.

(b) The term "educational establishment" means an elementary or secondary school system, an institution of higher education or other educational institution. Sections 3(v) and 3(w) of the Act define elementary and secondary schools as those day or residential schools that provide elementary or secondary education, as determined under State law. Under the laws of most States, such education includes the curriculums in grades 1 through 12; under many it includes also the introductory programs in kindergarten. Such education in some States may also include nursery school programs in elementary education and junior college curriculums in secondary education. The term "educational establishment" includes special schools for mentally or physically disabled or gifted children, regardless of any classification of such schools as elementary, secondary or higher. Also, for purposes

of the exemption, no distinction is drawn between public and private schools, or between those operated for profit and those that are not for profit.

(c) The phrase “performing administrative functions directly related to academic instruction or training” means work related to the academic operations and functions in a school rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

(1) Employees engaged in academic administrative functions include: the superintendent or other head of an elementary or secondary school system, and any assistants, responsible for administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program; the principal and any vice-principals responsible for the operation of an elementary or secondary school; department heads in institutions of higher education responsible for the administration of the mathematics department, the English department, the foreign language department, etc.; and other employees with similar responsibilities.

(2) Jobs relating to building management and maintenance, jobs relating to the health of the students, and academic staff such as social workers, psychologists, lunch room managers or dietitians do not perform academic administrative functions. Although such work is not considered academic administration, such employees may qualify for exemption under § 541.200 or under other sections of these regulations provided the requirements for such exemptions are met.

SUBPART D – PROFESSIONAL EMPLOYEES

§ 541.300 General rule for professional employees.

The term “employee employed in a bona fide professional capacity” in section 13(a)(1) of the Act shall mean any employee:

(a) Compensated on a salary or fee basis at a rate of not less than \$425 per week (or \$360 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging, or other facilities; and

(b) With a primary duty of performing office or non-manual work:

(1) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction, but which also may be acquired by alternative means such as an equivalent combination of intellectual instruction and work experience; or

(2) Requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.

The term “salary basis” is defined at § 541.602; “fee basis” is defined at § 541.605; “board, lodging or other facilities” is defined at § 541.606; and “primary duty” is defined at § 541.700.

§ 541.301 Learned professionals.

(a) Learned professionals must have a primary duty of performing office or non-manual work requiring advanced knowledge in a field of science or learning. The term “advanced knowledge” means knowledge that is customarily acquired through a prolonged course of specialized intellectual instruction, but which also may be acquired by alternative means such as an equivalent combination of intellectual instruction and work experience. The learned professions include the professions of law, medicine, theology, teaching, accounting, actuarial computation, engineering, architecture, various types of physical, chemical and biological sciences, pharmacy, and other similar occupations that have a recognized professional status based on the acquirement of advanced knowledge and performance of work that is predominantly intellectual in character as opposed to routine, mental, manual, mechanical or physical work.

(b) The phrase “knowledge of an advanced type” means knowledge that cannot be attained at the high school level.

(c) The phrase “field of science or learning” distinguishes the learned professions from the mechanical arts where in some instances the knowledge is of a fairly advanced type, but not in a field of science or learning.

(d) The phrase “customarily acquired by a prolonged course of specialized intellectual instruction” generally restricts the exemption to professions where specialized academic training is a standard prerequisite for entrance into the profession. The best prima facie evidence that an employee meets this requirement is possession of the appropriate academic degree. However, the word “customarily” means that the exemption is also available to employees in such professions who have substantially the same knowledge level as the degreed employees, but who attained such knowledge through a combination of work experience, training in the armed forces, attending a technical school, attending a community college or other intellectual instruction.

(e) The following professions have been found by the Administrator generally to meet the primary duty requirement for learned professionals in § 541.300(b)(1):

(1) Registered or certified medical technologists. Registered or certified medical technologists who have successfully completed three academic years of pre-professional study in an accredited college or university plus a fourth year of professional course work in a school of medical technology approved by the Council of Medical Education of the American Medical Association.

(2) Registered nurses. Nurses who are registered by the appropriate State examining board.

(3) Dental hygienists. Dental hygienists who have successfully completed four academic years of pre-professional and professional study in an accredited college or university approved by the Commission on Accreditation of Dental and Dental Auxiliary Educational Programs of the American Dental Association.

(4) Physician assistants. Physician assistants who have successfully completed three years of pre-professional study (or 2,000 hours of patient care experience in a military or civilian occupation such as laboratory technology, nursing, psychology, biology, or related activity) plus not less than one year of professional course work in a medical school or hospital.

(5) Accountants. Certified public accountants, except in unusual cases, meet the primary duty requirement for the learned professional exemption. In addition, many other accountants who are not certified public accountants but perform similar job duties may qualify as exempt learned professionals. However, accounting clerks and other employees who normally perform a great deal of routine work generally will not qualify as exempt professionals.

(6) Chefs. Chefs, such as executive chefs and sous chefs, who have attained a college degree in a culinary arts program, meet the primary duty requirement for the learned professional exemption.

(f) Professional occupations do not include those whose duties may be performed with the general knowledge acquired by an academic degree in any field or with knowledge acquired through an apprenticeship or from training in routine mental, manual or physical processes. Thus, for example, the professional exemption does not apply to occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers, teamsters and other employees who perform manual work that does not require an advanced academic degree.

(g) The areas in which professional exemptions may be available are expanding. As knowledge is developed, academic training is broadened and specialized degrees are offered in new and diverse fields, thus creating new specialists in particular fields of science or learning. When a specialized degree has become a standard requirement for a particular occupation, that occupation may have acquired the characteristics of a learned profession.

§ 541.302 Creative professionals.

(a) Creative professionals must have a primary duty of performing office or non-manual work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor as opposed to routine mental, manual, mechanical or physical work. The exemption does not apply to work which can be produced by a person with general manual ability and training.

(b) To qualify for exemption as a creative professional, the work performed must be “in a recognized field of artistic or creative endeavor.” This includes such fields as music, writing, acting and the graphic arts.

(c) The requirement of “invention, imagination, originality or talent” distinguishes the creative professions from work that primarily depends on intelligence, diligence and accuracy. This requirement generally is met by actors, musicians, composers, conductors, and soloists; painters who at most are given the subject matter of their painting; cartoonists who are merely told the title or underlying concept of a cartoon and must rely on their own creative ability to express the concept; essayists, novelists, short-story writers and screen play writers who choose their own subjects and hand in a finished piece of work to their employers (the majority of such persons are, of course, not employees but self-employed); and persons holding the more responsible writing positions in advertising agencies. This requirement generally is not met by a person who is employed as a copyist, as an “animator” of motion-picture cartoons, or as a retoucher of photographs, since such work is not properly described as creative in character.

(d) Journalists may qualify as creative professionals if their work generally requires invention, imagination, originality or talent. Writers for newspapers, news magazines, television news programs, the Internet and other media, for example, generally perform work involving originality and talent. Radio announcers and television announcers also perform work that requires artistic or creative talent. Exempt work includes conducting interviews, reporting or analyzing public events, and acting as a narrator, announcer or commentator. Positions that primarily require the employee to collect and record routine facts or data without analysis, interpretation, synthesis, or creative or original writing would not qualify for the creative professional exemption.

§ 541.303 Teachers.

(a) The term “employee employed in a bona fide professional capacity” in section 13(a)(1) of the Act also means any employee with a primary duty of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an educational establishment by which the employee is employed. The term “educational establishment” is defined in § 541.205(b).

(b) Exempt teachers include, but are not limited to: regular academic teachers; teachers of kindergarten or nursery school pupils; teachers of gifted or disabled children; teachers of skilled and semiskilled trades and occupations; teachers engaged in automobile driving instruction; aircraft flight instructors; home economics teachers; and vocal or instrumental music instructors. Those faculty members who are engaged as teachers but also spend a considerable amount of their time in extracurricular activities such as coaching athletic teams or acting as moderators or advisors in such areas as drama, speech, debate or journalism are engaged in teaching. Such activities are a recognized part of the schools’ responsibility in contributing to the educational development of the student.

(c) The possession of an elementary or secondary teacher’s certificate provides a clear means of identifying the individuals contemplated as being within the scope of the exemption for teaching professionals. Teachers who possess a teaching certificate qualify for the exemption regardless of the terminology (e.g., permanent, conditional, standard, provisional, temporary, emergency, or unlimited) used by the State to refer to different kinds of certificates. However, private schools and public schools are not uniform in requiring a certificate for employment as an elementary or secondary school teacher, and a teacher’s certificate is not generally necessary for employment in institutions of higher

education or other educational establishments. Therefore, a teacher who is not certified may be considered for exemption, provided that such individual is employed as a teacher by the employing school or school system.

(d) The requirements of § 541.300 and Subpart G (salary requirements) of these regulations do not apply to the teaching professionals described in this section.

§ 541.304 Practice of law or medicine.

(a) The term “employee employed in a bona fide professional capacity” in section 13(a)(1) of the Act also shall mean:

(1) Any employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and is actually engaged in the practice thereof; and

(2) Any employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of the profession.

(b) In the case of medicine, the exemption applies to physicians and other practitioners licensed and practicing in the field of medical science and healing or any of the medical specialties practiced by physicians or practitioners. The term “physicians” includes medical doctors including general practitioners and specialists, osteopathic physicians (doctors of osteopathy), podiatrists, dentists (doctors of dental medicine), and optometrists (doctors of optometry or bachelors of science in optometry).

(c) Employees engaged in internship or resident programs, whether or not licensed to practice prior to commencement of the program, qualify as exempt professionals if they enter such internship or resident programs after the earning of the appropriate degree required for the general practice of their profession.

(d) The requirements of § 541.300 and Subpart G (salary requirements) of these regulations do not apply to the licensed lawyers and medical professionals described in this section.

SUBPART E – COMPUTER EMPLOYEES

§ 541.400 General rule for computer employees.

Computer systems analysts, computer programmers, software engineers or other similarly skilled workers in the computer field are eligible for exemption as professionals under section 13(a)(1) of the Act and under section 13(a)(17) of the Act. Employees who qualify for this exemption are highly skilled in computer systems analysis, programming, software engineering or similar computer functions. Because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the applicability of this exemption. To qualify for the computer occupations exemption, the employee must:

(a) Be compensated on a salary or fee basis at a rate of not less than \$425 per week (or \$360 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities, or on an hourly basis at a rate not less than \$27.63 an hour; and

(b) Have a primary duty consisting of:

(1) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;

(2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

(3) The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or

(4) A combination of the aforementioned duties, the performance of which requires the same level of skills.

The term “salary basis” is defined at § 541.602; “fee basis” is defined at § 541.605; “board, lodging or other facilities” is defined at § 541.606; and “primary duty” is defined at § 541.700.

§ 541.401 High level of skill and expertise.

The exemption for computer employees applies only to highly-skilled employees who have achieved a level of proficiency in the theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming and software engineering. This exemption does not include trainees or employees in entry level positions learning to become proficient in such areas or to employees in computer occupations who have not attained a level of skill and expertise which allows them to work generally without close supervision. The level of expertise and skill required to qualify for this exemption is generally attained through combinations of education, specialized training and experience in the field. No particular academic degree is required for this exemption, nor are there any requirements for licensure or certification.

§ 541.402 Computer operation, manufacture and repair.

The exemption for employees in computer occupations does not include employees engaged in the operation of computers or in the manufacture, repair or maintenance of computer hardware and related equipment. Employees whose work is highly dependent upon, or facilitated by, the use of computers and computer software programs (e.g., engineers, drafters and others skilled in computer-aided design software), but who are not in computer systems analysis and programming occupations, are also not exempt computer professionals.

§ 541.403 Executive and administrative computer employees.

Computer employees within the scope of this exemption, as well as those employees not within its scope, may also have executive and administrative duties which qualify the employees for exemption under Subpart B or Subpart C of these regulations. For example, systems analysts and computer programmers whose primary duties are to plan, schedule, and coordinate activities required to develop systems to solve complex business, scientific or engineering problems of the employer or the employer’s customers are performing work of substantial importance related to management or general business operations and may qualify as exempt administrative employees under § 541.200. Similarly, a senior or lead computer programmer whose primary duty is to manage and direct the work of other programmers in a customarily recognized department or subdivision may qualify as an exempt executive employee under § 541.100.

SUBPART F – OUTSIDE SALES EMPLOYEES

§ 541.500 General rule for outside sales employees.

The term “employee employed in the capacity of outside salesman” in section 13(a)(1) of the Act shall mean any employee:

- (a) With a primary duty of:
 - (1) Making sales within the meaning of section 3(k) of the Act, or
 - (2) Obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; and
- (b) Who is customarily and regularly engaged away from the employer’s place or places of business in performing such primary duty.

The term “primary duty” is defined at § 541.700. In determining the primary duty of an outside sales employee, work performed incidental to and in conjunction with the employee’s own outside sales or solicitations, including incidental deliveries and collections, shall be regarded as exempt outside sales work. Other work that furthers the employee’s sales efforts also shall be regarded as exempt work

including, for example, writing sales reports, updating or revising the employee's sales or display catalog, planning itineraries and attending sales conferences. The requirements of Subpart G (salary requirements) of these regulations do not apply to the outside sales employees described in this section.

§ 541.501 Making sales or obtaining orders.

(a) Section 541.500 requires that the employee be engaged in: (1) Making sales within the meaning of section 3(k) of the Act, or (2) obtaining orders or contracts for services or for the use of facilities.

(b) Sales within the meaning of section 3(k) of the Act include the transfer of title to tangible property, and in certain cases, of tangible and valuable evidences of intangible property. Section 3(k) of the Act states that "sale" or "sell" includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.

(c) Exempt outside sales work includes not only the sales of commodities, but also "obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer." Obtaining orders for "the use of facilities" includes the selling of time on radio or television, the solicitation of advertising for newspapers and other periodicals, and the solicitation of freight for railroads and other transportation agencies.

(d) The word "services" extends the outside sales exemption to employees who sell or take orders for a service, which may be performed for the customer by someone other than the person taking the order.

§ 541.502 Away from employer's place of business.

(a) An outside sales employee must be customarily and regularly engaged "away from the employer's place or places of business." This requirement is based on the obvious connotation of the word "outside" in the statutory term "outside salesman." The Administrator does not have authority to define this exemption for "outside" sales under Section 13(a)(1) of the Act as including inside sales work. Section 13(a)(1) does not exempt inside sales and other inside work (except work performed incidental to and in conjunction with outside sales and solicitations). However, Section 7(i) of the Act exempts commissioned inside sales employees of qualifying retail or service establishments if those employees meet the compensation requirements of Section 7(i).

(b) The outside sales employee is an employee who makes sales at the customer's place of business or, if selling door-to-door, at the customer's home. Outside sales does not include sales made by mail, telephone or the Internet unless such contact is used merely as an adjunct to personal calls. Thus, any fixed site, whether home or office, used by a salesperson as a headquarters or for telephonic solicitation of sales is considered one of the employer's places of business, even though the employer is not in any formal sense the owner or tenant of the property. However, an outside sales employee does not lose the exemption by displaying samples in hotel sample rooms during trips from city to city; these sample rooms should not be considered as the employer's places of business.

§ 541.503 Promotion work.

(a) Promotion work is one type of activity often performed by persons who make sales, which may or may not be exempt outside sales work, depending upon the circumstances under which it is performed. Promotional work that is actually performed incidental to and in conjunction with an employee's own outside sales or solicitations is exempt work. On the other hand, promotional work that is incidental to sales made, or to be made, by someone else is not exempt outside sales work.

(b) A manufacturer's representative, for example, may perform various types of promotional activities such as putting up displays and posters, removing damaged or spoiled stock from the merchant's shelves or rearranging the merchandise. Such an employee can be considered an exempt outside sales employee if the employee's primary duty is making sales or contracts. Promotion

activities directed toward consummation of the employee's own sales are exempt. Promotional activities designed to stimulate sales that will be made by someone else are not exempt.

(c) Another example is a company representative who visits chain stores, arranges the merchandise on shelves, replenishes stock by replacing old with new merchandise, consults with the store manager as to the requirements of the store, fills out a requisition for the quantity wanted, but leaves the requisition with the store manager to be transmitted to the central warehouse of the chain store company which later ships the quantity requested. The arrangement of merchandise on the shelves or the replenishing of stock is not exempt work unless it is incidental to and in conjunction with the employee's own outside sales. Because the employee in this instance does not consummate the sale nor direct efforts toward the consummation of a sale, the work in this example is not exempt.

§ 541.504 Drivers who sell.

(a) Drivers who deliver products and also sell such products may qualify as exempt outside sales employees only if the employee has a primary duty of making sales. If the employee has a primary duty of making sales, all work performed incidental to and in conjunction with the employee's own sales efforts, including loading, driving or delivering products, is exempt work.

(b) Several factors should be considered in determining if a driver has a primary duty of making sales, including: a comparison of the driver's duties with those of other employees engaged as truck drivers and as salespersons; possession of a selling or solicitor's license when such license is required by law or ordinances; presence or absence of customary or contractual arrangements concerning amounts of products to be delivered; description of the employee's occupation in collective bargaining agreements; the employer's specifications as to qualifications for hiring; sales training; attendance at sales conferences; method of payment; and proportion of earnings directly attributable to sales.

(c) Drivers who may qualify as exempt outside sales employees include:

(1) A driver who provides the only sales contact between the employer and the customers visited, who calls on customers and takes orders for products, who delivers products from stock in the employee's vehicle or procures and delivers the product to the customer on a later trip, and who receives compensation commensurate with the volume of products sold.

(2) A driver who obtains or solicits orders for the employer's products from persons who have authority to commit the customer for purchases.

(3) A driver who calls on new prospects for customers along the employee's route and attempts to convince them of the desirability of accepting regular delivery of goods,

(4) A driver who calls on established customers along the route and carrying an assortment of the employer's products who persuades regular customers to accept delivery of increased amounts of goods or of new products, even though the initial sale or agreement for delivery was made by someone else.

(d) Drivers who generally would not qualify as exempt outside sales employees include:

(1) A route driver whose primary duty is to transport products sold by the employer through vending machines and to keep such machines stocked, in good operating condition, and in good locations does not have a primary duty of making sales.

(2) A driver who often calls on established customers day after day or week after week, delivering a quantity of the employer's products at each call when the sale was not significantly affected by solicitations of the customer by the delivering driver or the amount of the sale is determined by the volume of the customer's sales since the previous delivery.

(3) A driver primarily engaged in making deliveries to customers and performing activities intended to promote sales by customers (including placing point-of-sale and other advertising materials, price stamping commodities, arranging merchandise on shelves, in coolers or in cabinets, rotating stock according to date, and cleaning and otherwise servicing display cases), unless such work is in furtherance of the driver's own sales efforts.

SUBPART G – COMPENSATION REQUIREMENTS

§ 541.600 Amount of salary required.

(a) To qualify as an exempt executive, administrative or professional employee under section 13(a)(1) of the Act, an employee must be compensated on a salary basis at a rate of not less than \$425 per week (or \$360 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities. Administrative and professional employees may also be paid on a fee basis, as defined in § 541.605.

(b) The \$425 a week may be translated into equivalent amounts for periods longer than one week. The requirement will be met if the employee is compensated biweekly on a salary basis of \$850, semimonthly on a salary basis of \$920.84, or monthly on a salary basis of \$1,841.67. However, the shortest period of payment that will meet this compensation requirement is one week.

(c) In the case of academic administrative employees, the compensation requirement also may be met by compensation on a salary basis at a rate at least equal to the entrance salary for teachers in the educational establishment by which the employee is employed, as provided in § 541.206(a)(1).

(d) In the case of computer employees, the compensation requirement also may be met by compensation on an hourly basis at a rate not less than \$27.63 an hour, as provided in § 541.400(a).

(e) In the case of professional employees, the compensation requirements in this section shall not apply to employees engaged as teachers (§ 541.303); employees who hold a valid license or certificate permitting the practice of law or medicine or any of their branches and are actually engaged in the practice thereof (see § 541.304); or to employees who hold the requisite academic degree for the general practice of medicine and are engaged in an internship or resident program pursuant to the practice of the profession (see § 541.304). In the case of medical occupations, the exception from the salary or fee requirement does not apply to pharmacists, nurses, therapists, technologists, sanitarians, dietitians, social workers, psychologists, psychometrists, or other professions which service the medical profession.

§ 541.601 Highly compensated employees.

(a) An employee who performs office or non-manual work and is guaranteed a total annual compensation of at least \$65,000 (\$55,000 if employed in American Samoa by employers other than the Federal Government) is deemed exempt under section 13(a)(1) of the Act if the employee performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee identified in Subparts B, C or D of these regulations.

(b) The phrase “total annual compensation” excludes board, lodging or other facilities as defined in § 541.606, but includes base salary, commissions, non-discretionary bonuses and other non-discretionary compensation.

(1) The base salary, commissions and non-discretionary compensation must be settled and paid out to the employee as due on at least a monthly basis. Thus, for example, employees told they will receive a commission of 1% of all monthly sales orders that exceed \$1 million must receive any commission due each month. Of course, if sales do not exceed \$1 million in a particular month, no commission is due for that month. Similarly, employees who are told they will receive a \$300 production bonus for each ton of product manufactured in excess of a weekly quota must receive any bonus earned at least monthly. Again, there may be months in which no bonus is due because production did not exceed the quota in any week of the month.

(2) If an employee’s base salary and non-discretionary compensation do not total at least the minimum guarantee established in § 541.601(a) by end of the year, the employer may, by the next pay period after the end of the year, make a final payment sufficient to achieve the guaranteed level. For example, an employee may earn \$36,000 in guaranteed base salary, and the employer may anticipate

based upon past sales that the employee also will earn \$36,000 in commissions. However, due to poor sales in the final quarter of the year, the employee actually only earns \$26,000 in commissions. In this situation, the employer may by the next pay period after the end of the year make a payment of \$3,000 to the employee. If the employer fails to make such a payment, the employee does not qualify as a highly compensated employee, but may still qualify as exempt under Subparts B, C or D of these regulations.

(3) An employee who does not work a full year for the employer, either because the employee is newly hired after the beginning of the year or ends the employment before the end of the year, may qualify for exemption under this section if the employee receives a pro rata portion of the minimum guarantee established in § 541.601(a), based upon the number of weeks that the employee will be or has been employed. The employer may utilize any 52-week period as the year, such as a calendar year, a fiscal year, or an anniversary of hire year. If the employer does not identify some other year period in advance, the calendar year will apply.

(c) A high level of compensation is a strong indicator of an employee's exempt status, thus eliminating the need for a detailed analysis of the employee's job duties. Thus, a highly compensated employee may qualify for exemption if the employee performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee identified in Subparts B, C or D of these regulations. Thus, an employee may qualify as a highly compensated executive employee, for example, if the employee directs the work of two or more other employees, even though the employee does not have authority to hire and fire.

(d) This section applies only to employees performing office or non-manual work. carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers, teamsters and other employees who perform manual work are not exempt under this section no matter how highly paid they might be.

§ 541.602 Salary basis.

(a) General rule. An employee will be considered to be paid on a "salary basis" within the meaning of these regulations if the employee regularly receives each pay period on a weekly, or less frequent basis, a predetermined amount constituting all or part of the employee's compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed. Subject to the exceptions provided in subsection (b) below, an exempt employee must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked. Exempt employees need not be paid for any workweek in which they perform no work. An employee is not paid on a salary basis if deductions from the employee's predetermined compensation are made for absences occasioned by the employer or by the operating requirements of the business. If the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

(b) Exceptions. The prohibition against deductions from pay in the salary basis requirement is subject to the following exceptions:

(1) Deductions from pay may be made when an exempt employee is absent from work for a full day for personal reasons, other than sickness or disability. Thus, if an employee is absent for two full days to handle personal affairs, the employee's salaried status will not be affected if deductions are made from the salary for two full-day absences. However, if an exempt employee is absent for one and a half days for personal reasons, the employer can deduct only for the one full-day absence.

(2) Deductions from pay may be made for absences of a full day or more occasioned by sickness or disability (including work-related accidents) if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for loss of salary occasioned by such sickness or disability. The employer is not required to pay any portion of the employee's salary for full day absences for which the employee receives compensation under the plan, policy or practice. Deductions

for such full day absences also may be made before the employee has qualified under the plan, policy or practice, and after the employee has exhausted the leave allowance thereunder. Thus, for example, if an employer maintains a short-term disability insurance plan providing salary replacement for 12 weeks starting on the fourth day of absence, the employer may make deductions from pay for the three days of absence before the employee qualifies for benefits under the plan; for the twelve weeks in which the employee receives salary replacement benefits under the plan; and for absences after the employee has exhausted the 12 weeks of salary replacement benefits. Similarly, an employer may make deductions from pay for absences of a full day or more if salary replacement benefits are provided under a State disability insurance law or under a State workers' compensation law.

(3) While an employer cannot make deductions from pay for absences of an exempt employee occasioned by jury duty, attendance as a witness or temporary military leave, the employer can offset any amounts received by an employee as jury fees, witness fees or military pay for a particular week against the salary due for that particular week without loss of the exemption.

(4) Deductions from pay of exempt employees may be made for penalties imposed in good faith for infractions of safety rules of major significance. Safety rules of major significance include those relating to the prevention of serious danger in the workplace or to other employees, such as rules prohibiting smoking in explosive plants, oil refineries and coal mines.

(5) Deductions from pay of exempt employees may be made for unpaid disciplinary suspensions of a full day or more imposed in good faith for infractions of workplace conduct rules. Such suspensions must be imposed pursuant to a written policy applied uniformly to all workers. Thus, for example, an employer may suspend an exempt employee without pay for three days for violating a uniformly applied written policy prohibiting sexual harassment. Similarly, an employer may suspend an exempt employee without pay for twelve days for violating a uniformly applied written policy prohibiting workplace violence.

(6) An employer is not required to pay the full salary in the initial or terminal week of employment. Rather, an employer may pay a proportionate part of an employee's full salary for the time actually worked in the first and last week of employment. In such weeks, the payment of an hourly or daily equivalent of the employee's full salary for the time actually worked will meet the requirement. However, employees are not paid on a salary basis within the meaning of these regulations if they are employed occasionally for a few days, and the employer pays them a proportionate part of the weekly salary when so employed.

(7) An employer is not required to pay the full salary for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act. Rather, when an exempt employee takes unpaid leave under the Family and Medical Leave Act, an employer may pay a proportionate part of the full salary for time actually worked. For example, if an employee who normally works forty hours per week uses four hours of unpaid leave under the Family and Medical Leave Act, the employer could deduct 10% of the employee's normal salary that week.

(c) When calculating the amount of a deduction from pay allowed under subsection (b), the employer may use the hourly or daily equivalent of the employee's full weekly salary or any other amount proportional to the time actually missed by the employee. A deduction from pay as a penalty for violations of major safety rules under subsection (b) (4) of this section may be made in any amount.

§ 541.603 Effect of improper deductions from salary.

(a) An employer who makes improper deductions from salary shall lose the exemption if the facts demonstrate that the employer has a pattern and practice of not paying employees on a salary basis. A pattern and practice of making improper deductions demonstrates that the employer did not intend to pay employees in the job classification on a salary basis. Improper deductions that are isolated or inadvertent, however, will not result in loss of the exemption. The factors to consider when determining whether an employer has a pattern and practice of not paying employees on a salary basis

include, but are not limited to: the number of improper deductions; the time period during which the employer made improper deductions; the number and geographic location of employees whose salary was improperly reduced; the number and geographic location of managers responsible for taking the improper deductions; the size of the employer; whether the employer has a written policy prohibiting improper deductions; and whether the employer corrected the improper pay deductions.

(b) If the facts demonstrate that the employer has a policy of not paying on a salary basis, the exemption is lost during the time period in which improper deductions were made for employees in the same job classification working for the same managers responsible for the improper deductions. Employees in different job classifications who work for different managers do not lose their status as exempt employees. Thus, for example, if a manager at a company facility routinely docks the pay of engineers at that facility for partial-day personal absences, then all engineers at that facility whose pay could have been improperly docked by the manager would lose the exemption; engineers at other facilities or working for other managers, however, would remain exempt.

(c) If an employer has a written policy prohibiting improper pay deductions as provided in § 541.602, notifies employees of that policy and reimburses employees for any improper deductions, such employer will not lose the exemption for any employees unless the employer repeatedly and willfully violates the policy or continues to make improper deductions after receiving employee complaints. Examples of notification include publishing the policy to employees at the time of hire, in an employee handbook or on the employer's Intranet.

(d) This section shall not be construed in an unduly technical manner so as to defeat the exemption.

§ 541.604 Minimum guarantees plus extras.

(a) An exempt employee may receive additional compensation, consistent with the exemption and the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly-required amount paid on a salary basis. Thus, for example, an exempt employee guaranteed at least \$425 each week paid on a salary basis may also receive additional compensation of a one percent commission on sales. An exempt employee also may receive a percentage of the sales or profits of the employer if the employment arrangement also includes a guarantee of at least \$425 each week paid on a salary basis. Similarly, the exemption is not lost if an exempt employee who is guaranteed at least \$425 each week paid on a salary basis also receives additional compensation based on hours worked. Such additional compensation may be paid on any basis (e.g. flat sum, bonus payment, straight-time hourly amount, time and one-half or any other basis).

(b) An exempt employee's salary may be computed on an hourly, a daily or a shift basis, consistent with the exemption and the salary basis requirement, if (1) the employment arrangement also includes a guarantee of at least the minimum weekly required amount paid on a salary basis regardless of the number of hours, days or shifts worked; and (2) a reasonable relationship exists between the guaranteed amount and the amount actually earned. The reasonable relationship test will be met if the weekly guarantee is roughly equivalent to the employee's usual earnings at the assigned hourly, daily or shift rate for the employee's normal scheduled workweek. Thus, for example, an exempt employee guaranteed compensation of at least \$500 for any week in which the employee performs any work, and who normally works four or five shifts each week, may be paid \$150 per shift consistent with the salary basis requirement.

§ 541.605 Fee basis.

(a) Administrative and professional employees may be paid on a fee basis, rather than on a salary basis. An employee will be considered to be paid on a “fee basis” within the meaning of these regulations if the employee is paid an agreed sum for a single job regardless of the time required for its completion. These payments in a sense resemble piecework payments with the important distinction that generally a “fee” is paid for the kind of job that is unique rather than for a series of jobs repeated an indefinite number of times and for which payment on an identical basis is made over and over again. Payments based on the number of hours or days worked and not on the accomplishment of a given single task are not considered payments on a fee basis.

(b) To determine whether the fee payment meets the minimum amount of salary required for exemption under these regulations, the amount paid to the employee will be tested by determining the time worked on the job and whether the fee payment is at a rate that would amount to at least \$425 per week if the employee worked 40 hours. Thus, an artist paid \$250 for a picture that took 20 hours to complete meets the minimum salary requirement for exemption since earnings at this rate would yield the artist \$500 if 40 hours were worked.

§ 541.606 Board, lodging or other facilities.

(a) To qualify for exemption under section 13(a)(1) of the Act, an employee must earn the minimum salary amount set forth in § 541.600, “exclusive of board, lodging or other facilities.” The phrase “exclusive of board, lodging or other facilities” means “free and clear” or independent of any claimed credit for non-cash items of value that an employer may provide to an employee. Thus, the costs incurred by an employer to provide an employee with board, lodging or other facilities may not count towards the minimum salary amount required for exemption under this Part 541. Such separate transactions are not prohibited between employers and their exempt employees, but the costs to employers associated with such transactions may not be considered when determining if an employee has received the full required minimum salary payment.

(b) Regulations defining what constitutes “board, lodging, or other facilities” are contained in 29 CFR Part 531. As described in 29 CFR § 531.32, the term “other facilities” refers to items similar to board and lodging, such as meals furnished at company restaurants or cafeterias or by hospitals, hotels, or restaurants to their employees; meals, dormitory rooms, and tuition furnished by a college to its student employees; merchandise furnished at company stores or commissaries, including articles of food, clothing, and household effects; housing furnished for dwelling purposes; and transportation furnished to employees for ordinary commuting between their homes and work.

SUBPART H – DEFINITIONS AND MISC. PROVISIONS

§ 541.700 Primary duty.

To qualify for exemption under these regulations, an employee must have a “primary duty” of performing exempt work. The term “primary duty” means the principal, main, major or most important duty that the employee performs. Determination of an employee’s primary duty must be based on all the facts in a particular case. Factors to consider when determining the primary duty of an employee include, but are not limited to the relative importance of the exempt duties as compared with other types of duties; the amount of time spent performing exempt work; the employee’s relative freedom from direct supervision; and the relationship between the employee’s salary and the wages paid to other employees for the same kind of nonexempt work. The term “primary duty” does not require that employees spend over fifty percent of their time performing exempt work. Thus, for example, an assistant manager in a retail establishment who performs exempt work such as supervising and directing the work of other employees, ordering merchandise, handling customer complaints and authorizing payment of bills may have management as the primary duty, even if the assistant manager

spends more than fifty percent of the time performing non-exempt work such as running the cash register. However, the amount of time spent performing exempt work can be a useful guide, and employees who spend over fifty percent of the time performing exempt work will be considered to have a primary duty of performing exempt work. The fact that an employer has well-defined operating policies or procedures should not by itself defeat an employee's exempt status.

§ 541.701 Customarily and regularly.

The phrase "customarily and regularly" means a frequency that must be greater than occasional but which, of course, may be less than constant. Tasks or work performed "customarily and regularly" includes work normally and recurrently performed every work week; it does not include isolated or one-time tasks.

§ 541.702 Exempt and nonexempt work.

The term "exempt work" means all work described in §§ 541.100, 541.101, 541.102, 541.200, 541.206, 541.300, 541.301, 541.302, 541.303, 541.304, 541.400 and 541.500, and the activities directly and closely related to such work. All other work is considered "nonexempt."

§ 541.703 Directly and closely related.

(a) Work that is "directly and closely related" to the performance of exempt work is also considered exempt work. The phrase "directly and closely related" means tasks that are related to exempt duties and that contribute to or facilitate performance of exempt work. Thus, "directly and closely related" work may include physical tasks and menial tasks that arise out of exempt duties, and the routine work without which the exempt employee's more important work cannot be performed properly. Work "directly and closely related" to the performance of exempt duties may also include recordkeeping; monitoring and adjusting machinery; taking notes; using the computer to create documents or presentations; opening the mail for the purpose of reading it and making decisions; and using a photocopier or fax machine. Work is not "directly and closely related" if the work is remotely related or completely unrelated to exempt duties.

(b) The following examples further illustrate the type of work that is and is not normally considered as directly and closely related to exempt work:

(1) Keeping time, production or sales records for subordinates is work directly and closely related to an exempt executive's function of managing a department and supervising employees.

(2) The distribution of materials, merchandise or supplies to maintain control of the flow of and expenditures for such items is directly and closely related to the performance of exempt duties.

(3) A supervisor who spot checks and examines the work of subordinates to determine whether they are performing their duties properly, and whether the product is satisfactory, is performing work which is directly and closely related to managerial and supervisory functions, so long as the checking is distinguishable from the work ordinarily performed by a nonexempt inspector.

(4) A supervisor who sets up a machine may be engaged in exempt work, depending upon the nature of the industry and the operation. In some cases the setup work, or adjustment of the machine for a particular job, is typically performed by the same employees who operate the machine. Such setup work is part of the production operation and is not exempt. In other cases, the setting up of the work is a highly skilled operation which the ordinary production worker or machine tender typically does not perform. In large plants, non-supervisors may perform such work. However, particularly in small plants, such work is a regular duty of the executive and is directly and closely related to the executive's responsibility for the work performance of subordinates and for the adequacy of the final product. Under such circumstances, it is exempt work.

(5) A department manager in a retail or service establishment who walks about the sales floor observing the work of sales personnel under the employee's supervision to determine the effectiveness

of their sales techniques, checks on the quality of customer service being given, or observes customer preferences is performing work which is directly and closely related to managerial and supervisory functions.

(6) A business consultant may take extensive notes recording the flow of work and materials through the office or plant of the client; after returning to the office of the employer, the consultant may personally use the computer to type a report and create a proposed table of organization. Standing alone, or separated from the primary duty, such note taking and typing would be routine in nature. However, because this work is necessary for analyzing the data and making recommendations, the work is directly and closely related to exempt work. While it is possible to assign note taking and typing to nonexempt employees, and in fact it is frequently the practice to do so, delegating such routine tasks is not required as a condition of exemption.

(7) A credit manager who makes and administers the credit policy of the employer, establishes credit limits for customers, authorizes the shipment of orders on credit, and makes decisions on whether to exceed credit limits would be performing work exempt under § 541.200. Work that is directly and closely related to these exempt duties may include checking the status of accounts to determine whether the credit limit would be exceeded by the shipment of a new order, removing credit reports from the files for analysis, and writing letters giving credit data and experience to other employers or credit agencies.

(8) A traffic manager in charge of planning a company's transportation, including the most economical and quickest routes for shipping merchandise to and from the plant, contracting for common-carrier and other transportation facilities, negotiating with carriers for adjustments for damages to merchandise, and making the necessary rearrangements resulting from delays, damages or irregularities in transit is performing exempt work. If the employee also spends part of the day taking telephone orders for local deliveries, such order-taking is a routine function and is not directly and closely related to the exempt work.

(9) An example of work directly and closely related to exempt professional duties is a chemist performing menial tasks such as cleaning a test tube in the middle of an original experiment, even though such menial tasks can be assigned to laboratory assistants.

(10) A teacher performs work directly and closely related to exempt duties when, while taking students on a field trip, the teacher drives a school van or monitors the students' behavior in a restaurant.

§ 541.704 Trainees.

The executive, administrative, professional, outside sales and computer employee exemptions do not apply to employees training for employment in an executive, administrative, professional, outside sales or computer employee capacity who are not actually performing the duties of an executive, administrative, professional, outside sales or computer employee.

§ 541.705 Emergencies.

(a) An exempt employee will not lose the exemption by performing work of a normally nonexempt nature because of the existence of an emergency. Thus, when emergencies arise that threaten the safety of employees, a cessation of operations or serious damage to the employer's property, any work performed in an effort to prevent such results is considered exempt work.

(b) An "emergency" does not include occurrences that are not beyond control or for which the employer can reasonably provide in the normal course of business. Emergencies generally occur only rarely, and are events that the employer cannot reasonably anticipate.

(c) The following examples illustrate the distinction between emergency work considered exempt work and routine work that is not exempt work:

(1) A mine superintendent who pitches in after an explosion and digs out workers who are trapped in the mine is still a bona fide executive.

(2) Assisting nonexempt employees with their work during periods of heavy workload or to handle rush orders is not exempt work.

(3) Replacing a nonexempt employee during the first day or partial day of an illness may be considered exempt emergency work depending on factors such as the size of the establishment and of the executive's department, the nature of the industry, the consequences that would flow from the failure to replace the ailing employee immediately, and the feasibility of filling the employee's place promptly.

(4) Regular repair and cleaning of equipment is not emergency work, even when necessary to prevent fire or explosion; however, repairing equipment may be emergency work if the breakdown of or damage to the equipment was caused by accident or carelessness that the employer could not reasonably anticipate.

§ 541.706 Occasional tasks.

Occasional, infrequently recurring tasks that cannot practicably be performed by nonexempt employees, but are the means for an exempt employee to properly carry out exempt functions and responsibilities, are considered exempt work. The following factors should be considered in determining whether such work is exempt work: whether the same work is performed by any of the executive's subordinates; practicability of delegating the work to a nonexempt employee; whether the executive performs the task frequently or occasionally; and existence of an industry practice for the executive to perform the task.

§ 541.707 Combination exemptions.

Employees who perform a combination of exempt duties as set forth in these regulations for executive, administrative, professional, outside sales and computer employees may qualify for exemption. Thus, for example, an employee who works forty percent of the time performing exempt administrative duties and another forty percent of the time performing exempt executive duties may qualify for exemption. In other words, work that is exempt under one section of the regulations will not defeat the exemption under any other section.

§ 541.708 Motion picture producing industry.

The requirement that the employee be paid "on a salary basis" does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least \$650 a week (exclusive of board, lodging, or other facilities). Thus, an employee in this industry who is otherwise exempt under Subparts B, C and D of these regulations, and who is employed at a base rate of at least \$650 a week is exempt if paid a proportionate amount (based on a week of not more than 6 days) for any week in which the employee does not work a full workweek for any reason. Moreover, an otherwise exempt employee in this industry qualifies for exemption if the employee is employed at a daily rate under the following circumstances: (a) The employee is in a job category for which a weekly base rate is not provided and the daily base rate would yield at least \$650 if 6 days were worked; or (b) the employee is in a job category having a weekly base rate of at least \$650 and the daily base rate is at least one-sixth of such weekly base rate.

§ 541.709 Employees of public agencies.

(a) An employee of a public agency who otherwise meets the salary basis requirements of § 541.602 shall not be disqualified from exemption under §§ 541.100, 541.200, 541.300 or 541.400 on the basis that such employee is paid according to a pay system established by statute, ordinance or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the

employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because:

- (1) Permission for its use has not been sought or has been sought and denied;
- (2) Accrued leave has been exhausted; or
- (3) The employee chooses to use leave without pay.

(b) Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.



Employee Handbook

December 2021

Prepared By: LagomHR Inc.



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INTRODUCTION

PURPOSE

The purpose of these policies is to establish a uniform and equitable system of personnel administration for employees of the Town of Pembroke Park. Nothing in this manual shall be construed as contract terms for any Town employees.

These policies are not intended to be all-inclusive or to cover every situation that may arise. The Handbook contains general information and guidelines. These policies may be amended with or without notice at any time at the sole discretion of the Town and supersede all previous personnel policies. Revisions and amendments shall become effective upon approval by the Town Commission.

If you have any questions concerning eligibility for a particular benefit or the applicability of a policy or practice to you, you should address your specific questions to Human Resources or your Department Head.

SCOPE

These policies and procedures apply to all the Town's employees unless specifically addressed in a formal employment contract or insurance plan document. Where such documents specifically differ from these policies, then the applicable provision(s) of the subject agreement shall supersede these policies.

These policies are designed to work in combination with individual departmental policies and procedures; however, these policies shall prevail should they come into conflict with departmental policies or procedures.

No person, other than the Mayor and Town Commission or the Town Manager as authorized by the Town Commission, has the authority to enter into any agreement for employment with an employee for any specified period of time, or to make any agreement contrary to the provisions of this manual.

These policies govern regardless of past practices or former policies. This manual supersedes any previous verbal or written policies, statements, understandings, or agreements concerning terms and conditions of employment, except in cases of formal employment contracts or other legally binding agreements.

SEVERABILITY

If one or more provisions of this manual are superseded by or become in conflict with a formal employment contract, insurance plan documents, state or federal laws, or if they are determined by a court of competent jurisdiction to be inappropriate and voided, then the balance of the manual shall remain in effect.

DISTRIBUTION AND REVISIONS

A copy of this manual shall be provided to each employee, who shall be required to sign a standard form certifying his/her receipt and review of the manual.

Revisions or updates to the manual shall be provided to all employees in either paper form, by email, or by other electronic communication such as posting on the intranet. Employees are expected to review all



changes and updates and remain abreast of all current personnel policies. Periodically employees may be required to provide an updated sign-off that they have received and reviewed the manual and changes in policy.

DISCLAIMER

All employees of the Town are employed at will and may quit or be terminated at any time and for any or no reason. Nothing in any of the Town's rules, policies, handbooks, procedures or other documents relating to employment creates any express or implied contract or employment.

This handbook replaces any previously issued policies, practices and understandings, written or oral, governing employment. Nothing contrary to or inconsistent with the limitations in this paragraph creates any contract of employment unless:

- 1) The terms are in writing.
- 2) The document is labeled "contract".
- 3) The document states the terms of employment; and
- 4) The document is signed by the Mayor and approved by a vote of the Town Commission.



GENERAL EMPLOYMENT POLICIES

EQUAL EMPLOYMENT OPPORTUNITY (EEO)

The Town of Pembroke Park is committed to providing equal opportunity in all areas of employment, including but not limited to recruitment, hiring, demotion, promotion, transfer, selection, lay-off, disciplinary action, termination, compensation and selection for training.

The Town shall not discriminate against any employee or job applicant and prohibits discrimination against any person on the basis of race, color, sex, sexual orientation, sexual gender identity, age, religion, national origin, marital or veteran status, height, weight, disability, political affiliation, or other protected classes.

The Town hires those individuals authorized to work in the United States.

The Town adheres to the following federal laws which prohibit workplace discrimination and are enforced by the U.S. Equal Employment Opportunity Commission (EEOC).

TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

This law makes it illegal to discriminate against someone based on race, color, religion, national origin, or sex. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate applicants and employees, unless doing so would impose an undue hardship on the operation of the employer's business.

THE PREGNANCY DISCRIMINATION ACT

This law amended Title VII to make it illegal to discriminate against a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

THE EQUAL PAY ACT OF 1963 (EPA)

This law makes it illegal to pay different wages to men and women if they perform equal work in the same workplace. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967 (ADEA)

This law protects people who are 40 or older from discrimination because of age. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.



TITLE I OF THE AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)

This law makes it illegal to discriminate against a qualified person with a disability in the private sector and in state and local governments. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless doing so would impose an undue hardship on the operation of the employer's business.

SECTIONS 102 AND 103 OF THE CIVIL RIGHTS ACT OF 1991

Among other things, this law amends Title VII and the ADA to permit jury trials and compensatory and punitive damage awards in intentional discrimination cases.

THE GENETIC INFORMATION NONDISCRIMINATION ACT OF 2008 (GINA)

This law makes it illegal to discriminate against employees or applicants because of genetic information. Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder or condition of an individual's family members (i.e. an individual's family medical history). The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

REQUESTING A REASONABLE ACCOMMODATION

Employees should notify their manager or the Human Resources department when a reasonable accommodation is needed. Where necessary and feasible, reasonable accommodations will be made for qualified employees to perform the essential functions of the job in question if the accommodation does not cause the Town undue hardship.

All employees are required to comply with safety standards. Applicants who pose a direct threat to the health or safety of other individuals in the workplace, which cannot be eliminated by reasonable accommodation, will not be considered for employment. The Town will attempt to keep all employees so long as they do not cause undue hardship to the Town or its employees. Current employees who pose a direct threat to the health or safety of the other individuals in the workplace will be placed on appropriate leave until a solution has been identified by management.

HARASSMENT AND DISCRIMINATION

Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA).

1. Harassment is unwelcome conduct that is based on race, color, religion, sex-gender (including pregnancy), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful where:



- A) Enduring the offensive conduct becomes a condition of continued employment, or
 - B) The conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.
2. Sexual Harassment is unwelcome conduct of a sexual nature that is persistent or offensive and interferes with an employee's job performance or creates an intimidating, hostile or offensive work environment.

Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

Petty slights, annoyances, and isolated incidents (unless extremely serious) shall not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, isolation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance. Harassment can occur in a variety of circumstances, including, but not limited to, the following:

1. The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.
2. The victim does not have to be the person harassed but can be anyone affected by the offensive conduct.
3. Unlawful harassment may occur without economic injury to, or discharge of, the victim.

Prevention is the best tool to eliminate harassment in the workplace. Managers are encouraged to take appropriate steps to prevent and correct unlawful harassment. They should clearly communicate to employees that unwelcome harassing conduct shall not be tolerated. They can do this by adhering to the complaint or grievance process and taking immediate and appropriate action when an employee complains. Managers should strive to create an environment in which employees feel free to raise concerns and are confident that those concerns shall be addressed.

Employees are encouraged to inform the harasser directly that the conduct is unwelcome and must stop. Employees should also report harassment to management at an early stage to prevent its escalation.

BULLYING

The Town will not in any instance tolerate bullying behavior. Employees found in violation of this policy will be disciplined, up to and including termination.

Bullying is defined as repeated, health-harming mistreatment of one or more people by one or more perpetrators. It is abusive conduct that includes:

- Threatening, humiliating, or intimidating behaviors.
- Work interference/sabotage that prevents work from being done.
- Verbal abuse.



Such behaviors violate the Town's Code of Ethics and Code of Conduct, as all employees will be treated equally with dignity and respect.

The Town considers the following types of behavior examples of bullying:

- Verbal bullying: slandering, ridiculing, or maligning a person or his or her family; persistent name calling that is hurtful, insulting, or humiliating; using a person as the butt of jokes; abusive and offensive remarks.
- Physical bullying: pushing, shoving, kicking, poking, tripping, assault, or threat of physical assault, damage to a person's work area or property.
- Gesture bullying: nonverbal gestures that can convey threatening messages.
- Exclusion: socially or physically excluding or disregarding a person in work-related activities.

In addition, the following examples may constitute or contribute to evidence of bullying in the workplace:

- Persistent singling out of one person.
- Shouting or raising one's voice at an individual in public or in private.
- Using obscene or intimidating gestures.
- Not allowing the person to speak or express himself or herself (i.e., ignoring or interrupting).
- Personal insults and use of offensive nicknames.
- Public humiliation in any form.
- Constant criticism on matters unrelated or minimally related to the person's job performance or description.
- Public reprimands.
- Repeatedly accusing someone of errors that cannot be documented.
- Deliberately interfering with mail and other communications.
- Spreading rumors and gossip regarding individuals.
- Encouraging others to disregard a supervisor's instructions.
- Manipulating the ability of someone to do his or her work (e.g., overloading, underloading, withholding information, setting deadlines that cannot be met, giving deliberately ambiguous instructions).
- Assigning menial tasks not in keeping with the normal responsibilities of the job.
- Taking credit for another person's ideas.
- Refusing reasonable requests for leave in the absence of work-related reasons not to grant leave.
- Deliberately excluding an individual or isolating him or her from work-related activities, such as meetings.
- Unwanted physical contact, physical abuse or threats of abuse to an individual or an individual's property (defacing or marking up property).

Individuals who feel they have experienced bullying should report this to their supervisor or to



Human Resources before the conduct becomes severe or pervasive. All employees are strongly encouraged to report any bullying conduct they experience or witness as soon as possible to allow the Town to take appropriate action.

SEXUAL HARASSMENT

The Town prohibits sexual harassment of an employee by another employee, management representative, supplier, volunteer, or business invitee. The Town prohibits sexual harassment from occurring in and out of the workplace when representing the Town. Sexual harassment of non-employees by Town employees is also prohibited. The purpose of this policy is not to regulate personal morality or to encroach upon one's personal life, but to demonstrate a strong commitment to maintaining a workplace free of sexual harassment.

Unwelcome sexual advances, requests for sexual favors and other verbal, physical or visual conduct of a sexual nature constitute harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
2. Submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting the individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Regarding unwelcome sexual advances toward non-employees, requests for sexual favors and other verbal, physical or visual conduct of a sexual nature constitute harassment when:

1. Submission to such conduct is made either explicitly or implicitly in exchange for a benefit.
2. Submission to or rejection of such conduct by an individual is used as the basis for a decision affecting the individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's activities or creating an intimidating, hostile or offensive environment.

Sexual harassment may include unwanted sexual advances; offering employment benefits in exchange for sexual favors; visual conduct (leering, making sexual gestures, displaying of sexually suggestive objects or pictures, cartoons or posters); verbal sexual advances, propositions or requests; verbal abuse of a sexual nature; graphic verbal commentaries about an individual's body; sexually degrading words used to describe an individual; suggestive or obscene letters, caricatures or representations of persons using electronically or physically altered photos, drawings, or images; notes or invitations; and/or, physical conduct (touching, assault, impeding or blocking movements).

If an employee is witness to or believes that the employee has experienced sexual harassment, they must immediately notify their supervisor or the Human Resources department.

Harassment of Town employees, in connection with their work, by non-employees may also be a violation of this policy. Any employee who experiences harassment by a non-employee, or who observes harassment of an employee by a non-employee should report such harassment to their supervisor or the Human Resources department. Appropriate action shall be taken against any



non-employee.

Notification by employee to appropriate personnel of any harassment problem is essential to the success of this policy and the Town generally. The Town cannot resolve a harassment problem unless it is reported. Therefore, it is the responsibility of all employees to bring those kinds of problems to the attention of management so that steps are necessary to correct them.

Violation of this sexual harassment policy shall subject employees to disciplinary action, up to and including immediate discharge.

DRUGS AND ALCOHOL POLICY

The Town recognizes that the possession or use of unlawful drugs and the abuse of alcohol pose a threat to the health and safety of all employees. All job applicants shall be subject to pre-employment drug testing as a prerequisite to employment with the Town. It is the obligation of the job applicant to notify the approved testing facility of any legal drug prescribed for the job applicant by a physician. Any employee who is observed by a supervisor or department head to be intoxicated or under the influence of alcohol or drugs during working hours or is under reasonable suspicion of same shall be immediately tested and is subject to discipline up to and including termination. The supervisor or Department Head shall immediately report any reasonable suspicions to the Human Resources department.

An employee shall be required to submit to alcohol, drug or controlled substance testing when the employee's work performance causes a reasonable suspicion that that employee is impaired due to current intoxication, drug or controlled substance use, or in cases where employment has been conditioned upon remaining alcohol, drug, or controlled dangerous substance free following treatment. Refusal to submit to testing when requested may result in immediate disciplinary action, including termination. Supervisors or Department heads that observe behavior constituting reasonable suspicion are required to institute testing and do not have the option of sending the employee home as an alternative.

The manufacturing, distribution, dispensation, possession, and use of alcohol or unlawful drugs on Town premises or during work hours by employees is strictly prohibited.

Employees must notify their supervisor within five (5) business days of conviction for a drug or alcohol related violation, regardless if the violation occurred in the workplace.

Employees who are required to maintain a Commercial Driver's License (CDL) are subject to random drug testing as required by the federal government.

Employees using prescription drugs that may affect job performance or safety must notify their supervisor and Human Resources, who are required to maintain the confidentiality of any information regarding an employee's medical condition in accordance with the Health Insurance Portability and Protection Act. A program to assist employees who may have a drug/alcohol problem is provided through the Town's Employee Assistance Program.

No prescription drug or Medical Marijuana should be used by any person other than the individual to whom it is prescribed. Such substances or non-prescription (over the counter) drugs should be used only as prescribed or indicated. Employees are prohibited from consuming prescription drugs or utilizing Medical Marijuana that are not prescribed in their name on Town property or while performing Town business. Soliciting or distributing prescription drugs or Medical Marijuana for or to other employees is



also strictly prohibited.

FAIR LABOR STANDARDS ACT (FLSA)

The Fair Labor Standards Act, Title 29 U.S.C. (Sections 201-219) is the federal law requiring that covered employees be paid at least the federal minimum wage and overtime pay (at time and one-half of the employee's regular rate of pay) for all hours worked over 40 hours in a workweek.

The Town Personnel Manual refers to employees covered by FLSA as "non-exempt" and to those not covered by the FLSA minimum wage and overtime provisions as "exempt".

VETERANS' PREFERENCE

Title 5 USC, Section 2108 and Chapter 295, F.S., set forth the requirements for public employers to provide preferences in employment, retention, and promotion to eligible veterans, spouses of veterans, and other veterans' preference eligible individuals.

MEDICAL EXAMINATIONS

The Town may require an employee to submit to a medical or psychological exam to determine fitness for duty provided the examinations are job related and consistent with business necessity. Tests for alcohol or illegal drug use are not considered medical examinations, nor are physical agility tests. Fitness for duty exams shall be conducted by a licensed professional designated by the Town and shall be paid for by the Town.

The Town shall comply with all applicable laws including ADA, FMLA, HIPAA, Worker's Compensation and related laws and guidelines in addressing circumstances where an employee is found to be unfit to perform some or all their essential job functions. This policy in no way shall be construed to limit employees' rights under any federal or State Law.

Employees determined to be un-fit for duty and requiring associated leave, may access accrued leave banks and other paid or unpaid leave time consistent with the policies contained within this manual and state and federal laws.

Light duty or modified return-to-work arrangements are not guaranteed and would not indicate continued employment if provided.

WORKPLACE VIOLENCE

The Town of Pembroke Park is committed to reducing the potential for workplace violence. In this regard, it is the policy of the Town to prohibit acts or threats of verbal or physical violence by any party, directed toward employees, citizens, elected officials, and visitors to the Town's facilities or others.

The Town is committed to providing a safe and healthy work environment, consistent with health and safety rules and shall take prompt remedial action, up to and including discharge or criminal prosecution, against any employee who engages in threatening behavior or acts of violence.

The Town shall take appropriate action against any non-employee who engages in threatening behavior including former employees and visitors to Town facilities, up to and including criminal prosecution.

Employees who display a tendency to engage in violent, abusive or threatening behavior shall be referred



to the Town's health plan for counseling or other appropriate treatment. Such employees shall also be subject to disciplinary action, up to and including immediate discharge.

Additionally, it is the responsibility of Town employees to assist in identifying problem employees. The Town Manager should be immediately notified of situations or incidents involving threats, acts of violence, aggressive behavior, threatening or offensive comments and similar acts. Employee reports made pursuant to this policy shall be held in confidence to the maximum possible extent. The Town shall not tolerate retaliation against any employee reporting a violation of this policy.

SAFETY AND RIGHT TO KNOW

The Town complies with federal and state Right-To-Know laws and shall make every effort to provide information to employees about any hazardous chemical to which they may be exposed. Right-To-Know information is posted near the areas in which employees may be exposed to chemicals or other potentially hazardous materials. Employees are required to read and be familiar with all posted materials.

TERMS OF EMPLOYMENT

PERSONNEL FILES

The Town maintains a personnel file on each employee. The personnel file includes such information as the employee's job application, resume, records of training, documentation of performance appraisals and salary increases, and other employment records. It is important that personnel records be kept up to date by employees and will be updated at performance reviews.

Employees should notify Human Resources when any of the following personal information changes:

Name	Education status
Address	Military status
Telephone number	Driver's license status
Marital status	Licensing, certification, and training, or
Emergency notification contacts	Other information which may impact the job requirements
Beneficiary Information	Direct Deposit/Bank Account Information

Personnel files are the property of the Town, and access to some of the information those files contain may be restricted in accordance with state and or federal law. Personnel records are subject to the Florida Public Records Law and contents must be provided as may be required by the Florida Public Records Law, Chapter 119, Florida Statutes, except for information that is exempt and confidential pursuant to law.

Anyone who wishes to review a personnel file should contact the Human Resources Department. With reasonable advance notice, personnel files may be reviewed in the Town's offices and in the presence of an individual appointed by the Town to maintain the files. An employee may view personal (associated with that employee) personnel records at any time in their entirety.

No originals of any personnel records shall be kept at the Department level. All originals shall be



maintained by the Human Resources Department.

HIRING OF NEW EMPLOYEES

The Town Manager has final approval of hiring new employees, with the exception of the following positions that are hired by the Town Commission. The Town Commission shall have the sole authority to hire the Town Manager, Divisional Directors, and Department Heads. The Town Commission also has the sole authority to hire independent contractors.

HIRING OF FORMER EMPLOYEES

It shall be the policy of the Town of Pembroke Park that any individual who has been formerly employed by the Town may be considered for re-employment provided the individual left the Town in good standing. If the individual did not leave the Town in good standing, he/she must reasonably demonstrate improved work ability and attitude before re-employment is considered.

If the candidate for re-employment is hired, he/she may not continue to receive disbursements from the Town's retirement plan. The Town shall follow all applicable laws and regulations related to retirement benefits when rehiring a former employee.

Individuals interested in applying for re-employment with the Town should follow the appropriate application process for an open position. The application shall indicate that the individual is applying for re-employment. The Department Head shall examine the application to determine if any additional information is needed and make a recommendation of whether to rehire the applicant.

NEPOTISM/EMPLOYMENT OF RELATIVES

No elected official or Town employee with supervisory authority, shall employ, promote, advance or advocate the employment, promotion, or advancement of an individual who is a relative, to a position in the agency over which he or she exercises jurisdiction or control.

Relatives include: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister. [Section 112.3135, F.S.].

PERSONAL RELATIONSHIP AMONGST EMPLOYEES

A "personal relationship" is defined as a relationship between employees who have or have had a continuing relationship of a romantic or intimate nature.

An employee who is involved in a personal relationship with another employee may not occupy a position in the same department as, work directly for or supervise the employee with whom he or she is involved.

The Town reserves the right to take prompt action if an actual or potential conflict of interest arises concerning individuals who engage in a personal relationship that may affect terms and conditions of employment. Supervisors and managers are prohibited from dating subordinates and may be disciplined for such actions, up to and including termination.



When a conflict or the potential for conflict arises because of a personal relationship between employees, even if there is no line of authority or reporting involved, the employees may be separated by reassignment, or terminated from employment. If such a personal relationship between employees develops, it is the responsibility and obligation of the employees involved to disclose the existence of the relationship to the Human Resources department.

When a conflict or a potential for conflict affecting terms or conditions of employment arises because of the relationship, the individuals concerned will be given the opportunity to decide who is to be transferred to another position, or terminated, if no position is available. If no decision is made within 30 calendar days of the offer to resolve the situation, the Town will determine who is to be transferred or, if necessary, terminated from employment.

EMPLOYMENT STATUS

PROBATIONARY EMPLOYEE

New employees who receive a position within the Town shall have a one (1) year probationary period. If an employee is promoted to a new position, the employee shall have a probationary period of one (1) year. This gives an employee the opportunity to demonstrate their skill and ability in performing the requirements of the new position. The Town may extend the job probationary period, not to exceed six (6) months, to allow an employee more time to learn the new job requirements and fully master their position or learn the processes of the Town.

All new hires will receive a performance evaluation report after three (3) months of employment. All employees will receive a performance evaluation report from their supervisor every six (6) months in June and December. A performance evaluation report may be issued for employees placed on a performance improvement plan.

A department head may terminate a probationary employee anytime during the probationary period if, in the department head's opinion, the employee is unable or unwilling to perform the duties of the position satisfactorily or that work habits and dependability do not merit continuance in the position. The employee so terminated shall be notified in writing of the termination.

Probationary employees do not have any proprietary rights to their position and may be terminated from the Town at any time during their probationary period without the right of appeal.

The Town may, however, return a promoted employee to their previous position if the requirements of the new job are not being met, provided the prior position is vacant.

Employees who are hired and serve at the pleasure of the Town Commission do not serve a probationary period of employment but will be subject to evaluation every six (6) months. These employees may be terminated at any time with or without cause, in the Town Commission's sole discretion.

FULL-TIME EMPLOYEES

Full-time employees are regularly scheduled to work thirty (30) hours per week and are eligible for



the Town's employee benefits program, as outlined in later sections.

PART-TIME EMPLOYEES

Part-time employees are regularly scheduled to work less than thirty (30) hours per week on a year-round basis. Part-time employees are not eligible for the Town's insurance benefits but may be covered by certain statutory protections such as Family Medical Leave and worker's compensation.

SEASONAL OR TEMPORARY EMPLOYEES

Temporary employees may be scheduled to work on a full- or part-time basis, as dictated by operational needs, for specific, limited time periods. Seasonal or temporary employees are not eligible for employee benefits.

EXEMPT OR NON-EXEMPT

Based on job content, job duties, salary status and other criteria set by the Fair Labor Standards Act, each position within the Town is classified as either "exempt" or "non-exempt".

CHANGES IN EMPLOYMENT STATUS

TRANSFERS

A transfer is an assignment to a position with comparable duties, responsibilities, authority, and compensation.

PROMOTIONS:

A promotion is a change in work assignment that results in an expanded scope of job duties and responsibilities. An employee can be promoted to fill an existing, vacant classification; or an employee's position can be reclassified if duties and responsibilities have been expanded over time. Promotions may result in an increase in pay.

DEMOTIONS:

A demotion is a change in work assignment that results in a reduced scope of job duties and responsibilities. An employee can be demoted to fill an existing, vacant classification; or an employee's position can be reclassified if duties and responsibilities have been reduced over time. Demotions may result in a decrease in pay.

TEMPORARY RE-ASSIGNMENTS:

In order to be considered a temporary re-assignment, the re-assignment must last at least two (2) full pay periods. The Town Manager may choose to temporarily fill a vacancy during the selection process. Temporary assignments are not generally made unless it is anticipated that it shall take more than thirty (30) calendar days to fill the position.

WORK HOURS

To ensure employee availability and accountability to the public the Town serves, all full-time employees



(exempt and non-exempt) are to be at work or available to the public and co-workers during the **normal** workdays Monday through Friday and the hours of 8:00 am to 5p.m, except on recognized holidays or away from the work site for an approved work-related activity or on approved leave. However, the work period is 7 days – Monday through Sunday, for the purposes of calculating overtime.

Employee work schedules shall be established by supervisors with the approval of the Town Manager.

TIME CLOCKS

Non-Exempt employees are required to follow established guidelines to accurately record hours of work by using the designated time-clock system for recording actual hours worked. A missed clock in/out is a violation of this policy and includes:

1. Failure to clock in/out on the Town's designated time clock at the beginning and/or end of their assigned shift consistent with established procedures.
2. Failure to clock in/out on their designated time clock for the meal break.
3. Failure to accurately and timely report time worked; or
4. Clocking in/out early, late or not at all when working an assigned shift.
5. Employees are not permitted to clock in more than seven (7) minutes prior to the start of their shift.
6. Hourly or non-exempt employees will clock in and out 4 times daily (beginning of shift, beginning of lunch break, end of lunch break and end of shift)

Employees may utilize a physical timeclock or clock in/out through the mobile app. The Town utilizes a feature in the HR payroll system called geofencing that sets a virtual barrier for where employees may clock in and out. The system will not allow employees to clock in and out outside of the 1-mile barrier from Town Hall. Employees having technical difficulties with clocking in and out must contact their Department Head for assistance.

UNEXCUSED ABSENCES

Employees are expected to report for work and be at their workstations at the scheduled time. If an employee expects to be absent from or late to work, he/she must inform his/her supervisor as soon as possible and under no circumstances later than thirty (30) minutes PRIOR to the scheduled workday. Unexcused and excessive absences and failure to notify the appropriate supervisor in case of absence may result in disciplinary action up to and including termination. Failure to report for work or failure to call-in to report expected absence after three (3) consecutive business days) is considered will be considered as job abandonment.

TARDINESS

A "tardiness" occurs when an employee does not report to work at the scheduled start time or does not report back from lunch or work breaks on time. An employee is expected to be at work and ready to begin work at the start of the scheduled workday. An employee who is or expects to be tardy and has not made prior arrangements with his/her supervisor must report the tardiness to his/her supervisor within the first hour of the scheduled start time. Excessive unexcused tardiness may result in progressive discipline.



ON CALL, STAND BY STATUS & CALL IN/CALL BACK

The Town has extensive responsibilities during an emergency. As such, any employee may be called in to work at unscheduled times and may be required to perform duties outside his/her normal job function. As with mandatory overtime, employees are expected to be available and as flexible as possible to meet operational demands.

Hourly employees who are called back to work after having completed a normal workday or are called into work on their day off shall be paid for three (3) hours or the actual time worked, whichever is greater. These additional hours shall be paid at time and a half of the employee's straight hourly rate, regardless if the employee has met the FLSA standards of working a minimum of 40 hours .

The Town reserves the right to require employees to be in a "stand-by" status, meaning that the employee needs to be available to report to work during an off-duty. Stand-by status may be instructed verbally or in writing by the department supervisor, or the employee may be named on the official call-back roster. Off-duty time may include nights, weekends, or holidays.

Call Back time shall be paid, or compensatory time accrued as straight time, and not added to the employee's total hours for the week to constitute overtime.

Compensatory time shall be paid at the employee's current rate of pay on the day earned. Exempt employees are not entitled to overtime therefore, excluding them from this policy.

MEAL BREAKS AND REST PERIODS

Department heads or supervisors are responsible for scheduling lunch or rest periods that do not interfere with work requirements.

Employees are expected to use the rest and lunch breaks provided as intended and shall not be permitted to adjust work start time, end time, or lunch time by saving these breaks.

Rest period - a fifteen (15) minute rest period may be allowed during each half of a full-time employee's shift. Such rest periods are to begin and end at the employee's assigned work area. Department heads are responsible for scheduling rest periods that do not interfere with work requirements.

Lunch Period - An unpaid sixty (60) minute lunch period is provided when an employee works eight (8) or more consecutive hours. The lunch period shall begin and end at the employee's assigned work area and the employee shall "clock out" for the duration of the lunch period.

Non-exempt employees shall not be allowed to work during their lunch break.

BREAKS FOR NURSING MOTHERS

The Town supports breastfeeding mothers by providing reasonable break time for an employee to breast feed her nursing child for up to two (2) years after the child's birth.

For both non-exempt and exempt employees, this break time is paid, and employees are not required to punch out. Both exempt and non-exempt employees must schedule any break time to express breast milk with their supervisor.



Upon notice, the employee's Department Head, or the Human Resources Department will provide the employee with a private area for the purpose of expressing breast milk.

WORK CANCELLATION/ADVERSE WEATHER CONDITIONS

If the Town is forced to temporarily close its operations for one day or less, the Town Manager will determine compensation for non-essential staff on a case by case basis. The Town manager, will also, determine appropriate compensation or time-off for exempt essential workers on a case by case basis. All non-exempt essential staff are subject to the FLSA overtime standards. Employees are expected to remain available to return to work throughout the regular workday. Closures of more than one day shall be addressed on a case-by-case basis, with the Town Manager providing timely directive.

During adverse weather conditions, the Town Commission or Town Manager will determine when Town facilities are closed. The Town Manager will determine when essential staff are required to remain on site before, during and/or after a storm. Employees shall be allowed to use accrued vacation time or compensatory time, or with supervisor approval, may modify the work schedule or make other reasonable schedule adjustments.

Decisions to cancel departmental programs (special events, recreation programs, etc.) shall be made by the Town Manager.

TOWN-SPONSORED EVENTS

From time to time, employees may be asked to attend events that are sponsored by the Town. Employees are expected to honor these requests unless there is a conflict due to religious reasons or documented medical issues.

EMERGENCY MANAGEMENT

The Town Manager is responsible for implementation of this policy during an emergency. The Town of Pembroke Park will make a reasonable effort to release employees from work prior to, during, and after emergency conditions to take care of personal situations such as family and property needs.

During a disaster or declared emergency, Town operations may be suspended, altered, or changed requiring an employee to be reassigned according to their emergency classification and the needs of the Town based upon the size, scope, and magnitude of the emergency. All employees are considered essential to this operation and must be prepared to support the community as assigned. In all cases, the goal of this directive is to ensure continuation and restoration of Town services, maintain safety and fulfill the Town's responsibilities to its citizens. Employees will be compensated in accordance with these guidelines, established pay policies, collective bargaining agreements, and regulations.

RESPONSIBILITY

When the Town Commission, County Administrator, or Governor declares a state of emergency and/or the normal operations of the Town of Pembroke Park or a facility, whether in part or whole, wherein Town operation(s) is closed for regular business due to emergency circumstances including but not limited to natural hazards such as fire(s), hurricane(s), tornadoes, flood(s), and/or



man-made disasters such as bombs, hazardous material incidents, mass casualty incidents, the following guidelines will apply to all Town of Pembroke Park Departments and Employees.

PROCEDURES

1. Upon declaration of a local emergency, the Town Manager will notify Department Heads of the emergency declaration and Department Heads will see that their respective employees are notified as to the extent and scope of the declared emergency.
2. Despite suspension of government operations, employees may be required to be available to work either before, during, or immediately after an emergency occurs. Employees may be required to work flexible hours as required by the Town. Employees shall not assume they are not required to work based solely on any media or news reports regarding Town closings.
3. During an emergency or disaster event, employees may be assigned to perform their normal duties or they may be temporarily assigned to work at different job sites specific to an emergency event (i.e., working inside the Emergency Operations Center (EOC), Department Operating Centers (DOCs), a staging area or point of distribution, etc.). Efforts shall be made to assign employees to duties according to their respective knowledge, skills, abilities, and physical capabilities.
4. All Department Heads are responsible for training their employees and implementing their respective Departmental Disaster Preparedness Plans. Department Heads shall establish an emergency schedule and identify those positions required to work during the pre-emergency, emergency, and post-emergency phases. Additionally, each Department Head shall designate an alternate manager as a contact person should an emergency or disaster occur.
5. Employees will be notified of duty assignments either prior to an event, if practical, or when contact is made with the Department Head or designee. Those who do not have an assignment shall be placed on a standby list and are to report to a designated location identified by the Department Head or designee.

TOWN OF PEMBROKE PARK ALERTS EMERGENCY REGISTRATION SYSTEM

Addressing the needs of Town of Pembroke Park citizens must continue during an impending or declared local state of emergency and subsequent recovery period. To accomplish this, Town employees shall complete electronic alert(s) system registration within 30 days of employment. Every employee shall update electronic alert(s) system anytime pertinent information changes.

EMPLOYEE RESPONSIBILITIES

- Have a Plan: Employees should have an emergency preparedness plan to ensure their family is safe during an emergency. Employees should have at least 72 hours of supplies for each family member.



- Service Priority: Town operations to provide emergency services may supersede normal operations resulting in altering or suspending processing timeframes for personnel actions until the disaster recovery period has ended.
- Alternate Work Assignments: During the pre-disaster and disaster recovery periods, employees may perform duties other than the essential functions of their position. Depending on the needs of the Town, employees may work at different locations rather than their normal duty assignments.
- Pre-Assigned Employees: Many employees are assigned duties assisting with official Town disaster response/recovery efforts. These employees will report to their designated worksite when requested/directed to do so. Employees are to always keep their Town ID badge with them to aid law enforcement officials during curfews and re-entry.
- Contact with the Town: Regardless of an employee's disaster assignment, all employees must apprise themselves of the Town's and their department's operational status, maintain daily contact with their manager or other designated department representative, and provide the Town with up-to-date contact information for any temporary changes in address.
- Accurately report all hours worked and submit required timesheet and relevant forms in a timely manner to their manager for approval. Falsification of these records shall subject an employee to disciplinary actions, up to and including termination.
- All employees are required to report to work when regular Town/Department business and operations resume.

MANAGEMENT RESPONSIBILITIES

- Department Heads and Supervisors must confirm the safety and well-being of all Town of Pembroke Park Team members.
- Department Heads and managers shall ensure all employees are enrolled in the electronic alerts system and shall ensure accuracy of electronic alerts data on an annual basis.
- Approve all hours worked and verify information reported by the employee on required forms is accurate.
- Department Heads or designees must ensure that essential employees on duty receive sufficient sleep to avoid endangering their safety or the safety of others due to fatigue.

EMPLOYEE DISASTER WORK CLASSIFICATION TIERS

EMERGENCY RESPONSE & RECOVERY EMPLOYEE (ERR - TIER I):

Emergency Response & Recovery Employees are those employees with job classifications directly related to tactical response and recovery efforts within the community. Generally, this may include, but is not limited to Law Enforcement, Public Safety, Code Enforcement/Building, and Public Works.

Work assignments during disasters and work classification tiers assigned to an employee is determined by Town Manager and Department Heads. These employees will be required to assist in the Town's disaster response and recovery efforts, which includes assignments requiring sheltering during the storm to ensure rapid response post storm. Roles may be pre-assigned or assigned as the situation dictates.



Department Heads and Managers are responsible for identifying Emergency Essential positions and shall ensure that employees are aware of individual responsibilities by communicating and notifying them of their emergency work assignment prior to the declaration of an emergency.

Employees designated as Emergency Essential must maintain contact accessibility with their supervisors. Emergency Essential employees who fail to report to their work assignment may be subject to disciplinary action up to and including termination.

Employees who are unable to report to work should contact their supervisor by telephone. If telephone lines are down or existing conditions prevent contact by telephone, employees are to contact their work unit as soon as possible.

EMERGENCY OPERATIONS CENTER SUPPORT EMPLOYEE (EOC - TIER 2)

Emergency Operations Center (EOC) Support Employees are those specifically assigned through the Town Manager and Pembroke Park Office of Emergency Management and other authorized agencies to perform in one or more support functions outside their regular work duties.

Employees assigned to a leadership/support position within EOC or to specific roles as delineated within the Town's Comprehensive Emergency Management Plan (CEMP), Emergency Operations Plan, and Recovery Plan. These employees will be required to assist in the Town's disaster response efforts which may include assignments requiring sheltering during the storm to ensure rapid response post storm. Roles may be pre-assigned or assigned as the situation dictates.

EOC Support employees must maintain contact accessibility with their supervisors and may be reassigned to an alternative operational supervisor for the duration of the disaster or emergency. EOC Support Employees who fail to report to their work assignment may be subject to disciplinary action up to and including termination.

Employees who are unable to report to work should contact their supervisor by telephone. If telephone lines are down or existing conditions prevent contact by telephone, employees are to contact their work unit as soon as possible.

DEPARTMENT EMERGENCY ESSENTIAL (DEE-TIER 3)

Employees designated as Department Emergency Essential may be required to perform regular work functions during the pre-disaster, disaster, and post-disaster phases of an imminent or declared emergency. These employees may or may not be required to shelter during the storm. Examples of employees that would be assigned sheltering roles would include department personnel assigned to Department Operating Centers (DOCs) to coordinate department response and recovery efforts.

Employees in this tier may also be assigned to complete essential functions as designated in the department's Continuity of Operations Plan (COOP).

Department Heads and Managers are responsible for identifying Emergency Essential positions and shall ensure that employees are aware of individual responsibilities by communicating and notifying them of their emergency work assignment prior to the declaration of an emergency.



Employees designated as Emergency Essential must maintain contact accessibility with their supervisors. Emergency Essential employees who fail to report to their work assignment may be subject to disciplinary action up to and including termination.

Employees who are unable to report to work should contact their supervisor by telephone. If telephone lines are down or existing conditions prevent contact by telephone, employees are to contact their work unit as soon as possible.

ESSENTIAL READY RESERVE (RR-TIER 4)

Employees classified as Essential Non-Emergency may be directed not to report to their regular job assignment during the pre-disaster, disaster, and post-disaster phases of a locally declared state of emergency or disaster. They may work other assignments and activities as situations necessitate. Reassignment may include, but is not limited to support of the following:

- Town Staging Area(s)
- Point of Distribution Sites (POD' s)
- Food or Services Distribution Sites
- Sandbag Filling Stations
- Disaster Recovery Centers
- Emergency Operation Center

EMERGENCY MANAGEMENT COMPENSATION

Once an emergency has been declared in the Town of Pembroke Park and the Town Administrative Offices are closed, the following pay procedure shall be utilized:

1. All regular full-time, hourly or salaried employees, whose regular work schedule occurs during the Declared Emergency, who are instructed to not report to work or who are released from work will be paid their regular wages for all hours not worked during their regular work schedule.
2. All regular full-time hourly employees who work their regularly scheduled work period during a declared emergency and Town Administrative Offices are closed shall be paid their regular hourly wages at time and a half for any hour(s) worked during this period. Emergency on-call hourly personnel who report to work during an emergency situation (example: hurricane when Town Hall is closed, and non-essential employees are not required to work but are paid) will also be paid time and a half for all hours worked. This does not apply to emergency Public Works response to a water break, sewer leaks, or other work-related emergencies during the remainder of the year.
3. Unrepresented employees covered under this provision who physically work more than 40 hours in the workweek will be compensated at the rate of one and one-half times their normal hourly rate, in accordance with the Fair Labor Standards Act. Paid Administrative Leave hours shall not count as hours worked for the purpose of computing overtime.



4. Represented employees will be compensated in accordance with their respective collective bargaining agreement.
5. All regular full-time salaried employees shall be paid their regular salary for any hour(s) worked during the Declared Emergency. Additionally, such employees will be credited with one (1) hour of Administrative Leave time for each hour worked within their regularly scheduled work period up to a maximum of eight hours (8) hours during each twenty-four (24) hour period of the Declared Emergency. The maximum Administrative Leave time an employee will be eligible to receive per day will be determined by their regularly scheduled workday and shall not exceed forty (40) hours in a work week. Additionally, the twenty-four (24) hour period shall be defined as a day beginning at 12:00 midnight and ending on the next 24 hours at 11:59 p.m. This Administrative Leave credit shall not be provided to Senior Level Management positions (Department Heads, Division Managers, Assistant Directors, etc.).
6. Once administrative offices are reopened and other employees are called back to work, the Town Manager shall evaluate whether and how Administrative Leave time will be provided/credited to Senior Level Management employees that worked during the declared emergency. This will be evaluated on a case by case basis and shall take into consideration the number of hours worked by the employee during the declared emergency and the number of hours paid as Administrative Leave to other employees that did not work during the Preparation and Response phases of the emergency.
7. All regular full time hourly or salaried employees who are on prior approved leave and are not required to return to work shall be paid in accordance with the applicable leave policy.
8. All regular full or part time, hourly or salaried employees considered essential by their supervisor and required to report to work who call in sick, or take unscheduled leave during the period for which they were required to report to work, will be charged leave time, and may be required to submit a written certification from a health care provider substantiating the reason for absence.
9. All part-time/temporary/seasonal employees who do not report to work for any reason during a Declared Emergency will not receive any compensation for this time period. This includes not reporting to work when Town operations are officially closed.
10. All temporary/seasonal or regularly scheduled part-time employees who work during a Declared Emergency will receive their regular rate of pay for any hours worked during this time period.
11. No employee is eligible for call back pay during a Declared Emergency.
12. Members of collective bargaining units will receive wages and benefits in accordance with their respective collective bargaining agreement.



13. All other terms and conditions of employment as determined by a pertinent Collective Bargaining Agreement or Town Pay Policy shall remain in effect prior to, during and after the Declared Emergency.
14. The Town Manager reserves the right to consider unique pay situations as they arise throughout a Declared Emergency. In situations deemed appropriate by the Town Manager, adjustments to this Policy may be made.

DOCUMENTATION

Employees are required to document and report to management all hours worked during an emergency utilizing the time sheets designated for emergencies, as provided by the Finance Department.

Time should be recorded identifying hours worked with appropriate emergency coding as provided by the Finance Department.

It is each Department's responsibility to verify all hours worked. Since departments are responsible for all wages paid to Town employees during a disaster/disaster recovery period, departments shall carefully review hours submitted, including those for alternate work assignments. All hours reported shall be verified by the employee's supervisor and approved through the timecard approval process. A copy of the Disaster Daily Log, supporting disaster hours worked, must be forwarded to the Finance Department who is responsible for coordinating payment of all emergency-related hours worked.

All Departments must maintain accurate timekeeping records during disaster/disaster recovery periods for submittal to the Finance Department.

EVENTUALITIES NOT COVERED

Exceptions may be made for unique situations as they arise throughout a declared emergency, and eventualities not covered by these guidelines shall be decided on a case-by-case basis by the Town Manager or designee.

CLASSIFICATION AND COMPENSATION

Compensation and Benefit levels are tempered by the Town's ability to pay, overall financial condition, and general fiscal responsibility to the taxpayers, as well as an individual's performance on the job. The value of a position is established in the Town's Classification Plan.

CLASSIFICATION PLAN

The position classification structure is based upon a systematic internal job evaluation and an analysis of the external labor market, which shall occur at a minimum every five years.

A comprehensive job analysis is used to establish written job descriptions for all positions which serve as the basis for all internal and external evaluations and comparisons.

Each job description includes a title, a general statement of duties and responsibilities, a determination on whether or not the position is exempt from overtime pay, a listing of essential



job functions, a statement of required knowledge, skills, and abilities, and the physical demands of the position. These factors are used to determine classification and pay range for each position.

Job descriptions shall be reviewed annually to ensure they are up to date.

Pay Ranges shall be adjusted annually depending upon resources to reflect cost of living adjustments to the system and approved by the Town Commission.

Individual employee compensation, or placement in and progression through the respective pay range, is based upon time-on-the-job, performance, qualifications, experience, education level, and other job-related factors established by a comparative ratio to ensure pay based on objective standards.

Newly hired employees shall be paid within the pay range. Any salary proposition outside of the established compensation plan must be approved by the Town Commission.

WAGES

Merit Increases

Merit increases are evaluated during the annual budget preparation process and implemented effective the start of the new fiscal year. Merit increases must be budgeted and fall within the approved compensation plan. Merit increases may be issued outside of the annual process on a case by case basis if approved by the Town Manager and/or Town Commission depending on the reporting structure.

Merit increases shall be based on an annual performance evaluation process based on clearly established standards applied equally and consistently across all positions.

Merit increases may only be given when sufficiently documented through an annual performance evaluation reflecting performance above and beyond the duties required of the assigned position.

Merit increases and Cost of Living adjustments shall only be given on an annual basis to avoid compression of the competitively established classification and compensation plan. The maximum salary increases for Merit based increase and Cost of Living adjustment is a combined 5%. Any salary increase based on Merit or performance exceeding 5% requires Town Commission approval.

Performance Evaluations

Semi-annually, employees shall be provided with a formal evaluation of their performance by their supervisors, which may be reviewed by the Town Manager and Town Commission, or its designee. A performance evaluation is an ongoing assessment process that assists employees and employers in reaching their goals by providing a formal opportunity to develop goals and objectives, to identify strengths, and to define training or improvement programs for areas requiring development. Completion of the performance evaluation form and discussion of noted ratings shall facilitate communication and an understanding of expectations while providing a history of employee progress and development.

The results of evaluations support various employment actions and decisions such as promotion, discipline, and compensation. Employees shall have an opportunity to meet with and discuss the results of their evaluation with their supervisor and submit additional comment or points of disagreement to be included within their personnel file. Employees who receive poor performance



ratings may be placed on a performance improvement plan and/or receive progressive discipline.

Cost of Living Increase

An annual cost of living raise may be applied to the minimum and maximum ranges of the pay plan and to every individual's salary if approved by the Town Commission during the annual budget process. The maximum combined salary increase for Merit and Cost of Living adjustment is 5% annually. Any salary increases exceeding 5% for Merit or performance requires Town Commission approval.

Overtime - Exempt Employees

Exempt employees, as defined by the Fair Labor Standards Act (FLSA) are not eligible to receive overtime compensation and are required to work the normal workweek and any additional hours needed to fulfill their responsibilities.

Time off consideration for large amounts of additional hours may be provided with the Town Manager's prior approval and at the sole discretion of the Town Manager.

Overtime - Non-Exempt Employees

Non-Exempt employees, as defined by the Fair Labor Standards Act (FLSA), are subject to the overtime provisions of the Act. Depending on work needs not personal needs, Non-Exempt employees may be required to work overtime and are expected to work overtime upon request.

Non-exempt employees shall be compensated for overtime work at the rate of time and one-half (1.5) for all hours worked over forty (40) hours in a 7-day work week. For purposes of overtime calculation, time off (not working) with or without pay shall not be calculated as hours worked.

Compensation may be in the form of wages or compensatory time off. The Town reserves the right to substitute cash payments for accumulated compensatory time at its discretion. Similarly, employees may request that accrued compensatory time off be converted to monetary payment, which shall be made in the next applicable payroll.

Overtime including compensatory time may not be authorized by the Department Head and the Town Manager unless funds are provided for and adopted in the annual Town budget.

For non-exempt employees, overtime shall be scheduled in a manner most advantageous to the Town and consistent with the operational needs of the Town.

In some cases, at the Town's option, hours may be adjusted within a 40-hour work week to avoid overtime. Any adjustments and or overtime hours worked must be approved in advance by the employee's supervisor and must be based on work needs not personal needs.

Non-Exempt employees working overtime without prior approval shall be subject to disciplinary action.

Change in Status Pay

Promotion Pay shall be the minimum of the new pay grade or up to a 10% increase.

Temporary Reassignment to a higher pay grade and additional responsibility shall be the minimum of the new pay grade or current pay up to a 10% increase, whichever is greater. Upon return to



the former position, the pay shall return to the original pay amount. Any employee serving in an acting capacity in a higher position requires a formal Personnel Action form approved by the Town Manager. Vacant positions do not automatically designate a subordinate employee to an acting capacity.

Demotion Pay shall be calculated based on a comparative ratio formula (i.e. if employee is 50% of the way through current pay grade, the demoted salary shall be at the 50% level of the new pay grade.)

Any recommendation exceeding a 10% increase must be approved by the Town Commission.

PAY PERIODS AND DIRECT DEPOSIT

Pay periods for Town of Pembroke Park employees cover two weeks, beginning at 12:00 a.m. every other Monday. The pay period covers two seven-day work periods of 40 hours for regular employees. Paydays are every other Friday. When a payday falls on a holiday, employees shall be paid the day prior to the holiday.

All payroll payments are by direct deposit only.

TRAVEL REIMBURSEMENT AND ADVANCES

On occasion, employees may be required to travel on Town business or attend professional development and training functions as a part of the job. Employees must always be mindful that they are stewards of the public's trust and resources. Work-related travel must never be abused, treated as a "perk" or seen as opportunity to spend lavishly. The Town shall not cover expenses for spouses or other non-employees during Town travel, unless prior approval is received from the Town Manager. Travel on Town business, including professional development, must demonstrate respect for the public's trust and prudence with their resources.

Expenses related to professional conferences, seminars, technical meetings, trainings, or other professional development functions may be paid by the Town or reimbursed to the employee if the expense has been adopted in the budget. Requests for reimbursements that are not included in the budget require approval from the Town Manager.

Whenever possible, a Town vehicle should be used to travel for Town business and employees should carpool to limit travel expenses. Employees who are required to use their personal vehicle for work-related travel shall be reimbursed at the rate established by the IRS for up to 250 miles. Employees are to record the exact number of miles traveled, by most direct route, from the first place of business to the next. No reimbursement shall be made for travel between home and a normal place of business.

Employees shall be reimbursed for reasonable, actual meal expenses incurred in conjunction with a program or meeting that provides a primary benefit for, or serves the best interests of, the Town. Luxury meals, costs for alcohol, or excessive reimbursement claims shall not be reimbursed without approval of the Town Manager.

Employees shall be reimbursed for reasonable, actual lodging expenses when a full day's work must be performed a considerable distance from the Town, or under other appropriate circumstances with prior Town Manager approval. Luxury lodging or excessive claims shall not be



reimbursed.

Employees should avoid using unnecessary convenience services such as valet parking, in-room movies, laundry and room service. Only under specific circumstances where a reasonable need for such services is clearly demonstrated shall such items be reimbursed.

Employees submitting reimbursement requests for travel expenses, or those requiring a travel advance, should use the appropriate form and must submit all receipts.

PROFESSIONAL & SERVICE MEMBERSHIPS

The Town encourages department heads to take part in the activities of professional and service organizations and may pay the cost of certain job-related memberships to professional organizations, job-related trainings, seminars, conferences and related events that enhance the employee's job knowledge and performance.

The Town may pay the cost to become licensed or certified in a job-related field and may pay the cost to remain so qualified. Employer-paid memberships, training, licensing and certifications are subject to budgetary approval and require advance approval.

Any employee within the Town whose position requires a professional certification must keep such certification active and current. The employee must notify their supervisor in the event such certification is lost or lapses.

EDUCATIONAL ASSISTANCE AND TRAINING POLICY

Subject to sufficient funds in the budget and with prior approval of the Town Manager, employees may apply for reimbursement of tuition expenses incurred for training or college courses directly related to the employee's work. The Town Manager shall be the sole judge of whether a course or program is "directly related" to the employee's work. Any employee wishing to appeal a decision rendered by the Town Manager may present an appeal to the Town Commission.

Employees must obtain approval before enrolling in a course or program.

Employees may receive reimbursement for up to 100% percent of the tuition cost for training or college courses that they take on their own initiative depending on the Town budget and individual grades earned. The reimbursement must be repaid if the employee leaves employment within twenty-four months of receipt.

GRADING/REIMBURSEMENT SCALE

A (90-100)	100% reimbursement
B (80-89)	80% reimbursement
C (70-79)	60% reimbursement
D (69-60)	0% reimbursement
F (59 and below)	0% reimbursement

Courses that are deemed pass or fail will be subject to 100% reimbursement for passing grade and 0% reimbursement for failing grade.



CONFERENCE AND SEMINAR POLICY

Requests to attend a conference or seminar must be budgeted and approved by the Department Head and the Town Manager.

Employees training other employees will receive a premium for the hours of actual training up to a maximum of 10% of their annual salary only for hours actually conducting the training. This policy is not applicable to the trainee, only the trainer. In order to be eligible for this benefit, the training must be a formal group training for staff and is 100% subject to approval by the Town Manager.

BENEFITS

The Town of Pembroke Park provides full time regular employees with a wide range of benefits. The type of benefits and level of benefits provided is subject to change. The Town reserves the right to change provider networks, claims agents, and insurance mechanisms. At a minimum, the Town provides Health Insurance Policy and a Retirement Policy for full time regular employees.

Detailed descriptions of current benefits are outlined in the annual summary of benefits plan.

Benefits provided to these employees may include but are not limited to Dental Insurance

Prior to an offer of employment with the Town, prospective employees shall be given a list of the various benefits offered to full-time regular employees. Questions regarding any of the listed benefits shall be referred to the Town Manager. Employees are eligible for the health insurance on the 1st of the month following thirty (30) days of employment.

CONTINUATION OF BENEFITS (COBRA)

The Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) gives employees and qualified beneficiaries the opportunity to continue, for a limited period, health insurance coverage under the Town's group health insurance plan when a "qualifying event" would normally result in the loss of coverage. Some common qualifying events are termination of employment (other than for gross misconduct), or death of an employee; a reduction in your hours; a divorce or legal separation; and a dependent child no longer meeting eligibility requirements.

Under COBRA, the employee pays the full cost of coverage at the Town's group rates plus an administration fee.

SHORT TERM DISABILITY BENEFIT

The Town provides group short-term disability insurance to full-time employees allowing them to receive paid leave if they are, medically, unable to return to work for a short time. For more information regarding the plan and plan details, contact Human Resources.

UNEMPLOYMENT COMPENSATION

The Town participates in the State of Florida unemployment insurance program according to statutory guidelines. Terminated employees are advised to refer questions of benefit eligibility to the appropriate State office.



WORKERS COMPENSATION POLICY:

Employees who suffer job related injuries and illnesses may be entitled to medical expenses, lost income, and other compensation under the Florida Workers Compensation Act. Worker's Compensation Employees are responsible for immediately reporting any work-related injury, no matter how slight, to their supervisor. Supervisors must immediately report the incident to Human Resources for proper processing of the Workers Compensation claim.

SOCIAL SECURITY

Employees are covered by Social Security, a federally administered plan for supplemental old age retirements and survivor's insurance. Questions concerning Social Security benefits and coverage should be directed to any Social Security office.

TELECOMMUTING

Telecommuting allows employees to work at home, on the road or in a satellite location for a part of their workweek. The Town considers telecommuting to be a viable, flexible work benefit when both the employee and the job are suited to such an arrangement. Telecommuting may be appropriate for some employees and jobs but not for others. Telecommuting is not an entitlement, it is not a Townwide benefit, and it in no way changes the terms and conditions of employment with the Town.

The telecommuting benefit may only be utilized by Department Directors. Any exceptions must be pre-approved by the Town Manager.

Any telecommuting requests must be sent in writing to the Town Manager for pre-approval with a specific reason for the request. Each request will be evaluated on a case by case basis. Employees on average may utilize a maximum of 2 telecommuting days per month. Any exceptions must be pre-approved by the Town Manager.

Individuals requesting formal telecommuting arrangements must be employed with the Town for a minimum of 6 months of continuous, regular employment and must have a satisfactory performance record.

The employee is required to follow the same work schedule, unless otherwise approved by the Town Manager and be available for all meetings and communication as needed.

Employees may utilize their Town issued equipment when telecommuting. If the employee does not have a Town-issued equipment, the employee may be authorized to utilize their home equipment and remote log in to their work computer. Equipment supplied by the organization is to be used for business purposes only.

The employee will establish an appropriate work environment within his or her home for work purposes. The Town will not be responsible for costs associated with the setup of the employee's home office, such as remodeling, furniture or lighting, nor for repairs or modifications to the home office space.

Consistent with the organization's expectations of information security for employees working at the office, telecommuting employees will be expected to ensure the protection of proprietary Town information accessible from their home office. Steps include the use of locked file cabinets



and desks, regular password maintenance, and any other measures appropriate for the job and the environment.

Employees are expected to maintain their home workspace in a safe manner, free from safety hazards. Injuries sustained by the employee in a home office location and in conjunction with his or her regular work duties are normally covered by the company's workers' compensation policy. Telecommuting employees are responsible for notifying the employer of such injuries as soon as practicable. The employee is liable for any injuries sustained by visitors to his or her home worksite.

Telecommuting is not designed to be a replacement for appropriate child care. Although an individual employee's schedule may be modified to accommodate child care needs, the focus of the arrangement must remain on job performance and meeting business demands.

Telecommuting employees who are not exempt from the overtime requirements of the Fair Labor Standards Act will be required to accurately record all hours worked using the Town's time-keeping system. Hours worked in excess of those scheduled per day and per workweek require the advance approval of the Town Manager. Failure to comply with this requirement may result in the immediate termination of the telecommuting agreement.

Temporary telecommuting arrangements may be approved for circumstances such as inclement weather, special projects or business travel. These arrangements are approved on an as-needed basis only, with no expectation of ongoing continuance.

OTHER INFORMAL, SHORT-TERM ARRANGEMENTS MAY BE MADE FOR EMPLOYEES ON FAMILY OR MEDICAL LEAVE TO THE EXTENT PRACTICAL FOR THE EMPLOYEE AND THE ORGANIZATION AND WITH THE CONSENT OF THE EMPLOYEE'S HEALTH CARE PROVIDER, IF APPROPRIATE. PAID AND UNPAID LEAVE

HOLIDAYS

All regular hourly employees working a minimum of thirty (30) hours per work week and all salaried employees shall be granted leave with pay on the following holidays unless otherwise provided for in a collective bargaining agreement.

Sec. 19-26.

New Year's Day

President's Day

Memorial Day

Juneteenth

Independence Day

Labor Day

Columbus Day

Veteran's Day

Thanksgiving Day

Friday following Thanksgiving Day

Christmas Day

One (1) Personal Day

All officers and employees not required by their department heads to work on such days shall be excused from work but shall be compensated for the day as if the officer or employee had performed his normal work schedule.

In order to qualify for holiday pay, the officer or employee must be present on his or her scheduled working days before and after the applicable holiday.



Officers or employees with an unexcused absence or unpaid leave time before or after a holiday shall not be eligible for holiday pay.

If an officer or employee is on authorized paid leave when a holiday occurs, that holiday shall not be charged against such officer's or employee's leave.

Effective June 19, 2021, the Town observes Juneteenth as a paid holiday. In 2021, employees may choose to observe the Juneteenth holiday as a floating holiday within the calendar year and expires on December 21st, 2021. Moving forward in 2022, Juneteenth will be observed on the actual holiday and treated as the other holidays listed above.

The floating holiday and personal holiday are use it or lose it. Employees must request the time off in the Paid Time Off Request system at least two (2) weeks in advance. Approval is subject to the Department Head's discretion based on the number of employees absent that day to ensure the department is operational and properly staffed.

Employees are eligible to use floating holidays and personal days after six (6) months of employment. Employees are eligible for paid time off on the remaining holidays listed above from their employment start date.

VACATION/ANNUAL LEAVE

Accrual Rate

Number of Months of Continuous Employment	Number of Hours Per Year
0 to 48	80.00
48 to 120	120.00
120 or more	160.00

No officer or employee shall be entitled to utilize accrued vacation time until such officer or employee shall have completed six (6) months service with the Town.

No vacation time shall be granted in advance of accrual thereof.

All vacation schedules shall be determined by the department heads giving recognition to the seniority of officers or employees in the determination of when vacation time shall be granted.

An officer or employee may use accrued vacation time for sick leave provided such officer or employee has used all existing accrued sick leave time.

An officer or employee may divide his or her vacation time as is desired with the prior approval of such officer's or employee's supervisor. Employees will use whole hours, partial hours, or full days for any PTO request.

Annual leave shall be requested in advance using the appropriate form and submitted to the department head who shall have the right to determine if the work schedule permits the absence of the employee during the requested period. Vacation leave may be denied when department operations are hindered due to staff scheduling, workload assignments or a legitimate emergency exists.



Upon reasonable notice to the employee a department head may require an employee to use annual leave.

Accumulation of Annual Leave Credits

Earned leave not used during the calendar year in which it is eligible to be taken may be carried over or accumulated to the following calendar year. Employees with accrued vacation leave in excess of eighty (80) hours and who have utilized at least eight (80) hours of leave time during the fiscal year, may be allowed to make an election during one month of the year (to be determined by the Town Manager or designee) to sell the excess vacation leave time back to the Town, subject to available funds, at the discretion of the Town Manager or designee. An employee may request the Town Manager or designee to provide an extension of those hours above the amount set forth herein for a period not to exceed twelve months. All time sold will be deduction from the vacation time accumulation.

Upon the effective date of termination of employment with the Town an employee shall be entitled to a lump sum payment for earned and unused annual leave not to exceed 400 hours. The effective date of termination shall be the last day worked.

SICK LEAVE

Accrual Rate

All full-time employees of the Town shall accrue sick leave time at the equivalent rate of one day (8 hours) for each full month of continuous service. Full month means a full calendar month starting on the first day of the month.

Rules

Sick leave is intended to be used for personal illness, injury or quarantine due to exposure to contagious disease for the employee. Sick leave may also be used for medical or health treatment which cannot be arranged outside of working hours. Sick leave may be used for illness or death in the immediate family. Immediate family is defined as the spouse, grandparents, brothers, sisters, children, and grandchildren of both the employee and the spouse. Sick leave may also be used for reasons of pregnancy and maternity. Employees shall be entitled to utilize accrued sick time immediately upon their employment start date. Any sick time off taken without accrued sick leave will be unpaid. Employees may be subject to disciplinary action for abuse of sick leave.

Conversion to Special Vacation Time

Employees shall be entitled to convert one-fourth (1/4) of each year's accrued, but unused, sick leave time to special vacation time. Such special vacation must be used during the calendar year following the one in which it was accrued. Conversion must be requested within the first two (2) weeks of a calendar year or it shall be disallowed. Thereafter, it shall be disallowed (if the conversion privileges of this paragraph have been exercised) and the credits shall revert to the employee's sick leave balance.

Payment for Accumulated Sick Leave



Every employee or beneficiary in the event of death, upon termination for whatever reason shall be entitled to receive payment for accrued sick leave. Such payment is limited to a maximum of five hundred dollars (\$500.00).

Use and Restrictions

Any officer or employee who shall utilize three (3) or more days of sick leave on a continuous basis shall submit to his department head a doctor's certificate as to the illness or injury for which sick leave was utilized.

The Town shall have the right to require a doctor's certificate for any officer or employee reporting in as sick, as well as the right to visit the place of confinement of the sick or ill officer or employee.

If an officer or employee repeatedly utilizes sick leave, the Town shall have the right at the Town's expense to require such officer or employee to submit to a physical examination by a doctor selected by the Town to determine if such officer or employee is physically fit for continued employment by the Town.

Employees are required to notify their immediate supervisor on the first day of sick leave not later than thirty (30) minutes before the shift of which they are employed is scheduled to report for duty. This shall be followed for each day the employee is unable to work unless prior approval is given by the department head. Failure to comply may result in the absence being charged as leave without pay.

In the event an employee repeatedly uses sick leave or is on leave for an extended duration, the Town shall have the right at Town expense to require the employee to submit to a physical examination by a physician designated by the Town to determine if the employee is physically fit for continued employment.

Job Injury Workers Compensation and Use of Sick Leave

Employees who are eligible to receive workers' compensation (including temporary employees) are entitled to work-related injury leave with full pay for up to five scheduled workdays (40 hours or normal number of hours scheduled in a week). This leave, for illness or injury arising out of and in the course of employment, is not charged to vacation leave or sick leave.

Absence from work of five days or more due to a work-related injury shall reduce the 12 weeks of eligibility for family/medical leave.

Employees receiving workers' compensation for job-related injuries or disease may use sick and/or vacation leave to supplement the payment up to, but not to exceed, their regular rate of pay.

After all sick and vacation leave has been exhausted, employees are not entitled to leave or pay benefits other than workers' compensation. Employees may be put into a leave without pay status during this time without adjustment in the service date.

For a regular employee disabled with a work-related injury, a position shall be held open if the department can function with the vacant position. At some point (not later than one year after the date of injury) the employee, if unable to return to work, shall be separated from Town employment. If during the one-year period following the injury the separated employee is released by the attending physician for any kind of work duty, the employee shall be entitled to benefits



under the reduction-in-force policy.

JURY DUTY

An employee required to render jury service shall be entitled to be absent from work during that service and shall be paid the difference between any payment received for jury duty and the employee's regular salary.

BEREAVEMENT/FUNERAL LEAVE

Leave may be granted by an employee's immediate supervisor without loss of pay for death in the immediate family. Up to three (3) business days or twenty-four (24) hours of pay shall be allowed an employee to attend a funeral within an immediate family. Immediate family shall include spouse, domestic partner, mother, father, children, brother, sister, grandparents, in-laws, stepchildren, grandchildren, aunt, uncle, first cousin, or anyone living in the employee's household. Employees are required to submit proof of death within 2 weeks of the bereavement leave. Proof includes a death certificate or other documents confirming the date of the death or the date of the funeral/burial/viewing service. Photographs are **not** acceptable supporting documents.

FAMILY AND MEDICAL LEAVE

In accordance with the Family and Medical Leave Act of 1993 (FMLA), an employee may be eligible to request and receive an unpaid leave of absence as outlined below.

Eligibility

All regular full-time or part-time employees who have worked for the Town for at least twelve months and for at least 1,250 hours during the twelve months preceding the start of the leave shall be eligible for leave under this policy.

Conditions of Leave

Leave may be taken only for the following reasons:

The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Eligible employees are entitled to:

Twelve workweeks of leave in a twelve-month period for:

- the birth of a child and to care for the newborn child within one year of birth.
- the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement.
- to care for the employee's spouse, child, or parent who has a serious health condition.
- a serious health condition that makes the employee unable to perform the essential functions of the employee's job.
- any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or



parent is a covered military member on “covered active duty;” or

- Twenty-six workweeks of leave during a single twelve-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member’s spouse, son, daughter, parent, or next of kin (military caregiver leave).

If medically necessary for a serious health condition of the employee or spouse, child, or parent, leave may be taken on an intermittent or reduced leave schedule. If leave is requested on this basis, however, the Town may require an employee to transfer temporarily to an alternative position which better accommodates recurring periods of absence, provided the position has equivalent pay and benefits.

Any leave granted due solely to the birth or adoption of a child must be taken consecutively unless otherwise agreed to by the Town and must be completed within twelve months of the qualifying event.

Spouses who are both employed by the Town are entitled to a combined total of twelve weeks (rather than twelve weeks each) for the birth or adoption of a child.

Any accrued vacation/PTO/sick leave, as applicable, must be taken concurrently as part of the twelve weeks of leave requested.

In determining eligibility, the twelve-month period shall be calculated by using a rolling 12- month period measured backward from the first day of the new leave period the employee is requesting. Any requests for FMLA extensions may be granted at the sole discretion of the Town Manager.

Notification Requirements

When need for leave is foreseeable, such as the birth, adoption or placement of a child, or planned medical treatment, the employee must provide thirty days’ notice to an immediate supervisor and must make efforts to schedule leave so as not to disrupt Town operations. If the need for leave is not foreseeable, notice must be given as soon as practicable, generally within one or two days of learning of the need for leave.

Request Procedures

All requests for family and medical leave should be made by contacting the Human Resource department. If possible, the request should be made thirty (30) days in advance of the effective date of the leave. The Human Resource department shall ask for the following information:

- The date FMLA leave shall begin.
- The probable/approximate duration of the leave; and
- The qualifying reason for the leave.

The employee shall be sent a packet indicating initial eligibility with instructions to complete the Certification of Physician or Practitioner form and return the form to the Human Resource department where final approval shall be determined.

If the employee takes leave without previously advising the Town of the medical or family reasons for leave and desires that leave be counted as FMLA leave, the employee must notify an immediate supervisor within two business days of returning to work that the leave was for an FMLA reason.



Status of Employee Benefits During Leave

Employee health insurance benefits shall be maintained as if the employee were actively working, but at the employee's expense. The employee must submit a check to the Finance/Payroll department to cover the amount of the employee's contribution. Payments must be made at the same time as they would normally be made through payroll deductions. Alternatively, advance payments may be made to cover an agreed upon period. The Town shall not advance the funds to pay for these benefits. If payments are missed the employee's health and life benefits shall be no longer be maintained.

Basic life insurance benefits shall continue at no additional cost to the employee. Optional life insurance and personal accident insurance (if applicable) may be continued at the employee's expense.

Benefit accruals, such as vacation, sick leave, or holiday benefits, shall be suspended during the unpaid leave and shall resume upon return to active employment.

So that an employee's return to work can be properly scheduled, an employee on medical leave is requested to provide the Town with at least two weeks advance notice of the date the employee intends to return to work. When a medical leave ends, the employee shall be reinstated to the same position, if it is available, or to an equivalent position for which the employee is qualified.

If an employee fails to return to work on the agreed upon return date, the Town shall assume that the employee has resigned.

MILITARY LEAVE

A military leave of absence shall be granted to employees who are absent from work because of service in the U.S. Uniformed Services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and Florida law. Advance notice of military service is required, unless military necessity prevents such notice, or it is otherwise impossible or unreasonable.

Employees shall be paid full pay for the first thirty days of military leave in accordance with Chapter 115, Florida Statutes. After the first thirty days of military service and upon presentation of satisfactory military pay verification data, employees shall be paid the difference between their normal base compensation and the pay (excluding expense pay) received while on military duty.

Employees are entitled to up to 240 hours (annually) paid administrative leave for reserve or guard training in accordance with Section 115.07, Florida Statutes.

Continuation of health insurance benefits is available as required by Florida law and USERRA based on the length of the leave and subject to the terms, conditions and limitations of the applicable plans for which the employee is otherwise eligible.

Leave benefits shall continue to accrue during a military leave of absence.

Employees on military leave for up to thirty days are required to return to work for the first regularly scheduled shift after the end of service, allowing reasonable travel time. Employees on longer military leave must apply for reinstatement in accordance with USERRA and all applicable state laws.



An employee returning from military leave shall be placed in a position otherwise attained had employment continued or a comparable position depending on the length of military service in accordance with USERRA. The employee shall be treated as though employment were continuous for purposes of determining benefits based on length of service.

Contact the Human Resource department for more information or questions about military leave.

DOMESTIC AND SEXUAL VIOLENCE LEAVE OF ABSENCE

In accordance with Florida Statutes, Section 741.313, any employee employed by the Town for three (3) or more months may request and take up to three (3) working days of leave from work in any 12-month period if the employee or a family or household member is the victim of domestic violence or sexual violence. The leave may be paid or unpaid, but an employee must use all applicable paid annual, personal, sick, and/or other applicable paid leave prior to being eligible for unpaid leave.

An employee seeking domestic or sexual violence leave must provide the Town with written notice of his or her request for leave as far in advance of the desired leave as possible. The request should be submitted to the Human Resource Department. If the need for leave is not foreseeable, the employee must provide notice (verbal or written) as soon as is practicable under the facts and circumstances of the case and in accordance with his or her department's procedures for unforeseeable absences.

A request for domestic violence or sexual violence leave must be supported by certification issued by an authorized person such as a health care provider, attorney of record, counselor, law enforcement agency, clergy, domestic violence advocacy agency, domestic violence center or domestic violence shelter. The certification will be sufficient if it indicates that the employee is being subjected to domestic or repeat violence, or sexual violence, and needs time off to attend to one of the matters.

To the extent possible, information regarding the employee's request for leave under this policy will be kept confidential.

If the employee took leave to obtain or receive medical and/or dental assistance for him/herself, the employee must provide a fitness for duty certification from the employee's health care provider in order to return to work. The Town will specify the information that must be provided on the fitness for duty certification. The employee must pay the cost of obtaining the fitness for duty certification and the employee is not entitled to be paid for the time or travel costs spent to obtain the certification. If the employee fails to provide such a certification before the leave ends, the Town may delay the employee's restoration to employment until the fitness for duty certification is provided to the Town. If the employee never produces the certification, the employee may be terminated from employment.

The taking of leave will not result in the loss of any employment benefits accrued prior to the date on which the leave commenced.

Upon his or her return to work from a domestic or sexual violence leave, the employee shall be entitled to: restoration to the position of employment held by the employee when leave



commenced; or restoration to an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment. However, an employee taking domestic violence leave for three (3) days or less will be restored to the same position held by the employee at the time leave commenced.

An employee on domestic or sexual violence leave must periodically report to the Human Resources Department on the status and intention of the employee to return to work.

The Town prohibits discrimination or retaliation against any employee for exercising his or her rights under this policy. If an employee believes that he or she is being retaliated against, the employee must report the retaliation to the Human Resources Department.

DEFINITIONS

Domestic violence means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member, or any crime the underlying factual basis of which has been found by a court to include an act of domestic violence.

Family or household member means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. Except for persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

Sexual violence means sexual violence, as defined in Florida Statutes § 784.046, or any crime the underlying factual basis of which has been found by a court to include an act of sexual violence. Florida Statutes § 784.046 defines “sexual violence” to mean any one incident of: (1) sexual battery; (2) a lewd or lascivious act, committed upon or in the presence of a person younger than 16 years of age; (3) luring or enticing a child; (4) sexual performance by a child; or (5) any other forcible felony wherein a sexual act is committed or attempted, regardless of whether criminal charges based on the incident were filed, reduced, or dismissed by the State Attorney.

UNPAID LEAVE/LEAVE WITHOUT PAY-

Any regular employee who has been employed with the Town for a period of twelve (12) continuous months may be granted a leave of absence without pay for a period not to exceed twelve (12) weeks. Failure to return to work at the end of the leave without pay, may be grounds for termination.

In no instances shall an employee be granted a leave without pay until all accumulated paid leave is used.

The reason for such leave shall be attributable to an extraordinary condition not directly covered by the provisions of the Family and Medical Leave Policy.

Requests for leave without pay must be submitted in writing and approved by the Town Manager.



No annual or sick leave shall be accrued while an employee is on leave without pay.

Employee health and life insurance benefits may be maintained as if the employee were actively working, but at the employee's expense. The employee must submit a check to the Finance/Payroll department to cover the amount of the employee's contribution. Payments must be made at the same time as they would normally be made through payroll deductions. Alternatively, advance payments may be made to cover an agreed upon period. The Town shall not advance the funds to pay for these benefits. If payments are missed the employee's health and life benefits shall be no longer be maintained.

Employees who qualify for a leave without pay shall initiate a request for such leave by sending a written request to their immediate supervisor. Such request shall be made not less than two (2) weeks prior to the requested leave date unless it is an unforeseeable emergency. Such request shall include the purpose of the leave and an estimate of the amount of time needed for such leave. The leave approval is 100% subject to discretion by the Town Manager.

LEAVE DONATION POLICY

The Town recognizes that employees may have a family medical emergency or be affected by a major disaster, resulting in need for additional time off in excess of their available paid time off accruals. To address this need, all eligible employees will be allowed to donate accrued sick or personal leave hours from their unused balance to their co-workers in need of additional paid time off. This policy is strictly voluntary.

- Employees must be employed with the Town for a minimum of one (1) year to donate and/or receive donated sick/personal time.
- Recipient identity will not be disclosed to the donating employees.
- Employees may not donate more than fifty percent (50%) of their current balance.
- Employees cannot borrow against future sick/personal time to donate.
- Employees who receive donated sick/personal time may receive no more than 480 hours (12 weeks) within a rolling 12-month period.

Nothing in this policy will be construed to limit or extend the maximum allowable absence under FMLA.

SEPARATION FROM EMPLOYMENT

VOLUNTARY TERMINATION

Voluntary Terminations are initiated by the employee and include

1. Resignation – voluntary employment termination initiated by an employee.
2. Retirement – voluntary employment termination initiated by the employee meeting age, length of service, and any other criteria for retirement from the organization.

Notice Required for Voluntary Terminations



1. All regular full-time and part-time employees are requested to give a minimum of two (2) weeks' notice, in writing, prior to leaving Town employment in order to resign in good standing.
2. Department heads and other management personnel are requested to give a minimum of thirty (30) days' notice in order to allow for adequate replacement in order to resign in good standing.
3. In the case of retirement, it is recommended that an employee provide the Town with as much notice as possible; a minimum of 6 weeks is requested. This advance notice shall ensure that retirement issues are satisfactorily addressed prior to the actual date of retirement.

DISCHARGE/INVOLUNTARY TERMINATION

Discharge is an involuntary employment termination initiated by the organization generally for cause.

LAYOFF AND RECALL

If the Town determines that a reduction in staff or "layoff" is necessary, affected employees shall be notified of the effective date, pertinent benefits information and possibility of recall, if any as soon as it is practical.

All layoffs and recalls of positions shall be based upon the Town's operational needs, financial position and the employee's employment history, performance and job-related qualifications and abilities as determined by the Town. Seniority may also be considered in making non-union layoff and recall determinations.

IMPACT ON BENEFITS

Employee benefits shall be affected by employment termination as follows. All accrued, vested benefits that are due and payable at termination shall be paid. Some benefits may be continued at the employee's expense if the employee so chooses. The employee shall be notified in writing of the benefits that may be continued and of the terms, conditions, and limitations of such continuance.

EXIT INTERVIEW

In the event of separation, voluntary or involuntary, the employee is encouraged to engage in an exit interview with the Human Resource department.

All employees who resign in "good standing" must take part in exit interviews to be eligible for rehiring. The exit interview is on the clock and the employee shall be paid for participating.

RETURN OF PROPERTY

An employee separating from employment with the Town shall return all Town-owned equipment, uniforms, property, Town identification badges, and all building and equipment keys before picking up a final paycheck. The Town may not and shall not withhold earnings for failure to return



property but shall take appropriate action including legal prosecution for any Town-owned items that are not returned by a separating employee.

DISCIPLINARY ACTION

It is the intention of the Town to utilize disciplinary action in a constructive manner to motivate the employee toward proper conduct in the future. Situations of a minor nature are expected to be handled informally by the employee's immediate supervisor and may result in a verbal warning which may be documented and retained in the employee's personnel file.

Formal disciplinary action shall be administered by the Department Head in coordination with the Town Manager.

Suspensions and discharge are officially administered by the Town Manager. Department Heads may submit or be requested to submit recommendation for suspension or discharge to the Town manager for review.

Disciplinary actions may include any or all the following, which are not necessarily administered in order, nor are all types of disciplinary action required prior to discharge. The Town may immediately discharge an employee.

1. Verbal Reprimand is a verbal notice to an employee that his/her behavior or performance must be improved or corrected. A written record of the oral reprimand shall be placed in the employee's personnel file and a copy provided to the employee.
2. Written Reprimand is a written notice to an employee that his/her behavior or performance must be improved or corrected. Written reprimands shall be placed in the employee's personnel file and furnished to the employee.
3. Suspension is the temporary removal of an employee from duty, with or without pay. Suspensions shall vary in length depending upon the seriousness of the offense or frequency of occurrence. Suspensions shall be documented and placed in the employee's personnel file.
4. Discharge (also may be referred to as Dismissal or Involuntary Termination) is the removal of an employee from the employ of the Town.

Employees may submit written explanations or responses to disciplinary actions to their personnel file. In some cases, particularly discharge, an employee may have certain additional due process rights.

PERFORMANCE IMPROVEMENT PLAN (PIP)

In efforts to rectify disciplinary action, an employee may be placed on a performance improvement plan (PIP). The purpose of this plan is to provide the employee the opportunity to correct performance and behaviors in the workplace. Employees on a PIP will be evaluated periodically by the department manager in efforts to measure progress.

A staff member whose performance, attendance, or conduct does not meet the Town's standards will receive a written warning/counseling and will be provided a clarification of expectations along with a 90-day time period to demonstrate improvement. The manager placing the employee on a PIP is required to document the meeting by outlining the topics discussed during the meeting,



goals for improvement, and activities which the employee must complete with a corresponding timeframe.

If the deficiencies are not corrected during the allotted time, termination procedures should be followed.

If staff member's performance, attendance, or conduct improve, the employee will have successfully completed the PIP and no further disciplinary action shall be taken.

CAUSES FOR DEMOTION, SUSPENSION OR DISMISSAL

A permanent employee may be demoted, suspended, or dismissed when, in the judgment of the department head the employee's work or misconduct so warrants. When the department head takes such action, he or she shall file a written notification with the Town Manager and the Human Resource department containing a statement of reasons for the action. The employee shall be notified of the effective date of the action. Employees may be demoted, dismissed, or suspended without pay for violation of these rules which include, but are not limited to, the following:

1. Violation of town and/or personnel policies, procedures or rules.
2. Incompetency or inefficiency in the performance of assigned duties.
3. Offensiveness or unequal conduct or treatment toward fellow employees or the public.
4. Violation of any lawful official regulation, or order, or failure to obey any lawful and reasonable direction given by a supervisor when such violation or failure to obey amounts to insubordination or serious breach of discipline which may reasonably be expected to result in lower morale in the organization or result in a loss, inconvenience, or injury to the Town's service or to the public.
5. Solicitation or taking for personal use a fee, gift, or other valuable thing in the course of work, or in connection with it, when such fee, gift, or other valuable thing solicited or given might be construed to be a means of receiving a favor or obtaining better treatment than that accorded other persons either on a present or future basis.
6. Failure to pay or make reasonable provisions for payment of just debts owed the Town in a timely manner.
7. Conviction of a felony or other serious crime.
8. Inattention to duty, tardiness to excess, laziness, carelessness, and unnecessary breakage or loss of property.
9. Absence from work for three (3) business days in a row without proper notification to immediate supervisor as required by the personnel policies and procedures.
10. The employee has been subject to an excessive number of accidents, resulting in personal injury, injury to others, and/or Town property.
11. The employee has been guilty of attempting to use political influence in securing or attaining a position or salary increase. Soliciting elected officials to intercede for or attempt to influence officers or supervisory employees in personnel matters shall be construed as violations of these rules.



12. Dishonesty in connection with assigned duties and responsibilities as an employee of the Town.
13. Immorality or lack of integrity in connection with assigned duties and responsibilities as an employee of the Town.
14. Excessive absenteeism and/or abuse of time off.
15. Violation of departmental rules.
16. Willful violation of any safety rule or practice.
17. Guilty of conduct unbecoming of an employee of the Town's service whether on duty, or off.
18. Intoxication while on duty, or use of alcoholic beverages, or any form of intoxicants, or narcotics, except such drugs as are being used upon the advice and prescription of a physician, during working hours.

None of the foregoing shall be deemed to prevent the demotion, dismissal, or suspension of an employee for any reason which is justifiable, even though such cause is not among those enumerated, provided, however, that an employee shall have the right of appeal. Any action taken against an employee for violation of these rules shall take into consideration the employee's service record.

EMPLOYEE ARREST OF CHARGE

POLICY

As a condition of employment with the Town of Pembroke Park, employees are required to notify their immediate supervisors, no later than the next working day, when an employee has been arrested or when information has been filed by a prosecuting official against him/her for an offense or violation of law and/or when the employee is indicted by a Grand Jury. This shall include, but not be limited to violation of probation, promise/notice to appear, injunction for any prohibited violent or threatening behavior, or moving traffic violations. Failure to notify shall result in appropriate disciplinary action, including termination of employment.

Under no circumstances may the employee report for duty without prior consent from the Human Resources Director following an arrest/indictment, promise to appear, or conviction.

PROCEDURE

The Town will conduct its own independent investigation taking into consideration the employee's testimony and will review any police report or other available documents. The Town will evaluate each arrest/indictment on a case by case basis taking into consideration multiple factors including:

- The nature and severity of the alleged incident or crime,
- The totality of circumstances surrounding the incident,
- The employee's job responsibilities, job location, and potential interaction with employees and the public,



- Employment record of the employee (e.g., performance, length of service, etc.)
- Circumstances that adversely affect the staff member's attendance,
- The future potential for conflict that may arise,
- Any other factors the Town, in its sole discretion, deems relevant.

If the employee pleads nolo contendere or guilty, enters into a plea agreement including pre-trial intervention or is tried and found guilty of any felonious charge and/or crime involving dishonesty or moral turpitude, the employee may be immediately terminated from Town of Pembroke Park employment. In the event such person is tried and acquitted, or the information or indictment is dismissed or quashed, the Town Manager will review his/her employment status to determine whether reinstatement or continuing employment is appropriate.

Employees arrested or indicted by a Grand Jury or on whom information has been filed by a prosecuting official for a felonious offense, a crime involving dishonesty or moral turpitude, or a charge that could be related to their work, may be placed on Administrative Leave with or without pay with approval of the Town Manager.

If an incident or charge is directly work related, or the offense is of a serious nature, nothing shall preclude the Town from initiating disciplinary action independent of any judicial hearing or proceeding.

Employees are also required to notify the Human Resources Director of the outcome of all criminal drug statute or alcohol related criminal charges on the next business day after any change in status, including the notification of a conviction, a plea of guilty, an adjudication of guilt, a plea of nolo contendere, an adjudication withheld, an acquittal or a dismissal of the charges. A failure to report a drug or alcohol conviction to the Town within the applicable time periods will result in immediate termination of the employee, unless good cause exists for the employee's failure to report the conviction to the Town

EMPLOYEE PROCEDURAL RIGHTS

INVOLUNTARY TERMINATION AND PROCEDURAL RIGHTS

The Town Manager, Divisional Directors, and Chartered Positions serve at the pleasure of the Town Commission. All other employees shall be terminated by the Town Manager.

Terminated employees have certain due process rights prior to discharge or other adverse employment decisions if they have a liberty or property interest that is affected by the adverse employment action.

Where an employment decision could be stigmatizing to the employee, and the Town intends to place a record of the action in the employee's personnel file (which makes it potentially subject to public disclosure) or if the action would foreclose a definite range of future employment opportunities, an employee shall be provided notice of the action and an opportunity to respond prior to the employment action.

Stigmatizing reasons for discipline or discharge may include dishonesty, immorality, moral turpitude, criminality, racism, harassment, falsifying forms, drug use, engaging in prostitution, use



of position to obtain kickbacks or other privileges, or other charges impugning the employee's moral character.

Charges of incompetence, negligence, poor attendance, insubordination, failure to meet performance standards, failure to submit required forms or documentation and related performance-based criteria have typically been held to be insufficiently stigmatizing to trigger a liberty interest.

In cases where public disclosure of stigmatizing information is possible, the employee shall receive oral or written notice of the charges, an explanation of the evidence and an opportunity to respond and clear his/her name prior to the decision being finalized and documented in the personnel file. The employee shall direct their response to the Town Manager, who may consult with the Town Attorney, Mayor and/or Commission as needed.

This process is a procedural protection and in no way limits the Town's at-will employment status. The findings of the Town Manager are final, shall be stated in writing and provided to the employee as well as documented within the personnel file.

RIGHT OF APPEAL

Any permanent employee who is discharged may appeal such action in writing to the Town Manager within fifteen (15) business days after such action is taken. As promptly as possible, the employee shall be granted a hearing by the Town Manager and the department head concerned, at which time the employee and immediate supervisor may present relevant evidence regarding the action and the reasons, therefore. When the disciplinary action is personally initiated by the Town Manager, the hearing shall be conducted by the Town Commission. During any investigation or hearing, the Town Manager, or the Town Commission may direct any employee to attend and give testimony. Probationary employees who are terminated during the probation period are not permitted the right of appeal.

Any permanent employee who is demoted or suspended may appeal such action by filing a written grievance in keeping with the Town's grievance procedures. Any such grievance shall be filed within fifteen (15) working days from the date of action against the employee.

GRIEVANCE PROCEDURES

The Town intends to provide a constructive, positive work environment in which employees are empowered to contribute to the continuous improvement in the operations and services provided by the Town. To this end a formal grievance procedure is available to help resolve complaints of employees who believe they are not receiving fair treatment in the workplace.

STEP 1: Verbal Communication with Supervisor

Employees are encouraged to share their suggestions, as well as discuss any complaints or issues that may arise related to their employment and work environment with their immediate supervisor within five (5) working days from the time of the occurrence. The supervisor shall provide a verbal response to the complaint within five (5) working days of the discussion with the employee.

STEP 2: Written Communication with Department Head



Should an employee not find adequate resolution through verbal discussion with their immediate supervisor, the employee shall respond in writing to the employee's department head within five (5) working days from the oral response in Step 1.

The employee shall submit a written grievance to their department head which must include:

- ✓ Date of incident,
- ✓ Description of incident,
- ✓ Summary of previous discussion(s) with supervisor regarding the incident,
- ✓ Desired resolution, and
- ✓ Employee's printed name, signature and date of submission.

The department head shall provide a written response to the employee within five (5) working days of the receipt of the grievance.

STEP 3: Written Communication with Town Manager

If the grievance is not resolved in the first two steps, the employee may request a meeting with the Town Manager. This request must be in writing, dated and submitted within five (5) working days after receiving the response from Step 2. The department head shall be copied on the request.

The meeting with the Town Manager and the employee shall occur within ten (10) working days of receipt of the request to meet, or on a date mutually convenient for all parties. At the Manager's discretion this meeting may include the department head and/or supervisor, and/or other Town representatives as appropriate. At the employee's option, the meeting may include a fellow employee or other representative.

The Town Manager, or designated representative, shall provide a written response to the employee within ten working days of the meeting. The Town Manager's response to the grievance is final.



WORK RULES AND CODE OF CONDUCT

The workplace brings together many different types of people whose unique perspectives and individual skills and talents add tremendous value to the Town of Pembroke Park. All employees, officers, and volunteers, at every level within the organization, are expected to treat each other as respected and valuable colleagues. Employees are required to engage respectfully with elected or appointed officials in all forms of communication, both verbal and written.

CODE OF ETHICS

Employees and officials of the Town of Pembroke Park are bound by the both the State of Florida and the Town's Code of Ethics.

FLORIDA CODE OF ETHICS FOR PUBLIC OFFICERS AND EMPLOYEES

Chapter 112 (Part III) of the Florida Statutes and the "Code of Ethics for Public Officers and Employees" which states in part, that "no officer or employee of a state agency or of a county, city or other political subdivision of the state shall have any interest, financial or otherwise, direct or indirect, engage in any business transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest."

All Town employees shall be furnished with a copy of Florida Statutes Chapter 112 (Part III) during their orientation. All employees are required to review the Statute along with the employment Rules and Regulations for their respective department. This information shall serve as a guide for employee conduct while in the employ of the Town.

PEMBROKE PARK EMPLOYEE CODE OF ETHICS

Article IX, Chapter 2, 260 of the Town Code states, "Employees of the Town hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official duties. Further, Town employees must act in a manner that promotes public trust and confidence in government with complete transparency and honesty in their services and must avoid even the appearance or perception of impropriety. The Town Commission recognizes that, in the furtherance of these fundamental principles, there is a need for clear and reasonable standards of ethical conduct. This Pembroke Park Employee Code of Ethics establishes those standards." The following sections provide the expected code of conduct employees of the Town shall follow.

Gifts

Town employees shall not solicit or accept any gift, regardless of value, in their official capacity as employees, nor shall they solicit or accept any gift in either an official or personal capacity that may be reasonably perceived to be given to encourage or discourage them from taking any action in connection with their Town employment.

Lobbying

Town employees should avoid even the appearance of impropriety in their interaction and dealings with lobbyists registered with the Town and in their interaction and dealings with Town vendors and prospective vendors.



To promote full and complete transparency, lobbyists, Town vendors, and prospective vendors who intend to meet or otherwise communicate with a Town employee, either at such employee's office or elsewhere on Town government premises, for the purpose of influencing a decision to be made by the Town Commission, a decision to be made by any decision-making body under the jurisdiction of the Town Commission, or a final procurement decision to be made by a Town employee, must complete a contact log as prepared and maintained by the Town Manager. This contact log shall be completed for each individual Town employee with whom the lobbyist, Town vendor, or prospective vendor intends to meet or communicate. The contact log shall be legibly completed contemporaneously with the meeting and shall be available for public inspection in a database designated by the Town Manager.

To further promote full and complete transparency, a Town employee shall disclose any meeting outside of his or her Town office, any telephonic discussion, or electronic communication with a registered lobbyist, Town vendor or prospective vendor, during or in which meeting, discussion or other communication the lobbyist, Town vendor, or prospective vendor seeks to influence a decision to be made by the Town Commission, decision to be made by any decision-making body of the Town, or a final procurement decision to be made by a Town employee.

A Town employee is prohibited from lobbying on behalf of an outside principal or employer for compensation, Town Commissioners, members of any Town Selection/Evaluation committee, or the governmental unit in which he or she is employed. Lobbying does not include providing information, advice or recommendations to any Town Commissioner or member of a Selection/Evaluation committee in furtherance of the employee's job responsibilities. Except as stated in this paragraph, Town employees may engage in lobbying activities provided such activities would not be inconsistent with their public duties or the provisions of Chapter 112, Florida Statutes.

Outside Employment

For purposes of this section, other employment means any compensated employment performed by a Town employee aside from his or her employment with the Town, including any part-time employment, self-employment, or consultant-related employment. Town employees may engage in other employment provided:

1. The other employment will not be inconsistent with the employee's public duties or the provisions of Chapter 112, Florida Statutes; or
2. The individual or business entity for whom the Town employee will engage in other employment is not a vendor under contract with Town or a prospective vendor seeking to do business with Town.

Prohibition on Use of Town Position for Personal or Private Gain

No Town employee shall use his or her municipal position or powers and duties to secure a financial benefit for himself or herself, an immediate family member or any private organization in which he or she is deemed to have an interest.

Future Employment

No Town employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion



pending before the Town employee, either individually or as a member of a Town Committee, while the matter is pending or within the 30 days following final disposition of the matter.

Use of Town Resources

Town resources shall be used solely for lawful Town purposes. Town resources include, but are not limited to, Town personnel, and the Town's money, vehicles, equipment, materials, supplies or other property.

No Town employee may use or permit the use of Town resources for personal or private purposes, but this provision shall not be construed as prohibiting:

1. Any use of Town resources authorized by law or Town policy.
2. The use of Town resources for personal or private purposes when provided to a Town officer or employee as part of his or her compensation; or
3. The occasional and incidental use during the business day of Town telephones and computers for necessary personal matters such as family care and changes in work schedule.

Nepotism

No Town employee or consultant may participate in any decision specifically to appoint, hire, promote, discipline or discharge an family member for any position at, for, or within the Town.

Political Solicitations

No Town employee shall directly or indirectly compel or induce a subordinate employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.

No Town employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining or in any manner changing the official rank, status or compensation of any Town employee, or an applicant for a position as a Town employee, on the basis of the giving or withholding or neglecting to make any contributions in money or service or any other valuable thing for any political purpose.

Elected Public Office

A Town employee seeking elected public office is not permitted to engage in any activity related to seeking the office during working hours or in other ways which might constitute an inappropriate use of Town time and resources or lead to the impression that the Town government endorses his or her candidacy.

The prohibition against the use of Town time and resources in a campaign for elective office includes a ban against using Town equipment, including vehicles, telephones, copy machines, inter-office mail, or other equipment owned by the Town. The employee/candidate is prohibited from participation in campaign activities off duty wearing a Town uniform or driving a Town vehicle.

Town employees are prohibited from soliciting campaign contributions or any in kind gifts to support his or her campaign, including soliciting campaign workers or contributions from among Town employees when the solicitation takes place on duty or when the solicitation could be



reasonably construed as having a connection to a real or expected employment decision. The employee/candidate for public office must avoid the appearance or reality of a conflict of interest between their employment with the Town and the outside candidacy.

A Town employee choosing to run for elected public office must disclose his/her candidacy to the employee's immediate supervisor and the head of their Department within three (3) business days after the time the employee becomes an official candidate by filing the necessary candidate papers. All campaign-related activities by an employee/candidate occurring before official candidacy are also subject to these restrictions.

The employee/candidate must take reasonable steps, with approval by his or her supervisor, to minimize the prospect of a conflict of interest between the employee/candidate's work duties and campaign activities. These steps may include the use of annual leave, personal days, or unpaid leave of absence following approval in advance by his/her supervisor pursuant to Town policies.

Confidential Information

No Town employee who acquires confidential information in the course of exercising or performing his or her powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing his or her official powers or duties.

Enforcement Procedures

The authority to investigate alleged violations of the Pembroke Park Employee Code of Ethics is vested in the Town Manager. A Town employee may appeal the decision of the Town Manager by filing a written appeal to the Town Commission within fifteen (15) business days of the final decision of the Town Manager is rendered. The Town Commission may affirm, modify or reverse the disciplinary decision rendered by the Town Manager.

The authority to investigate alleged violations of the Pembroke Park Employee Code of Ethics by the Town Manager, Directors or any Chartered Position is vested in the Town Commission.

Town Commission shall have the authority to investigate alleged violations of the Pembroke Park Employee Code of Ethics when the Town Manager fails to do so, or when the Town Commission determines that such investigation is required.

FREEDOM OF INFORMATION ACT AND PUBLIC RECORDS ACT

It is the policy of the Town of Pembroke Park to comply fully with the Freedom of Information Act. All individuals are entitled to certain and specific information regarding the affairs of government and the actions of public officials and public employees.

All FOIA requests are to be immediately directed to and processed by the Town Clerk or his/her designee. Requests for public information may be either oral or written and ideally are handled within five business days after the request has been received. In some cases, an extension may be required, and certain information may be denied or redacted. Originals of any documents shall not be allowed to leave Town property, and the costs associated with compiling and providing the information shall be charged.

PUBLIC RECORDS



Under no circumstance may an employee remove documents, photos, reports, personal or personnel information or any sensitive material that is the property of the Town of Pembroke Park.

Employees found to be in violation of this policy may be disciplined, up to and including discharge.

PERSONAL CONDUCT

All persons employed by the Town must remain constantly aware of their responsibilities to the public and of the fact that they are representatives of the Town. It is expected that their conduct and appearance shall be commensurate with the positions which they hold.

Town employees are frequently called upon to express opinions and to provide information concerning the Town government, its operations and its policies. Expressions of opinions should be carefully weighed in the light of their probable affect and should be based upon facts within the knowledge of the employee. A Town employee is not deprived of the rights of citizenship which affords the right of free speech. He should be keenly aware of responsibilities and privileges as an employee of the Town and understand that personal opinions shall often be interpreted by others as representing the official opinion of the Town.

Employees shall be well informed concerning the policies and operations of Town government. Such responsibilities increase with the importance of the position held. Admitting lack of knowledge concerning a question asked is far superior to an incorrect answer, but if the situation requires it, the employee, under such circumstances, should refer the questioner to the proper source of information or obtain the actual facts and inform the person making the inquiry.

Employees are expected to refrain from repeating rumors and from creating dissension within the organization.

Employees shall visit departments other than those in which employed only on official business. Reasonable breaks in routine work may be taken as long as the privilege is not abused but loitering is expressly forbidden. Any employee who has completed assigned tasks, or the work for which that employee is responsible shall report to a supervisor for assignment of other duties.

OUTSIDE EMPLOYMENT GUIDELINES

Full-time Town employees wishing to hold supplemental, part-time employment in addition to his or her Town employment must request approval in writing to their department head and must do so each year that supplemental employment is held on their Town anniversary date.

The request should include the:

- Name of the employer.
- Nature of the employment and duties to be performed; and
- Approximate number of hours to be worked per week.

The Town Manager shall determine whether a conflict of interest exists or if the employee's ability to effectively perform their Town work shall be hampered and shall inform the employee in writing of his or her determination.

A conflict of interest may include, but is not limited to:



- Any employment, activity, or enterprise which involves for private gain the use of the Town's time, facilities, equipment, supplies, or prestige or influence of the Town Office.
- Any activity which involves receipt or acceptance of any money or other consideration from anyone other than the Town for performance of an act with the employee should be required or expected to render in the regular course of their Town employment.
- Any activity which involves a performance of an act other than in their capacity as a Town employee which may later be subject to the control, inspection, review, or enforcement by the employee or the department in which they work; or
- Any activity which involves so much of an employee's time that it impairs their attendance or efficiency in the performance of their duties.

Employees may not wear a Town uniform, work shoes/boots, or any other apparel furnished by the Town in performing outside work. Outside work may not be performed during regularly scheduled Town work hours or at a Town facility, and no Town resources, equipment, tools or supplies may be used for outside work.

POLITICAL ACTIVITY AND VOTING TIME

All employees should register to vote and should exercise this privilege at each opportunity afforded. It is Town policy that it is in the public interest and at governmental benefit to remove career employees from the arena of partisan political activity. Florida statutes impose certain restrictions on the political activities of state, county, and municipal officers and employees.

Also, those employees in positions supported in whole or in part by Federal funds may be subject to those restrictions contained in the federal "Hatch Act." The following prohibitions shall apply to all Town officers and employees:

- No person shall promise, attempt, or use political position, influence, or coercion in an effort to erode the merit system nature of the Town work force by patronage or favoritism for past or future political influences or services, either implied or actual.
- The Town of Pembroke Park shall not permit the use of its equipment, property, facilities or supplies for partisan political purposes.
- Employees shall not take an active political role on behalf of any candidate or incumbent for Town elective office.
- Employees shall not be solicited for contributions or any other sort of support or influence for any political party, office, or candidate, either from other employees, superiors, elected officials, or candidates.
- A Town employee who becomes a candidate for any public elective office shall, at the time of formally qualifying, resign in good standing from the Town service in accordance with Florida elections and resign to run applicable laws.

Violations of any of these restrictions shall result in disciplinary action including discharge, as determined by the provisions of these rules.

Full-time regular employees shall be granted one (1) hour off to vote at the start or end of their shift,



provided such time does not result in the Town having to replace employees at overtime rates of pay and coverage is maintained in, each department.

Employees interested in utilizing voting time must request the use of such time at least twenty-four (24) hours in advance of using such time. Granting the use of such time under all conditions shall be made at the discretion of the department head.

Active political campaigning or solicitations for political contributions while on duty is strictly prohibited.

POLITICAL ACTIVITY AND GENERAL SOLICITATION

The Town does not discourage political participation or activity. However, certain restrictions are imposed to ensure the integrity and impartiality of the Town. In this regard:

- Employees of the Town shall not engage in political activities on behalf of a candidate for partisan or non-partisan election during those hours when the employee is being compensated for the performance of his/her duties as a Town of Pembroke Park employee. This includes distributing or circulating literature or paraphernalia for or against an issue or candidate.
- Solicitation and/or distribution of literature, including signing and circulating petitions for candidates, propositions and other political matters, is prohibited during working hours or in work areas. Working hours include the actual working time of both the individual performing the solicitation or distribution and the employee to whom it is directed.
- Employees of the Town shall not solicit, receive or in any way participate in soliciting or receiving any assessment, subscription or contribution for any political party or any political purpose whatsoever, during those hours when the employee is being compensated for the performance of his/her duties as a Town of Pembroke Park employee.
- Employees involved with political campaigns shall do so as private citizens. Employment status with the Town shall not be referenced when campaigning for or against any candidate or ballot issue, question or proposal. Employees involved with political activity shall neither claim to represent the Town nor claim their views or opinions reflect the views or opinions of the Town.
- Equipment, materials and supplies belonging to the Town, including the Town's letterhead, business cards or other such material supplied by the Town, shall not be used in support of political activities.

Employees who become candidates for the Town Commission of the Town of Pembroke Park shall be required to take a leave of absence without pay when that employee complies with the candidacy filing requirements or sixty (60) days before any election relating to that position, whichever date is closest to the election. Employees who are elected to Town Commission must resign their Town employment prior to the commencement of their term of office.

CUSTOMER SERVICE

The Town of Pembroke Park always requires employees to represent the Town in a positive manner and treat customers and residents with courtesy and respect .

Employees should be prepared to listen patiently to complaints and deal with them in a helpful, professional manner. Residents or customers who become unreasonable, abusive or harassing should be



referred to the employee's supervisor.

PUBLIC STATEMENT/PRESS CALLS

Unless otherwise delegated, the Town Manager is the official designated spokesperson for Town staff. Employees should refer all requests for formal statements, interviews, and related activities to the Town Manager. Employees may not make formal statements on behalf of the Town, except in cases of sharing routine, information, without prior authorization.

THE WORKPLACE AND TOWN RESOURCES

APPEARANCE

Your appearance is important to demonstrating the professionalism of Town organization. For this reason, each employee is expected to report for work each day with appropriate hygiene, appearance and attire for his or her position.

Personal cleanliness is a must for all employees. Body odors, strong perfume or smoke may all be particularly offensive to the public or coworkers. Employees should take pride in their personal hygiene and appearance and report to work clean and groomed appropriately.

Attire should be consistent with job responsibilities and should not jeopardize the safety of the employee or distract others. Anyone reporting to work in inappropriate clothing shall be sent home to change.

It is impossible to describe or define every possible acceptable or unacceptable example of attire. Clothing should be in keeping with the image of a professional organization; the following is prohibited:

- Excessively worn, torn or dirty clothing,
- Clothing with suggestive or offensive logos, pictures, insignia, etc.,
- Very tight, revealing or otherwise sexually suggestive clothing, and
- Exercise attire including "sweats"

If in doubt, ask prior to wearing the item. Your supervisor shall determine whether attire is acceptable.

USE OF TOWN RESOURCES

Vehicles, materials, facilities and equipment owned by the Town are intended for Town business use only. Further, Town employees are expected to perform work related only to Town business while on work time. Specifically:

1. Mail & Letterhead - Employees may not use the Town's postage for personal mail. Additionally, employees should not routinely receive personal mail or package deliveries while at work. Town letterhead is to be used for official Town business only.
2. Phone - All phone lines are to be kept available for the Town's business. Personal calls must be held to a minimum. Employees are expected to reimburse any expense



associated with personal long-distance calls or excessive personal calls made using a Town telephone.

3. Cell Phone - Personal calls on Town cell phones are to be held to a minimum and are allowed provided only where personal use does not result in an overage of the contracted minutes. If the minutes are exceeded, the employee is required to pay the additional charges or costs.
4. Vehicles – Town-owned vehicles are to be used for official Town business only, unless otherwise approved by the Town Manager.
5. Equipment, Facilities and Supplies - Equipment, facilities and supplies are to be used for Town business only, including tools, machinery, computers, copiers, faxes and other office machines.
6. Personnel – Town personnel are only to perform work related to Town business and/or projects while on work time.

The Town's resources, including Town vehicles, may not be borrowed for personal use by employees.

EMPLOYEE IDENTIFICATION

It is the policy of the Town of Pembroke Park that all employees be photographed as a method of establishing proper identification and records for the employee. The identification shall be handled by the IT department during orientation.

The IT department shall issue picture identification cards to all employees except for the Fire Department.

Town identification cards are to be presented upon request. The cards are only to be used for employment purposes.

Upon separation of employment, identification cards shall be turned into the employee's department and submitted to the IT department along with a completed "Town Property Form" which shall authorize the tendering of the employee's last paycheck.

Employees are to report lost identification cards immediately. Replacement identification cards shall be reissued at a fee of five dollars (\$5.00) each.

Upon expiration, the identification card is to be exchanged for a new card.

Identification cards shall expire five (5) years from the date of issuance and it shall be the employee's responsibility to get a new one from the IT department.

KEY DISPERSAL

Keys to Town buildings, facilities, vehicles or equipment may be issued to employees. Keys should never be duplicated, given or lent to anyone else, including a fellow employee, without prior approval from the Department Director. Lost or stolen items must be immediately reported to the Town Manager. All keys must be returned to the original employee immediately to prevent lost keys.



UNIFORMS AND SAFETY ATTIRE

The Town may issue directly, provide allowance for, or reimburse employees in certain departments for safety attire, work shoes/boots, uniforms, etc. These items are to be clean and worn with reasonable care. The Town shall replace worn or damaged items as needed and within reason, generally not more than once per year. Town attire or uniforms are considered Town property and are to be worn while on duty for Town business only.

PERSONAL ARTICLES IN THE WORKPLACE & SEARCH OF PROPERTY

The Town is not responsible for lost or damaged personal articles brought into the workplace. All property belonging to the Town, including Town vehicles, computers, phones, desks, file cabinets, lockers and other storage areas, is subject to inspection or search at any time without notice to retrieve work-related materials or to investigate a violation of workplace rules. Employees should not have any expectation to privacy regarding Town premises.

PERSONAL WORKSPACE & DISPLAYS

Personal workspace is also considered property of the Town and is oftentimes accessible and viewable by co-workers and the public. Reasonable, tasteful displays of personal pictures, decorations, and related items are acceptable. However, any personal displays that violate harassment, code of conduct, or other policies shall be addressed as a violation according to those procedures. Your department head and/or the Town Manager have the final authority to determine what is acceptable.

SMOKE-FREE WORKPLACE

In its commitment to providing a safe, healthy, and comfortable workplace for all employees, the Town of Pembroke Park maintains a smoke and tobacco-free environment. No smoking or other use of tobacco products (including, but not limited to, cigarettes, pipes, cigars, snuff, electronic cigarettes, or chewing tobacco) is permitted in any Town workspace (indoor and outdoor) or in vehicles owned, leased, or rented by the Town.

The Town of Pembroke Park does not employ individuals who have used tobacco products within twelve (12) months of submitting an employment application. All applicants for employment must sign an affidavit certifying that they have not used tobacco or tobacco products for at least twelve (12) months immediately preceding the date of application. Furthermore, an employee is prohibited from using tobacco products during his or her employment with the Town of Pembroke Park.

Compliance with the smoke-free workplace policy is mandatory for all employees. Employees who violate the policy are subject to corrective action, up to and including termination from employment.

Any employee who observes a violation of this policy should report it immediately to the Human Resources Director.

CARE OF EQUIPMENT

Employees are expected to follow prescribed safety procedures for equipment and vehicle usage,



refrain from and/or report equipment abuse and guard against equipment loss.

Should an employee encounter equipment malfunction or be involved in an accident, the incident should be immediately reported to the appropriate supervisor or department head. Intentional equipment abuse, careless use of equipment, or habitual loss of equipment shall not be tolerated and may result in disciplinary action, up to and including discharge.

VEHICLE USAGE

The Town allows certain job classifications to use Town-owned vehicles with prior supervisor approval.

- Employees who use their personal vehicles for Town business shall be reimbursed in accordance with the Florida mileage reimbursement rate.
- Any employee driving on Town business, whether using their own vehicle or the Town's, must have a valid Florida driver's license and a satisfactory driving record. Any restrictions on, or revocation of, an employee's legal right to drive must be immediately reported to the appropriate department head. The same applies for employees diagnosed with a medical condition which temporarily or permanently affects their ability to drive. Employees driving Town vehicles may be subject to regular driving history/DMV checks.
- Employees who drive a vehicle on Town business must exercise due diligence to drive safely, observe all traffic laws, speed limits and related rules of the road, and maintain the security of the vehicle and its contents. The use of hand-held cellphone is **prohibited** while operating vehicles.
- When riding in or operating the Town vehicles, safety belts shall be worn by all.
- Employees shall promptly report to their supervisor or Department Head any accident with any Town vehicle that is operated by them or in their charge. Notification should be made to the local police agency so that a report can be prepared.
- If, in the event of an accident, carelessness or negligence on the part of the operating employee is determined to be a contributing factor, charges will be brought against the employee, leading up to termination. Drivers are responsible for any driving infractions or fines that result from their driving and must report them to their supervisor.
- No one other than authorized Town employees is authorized to drive or ride in Town vehicles, unless prior approval has been obtained from the Town Manager.
- Employees may transport citizens in the Town vehicles only for an authorized purpose, and/or with the approval of a Department Head.
- Smoking is strictly prohibited in Town vehicles.

TAKE HOME VEHICLES

Employees with an assigned take home vehicle will be subject to a bi-weekly taxable fringe benefit as per the IRS Commuting Rule. The Town does not allow the employee, nor any individual whose use would be taxable to the employee, to use the vehicle for personal purposes other than for commuting or de minimis personal use (such as a stop for a personal errand on the way between



a business delivery and the employee's home).

CREDIT CARDS

The Town recognizes that in certain instances, it is in its best interests to issue a Town credit card to certain employees. Town credit cards are limited to employees in positions that demonstrate that having a credit card shall assist them in performing their assigned responsibilities. Any issuance of a Town credit card must first be authorized by the Town Manager.

The credit card may only be used for the purchase of goods or services related to the official business of the Town. It is not to be used for any personal business.

Any employee that is issued a Town credit card is responsible for the card's protection and custody and shall immediately notify the Finance Director, if the card is lost or stolen.

The issuance of a Town credit card is a privilege that may be revoked at any time. Any card holder found in violation of this policy may be forced to surrender the card and may be subject to discipline. Employees shall surrender their Town credit card upon request, including at the time of termination.

SAFETY

The Town believes in maintaining safe and healthy working conditions for its employees. Establishment and maintenance of a safe work environment is the shared responsibility of the Town and employees from all levels of the organization. The Town will attempt to do everything within its control to assure a safe environment and compliance with federal, state and local safety regulations. Employees are expected to obey safety rules and to exercise caution in all their work activities. All perceived safety hazards are to be reported immediately to the Town Manager, Department Supervisor, or the Human Resources department.

Employees are expected to continually be on the lookout for unsafe working conditions or practices. If an employee observes an unsafe condition, the employee should warn others, if possible, and report that condition to the Town Manager, Department Supervisor, or the Human Resources department immediately. If an employee has a question regarding the safety of the workplace and practices, ask a supervisor for clarification. Any issues on safety will be investigated and rectified to ensure employees safety at work.

To achieve the goal of providing a safe workplace, each employee must be safety conscious. The Town encourages employees to provide suggestions to enhance the work experience through comments, suggestions, or complaints.

GENERAL SAFETY RULES:

- OSHA approved footwear is to be worn if deemed required by department.
- All issued Personal Protective Equipment (PPE) such as eyewear, back braces, hard hats, safety vests, hearing protection and all others are always to be used as appropriate for the task assigned.
- All employees must follow the standard method of lifting. If the load is over twenty-five (25) pounds, back braces are required to be worn. If the load is over fifty (50) pounds, you must obtain assistance.



- All spills, broken glass, debris or any other hazard, must be cleaned up if you are assigned to complete such activities and if you are not able to complete the cleanup, you are to report the issue to a supervisor or Department Head immediately.
- Any defective tools/equipment/machines must be taken out of service and reported to a supervisor or Department Head immediately.
- All machines/equipment must be operated in a safe manner. Shut off/unplug any machines/equipment before making any adjustments, cleaning or repairs.
- Report all accidents or injuries to your supervisor or Department Head immediately. You must complete the required written reports as required as soon as possible. This report should be forwarded to the Human Resources department immediately. Failure to file the required reports, may lead to delays in the subsequent investigations which can affect medical benefits and possible disciplinary action.
- Any employees that come into contact with any type of body fluids/waste must adhere to the Center for Disease Control Universal Precaution Guidelines.
- All unknown materials are to be considered hazardous and appropriate precautions taken.
- Filing false statements, reports, timesheets and all other documents constitutes a falsification of records and is subject to immediate termination.
- MP3 Players, headphones and all similar type devices during working hours is prohibited except for authorized break and lunch periods. Single ear Bluetooth devices for phone use is permitted.

BUILDING SECURITY

In order to ensure the security of the Town Hall, all visitors will be required to be escorted by Town personnel while in secured areas. All visitors must report to the receptionist and advise their reason for being in the building. The front door to Town Hall will always be locked, and all visitors will enter through the rear door.

After Town Hall working hours, the rear door to Town Hall will be locked, and visitors are to utilize the intercom at the rear of Town Hall to request admittance. During this after-hours period, caution should be exercised when admitting persons to utilize the telephone, restrooms, or water fountain as the building is closed. Any person that is found in the secured areas of the building who is unknown should be challenged as to their business in Town Hall.

The following visitors do not require escort; however, their movements should be limited: Any Government Official (Town of Pembroke Park, other Municipalities, County, US Government). family members of employee, visitors who are personally known, recognized, or whose purpose (such as repairman) has been previously announced.

ACCEPTABLE USE POLICY

The Acceptable Use Policy establishes a minimum set of rules of behavior for users of Town of Pembroke Park (TPP) IT (Information Technology) resources. Personal and Contractor owned devices that are connected to TPP systems or used to store TPP or client related data are also considered IT resources.

ENFORCEMENT



Users of IT Resources who violate these rules of behavior may be subject to company disciplinary action and/or criminal prosecution. Such action will be at the discretion of the appropriate TPP management in conformance with the Disciplinary Action Policy section in the employee handbook and TPP Information Security Policy. Third party users who violate these rules of behavior may be subject to account revocation and/or

ETHICAL AND APPROPRIATE USE

TPP provides the IT Resources to assist users in performing their job responsibilities. The resources are to be used for legitimate and authorized business purposes only. Incidental and reasonable personal use of TPP's IT Resources (e.g. Internet, email) is acceptable, if it does not consume more than a trivial amount of Company resources (financial, bandwidth, etc.), adversely affect the intended business use of the IT Resources, or impair a user's job performance.

The display of any sexually explicit image, document or text on any IT Resources is prohibited and in violation of TPP's sexual harassment policies. Sexually explicit material may not be accessed, archived, stored, distributed, edited or recorded using any IT Resources. Material that is, or could reasonably be regarded as, derogatory or discriminatory based on race, sex, religion, national origin, age, sexual orientation or disability, or is fraudulent, harassing, embarrassing, profane, obscene, intimidating, defamatory or otherwise unlawful, may not be sent, either within TPP or from TPP to someone outside TPP, by email or other form of electronic communication (such as bulletin board systems, newsgroups and chat groups) or displayed or stored using IT Resources.

In their use of IT Resources, users must comply with all state, federal and international laws, including the laws and regulations of any state, city, province or other jurisdiction and any laws governing intellectual property and online activities. Users are prohibited from using TPP's IT Resources for any other business solicitation or profitmaking activities. Without prior written permission of the Chief Information Officer, IT Resources may not be used for dissemination or storage of commercial or personal advertisements, solicitations or promotions

USER MONITORING AND PRIVACY

Users acknowledge that they have no expectation of privacy regarding their activity on TPP IT Resources.

All TPP IT Resources are always subject to monitoring and auditing. Users should expect that electronic communication may be accessed by authorized supervisors, local system administrators, Information Security, Legal and Human Resources with or without the permission of the employee. However, no other users may monitor or access IT Resources of another user without the express approval of the Chief Information Officer and Chief Human Resources Officer

PASSWORDS AND USER IDS

Passwords for all TPP IT Resources are considered private and confidential. Users are prohibited **from sharing any of their system passwords with anyone.**

Note: In the process of troubleshooting an end user issue with an IT Resource over the phone or in person, a Technical Support associate may need to reset a users' password. If the user has any reason to question any aspects of the way the Technical Support technician is handling the



situation, they should contact mpakula@townofpembrokepark.com. Technical Support Technicians **WILL NOT** send notifications directing users to change an existing password to a specific password; or otherwise solicit their password to be submitted via message. Such methods are often unsolicited attempts on public services such as banking to obtain unauthorized access to an account. If this happens, contact mpakula@townofpembrokepark.com

To minimize the risk of compromising systems as a result of poor password selection, users are responsible for selecting passwords that are difficult to break. **Wherever technically supported and not configured centrally**, the following password criteria should be employed:

- Passwords must be a minimum of 8 Characters.
- Passwords should have 3 or more of the following types of characters:
 - Lowercase characters
 - Uppercase characters
 - Numbers
 - Symbols
- Passwords must be changed every 120 days, and passwords must not be re-used for at least 6 iterations.
- Dictionary words, derivatives of User IDs, and common character or easily guessable sequences such as “123456”, “Password”, may not be used.
- Personal details such as a spouse’s name, social security numbers, and birthdays may not be used unless accompanied by additional unrelated characters.
- Proper names, geographical locations, common acronyms, and slang may not be used.
- Personal Identification Numbers (PINs) may be used for authentication on designated systems (such as voicemail), in instances where the target asset is low sensitivity, the system does not support passwords, or the PIN is used in conjunction with another factor to authenticate the user (such as a hard-soft token or device fingerprint, out of wallet/knowledge-based authentication). If exposed or compromised, passwords/pins must be changed immediately. **Passwords/pins must not be written down**
- Passwords must not be saved or “remembered” within applications (i.e. when a dialog box has a ‘save password’ box to check).
- Passwords must not be hard coded into programs/function keys/macros etc.
- Passwords must not be stored in an unencrypted format

USER ACCOUNTABILITY

User access to IT Resources is tied directly to an individual’s User ID. Users are accountable for all actions associated with the use of their assigned User ID and will be held responsible for unauthorized actions found to be intentional, malicious, or negligent. Each user must protect their user ID by:



1. Never allowing another person to use or share his/her logon session; because the session is directly associated with an individual's User ID, the user is personally accountable for all actions performed with the ID.
2. Locking the workstation or logging off an active session when leaving the workstation

DATA CONFIDENTIALITY AND SECURITY

All data on TPP IT resources is classified as Company Confidential information, unless otherwise specified. If you come into contact with sensitive (i.e. Highly Confidential) company, associate, or customer information (i.e. credit card numbers, personally identifiable information, protected health information) that you were not the intended recipient of, or otherwise do not have business justification to access, notify the Information Security department immediately.

Information must be handled in accordance with requirements associated with its classification. Users are prohibited from sharing TPP Confidential or Highly Confidential information with a third party unless the third party has been authorized to receive that information in accordance with the Third-Party Management Program.

UNAUTHORIZED ACCESS

Users are forbidden from taking actions that are intended to breach or may result in a breach of TPP's or any other companies' or individuals' security, confidentiality or privacy of information assets. These actions include, but are not limited to:

1. Accessing an account not assigned to the user or one in which they have not been expressly authorized.
2. Taking actions meant to capture information to which the user is not authorized, such as network sniffing, network mapping, port scanning or vulnerability scanning.
3. Circumventing any authentication or security mechanism.
4. Interfering with or denying service to any authorized user or process. Users should note that the **ability** to perform an action does not correspond with the **authority** to perform that action

Note: Designated personnel may perform the above listed activities in the course of their duties. These individuals authorized by the TPP Chief Information Security Officer. No other individuals may perform these functions, regardless of their intent.

TOWN WEBSITE

The Town Website currently has main informational pages and then individual department pages. The Main Town Webpage shall be managed by the Clerk's Office. All requests for updates/changes to the Main Town Website must be submitted in writing to the Clerk's Office. Each Department will be responsible for updating their individual department webpages. Oversight of this procedure will be provided by the IT Department. It is important to note that some employees may have access to modify the Main Town Page, however, the Clerk's Office is the only authorized party to make changes to the Main Page. Town Website credentials shall not be shared with any unauthorized users.



DENIAL OF SERVICE

Users may not initiate actions which results in limited or preventing other authorized users or systems from performing authorized functions by deliberately generating excessive network traffic (with the exception of performance or load testing by the IT department), and thereby limiting or blocking telecommunications capabilities. This prohibition includes:

- The creation or forwarding of unauthorized mass mailings such as “chain letters”.
- Messages with excessively large attachments or embedded graphics that consume large quantities of network bandwidth or streaming excessive video/music.

MALICIOUS CODE

Users are prohibited from intentionally writing, compiling, copying, propagating, executing, or introducing in any manner any code designed to self-replicate, damage, or otherwise hinder the performance of any TPP IT Resource. Examples of these include computer viruses, worms, and Trojan horses.

To prevent this from occurring, unsolicited emails with suspect subject lines/text, attachments, hyperlinks, even if from a known individual, should not be opened or executed. Antivirus/antimalware/antispyware software, device specific firewalls, and other security software installed by the IT Department on company PCs, servers, and other devices should not be suspended, removed, or otherwise interfered with without express approval from the IT Infrastructure department. Users should take reasonable precautions to prevent the propagation of malicious code amongst TPP IT Resources by evaluating the credibility of a link, email, SMS, or attachment received by a user.

TIPS FOR EVALUATING CREDIBILITY INCLUDE:

- Evaluating what was received.
- Does it appear to be a Microsoft Office (Word/Excel) or Adobe document but carry a different file extension (i.e. '.exe')?
- If it includes a link/URL, does it look odd or attempt to download or execute a file? For example, links that make use of a subdomain such as [www.<legitamite_destination>.<fake_destination>.com](#) or use top level domain such as “.in” or “.tk” verses “.com” or “.net” may be suspicious.
- Is it soliciting an action from you, such as divulging personal or corporate information about you or others, such as phone numbers, titles, user IDs/passwords, company procedures?
- Is it asking you to download or install something?
- Evaluating the source.
- Is this a known source whose identity has been reasonably confirmed, and should be contacting you?



- If it is a known sender, are there signs that they are being impersonated by sending a non-specific message, requesting something unusual, or leveraging an unusual communication medium?

PERSONAL (USER OWNED/LEASED) AND CONTRACTOR DEVICES

Only TPP owned/leased/managed personal computers are permitted to access the Corporate Network. Contractor and employee computers may connect to designated guest networks. Personal mobile devices including smartphones and tablets are permitted to connect to TPP systems through the enterprise Mobile Device Management (MDM) utility.

See “Mobile Devices” section for further provisions

Personal mobile devices are prohibited from connecting to the TPP corporate Wi-Fi network, but are permitted to connect to designated guest networks

MOBILE DEVICES - SMARTPHONES, TABLETS, PERSONAL DIGITAL ASSISTANTS, AND JUMP DRIVES

Smartphones or Tablets that access TPP systems may only do so provided they are secured with the company-provided Mobile Device Management utility. TPP Information Technology will provide limited support for personal devices approved to access company resources. Support is limited to the Mobile Device Management utility and any other TPP- provided software. Users are responsible for:

1. Costs associated with wireless data plans, personal software purchases/licensing, replacement of lost device, repairs to damaged device.
2. Registering and maintaining device warranty.
3. Service/billing disputes with seller/wireless carrier.
4. Backing up all personal data.
5. Device troubleshooting with manufacturer or wireless carrier

TPP-provided mobile devices are supported by the TPP IT Department. Users are responsible for the following:

1. Costs associated with personal software purchases/licensing.
2. Backing up any personal data.

Users are required to notify the Service/Help Desk immediately in the event of a lost or stolen mobile device, or a device that is sold, given to another individual, sent for repair, or disposed of. Devices will be wiped remotely or reset in the following scenarios:

- Device is lost, stolen, changes custody, or believed to be compromised.
- User is found to be in violation of this policy.
- User no longer has a working relationship with TPP.



- User fails to authenticate successfully after an established number of attempts, in which case the device will be configured to automatically reset.

Users who connect personal devices through the corporate Mobile Device Management Utility recognize and understand that some functionality may be disabled to preserve the security and effective utilization of TPP IT Infrastructure. TPP retains the right to perform limited monitoring and take certain actions on personal mobile devices configured to access TPP data or systems.

TPP may monitor and/or block any activity when leveraging the corporate network as the conduit to the Internet (e.g. browsing the internet while connected to corporate Wi-Fi). TPP may monitor or inspect security configurations, Mobile Device Management (MDM) profiles, and operating system version/patch levels. TPP may block some devices if found to present risk to TPP data or systems.

TPP will perform a “selective wipe” of a device if lost or stolen, which will only remove company data.

TPP may leverage device location monitoring to aid in the recovery of lost or stolen devices. Users are prohibited from compromising, replacing, or significantly altering the operating systems of mobile devices (e.g. jailbreaking or rooting a smartphone or tablet). Devices that are found to have been inappropriately configured in this regard will be blocked from accessing the TPP environment.

Mobile devices with Wi-Fi capability should not be configured to connect automatically to unsecured wireless access points. Wi-Fi capabilities should be turned off when not in use. Mobile devices should not be configured to download Apps from Third Party marketplaces or other untrusted sources. Third party marketplaces circumvent screening and protections put in place by Operating System manufacturers and can be a source of mobile malware.

The Apple App store, Android Marketplace, BlackBerry App World and Windows App Store are examples of de facto platform marketplaces.

Direct downloads from websites or Third-Party marketplaces not endorsed by platform manufacturers should be avoided. Users are prohibited from inserting jump drives, flash drives or any peripheral devices whose origin is not trusted into TPP devices. Jump drives whose origin is known must be scanned by Antivirus/Antimalware utilities prior to use. Highly Confidential company data may not be stored on jump drives or flash drives without the use of encryption.

Users are prohibited from configuring devices to connect to assets not specifically sanctioned or supported by the Information Technology department. Users are prohibited from texting, emailing, surfing the internet, or other distracting activities while operating a motor vehicle. Users should leverage hands free calling capabilities while driving, in accordance with local laws and as necessary to ensure the safety of the user and others

Users are not permitted to change any default settings on a Town-issued phone, iPad, or any other device without prior written authorization from the IT Director.

MESSAGING (EMAIL, TEXT, SMS, INSTANT MESSAGE)



To limit capacity and email processing performance issues, do not use TPP corporate email accounts to sign up for non-work-related solicitations and notifications. The following rules are required by law and are to be strictly adhered to:

1. It is strictly prohibited to send or forward messages containing libelous, defamatory, offensive, racist or obscene remarks. If you receive message of this nature, users must promptly notify their supervisor.
2. Do not forge or attempt to forge messages.
3. Do not send messages using another person's account.
4. Do not disguise or attempt to disguise your identity when sending messages

Users should not transmit sensitive information via messaging systems, such as usernames, passwords, credit card information, and social security numbers. If it is necessary to send sensitive information via email, encryption must be used.

Users are prohibited from sending broadcast e-mails such as chain letters, advertisements that are for personal gain or use.

Users are prohibited from using personal email accounts (Gmail, Yahoo, AOL etc.) to conduct TPP business. Email accounts should only be publicized for TPP business use.

Users are Prohibited from Turning ON I Message in Town owned I Phones. This Feature must always remain **DISABLED**.

INTERNET USAGE

Users are prohibited from using public cloud or other third-party services not procured by TPP IT (such as Gmail, Google Docs, Dropbox) to store or transmit TPP Confidential or Highly Confidential data. Do not download unauthorized content, files or software from the Internet. Do not engage in personal Internet activity that interferes with normal business activities. Any personal use cannot:

- Be associated with for-profit outside business activity,
- Involve solicitation, or
- Impact the TPP brand identity

Do not engage in inappropriate or potentially harmful Internet or communications activities, including but not limited to:

- Posting or disclosing non-public TPP information on any publicly accessible Internet computer, bulletin board, chat room, blogs and social media sites.
- Clicking on pop-up links on social media and other websites.
- Participating in gambling activities.
- Using the Internet for unlawful or malicious activities.
- Accessing pornographic or other objectionable material.
- Using abusive or objectionable language or harassment.



- Violating trademark or copyright laws.
- Misrepresenting oneself or TPP.
- Engaging in other activities that could cause congestion and disruption of networks and systems, including the sending of chain messages.
- Responding to external inquiries when not authorized to do so (e.g. press inquiries, sales calls).

When using social media, disclosing TPP information or otherwise representing yourself as a TPP Employee is prohibited. Professional networking sites such as LinkedIn are acceptable, providing company information is not disclosed therein. Designated employees who manage TPP's social networking assets are exempt from this provision within the confines of TPP social media accounts

SOCIAL MEDIA, SOCIAL NETWORKING, AND BLOGGING

This document defines the social networking and social media procedure for the Town of Pembroke Park, the "Town". To address the fast-changing landscape of the Internet and the way residents communicate and obtain information online, Town departments may consider using social media tools to reach a broader audience. The Town encourages the use of social media to further the goals of the Town and the missions of its departments, where appropriate. The Town has an overriding interest and expectation in deciding what is "spoken" on its behalf on social media sites. This procedure establishes guidelines for the use of social media.

All Town social media accounts will have login and password credentials for those authorized to have access to post and never be linked to someone's personal page without prior consent by the Town Manager. All individuals posting will have training on archiving and public records management as it pertains to social media. All Town social media pages are to be managed by the Town Manager's designee. The Town has multiple social media pages, of which each designee is responsible for providing accurate information that professionally represents the Town. IT provides additional oversight for usage and permissions of the social media sites. Designees and users of the social media sites must be pre-approved by the Town Manager. Social media credentials may be not shared with any unauthorized users.

PERSONAL USE

All Town employees may have personal social media accounts/blogs. These accounts/blogs should remain personal in nature and be used to share personal opinions or non-work-related information. Following this outline helps ensure a distinction between sharing personal and Town views.

Town employees must never use their Town e-mail in conjunction with any personal social media accounts/blogs.

The following guidance is for Town employees, who decide to have personal social media accounts/blogs or who decide to comment on posts about official Town business:

- Always state your name and, if relevant, role, when discussing Town business.



- Use a disclaimer such as: "The postings on this site are of my own and don't reflect or represent the opinions of the Town of Pembroke Park, for which I work."
- Always write in the first person and please consider that even anonymous postings on blogs/social media accounts can be traced.
- When participating in online communities, the employee should not misrepresent himself or any roll he/she may have within the Town.
- Think twice before posting. The employee is personally responsible for the content published on blogs, Wikipedia or any other form of user-generated media. Please remember that postings on the internet, even if removed/deleted by a user, are either permanently archived or could be saved as screen shots by other users, meaning that everything an employee publishes could be visible to the world permanently. Prior to publishing any post that could make a viewer uncomfortable, employees should review and reconsider that post. If the employee remains unsure and the post is related to the Town, the employee should speak with the Public Information Officer or Human Resources Department.
- Employees should not post comments on work-related legal matters unless he/she has received written legal approval by the Town to do so.
- The use of ethnic slurs, personal insults, obscenity, or engage in any conduct that would not be acceptable in the Town's workplace is strictly prohibited. Proper consideration for the privacy of others and for topics that may be considered objectionable or inflammatory (like religion or politics) should be exercised.
- Personal grievances and/or comments that compromise or disrupt the efficient operation of the Administration or represent the Town in a negative light are discouraged.
- Employees must refrain from speech containing obscene or sexually graphic or explicit material, images, acts and statements or other forms of speech that ridicule, malign, disparage, or otherwise express bias.
- Employees should ensure that all Facebook, Linked-in, Twitter, Instagram or YouTube profiles and related content are consistent with how he/she wishes to present himself/herself with clients and colleagues.
- Do not create a link to the Town's website.
- Do not use the Town's Seal, logo, other intellectual property, or proprietary graphics, or any copyrighted materials.

Employees are responsible for what they post online. Employees who engage in blogging or social networking on the Internet should be mindful that their postings, even if done off premises and while off duty, could have an adverse effect on the Town's legitimate business interests.

REMOTE ACCESS

Any IT Resource used for remote access to TPP IT Resources that is not the property of TPP must be configured to comply with TPP Information Security Policies, Standards, and Procedures. Remote access to the TPP network may not be conducted with a personal or public (i.e. kiosk or internet café) computer. Outlook Web Access is excluded from this provision as it does not



facilitate connectivity to the company network. Outlook Web Access should generally not be used on public or kiosk type computers as they may have malware installed.

See section entitled “Mobile Devices” for provisions specific to related devices

SOFTWARE

Peer to Peer File Sharing programs such as BitTorrent clients, Kazaa, LimeWire, Napster etc. are not permitted on IT Resources. Remote Control/Remote Administration software (e.g. PC Anywhere or Microsoft Remote Desktop Connection, Pocket PC) are not permitted to manage IT Resources, with the exception of those used in an official capacity by the Information Technology department to provide support and administration activities. Users are prohibited from installing Shareware/Freeware, or any software not licensed specifically to TPP.

PHYSICAL SECURITY AND UNATTENDED EQUIPMENT/INFORMATION

Users are responsible for the physical security of IT Resources provisioned to them. Portable devices such as laptops, phones, and tablets should not be left unsecured when left for extended periods, whether within TPP facilities or offsite. Portable devices should be physically locked in a cabinet or through use of a cable when left anywhere for extended periods. Portable devices should not be kept in the passenger compartment of cars but kept out of site and locked in the trunk.

Users staying in hotels should not depend on the security of the hotel room to protect a portable device. Devices left for extended periods should be cable locked or put into a hotel safe. When travelling by air, laptops should be identified with a luggage tag, taken as carry-on luggage whenever possible, and kept in constant contact aboard the aircraft or when in an airport.

Terminate active sessions when finished and secure the workstation or mobile device with an appropriate locking mechanism when leaving the system unattended (i.e. password protected screen saver). Maintain a clean and secure desk and/or work area to reduce the risks of information being inappropriately disclosed, used, altered or destroyed. Remove printouts and faxes from devices immediately. Dispose of documents labeled Confidential or Confidential/Proprietary in appropriate locked shred bins or shred them using a cross-cut type shredder.

SECURITY INCIDENTS

Users and management are required to report all security incidents or suspicious activity (viruses, intrusion attempts, system compromises, offensive emails, inadequate protection of sensitive data, phishing attacks) to the Service/Help Desk or the Information Security department (mpakula@townofpembrokepark.com) as soon as encountered.



DEFINITION OF TERMS

Anniversary Date – The calendar date on which any of the following occur: Completion of probationary period, Promotion or demotion to another position

Appointing Authority – The Town Commission or department heads who have the authority to appoint or remove employees under their jurisdiction.

Classification – A position or group of positions which involve a comparable level of duties and responsibilities and similar qualifications and is designated by a title indicative of the kind of work and for which the same pay range can be applied with reasonable equity.

Classification Plan – A thorough compilation of job descriptions which have been organized according to class.

Compensation – Wages, salaries, fees, allowances, and all other forms of valuable consideration or the amount of any one or more of them paid to an employee, by reason of service rendered in any position, but not including any allowances for expenses authorized and incurred as incidental to employment and which may be separately authorized and/or reimbursed.

Compensation Plan – A schedule of compensation established for each class of positions so that all positions of a given class shall be paid in the same pay range established for the class.

Comprehensive Emergency Management Plan (CEMP) – A strategic document that is a blueprint for an emergency management program containing the 4 phases of emergency management: mitigation, preparedness, response, and recovery.

Conduct Unbecoming – refers to the conduct on the part of a certified professional that is contrary to the public interests, or which harms his/her standing of the profession in the eyes of the public.

Continuity of Operations Program (COOP) – the initiative that ensures that government departments/agencies are able to continue operation of their essential functions under a broad range of circumstances including all-hazard emergencies as well as natural, man-made, and technological threats and national security emergencies.

Data Information Assets – Any data, electronic file, record, printed material, message or communication, etc. This is to include ALL data residing in, accessed by, processed by, used, by, transmitted by or through, or generated by those information assets regardless of its medium, media, format, or storage device from its creation or inception through its disposal

Department Head – Employees of the Town designated to be head of a department.

Department Operating Centers (DOCs) – established and activated by individual departments to coordinate and control actions specific to that department during an emergency event.

Demotion – A change in employment status from a position of one class to a position of another class having a lower maximum pay rate than the original class.

Dismissal – Complete separation of an employee from the employment of the Town.

Employee – Any employee of the Town covered by the provisions of these rules and regulations.

(FLSA) Exempt Employment – Employees who are exempt from the overtime provisions under the definitions of the Fair Labor Standards Act (i.e. salaried employees).



Full Time Employee – An employee who has successfully completed the probationary period and who works 40 or more hours per week.

Hardware Information Assets – Any hardware, personal computer, server, workstation, network, router, switch, tape, CD, disk, mobile computing device (phones/smartphones/PDAs, tablets, jump drives/flash drives)

Information Technology (IT) Resources - Any of the following information assets, which are purchased by, owned by, leased to, contracted by, operated by, used by, or controlled by TPP regardless of media, form, or format.

Temporary Employee – Employee whose tenure is intended to be of limited duration (i.e., filling in for illness, vacations, summer months, maternity leave) and usually not to exceed six months in duration. Such employment may be either full or part time.

Job Description – A narrative statement describing the current duties, responsibilities, general requirements, and qualifications for a single position.

Layoff – Separation of a permanently appointed employee from a position in the personnel system because of the reduction on workload available, lack of funds by the Town, abolishment of the position after study, material alteration in the organization or for other related causes.

Overtime – Overtime is any hours worked in excess of the scheduled work hours.

Performance Evaluation – The periodic evaluation or appraisal of an employee's work performance.

Part-Time Employee – Any employee who works less than forty (40) hours per week.

Probationary Employee – An employee who has:

- Not completed the required probationary period; or
- Been placed into probationary status for cause.

Probationary Period – A working test period and an integral part of the evaluation, testing, and/or examination process during which the employee is required to demonstrate fitness for the position by satisfactory performance of the duties of the position and by satisfactory conduct and attendance as prior conditions to receiving permanent status. Initial probationary periods shall normally be one year for Fire Department personnel included in the collective bargaining unit and six months for all other employees. Employees placed on probation for cause may be placed into that status for durations determined by their department heads or the Town Commission.

Promotion – The upgrading of an employee from a position of one class to a position of another class which has a higher maximum pay rate.

Reclassification – The action taken to officially change an existing position to a different appropriate class because of a change in the duties, responsibilities, and/or requirements of the existing position, or because of a revision to the classification.

Resignation – The voluntary termination of employment by an employee.

Software Information Assets – Any software, program, business application, operating system, script, macro, service, voicemail system, Intranet/Extranet, etc.

Suspension – Enforced leave of absence, without pay, of an employee for disciplinary purposes or, with



or without pay, as determined by the Town Commission, during the investigation of alleged misconduct of the employee.

Temporary employee – An employee employed for a period of up to 90 days, when permanent employment for the job to be performed is not anticipated.

Transfer – Change of an employee from one position to another.

Users - Users of IT Resources include company and affiliate employees, contractors, and consultants, and any other individual under TPP's control or influence, that directly accesses IT Resources.

Vacancy – A position established in a current budget as duly created and not currently occupied by an incumbent



ACKNOWLEDGMENT AND RECEIPT

I have received my copy of the Employee Handbook.

The employee handbook describes important information about Town of Pembroke Park, and I understand that I should consult with the Department of Human Resources, or Town Manager regarding any questions not answered in the handbook. I have entered my employment relationship with Town of Pembroke Park voluntarily and acknowledge that there is no specified length of employment. Accordingly, either I or Town of Pembroke Park can terminate the relationship at will, with or without cause, at any time, so long as there is not violation of applicable federal or state law.

I understand and agree that no manager, supervisor, or representative of Town of Pembroke Park has any authority to enter into any agreement for employment other than at-will.

This manual and the policies and procedures contained herein supersede all prior practices, oral or written representations, or statements regarding the terms and conditions of your employment with Town of Pembroke Park. By distributing this handbook, Town of Pembroke Park expressly revokes all previous policies and procedures which are inconsistent with those contained herein.

I understand that, except for employment at-will status, any and all policies and practices may be changed at any time by Town of Pembroke Park, and the Town reserves the right to change my hours, wages and working conditions at any time. All such changes will be communicated through official notices, and I understand that revised information may supersede, modify, or eliminate existing policies. The Town Manager can adopt any revisions to the policies in this handbook.

I understand and agree that nothing in the Employee Handbook creates, or is intended to create, a promise or representation of continued employment and that employment at Town of Pembroke Park is employment at-will, which may be terminated at the will of either Town of Pembroke Park or myself. Furthermore, I acknowledge that this handbook is neither a contract of employment nor a legal document. I understand and agree that employment and compensation may be terminated with or without cause and with or without notice at any time by Town of Pembroke Park or myself.

I have received the handbook, and I understand that it is my responsibility to read and comply with the policies contained in this handbook and any revisions made to it.

Employee's Signature

Employee's Name (Print)

Date



verifies the Electronic Signature of this document

SIGNATURE

Signer Name:	Marlen Martell
User ID:	Marlen4nmb
Date Electronically Signed:	Feb 4, 2022 03:02 PM EST
File Name:	2021-12 employee handbook approved by commission-adpdms-348.pdf
Display Name:	2021-12 Employee Handbook Approved by Commission



Esri Inc
380 New York St
Redlands CA 92373-8118

Subject: Renewal Quotation

Date: 02/06/2024
To: Mark Pakula
Organization: Town of Pembroke Park
IT Dept
Fax #: **Phone #:** 954-966-4600

From: Trina Isaacs
Fax #: 909-307-3083 **Phone #:** + 19093692258 Ext. 2258
Email: TISAACS@ESRI.COM

Number of pages transmitted
(including this cover sheet): 5

Quotation #26182219
Document Date: 11/23/2023

Please find the attached quotation for your forthcoming term. Keeping your term current may entitle you to exclusive benefits, and if you choose to discontinue your coverage, you will become ineligible for these valuable benefits and services.

If your quote is regarding software maintenance renewal, visit the following website for details regarding the maintenance program benefits at your licensing level
<http://www.esri.com/apps/products/maintenance/qualifying.cfm>

All maintenance fees from the date of discontinuation will be due and payable if you decide to reactivate your coverage at a later date.

Please note: Certain programs and license types may have varying benefits. Complimentary User Conference registrations, software support, and software and data updates are not included in all programs.

Customers who have multiple copies of certain Esri licenses may have the option of supporting some of their licenses with secondary maintenance.

For information about the terms of use for Esri products as well as purchase order terms and conditions, please visit
<http://www.esri.com/legal/licensing/software-license.html>

If you have any questions or need additional information, please contact Customer Service at 888-377-4575 option 5.



esri[®]

380 New York St
Redlands, CA 92373-8118
Phone: + 190936922582258
Fax #: 909-307-3083

Quotation

Date: 11/23/2023

Quotation Number: 26182219

Town of Pembroke Park
IT Dept
3150 Sw 52nd Ave
Pembroke Park FL 33023-5413
Attn: Mark Pakula

Send Purchase Orders To:

Environmental Systems Research Institute, Inc.
380 New York Street
Redlands, CA 92373-8100
Attn: Trina Isaacs

**Please include the following remittance address
on your Purchase Order:**

Environmental Systems Research Institute, Inc.
P.O. Box 741076
Los Angeles, CA 90074-1076

Customer Number: 655985

For questions regarding this document, please contact Customer Service at 888-377-4575.

Item	Qty	Material#	Unit Price	Extended Price
10	1	86497 ArcGIS Desktop Standard Concurrent Use Primary Maintenance Start Date: 02/22/2024 End Date: 02/21/2025 Subscription ID: 3962052970	1,650.00	1,650.00
1010	6	153148 ArcGIS Online Creator Annual Subscription Start Date: 02/22/2024 End Date: 02/21/2025 Subscription ID: 3128424543	550.00	3,300.00
2010	1	165533 ArcGIS Online Mobile Worker Annual Subscription Start Date: 02/22/2024 End Date: 02/21/2025 Subscription ID: 3128424543	385.00	385.00

Please note Esri has introduced a price change and this quote reflects current pricing for your organization. It is important to us that we are able to continue to deliver value through enhancements to products, solutions, and capabilities.

Your renewal provides access to all the benefits you are familiar with, which you can review at <https://go.esri.com/maintenance>
For questions related to the price change, please reach out to your assigned Esri Account Manager.

Quotation is valid for 90 days from document date.

Any estimated sales and/or use tax has been calculated as of the date of this quotation and is merely provided as a convenience for your organization's budgetary purposes. Esri reserves the right to adjust and collect sales and/or use tax at the actual date of invoicing. If your organization is tax exempt or pays state taxes directly, then prior to invoicing, your organization must provide Esri with a copy of a current tax exemption certificate issued by your state's taxing authority for the given jurisdiction.

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

To expedite your order, please reference your customer number and this quotation number on your purchase order.



esri[®]

380 New York St
Redlands, CA 92373-8118
Phone: + 190936922582258
Fax #: 909-307-3083

Quotation

Page 2

Date: 11/23/2023

Quotation Number: 26182219

Item	Qty	Material#	Unit Price	Extended Price
			Item Subtotal	5,335.00
			Estimated Tax	0.00
			Total	USD 5,335.00

DUNS/CEC: 06-313-4175 CAGE: 0AMS3



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Phone: + 190936922582258
Fax #: 909-307-3083

Quotation

Page 3

Date: 11/23/2023

Quotation Number: 26182219

Item	Qty	Material#	Unit Price	Extended Price
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Renewal Options:

- Online: Renew through My Esri site at <https://my.esri.com>
 - Credit Card
 - Purchase Order
 - Email Authorization
- Email or Fax: Email Authorization, Purchase Order or signed quote to:
 - Fax: 909-307-3083
 - Email: service@esri.com

Requests via email or signed quote indicate that you are authorized to obligate funds for your organization and your organization does not require a purchase order.

If there are any changes required to your quotation please respond to this email and indicate any changes in your invoice authorization.

If you choose to discontinue your support, you will become ineligible for support benefits and services. All maintenance fees from the date of discontinuation will be due and payable if you decide to reactivate your support coverage at a later date.

The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at

<http://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf>, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at <http://assets.esri.com/content/dam/esrisites/media/legal/ma-full/ma-full.pdf> apply to your purchase of that item. Federal government entities and government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at

<http://www.esri.com/en-us/legal/terms/state-supplemental> apply to some state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings.

Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin.

In order to expedite processing, please reference the quotation number and any/all applicable Esri contract number(s) (e.g. MPA, ELA, SmartBuy GSA, BPA) on your ordering document.



esri[®]

380 New York St
Redlands, CA 92373-8118
Phone: + 190936922582258
Fax #: 909-307-3083

Quotation

Page 4

Date: 11/23/2023 **Quotation No:** 26182219 **Customer No:** 655985

Item	Qty	Material#	Unit Price	Extended Price
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US FEDERAL CUSTOMERS: If you are a federal customer or a contractor purchasing on behalf of a federal customer a purchase order is required to receive an invoice. Please email the purchase order to service@esri.com

By signing below, you are authorizing Esri to issue a software support invoice in the amount of USD _____ plus sales tax, if applicable.

Please check one of the following:

☐ I agree to pay any applicable sales tax.

☐ I am tax exempt. Please contact me if Esri does not have my current exempt information on file.

Signature of Authorized Representative

Date

Name (Please Print)

Title

AGENDA ITEM REPORT



To: Commission Meeting
Subject: Speed Zone Cameras
Meeting: PUBLIC NOTICE - SPECIAL COMMISSION MEETING - Feb 08 2024
Department: Police Department
Staff Contact: Ra Shana Dabney-Donovan, Police Chief

RECOMMENDATION:

Update of past Speed Zone Cameras discussion and direction moving forward



**Town of Pembroke Park
Bills Over \$500.00**

Thursday, February 8, 2024

Invoice #	Vendor	Service/Product	Department	Total
202403	Accreditation Consulting Specialists	Policies & Procedures, Power DMS Training	Police	\$ 4,500.00
3295107	Action Labor	Crossing Guard Svc Week Ending 1/21/2024	Non-Departmental	\$ 503.52
3295141	Action Labor	Crossing Guard Svc Week Ending 1/28/2024	Non-Departmental	\$ 503.52
1FHF-H4V7-3FN1	Amazon	Lifting Print Tape, Evidence Crime Scene Tape, Envelopes, Print Cards, etc. for Police Department	Police	\$ 860.53
ORC00000312	Broward County Board of Commissioners	Radio Programming	Police	\$ 1,188.40
February 2024-Lobbyist	Capital Hill Consulting	Lobbyist Svc February 2024	Non-Departmental	\$ 4,500.00
dc0daf58	Chucks Paint & Body Shop	Repair 2022 Ford Interceptor	Police	\$ 1,361.97
428893b3	Chucks Paint & Body Shop	Repair 2021 Dodge Charger	Police	\$ 1,839.00
24020102	City of Margate	Teletype Services - January 2024	Police	\$ 9,585.06
February2024-Grant	DC Strategies	Grant Writing Svc February 2024	Non-Departmental	\$ 9,166.67
11110026	DocuSign	eSignatureSvc Annual Subscription	Non-Departmental	\$ 2,346.00
57067	Dora Industrial dba Gold Coast Chemical	6x1 Orange Supreme Degreaser	Sewer	\$ 614.40
2024-0110BD	Dr. Royce Jalazo P.A.	Fitness for Duty Evaluation	Police	\$ 1,800.00
EEP10000303	Environmental Engineering and Permitting Division	NPDES Permit 1/5-1/4/2023 Per Interlocal Agreement	Stormwater	\$ 2,146.00
IG 3108	Florida Atlanta University	Code Enforcement Officer Safety & Field Applications w/ Exam April 1-4th	Code	\$ 650.00
INV37564	GL Distributors	Gator Hawk Body Armor For Officer	Police	\$ 1,002.53
INV37591	GL Distributors	Gator Hawk Body Armor For Officer	Police	\$ 1,002.53
57973	Goren, Cherof, Doody & Ezrol P.A.	General Legal Matters- January 2024	Legal	\$ 21,673.75
57974	Goren, Cherof, Doody & Ezrol P.A.	Regarding Police Matters- January 2024	Legal	\$ 4,224.00
57975	Goren, Cherof, Doody & Ezrol P.A.	Code Enforcement and Special Magistrate- January 2024	Legal	\$ 2,017.40
02012024Taubenfeld	Harry Taubenfeld	Reimbursement for Dental Insurance Overpayment	Finance	\$ 504.00
SVI530446	Kellys Tractor	Repair Hydraulic System- Backhoe	Roads & Streets	\$ 1,297.46
FE8553-4039386	MD Now Medical Centers	Pre Employmeny Physical for Officers	Police	\$ 619.00
100128	Projected Point	Interim Finance Director Scv. February 2024	Finance	\$ 6,300.00
Total				\$ 80,205.74



Federal Emergency Management Agency

Washington, D.C. 20472

January 31, 2024

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:
19P

The Honorable Ashira Mohammed
Mayor, Town of Pembroke Park
3150 Southwest 52nd Avenue
Pembroke Park, Florida 33023

Community Name: Town of Pembroke Park,
Broward County,
Florida
Community No.: 120052
Map Panels See FIRM Index
Affected:

Dear Mayor Mohammed:

This is to notify you of the final flood hazard determination for Broward County, Florida and Incorporated Areas, in compliance with Title 44, Chapter I, Part 67, Section 67.11, Code of Federal Regulations (CFR). This section requires that notice of final flood hazards shall be sent to the Chief Executive Officer of the community, all individual appellants, and the State Coordinating Agency, and shall be published in the *Federal Register*.

The statutory 90-day appeal period that was initiated for your community when the Department of Homeland Security's Federal Emergency Management Agency (FEMA) published a notice of proposed flood hazard determinations for your community in the local newspaper has elapsed. FEMA did not receive any appeals of the proposed flood hazard determinations or submittals regarding the Revised Preliminary Flood Insurance Study (FIS) report and Flood Insurance Rate Map (FIRM) during that time.

Accordingly, the flood hazard determinations for your community are considered final. The final notice for flood hazard determinations will be published in the *Federal Register* as soon as possible. The FIS report and FIRM for your community will become effective on July 31, 2024. Before the effective date, we will send your community final printed copies of the FIS report and FIRM. For insurance purposes, the community number and new suffix code for the panels being revised are indicated on the FIRM and must be used for all new policies and renewals.

Because the FIS report for your community has been completed, certain additional requirements must be met under Section 1361 of the National Flood Insurance Act of 1968, as amended, within 6 months from the date of this letter.

It must be emphasized that all the standards specified in 44 CFR Part 60.3(c) of the National Flood Insurance Program (NFIP) regulations must be enacted in a legally enforceable document. This includes adoption of the current effective FIS report and FIRM to which the regulations apply and other modifications made by this map revision. Some of the standards should already have been enacted by your community in order to establish initial eligibility in the NFIP. Your community can meet any additional requirements by taking one of the following actions in this Paragraph of the NFIP regulations:

1. Amending existing regulations to incorporate any additional requirements of 44 CFR Part 60.3(c);
2. Adopting all the standards of 44 CFR Part 60.3(c) into one new, comprehensive set of regulations; or
3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of 44 CFR Part 60.3(c).

Also, prior to the effective date, your community is required, as a condition of continued eligibility in the NFIP, to adopt or show evidence of adoption of the floodplain management regulations that meet the standards of 44 CFR Part 60.3(c) of the NFIP regulations by the effective date of the FIRM. These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.

Many states and communities have adopted building codes based on the International Codes (I-Codes); the model I-Codes (2009 and more recent editions) contain flood provisions that either meet or exceed the minimum requirements of the NFIP for buildings and structures. The model codes also contain provisions, currently found in an appendix to the International Building Code, that apply to other types of development and NFIP requirements. In these cases, communities should request review by the NFIP State Coordinator to ensure that local floodplain management regulations are coordinated (not duplicative or inconsistent) with the State or Local building code. FEMA's resource, *Reducing Flood Losses through the International Code: Coordinating Building Codes and Floodplain Management Regulations, 5th Edition (2019)*, provides some guidance on this subject and is available at <https://www.fema.gov/emergency-managers/risk-management/building-science/building-codes/flood>.

Please note, any enclosed correspondence from the NFIP State Coordinator for Florida is provided to assist States and communities in coordinating to meet State requirements. Its inclusion with this determination should not be construed as FEMA's specific endorsement of its contents.

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) as amended, and 44 CFR Part 59.24.

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions (SOMA) to document previous Letters of Map Change (LOMC) actions (i.e., Letters of Map Amendment, Letters of Map Revision) that will be affected when the revised FIRM panels referenced above become effective. If no LOMCs were issued previously for your community, you are receiving a SOMA for informational purposes only.

Once the FIS report and FIRM are printed and distributed, the digital files containing the flood hazard data for the entire county can be provided for use in a computer mapping system. These files can be used in conjunction with other thematic data for floodplain management purposes, insurance requirements, and many other planning applications. Copies of the digital files of the FIRM panels may be obtained by calling our FEMA Mapping and Insurance eXchange (FMIX), toll free, at (877) 336-2627 (877-FEMA MAP) or by visiting the Map Service Center at <https://www.msc.fema.gov>. In addition, your community may be eligible for additional credits under our Community Rating System if you implement your activities using digital mapping files.

For assistance with your floodplain management ordinance or enacting the floodplain management regulations, please contact Conn H. Cole, NFIP State Coordinator for Florida by telephone at 850-815-4507. If you should require any additional information, we suggest that you contact the Director, Mitigation Division of FEMA, Region 4 at 770-220-5406 for assistance. If you have any questions concerning mapping issues in general or the enclosed SOMA, please call our FMIX at the telephone number shown above. Additional information and resources you may find helpful regarding the NFIP and floodplain management can be found on our website at <https://www.fema.gov/flood-maps>. Copies of these documents may also be obtained by calling our FMIX.

Sincerely,



Luis V. Rodriguez, P.E.
Director, Engineering and Modeling Division
Risk Management Directorate | Resilience

Enclosures:

Final SOMA

Adoption of NFIP-Compliant Flood Ordinances Coordinated with the FBC

cc: Community Map Repository

Jeffrey Louis, Emergency Management Manager and Permit Specialist, Town of Pembroke Park

HURRICANE HARDENING, MINOR HOME REPAIR, BARRIER FREE/SPECIAL NEEDS

Service Areas Include:

Coconut Creek, Cooper City, Dania Beach,
Hallandale Beach, Hillsboro Beach, Lauderdale-by-the-Sea, Lazy Lake Village,
Lighthouse Point, Margate, North Lauderdale, Oakland Park, Parkland,
Plantation, Pembroke Park, Sea Ranch Lakes, Southwest Ranches, West
Park, *Weston, Wilton Manors, Unincorporated Broward (BMSD)

Eligibility is based on household income and family size

Most areas Maximum Property Value \$568,557

*Weston Maximum Single Family Property Value \$817,000; Condo Value \$341,050

Household Size	1	2	3	4	5	6
Max. Gross Annual Income	\$53,800	\$61,450	\$69,150	\$76,800	\$82,950	\$89,100

Hurricane Hardening, Minor Home Repair, Sewer Conversion

- Roof repair/replacement as needed
- Window & door replacement
- Hurricane storm shutters
- HVAC/air conditioning upgrade; insulation
- Connect to sanitary sewer/septic tank closure

Barrier Free/Special Needs (A household member with a disabling condition)
May be eligible for higher income limits and project budget

- Improvements for exterior/interior mobility and accessibility
- Doorway expansions
- Retrofit bathrooms & kitchens
- Other life safety improvements
- Hurricane hardening repairs listed above, within budget

Most areas \$60,000 maximum forgivable loan, 0% interest, 10 year term

Margate \$40,000 maximum forgivable loan, 0% interest, 10 year term

First come / first qualified / first served until funds expended

Programs subject to change without notice; may vary city to city

For questions and to receive an application, contact:

Last names from A-M, contact Andy Chandra at 954-357-4907, achandra@broward.org

Last names from N-Z, contact Tangie Hamm at 954-357-4942, thamm@broward.org



Housing Finance Division

110 Northeast 3rd Street, Suite 300 • Fort Lauderdale, Florida 33301 • FAX 954-357-8224

HOUSING REHABILITATION ASSISTANCE PRE-APPLICATION
MINOR HOME REPAIR • BARRIER FREE-SPECIAL NEEDS PROGRAMS

Name _____

Street address _____

City _____ Zip _____

Home phone _____ Cell _____ Email _____

Property ownership/name(s) on deed _____

Number of people in household: Adults _____ Children _____

Total gross annual household income \$ _____

Based on number of people in the household, total gross annual income may not exceed chart below:

HUD/FHFC Release 5-15-23

1	2	3	4	5	6	7	8
\$53,800	\$61,450	\$69,150	\$76,800	\$82,950	\$89,100	\$95,250	\$101,400

**Limited funds are also available for households with higher incomes*

Do you have mortgage/s on your home? Yes ☐ No ☐

Lender's name _____ Balance owed _____

Are mortgage payments current? Yes ☐ No ☐ Are property taxes current? Yes ☐ No ☐

If No, explain _____

Has your home been cited for any code violations? Yes ☐ No ☐

If Yes, explain _____

Circle repairs needed:

Roof • Window/Door replacement • Air conditioner • Insulation • Hurricane shutters
Septic conversion/sanitary sewer hookup • Special needs • Barrier removal • Other

Applicant signature _____ Date _____

Co-applicant signature _____ Date _____

Please return completed Pre-Application to:

Last names from A-M, Andy Chandra, achandra@broward.org, 954-357-4907

Last names from N-Z, Tangie Hamm, thamm@broward.org, 954-357-4942

Or mail to: Broward Housing Finance, 110 NE 3rd Street, Suite 300, Fort Lauderdale, FL 33301

Or fax to: 954-357-8224

Funds are limited; applicants served on a first come, first qualified basis, when funds are available
Programs subject to change without notice

THE TOWN OF PEMBROKE PARK

PRESENTS THE

Easter Egg Hunt

EGGSTRAVAGANZA

Saturday
March 23

10:00a.m - 2:00 P.m

FREE
ENTRY

Brought
to you
BY:



Mayor
Mohammed



Vice Mayor
Morrisette



Clerk
Commissioner
Hodgkins



Acting Clerk
Commissioner
Kashem



Commissioner
Jacobs



EGG HUNT TIMES BY AGES:

3 AND UNDER - 10:30AM

4-6 YEARS - 11:00AM

7-9 YEARS - 11:30AM

10 & UP - 12:00



-4,000+ FILLED EGGS

-GAMES

-TAKE A PICTURE WITH THE
EASTER BUNNY

BOUNCE HOUSES

MUSIC

FACE PAINTING

PRIZES FOR ALL AGES !!

GRAND PRIZES!



The Small Town that Means Big Business



Raymond P. Ogelsby Preserve

3115 SW 52nd Ave

Pembroke Park, FL 33023

FOR MORE INFO CALL

(954)966-4600



33^e CLINIQUE DE SANG DE PARK LAKE ESTATES

Avec la Collaboration de / With the Collaboration of
the Town of Pembroke Park

DONNEZ DU SANG BLOOD DRIVE



Saturday, February 24 • 8:00 AM - 3:30 PM
Samedi, 24 Février 24 • 8:00 AM - 3:30 PM

Park Lake Estates - Monte Carlo Hall
3184 West Hallandale Beach Boulevard

Donors receive*:

- **Refreshments & Special Giveaways**
- **\$20 eGift Card**
- **OneBlood Long-sleeved T-shirt**
- **Wellness Checkup** including blood pressure, pulse, temperature, iron count and cholesterol screening!



For questions/ Pour Information: Paul Theroux at **514.692.1223** or
Claude Girard at **514.376.5380**. To schedule an appointment, please visit
oneblood.org. Sponsor code **#1197**.

*ID required. One offer per donor, per donation. No cash value. Not transferable. Gifts may vary. For more information please visit oneblood.org/details.

oneblood.org



oneblood 
Share your power.