



# REGULAR TOWN COUNCIL MEETING

Monday, February 6, 2023 at 7:30 pm

1. CALL TO ORDER, PRAYER AND PLEDGE
2. ROLL CALL
3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES
4. CONSENT AGENDA

- a. Approve Minutes of 01/09/2023

Exhibit: Agenda Report Number 4a

**Attachments:**

- **Agenda Report Number 4a** (Agenda\_Report\_Number\_4a.pdf)

- b. 2023 Holiday Schedule - Revision

Exhibit: Agenda Report Number 4b

**Attachments:**

- **Agenda Report Number 4b** (Agenda\_Report\_Number\_4b.pdf)

5. ATTORNEY REPORT
6. BCSO REPORT
7. BOARD / COMMITTEE REPORTS

- a. T&G Committee

- b. Park & Recreation Board

Exhibit: Agenda Report Number 7b

**Attachments:**

- **Agenda Report Number 7b** (Agenda\_Report\_Number\_7b.pdf)

- c. Planning & Zoning Board

Exhibit: Agenda Report Number 7c

**Attachments:**

- **Agenda Report Number 7c** (Agenda\_Report\_Number\_7c.pdf)

8. STAFF REPORTS

- a. Manager

- b. Treasurer Lisa Morrell

**c. Special Projects Manager**

Exhibit: Agenda Report Number 8c

**Attachments:**

- **Agenda Report Number 8c** (Agenda\_Report\_Number\_8c.pdf)

**d. Fire Chief**

**e. Public Works Director**

Written Report

Exhibit: Agenda Report Number 8e

**Attachments:**

- **Agenda Report Number 8e** (Agenda\_Report\_Number\_8e.pdf)

**f. Clerk**

Exhibit: Agenda Report Number 8f

**Attachments:**

- **Agenda Report Number 8f** (Agenda\_Report\_Number\_8f.pdf)

**9. PUBLIC COMMENTS**

Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required)

***Five (5) Minute Limit per Speaker***

**10. PUBLIC HEARINGS / SPECIAL ORDERS**

**11. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING**

(RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)

**12. ACTION ITEMS**

ORDINANCES:0

RESOLUTIONS:0

MISCELLANEOUS:2

**a. Allen Street ROW Maintenance**

Exhibit: Agenda Report Number 12a

**Attachments:**

- **Agenda Report Number 12a** (Agenda\_Report\_Number\_12a.pdf)

**b. Cancel Second Meeting in February due to President's Day**

Exhibit: Agenda Report Number 12b

**Attachments:**

- **Agenda Report Number 12b** (Agenda\_Report\_Number\_12b.pdf)

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

### 13. DISCUSSION/POSSIBLE ACTION

#### a. Lett Lane Extension Encroachment Agreement

Exhibit: Agenda Report Number 13a

##### Attachments:

- **Agenda Report Number 13a** (Agenda\_Report\_Number\_13a.pdf)

#### b. Review of Treasurer Applicant, Mr. Towne

Exhibit: Agenda Report Number 13b

##### Attachments:

- **Agenda Report Number 13b** (Agenda\_Report\_Number\_13b.pdf)

#### c. Extension of Special Projects Manager Morrell's Contract

CM Scardino

Exhibit: Agenda Report Number 13c

##### Attachments:

- **Agenda Report Number 13c** (Agenda\_Report\_Number\_13c.pdf)

#### d. Assistance in Treasurer's Office

CM Scardino

Exhibit: Agenda Report Number 13d

##### Attachments:

- **Agenda Report Number 13d** (Agenda\_Report\_Number\_13d.pdf)

#### e. Town Clerk Communication

CM Acquaviva

Exhibit: Agenda Report Number 13e

##### Attachments:

- **Agenda Report Number 13e** (Agenda\_Report\_Number\_13e.pdf)

### 14. PUBLIC COMMENTS

General Items (Speaker Card Required)

### 15. REPORTS - MAYOR AND COUNCIL MEMBERS

### 16. ANNOUNCEMENTS

- (2) Vacancies on the Parks and Recreation Board; (1) Vacancy on the Planning and Zoning Board;
- (1) Vacancy on the Board of Adjustments

### 17. ADJOURNMENT

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to ensure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105).

The Town does not provide this service. In compliance with F.S. 86.26 and the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

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Contact: Richard Kohler ([townclerk@townofmalabar.org](mailto:townclerk@townofmalabar.org) 321-727-7764) | Agenda published on 02/01/2023 at 2:09 PM

# TOWN OF MALABAR

## Regular Town Council Meeting

**AGENDA ITEM NO: 4.a**  
**Meeting Date: February 6<sup>th</sup>, 2023**

Prepared By: Richard W. Kohler, Town Clerk

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**SUBJECT: Approve Minutes of the RTCM of 1/09/2023**

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**BACKGROUND/HISTORY:**

Summary of actions at Town Council Meetings

**ATTACHMENTS:**

- Draft Minutes of RTCM of 1/09/2023

**ACTION OPTIONS:**

Review

**MALABAR TOWN COUNCIL  
REGULAR MEETING MINUTES  
January 9<sup>th</sup>, 2023, 7:30 PM**

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road.

**1. CALL TO ORDER:**

Council Chair Mayor Patrick T. Reilly called meeting to order at 7:30 pm. CM Vail led P&P.

**2. ROLL CALL:**

CHAIR:	MAYOR PATRICK T. REILLY (EXCUSED)
VICE CHAIR:	DAVID SCARDINO
COUNCIL MEMBERS:	MARISA ACQUAVIVA (EXCUSED)
	BRIAN VAIL
	JIM CLEVINGER
	MARY HOFMEISTER
TOWN MANAGER:	MATT STINNETT
TOWN ATTORNEY:	KARL BOHNE (EXCUSED)
SPECIAL PROJECTS MANAGER:	LISA MORRELL
TOWN CLERK:	RICHARD KOHLER

**3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:**

**4. CONSENT AGENDA:**

**4.a. Approve Minutes of 12/05/2022 RTCM**

**MOTION:** CM Vail / CM Scardino to approve Consent Agenda. **Vote:** All Ayes (4-0).

**5. ATTORNEY REPORT: None**

**6. BSCO REPORT:** BCSO Lt. gave monthly statistics in December. 283 calls for service. CM Vail asked if there were any major increases in any specific topic? Deputy states these are standard numbers below the county average.

**7. Board/Committee Reports:**

**7.a. T&G Committee – Chair Drew Thompson** reported that they are still looking to get more fill at the ENT. It is the dry season, and we would like to get the base level up to spec before the seasonal rains. The committee will be meeting this weekend to put in directional signs. Early returns on the instillation of the Cameron Preserve Signs have been very favorable. The Committee is also thinking of adding a “Thank You” to the exits. He then asks Council if there is any action the Council would like to see? CM Scardino asks about the availability of maps at trailheads. Thompson states yes there are maps at all trailheads. The Cameron Preserve is going to be the focal point of our committee in the future.

**7.b. Parks and Recreation Board - None**

**7.c. Planning and Zoning Board - None**

**8. STAFF REPORTS:**

**8.a. Town Manager – Matthew Stinnett** – TM Stinnett informed Council he will be out of office next week. He also informed them that a PW employee started before the holidays and did not return after break. Atty requested permission from Council to go to the VAB. Consensus is reached for him to go. The paving assessment study is almost done.

**8.b. Special Projects Manager – Lisa Morrell** – Written report included in agenda.

**8.c. Town Treasurer – Lisa Morrell** - Written report included in agenda. SPM Morrell gave a brief overview of the financial report. CM Scardino asks about getting a headhunter to find a Treasurer. CM Hofmeister asks how long the post has been up? SPM Morrell stated a headhunter would likely be a firm, and that the post has been up since October and will stay open until the position is filled.

**8.d. Public Works Director – Written Report**

**8.e. Fire Chief – Mike Foley - None**

**8.f. Town Clerk – Richard Kohler** – Wished Council a happy New Years and I Hope you all had a wonderful holiday season. We have hired a new Deputy Town Clerk/Treasurer, Ms. Mandy Updegraff. Ms. Mandy has prior local government experience, as she worked in the Melbourne Beach Town Hall. The second meeting in January is scheduled for Monday January 23<sup>rd</sup>. Town Staff currently has no time sensitive agenda items and is seeking Council direction on scheduling. Council reaches consensus to cancel the second meeting in January.

**9. PUBLIC COMMENTS:** Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required)  
**Five (5) Minute Limit per Speaker.**

**Speaker: Mr. Adera** from the Small Business Association (SBA) is here to speak about the disaster assistance available for Hurricane Ian. The deadline for submissions is in 3 days for Hurricane Ian. SBA has a long-term low interest loan program that can assist repair storm damage. The interest rates are as low as 2.8%. You have up to 30 years to pay back the loans. He provided additional information on how to seek assistance, including a disaster recovery center in Cocoa Beach and their website.

**10. PUBLIC HEARINGS / SPECIAL ORDERS: 1**

**10.a. Public Hearing – Vacate Request within Section 11, Melbourne Heights subdivision (SD) Section “E” east of Corey Road (Resolution 01-2023)**

**A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE VACATE OF ONE FIFTY (50) FOOT-WIDE UNIMPROVED PLATTED RIGHT-OF-WAY THAT RUNS APPROXIMATELY FOUR HUNDRED AND SEVENTY-FIVE (475) FEET BETWEEN PARCELS 29-37-11-75-18-3, 29-37-11-75-24, AND 29-37-11-75-17-1 IN SECTION “E” MORE SPECIFICALLY KNOWN AS GINSENG STREET AS DESCRIBED HEREIN; AUTHORIZING THE TOWN CLERK TO RUN A LEGAL ADVERTISEMENT OF THIS ADOPTED RESOLUTION; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.**

Resolution read by title only.

Chair calls applicant to the podium.

**APPLICANT Gregory Massey: 1455 Moss Rose Ave.** Mr. Massey passed a photo of the area to Council. He states that Ginseng Road ROW is covered by water, that is a natural waterway.

**STAFF COMMENTS:** As presented in the agenda.

**PH OPENED: Fritz Braun, 1505 Delaware Ave,** is here in support of the applicant.

**PH CLOSED.**

**MOTION: CM Vail /CM Hofmeister to approve Resolution 01-2023.**

**Discussion:** None

**ROLL CALL VOTE: CM Acquaviva, Excused; CM Vail, Aye; CM Clevenger, Aye; CM Scardino, Aye; CM Hofmeister, Aye. Motion carried 4-0.**

**11. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO TOWN APPOINTED BOARDS/COMMITTEES: 0**

**12. ACTION ITEMS:**

**ORDINANCES for FIRST READING: 0**

**RESOLUTIONS: 0**

**MISCELLANEOUS: 1**

**12.a. Approval of Contract for Shoreline Repair to Rehabilitate Rocky Point Road Damage caused by Hurricane Nicole.**

Chair asked TM Stinnett to introduce this item. TM Stinnett introduced the President of Coastal Waterways Engineering, Steve Boning. CM Scardino asks if the permitting will be expedited. Mr.

Boning says yes, the permitting should be expedited. They have a year from the issuance of the EO to get the expedited permits, so they should be able to finish the project on time.

**MOTION: CM Vail/CM Scardino to approve the contract for Shoreline repair to rehabilitate Rocky Point Road damage caused by Hurricane Nicole.**

**Discussion:** None

**Vote:** All Aye (4-0)

**13. DISCUSSION/POSSIBLE ACTION**

**Chair excuses Attorney**

**14. PUBLIC COMMENTS: General Items (Speaker Card Required)**

**15. REPORTS – MAYOR AND COUNCIL MEMBERS**

**CM Acquaviva:** Excused

**CM Vail:** Flowed water through the Brush Truck over the break! The project has been a great success, and he wants to thank resident Chris Peters for his extensive work.

**CM Clevenger:** None

**CM Hofmeister:** Saw lots of speeders on Corey Road, but otherwise had a great holiday.

**CM Scardino:** Thanked the Clerk for his preparation for this meeting.

**Mayor Reilly:** Excused

**14. ANNOUNCEMENTS:** (1) Vacancy on the Planning & Zoning Board; (2) Vacancy on the Parks & Recreation Board; (1) Vacancy on Board of Adjustment.

**15. ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 8:19 P.M.

BY: \_\_\_\_\_  
Mayor Patrick T. Reilly, Council Chair

ATTEST:

\_\_\_\_\_  
Richard Kohler  
Town Clerk

Date Approved: 02/06/2023



# TOWN OF MALABAR

## REGULAR TOWN COUNCIL MEETING

### AGENDA ITEM NO: 4.b

Meeting Date: February 6<sup>th</sup>, 2023

Prepared By: Lisa Morrell, Special Projects Manager

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**SUBJECT: 2023 Holiday Schedule -Revision**

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#### **BACKGROUND/HISTORY:**

A revision to the approval at the Regular Town Council Meeting (RTCM) on December 5, 2022 for the 2023 Holiday Schedule to include omitted holidays pursuant to Employee Handbook. The underline text are the revisions for inclusion to the 2023 Holiday Schedule.

In accordance with the Town of Malabar's Employee Handbook, Section 5. Benefits, item 4. Holidays, the attached schedule of holidays has been created for January 1, 2023 through January 2, 2024.

- a. The following are holidays which may be observed by all departments in which certain function can be discontinued without adversely affecting required services to the public. When a holiday falls on a Sunday, the following Monday shall be observed as a holiday.

New Years' Day	Sunday, January 1 <sup>st</sup>	Observed Monday, January 2 <sup>nd</sup>
Martin Luther King Jr.	3 <sup>rd</sup> Monday of January	Observed Monday, January 16 <sup>th</sup>
<u>Presidents Day</u>	<u>3<sup>rd</sup> Monday of February</u>	<u>Observed Monday February 20<sup>th</sup></u>
Memorial Day	Last Monday in May	Observed Monday, May 29 <sup>th</sup>
Independence Day	Tuesday, July 4 <sup>th</sup>	Observed Tuesday, July 4 <sup>th</sup>
Labor Day	1 <sup>st</sup> Monday in Sept.	Observed Monday, September 4 <sup>th</sup>
Veteran's Day	Saturday, November 11 <sup>th</sup>	Observed Friday, November 10 <sup>th</sup>
Thanksgiving Day	4 <sup>th</sup> Thursday in November	Observed Thursday, November 23 <sup>rd</sup>
Fri. After Thanksgiving	4 <sup>th</sup> Friday in November	Observed Friday, November 24 <sup>th</sup>
<u>½ Day Christmas Eve</u>	<u>Sunday, December 24<sup>th</sup></u>	<u>Observed December 22<sup>nd</sup></u>
Christmas Day	Monday, December 25 <sup>th</sup>	Observed Monday, December 25 <sup>th</sup>
<u>½ Day New Year's Eve</u>	<u>Sunday, December 31<sup>st</sup></u>	<u>Observed Friday, December 29<sup>th</sup></u>
<u>New Year's Day 2024</u>	<u>Monday, January 1<sup>st</sup></u>	<u>Observed Monday, January 1<sup>st</sup></u>

Floating Holiday (To be approved by department head)

- b. Work During Holidays: Employees whose work schedules require that they work on designated holidays will be paid holiday pay at time and a half for each holiday worked.
- c. Use of Floating Holiday: An Employee's request to use a floating holiday must be approved by the appropriate Department Head at least three (3) working days prior to the desired time off. If the employee has not used the floating holiday within the calendar year, the floating holiday shall be considered lost and forfeited. During the initial six (6) months of employment, an employee is not entitled to a floating holiday. The floating holiday must be taken as one workday and may be taken only when it does not disrupt the essential services of Department operations.

#### **ATTACHMENTS:**

#### **ACTION:**

- a. Motion to approve the 2023 Town of Malabar Holiday Schedule

# TOWN OF MALABAR

## REGULAR TOWN COUNCIL MEETING

### AGENDA ITEM NO: 7.b

Meeting Date: February 6, 2023

Prepared By: Richard W. Kohler, Town Clerk

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**SUBJECT:** Parks and Recreation Board Update

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**BACKGROUND/HISTORY:**

The Parks and Recreation Board has not had a meeting since October 2022 due to difficulties in obtaining a quorum. The Board is currently discussing ideas on how to spend the funds allotted to us by the State in the transfer of Fern Creek Park. The Board has voted on a pavilion for Eschenberg Park and is considering plant and wildlife identification cards for the Cameron Preserve.

There are currently 2 alternate positions open on the Board.

**ATTACHMENTS:**

None

**ACTION:**

None

# TOWN OF MALABAR

## REGULAR TOWN COUNCIL MEETING

**AGENDA ITEM NO: 7.C**

Meeting Date: February 6, 2023

Prepared By: Richard W. Kohler, Town Clerk

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**SUBJECT: Planning & Zoning Board Update**

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**BACKGROUND/HISTORY:**

Chair of the Planning & Zoning Board has provided the following update for the Board:

“The January P&Z meetings were focus on adding Limited Manufacturing Activities and Limited Manufacturing Services to our **LAND DEVELOPMENT CODE SECTION 1-2.6 LAND CLASSIFICATIONS**. *Our final review will be February 8th. Permitted (P) will be limited to CG and Conditional (C) to CL and RLC. See brief summary below:*

**Limited Manufacturing Activities.** This land use classification is intended to accommodate small, limited item shops with limited inventory serving a specialized market with customized service demand and which are to be conducted in a fully enclosed building.

**Limited Manufacturing Services,** Services such as Customer & Call Support; Low Impact Machinery &/or Electronic Device Repair.”

**ATTACHMENTS:**

None

**ACTION:**

Discussion

# TOWN OF MALABAR

## COUNCIL MEETING

### SPM Staff Report

Meeting Date: February 6, 2023

Prepared By: Lisa Morrell, Special Projects Manager

**SUBJECT: SLFRF/ARPA Project Completion Status Matrix**

Project #	Project Title	Status	Allocation	Expended 1/24/23	Balance	RTCM Approval
22-01	Digital Public Records Software	50%	\$ 62,496.10	\$ 29,704.81	\$ 32,791.29	3/7/2022
22-02	Digital Public Information Sign	100%	\$ 38,242.00	\$ 38,242.00	\$ -	3/7/2022
22-03	FD 911 Radios	100%	\$ 127,160.27	\$ 127,160.27	\$ -	3/21/2022
22-04	COVID-19 FD DCON	100%	\$ -	\$ 800.00	\$ (800.00)	3/30/2022
22-05	SPM 2 YRS	62%	\$ 143,896.42	\$ 95,616.38	\$ 48,280.04	8/16/2021
22-06	Park Restroom TouchPoints	20%	\$ 86,900.00	\$ -	\$ 86,900.00	11/7/2022
22-07	Life-Pak	100%	\$ 38,412.94	\$ 38,412.94	\$ -	4/18/2022
22-08	Trimble	100%	\$ 4,380.00	\$ 5,201.75	\$ (821.75)	6/20/2022
22-09	ESO - Incidents/Patient	99%	\$ 25,000.00	\$ 11,009.60	\$ 13,990.40	8/1/2022
22-10	FD Station Toning	70%	\$ 18,500.00	\$ 408.12	\$ 18,091.88	9/26/2022
22-11	Cybersecurity	0%	\$ 5,000.00	\$ -	\$ 5,000.00	6/20/2022
22-12	Medical / PPE	0%	\$ 12,500.00	\$ -	\$ 12,500.00	6/20/2022
22-13	Park Improvements	0%	\$ 64,199.27	\$ -	\$ 64,199.27	6/20/2022
22-14	Road Analysis	50%	\$ 28,500.00	\$ -	\$ 28,500.00	9/12/2022
22-15	Road	0%	\$ 300,510.00	\$ -	\$ 272,010.00	6/20/2022
22-16	SWU	0%	\$ 310,511.00	\$ -	\$ 310,511.00	9/26/2022
22-17	Water	0%	\$ 329,011.00	\$ -	\$ 329,011.00	6/20/2022
<b>Totals</b>			<b>\$1,595,219.00</b>	<b>\$ 346,555.87</b>	<b>\$1,220,163.13</b>	

# TOWN OF MALABAR

## REGULAR TOWN COUNCIL MEETING

**AGENDA ITEM NO: 8.e**  
**Meeting Date: February 6<sup>th</sup>, 2023**

Prepared By: Richard W. Kohler, Town Clerk

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**SUBJECT: Public Works Director – Written Report**

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### **BACKGROUND/HISTORY:**

Traditionally, at the first meeting of each month, the Department Heads give a brief report of accomplishments achieved in the past month. Public Works Director Tom Miliore has submitted the following report for the Month of January 2023.

### **ATTACHMENTS:**

January 2023 Public Works Report

### **ACTION:**

None

# **January 2023 Public Works Report**

## **Equipment Update**

- Repaired slope mower Hydraulic Hose
- Flip Blade on Mower Head for Miny Excavator
- Service Toro #2
- Repair tires on SD2

**See attached pages for all Mowing, Road Grading and Slope Mowing accomplishments for the month.**

## **Streets & Roads Jobs**

- 5 loads fill dirt (Horse Part)
- Ordered metal for Brook Hollow Bridge
- Replaced stops signs. Weber & Reese
- Brook Hollow Bridge Repair
- 

## **Parks and Recreation**

- Fix handicap signs (Malabar Park)

## **General Duties**

**Mowing & Weed Eating Checklist Jan 2023**

Sanitation	9-Jan	17-Jan	23-Jan	
Soccer Field				
Baseball Field				
Drag Infield			26-Jan	
<b>Town Property</b>				
Malabar Park	12-Jan		26-Jan	
Fire Department	12-Jan			
Disc Park	12-Jan			
Trail Park		17-Jan	26-Jan	
Eschenberg Park	12-Jan			
Public Works Yard				
Marie St. Yard				
Town Hall/ S. RR Ave				
<b>Town ROWs</b>				
Rocky Point Rd North & South				
Briar Creek Blvd & Bridge				
Corey Rd North End				
Marie St South East Side				
Marie St North West To Johnsnton				
Glatter Rd @ Malabar Rd				
Glatter Rd East to RR				
Data Managment				
Marie St Trail North and South Side				
Quaterman & Atz Rd				
Booth &Lette Intersection North				
Richard Rd Tillman Canal				
<b>Bus Stops</b>				
Atz & Corey				
Weber & Old Mission				
Lacourt & Hall				
LaCourt & Atz				
Hall & Corey				
<b>Main Intersections (All Paved Roads w/ Stop sign, 50 Ft Each Direction)</b>				
Corey & Hall				
Corey & Atz				
Weber & Hall				
Weber & Atz				

**Road Grading: Jan 2023**

<b>Road Name</b>	<b>Date</b>	<b>Machine Used</b>	<b>Loads</b>	<b>Materials</b>	<b>Comments</b>
Pine Street	5-Jan	Grader			
Cason Lane	6-Jan	Grader			
Waring Lane North	6-Jan	Grader			
Waring Lane South	6-Jan	Grader			
MacDonald Lane	9-Jan	Grader			
Isasa Lane	9-Jan	Grader			
Wilson Lane	9-Jan	Grader			
Flashy Lane	10-Jan	Grader			
Malabar Park	10-Jan	Grader	1	Base	
Disc Park	11-Jan	Grader	1	Base	
Candy Lane	11-Jan	Grader			
McCain Lane North	11-Jan	Grader			
Hunter Lane	11-Jan	Grader			
Billie Lane	11-Jan	Grader			
Russell Lane	18-Jan	Grader			
Oakridge South	18-Jan	Grader			
Linrose South	18-Jan	Grader			
Linrose North	18-Jan	Grader			
Arnold Lane	18-Jan	Grader			
Fins Lane	18-Jan	Grader			
McCain South	20-Jan	Grader			
Howell Lane North	20-Jan	Grader			
Howell Land South	20-Jan	Grader			
<b>TOTALS</b>	<b>7 Days</b>	<b>1 Machine</b>	<b>23 Roads</b>	<b>2 Loads</b>	



### Slope Mowing / Flat Mowing Month of: January 2023

Date	Road Name	Ditch Side (N, S, E, W)	Grass	Brush	Ditcher
1/19/2023	Stillwater Canal	North/South	X	X	
1/20/2023	Malabar Park		X	X	
1/23/2023	Hall E	North	X		
1/23/2023	McCain N	East/West	X		
1/24/2023	Hall E	South	X		
1/24/2023	LaCourt	West	X		
1/24/2023	McCain S	East/West	X		
1/27/2023	Howell	East/West	X		
1/28/2023	Hall (Central)	North	X		

**Totals**                      **Roads Serviced: 8**                      **Days Worked: 6**                      **Pieces of Equipment Used: 2**

# TOWN OF MALABAR

## REGULAR TOWN COUNCIL MEETING

### AGENDA ITEM NO: 8.f

Meeting Date: February 6, 2023

Prepared By: Richard W. Kohler, Town Clerk

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**SUBJECT:** Staff Report, Town Clerk

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#### **BACKGROUND/HISTORY:**

During the past month, the Clerk's office has reviewed the Business Tax Receipts. The Town currently has 270 active Licenses. Of those, 61 (23%) were delinquent after January 1<sup>st</sup>. That amounts to \$8,720.50 in unpaid fees. Of the 61 delinquencies, 14 are insurance companies who have been reported to the Florida League of Cities for non-compliance, 11 are doctors located in the same building (in communication with providers to resolve), 4 have been made inactive, 2 has been determined to be exempt, 19 will receive Delinquent notices in the mail, and 13 have paid a total of \$2,475.00.

At the January 23<sup>rd</sup> meeting of the Brevard County City Clerks Association meeting, I was nominated and voted in as the President of the Association. The group meets every other month and promotes open communication and resource sharing between the local City and Town Clerks.

#### **ATTACHMENTS:**

None

#### **ACTION:**

None

# TOWN OF MALABAR

## COUNCIL MEETING

AGENDA ITEM NO: **12.a**  
Meeting Date: February 6, 2023

Prepared By: Matt Stinnett, Town Manager

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SUBJECT: Allen St ROW Maintenance

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### BACKGROUND/HISTORY:

Allen St is Town right of way (ROW) that has been used as a travel way throughout the years by residents and service vehicles. It has never been officially improved or accepted by the Town for maintenance. All the parcels that abut Allen St have been developed for residential purposes but have primary access driveways on Gilmore, Weir or Corey Rd and the western portion of the ROW is less than 50 ft wide.

Town Staff is requesting to place Allen St. on the list of accepted roads and provide regular maintenance of a single lane that can be used for the minimal traffic in the area as well as provide a service road to maintain a ditch connecting the stormwater swales on Weir and Gilmore to the outfall on Corey Rd. Residents in the area currently rely on retention and percolation with most of the land lying too low to discharge to Malabar Rd., and no direct connections to the rest of the Town's Stormwater infrastructure. Using the Allen St. ROW to connect to Corey Rd will provide relief from the roadway flooding that can occur with a 10-Year 24hr Storm and the yard flooding that occurs with just the Mean Annual rainfall as shown in our floodplain model produced by SAI.

Initial efforts to improve portions of Allen St. will involve several truckloads of road base, grading, and the rental of a vibratory steel drum compactor. For the stormwater improvement at least 2 culverts will need to be installed. All work can be done internally by Town staff within the current budgeted funds.

### ATTACHMENTS:

Floodplain models of area  
Images of Allen St current conditions  
BCPAO map  
Images of stormwater concerns provided by residents

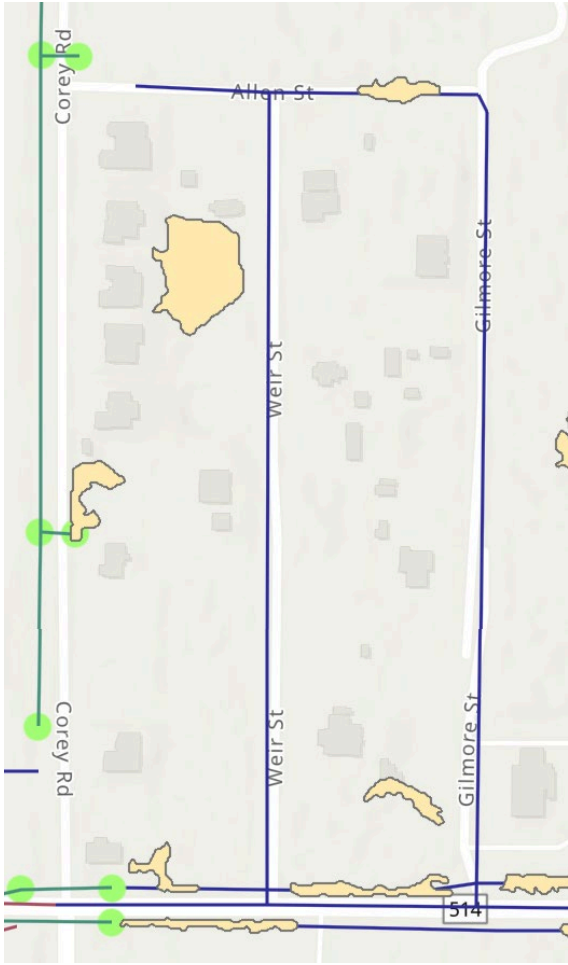
### FINANCIAL IMPACT:

Ongoing maintenance will require occasional road base, labor and equipment use.

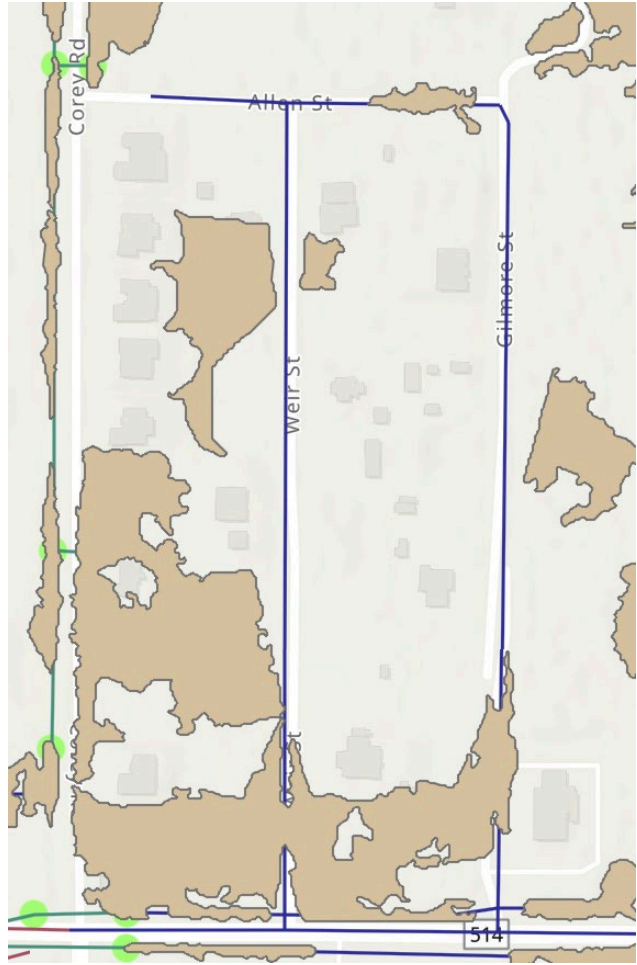
### ACTION OPTIONS:

Motion to approve Allen St. addition to the list of accepted streets for maintenance.

Mean Annual



10 Year 24 Hour





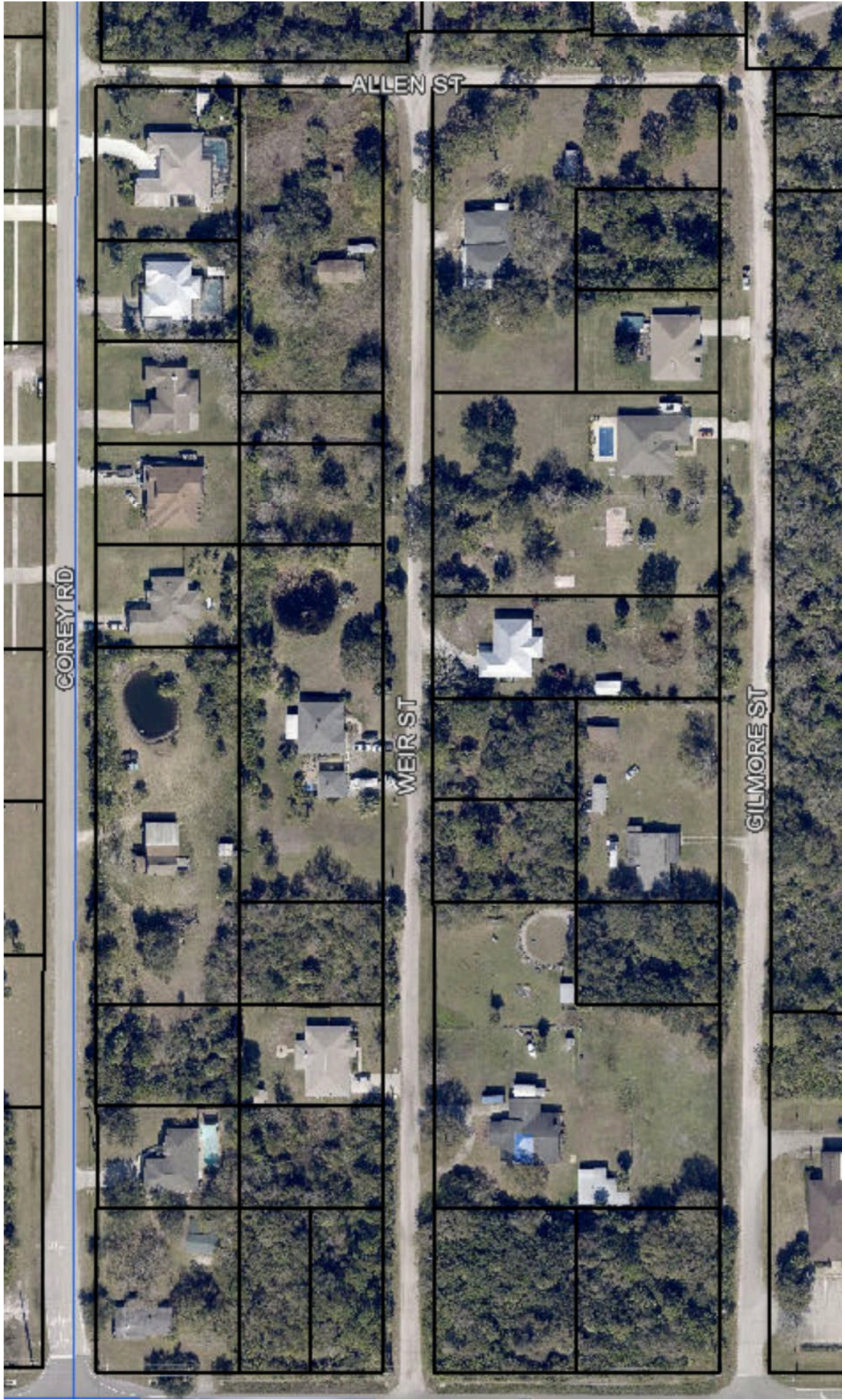












ALLEN ST

COREY RD

WEIR ST

GILMORE ST



# TOWN OF MALABAR

## REGULAR TOWN COUNCIL MEETING

**AGENDA ITEM NO: 12.b**

Meeting Date: February 6, 2023

Prepared By: Richard W. Kohler, Town Clerk

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**SUBJECT: Cancel Second Meeting in February due to President's Day**

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**BACKGROUND/HISTORY:**

Malabar Town Council meets on the first and third Mondays of each month. The third Monday in February is President's Day. Traditionally, if there are no pressing issues, Town Council has canceled the second meeting of February. Alternatively, if a meeting is determined to be required, Monday February 27<sup>th</sup> is available.

**ATTACHMENTS:**

None

**ACTION:**

Motion to cancel second meeting of February, or Motion to reschedule the second meeting of February to Monday February 27<sup>th</sup>.

# TOWN OF MALABAR

## REGULAR TOWN COUNCIL MEETING

**AGENDA ITEM NO: 13.a**  
Meeting Date: February 6, 2023

Prepared By: Matt Stinnett, Town Manager

---

**SUBJECT: Lett Lane Extension Encroachment Agreement**

---

**BACKGROUND/HISTORY:**

Enclosed is an Encroachment Agreement that the Florida Gas Transmission Company has insisted that we sign to allow the extension of Lett Ln. by Mr. Harrack.

Mr. Harrack has submitted the proper Town permit applications and fees, and staff has completed the review. However, upon review and discussion with Town Attorney Karl Bohne and Amy Powell (FGT representative), Town Staff does not agree with the terms of the encroachment agreement and is seeking Council's direction on how to proceed.

**ATTACHMENTS:**

BCPAO Map of area  
Lett Lane Encroachment Agreement

**ACTION:**

Discussion and possible direction.



This Instrument Prepared By and Return To:  
Right-of-Way Department/Amy Powell  
Florida Gas Transmission Company  
2301 Lucien Way, Suite 200  
Maitland, Florida 32751

Project No.: 21-353

Tract No. : FLMEA-BREV-033, FLMEB-BREV-160, FLMED-BREV-124

## **ENCROACHMENT AGREEMENT**

**THIS ENCROACHMENT AGREEMENT** ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between **FLORIDA GAS TRANSMISSION COMPANY, LLC**, a Delaware limited liability company, ("FGT"), with principal offices at 1300 Main Street, Houston, Texas 77002, and the **TOWN OF MALABAR** ("Owner"), whose address is 2725 Malabar Road, Malabar, Florida 32950, FL .

### **WITNESSETH THAT:**

**WHEREAS**, FGT is the owner and holder of an easement under the provisions of that certain Easement Grant dated April 14, 1959, and recorded in Book 217, Page 494; and that certain Easement Grant dated November 22, 1967, recorded at Book 992, Page 584, and the Easement Grant dated May 12, 1993, recorded in Book 3303, Page 3996, all in Official Records, Brevard County (collectively the "Easement Agreement"), covering lands located in Section 10, Township 29 South, Range 37 East, as described in the Easement Agreement ("Lands"); and

**WHEREAS**, pursuant to the authority contained in the Easement Agreement, FGT has constructed and currently operates and maintains a twenty-inch, twenty-six inch and a thirty-inch (20", 26", 30") natural gas pipeline and related surface and subsurface appurtenances, (collectively, the "Pipeline Facilities"), across and through the Lands; and

**WHEREAS**, Owner is the present owner of that portion of the Lands described in Exhibit "B" attached hereto and made a part hereof for all purposes ("Owned Premises"), with Pipeline Facilities situated thereon;

**WHEREAS**, Owner desires to construct a paved road, two culverts, a concrete pad, and a fifteen-inch (15") storm drain across and over the FGT easement ("Easement Area") and the Pipeline Facilities as depicted on Exhibit "C" attached hereto and made a part hereof ("Encroachment"), pursuant to the terms and provisions of this Agreement; and

**WHEREAS**, Owner has been advised by FGT that FGT is a natural gas transmission company and that FGT operates a high pressure underground natural gas Pipeline Facilities through the Owned Premises; and

**WHEREAS**, Owner has requested written consent from FGT to maintain, use, and enjoy the Encroachment upon a portion of the Easement Area and in close proximity to the Pipeline Facilities; and

**WHEREAS**, FGT is willing to grant such consent upon the terms and conditions hereafter set forth.

**NOW, THEREFORE**, in consideration of the mutual covenants, terms and conditions set forth in this Encroachment Agreement, FGT and Owner agree as follows:

1. To the extent that FGT has the right to do so, FGT hereby grants consent to Owner to maintain, operate and use the Encroachment on the Owned Premises and the Easement Area, and in close proximity to the Pipeline Facilities, subject to compliance with the following terms and conditions:

A. Owner hereby assumes all risks for damages, injuries, or loss to either property or persons, caused by, or arising out of, or resulting from, or in any way associated with the installation, construction, use, maintenance, repair or replacement of the Encroachment.



B. The consent granted herein is limited exclusively to the proposed Encroachment upon the Owned Premises within the Easement Area. Owner shall not alter the grade or permit such alteration anywhere on the Easement Area without the prior express written consent of FGT.

C. Owner shall at all times conduct all activities on the Easement Area in such a manner as not to interfere with or impede the operation and maintenance of the Pipeline Facilities, as conducted in the past, present or future, in any manner whatsoever.

D. Except as to the Encroachment, Owner shall not construct, plant or create additional improvements of any kind, including but not limited to, fences, sheds, irrigation or drainage systems, utilities, decking, pole barns, parking lots, roadways, pools, ponds, trees or shrubs within the confines of the Easement Area without the prior express written consent of FGT.

E. Owner understands and agrees that FGT may not have the authority to grant Owner permission to construct the Encroachment in the Easement Area. This Agreement merely defines the terms by which FGT will not object, and that Owner will obtain permission for the Encroachment from the underlying fee owner of the Lands or third parties having an interest in the Owned Premises. The consent granted by this instrument shall not constitute or be construed as a subordination, merger, assignment, conveyance or relinquishment of any of the right, title and interest of FGT under the provisions of the Easement Agreement.

2. Owner agrees that The Encroachment and any additional approved improvements constructed or installed in the Easement Area shall be constructed in accordance with the Engineering and Construction Specifications detailed in Exhibit "A" attached hereto and made a part hereof. Installation, construction, maintenance, repair and replacement of the Encroachment shall be the sole responsibility, and performed at the sole cost and expense of Owner.

3. Owner agrees to indemnify, protect, and hold harmless FGT, its parent, affiliates, subsidiaries, and their directors, officers, employees, representatives, and agents (hereinafter "FGT Entities") from and against any and all actions or causes of action, claims, demands, liabilities, loss, damage, injury, suit, proceeding, judgment, cost or expense of whatever kind or nature, including but not limited to reasonable attorneys' fees, caused by, or arising out of, or resulting from, or in any way associated with the installation, construction, use, maintenance, repair or replacement of the Encroachment, or from the operation, maintenance, use or presence of FGT's Pipeline Facilities upon or in the vicinity of the Easement Area except where such loss, cost, liability, or expense was proximately caused solely by the gross negligence of FGT or its employees.

In addition, Owner agrees to indemnify, defend and hold harmless FGT and the FGT Entities from and against any liability, damage, claims, loss, cause of action, suit, proceeding, judgment, cost (including the cost or expense of environmental response, removal or remediation activities), fees or expense, including reasonable attorney's fees, arising from: (a) non-compliance with any laws, regulations and orders applicable to the ownership or the operation and maintenance of the Encroachment on the Owned Premises and the Easement Area described herein, and (b) any incidents, acts, releases, negligence, transactions or omissions, or conditions on or affecting the Easement Area caused by, or arising out of, or resulting from, or in any way associated with the installation, construction, use, maintenance, repair or replacement of the Encroachment that would (i) contribute to or constitute a violation of any local, state or federal environmental rule, regulation, law or judicial order, (ii) result, in whole or in part, in any requirement to clean up or otherwise remedy or remediate a condition, (iii) give rise to any lien, liability, injunction, order, restriction, claim, expense, damage, fine or penalty, (iv) adversely affect human health or the environment at or near the Easement Area, or (v) constitute a violation of the terms of this Encroachment Agreement.

4. Owner shall take reasonable steps to protect the Pipeline Facilities at all times during the performance of any work associated with the Encroachment including maintaining a minimum of three feet (3') of cover over the subsurface Pipeline Facilities at all times.

5. Should FGT need to remove any of the Encroachment within the Easement Area in order to construct, maintain, operate, repair, remove, replace or resize the Pipeline Facilities, Owner shall pay the cost of removing and replacing or reinstalling the Encroachment. In addition, all repair and maintenance work performed by FGT on its existing or additional Pipeline Facilities located on the Easement Area, shall be performed in a reasonable workmanlike manner and FGT shall restore the surface and grade of Owned Premises where the work is performed, but shall not be liable for loss, damage, or replacement to the Encroachment or any equipment and facilities that exist within the Easement Area, and in this regard, Owner hereby releases FGT and the FGT Entities from any and all liability for any such loss or damage.

6. Owner acknowledges that future FGT operations on the Pipeline Facilities or the construction of homes or buildings in the vicinity of the Pipeline Facilities may necessitate that FGT have temporary construction easements to conduct the operations within the Easement Area or to upgrade the existing Pipeline Facilities in accordance with federal regulations. OWNER agrees to provide FGT with temporary construction easements for additional workspace necessary to complete the operation or to upgrade the Pipeline Facilities and at no cost to FGT.

7. Owner acknowledges that the construction of homes or buildings in the vicinity of the Pipeline Facilities may require FGT to upgrade the existing pipeline in accordance with federal regulations. Owner agrees to provide FGT with temporary construction easements for additional workspace necessary to complete the upgrade and at no cost to FGT.

8. This Agreement in no way constitutes a waiver by FGT of its rights to enjoy the Easement Area unencumbered by the construction, operation, maintenance or use of the Encroachment within the Easement Area.

9. It is expressly agreed to by and between FGT and Owner that if Owner is in violation of any terms or conditions set forth in this Encroachment Agreement, FGT, at its option, may terminate FGT's consent to the Encroachment upon ten (10) days notice to the Owner; provided however, that any such termination shall not become effective if, within thirty (30) days from the receipt of such notice of termination, Owner cures such violation. Owner expressly agrees that if FGT terminates its consent to the Encroachment based upon Owner's failure to cure a violation of the Easement Agreement, the Encroachment Agreement, or both, Owner will continue to be bound by the terms of the Easement Agreement and the Encroachment Agreement, and Owner shall immediately remove any and all of the Encroachment which may be situated on the Easement Area, or if Owner fails to remove any and all of the Encroachment, FGT may, at its option, remove the Encroachment at the expense of Owner and without any liability whatsoever. If such violation by Owner constitutes or results in an emergency or a dangerous condition, FGT shall only be required to provide whatever prior notice is reasonable under the circumstances before exercising its rights to remove the Encroachment or otherwise cure the violation. The failure of FGT to exercise the option to terminate as to any such violation shall not constitute a waiver of FGT's future right to exercise such option as to the same or any future violation. Owner agrees to pay FGT's costs, including attorneys' fees and costs, arising out of the enforcement of the terms of the Easement Agreement, the Encroachment Agreement, or both. The remedies outlined herein are not exclusive and FGT does not waive any legal or equitable remedies.

10. The provisions of the Easement Agreement, and all rights, powers, privileges, and duties, obligations, and liabilities created thereby, shall remain in full force and effect and are not affected hereby except to the extent and in the manner specifically and particularly set forth herein.

11. Owner and FGT stipulate and agree that the statements and information contained in the introductory paragraphs and recitations of this Agreement are true and correct and are incorporated herein by this reference.

12. This instrument and the covenants and agreements herein contained shall extend to and be binding upon Owner and the heirs, executors, personal representatives, successors and assigns of Owner and upon FGT and the successors and assigns of FGT and the benefits of this Agreement shall run with the land. This Encroachment Agreement

Project No.: 21-353  
Tract No.: FLMEA-BREV-033, FLMEB-BREV-160, FLMED-BREV-124

may be executed in counterparts, each of which when conformed shall be an original and all of which together shall constitute a single document.

The undersigned hereby represent and warrant that the undersigned have full authority to execute, deliver and perform this Agreement in accordance with its terms upon behalf of the named party to this Agreement, without the joinder or consent of any additional parties.

**IN WITNESS WHEREOF**, the parties have executed this instrument the day and year first above written.

**WITNESSES:**

\_\_\_\_\_

Name: \_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_

**“FGT”  
FLORIDA GAS TRANSMISSION  
COMPANY, LLC**

By \_\_\_\_\_  
**DAVID SHELLHOUSE**

**WITNESSES:**

\_\_\_\_\_

Name: \_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_

**“OWNER”  
TOWN OF MALABAR**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ACKNOWLEDGEMENTS**

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by **DAVID SHELLHOUSE, VICE PRESIDENT OF FLORIDA GAS TRANSMISSION COMPANY, LLC**, a Delaware limited liability company, on behalf of the company. He is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification.

(SEAL)

\_\_\_\_\_  
Notary Public  
Name (Printed): \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, who is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification.

(SEAL)

\_\_\_\_\_  
Notary Public  
Name (Printed): \_\_\_\_\_

**EXHIBIT "A"**  
**Attached to and made a part of that certain**  
**ENCROACHMENT AGREEMENT**  
**Dated \_\_\_\_\_, 2022**  
**By and between**  
**FLORIDA GAS TRANSMISSION COMPANY, LLC**  
**and TOWN OF MALABAR**

**ENGINEERING AND CONSTRUCTION SPECIFICATIONS**

1. No work can be done in FGT's easement property unless FGT has reviewed and approved the plans and an Agreement in writing has been entered into between the parties.
2. Owner shall provide a minimum of forty-eight (48) hour notice to FGT prior to any installation, construction, excavation, or demolition work on the easement area. To ensure further safety, Owner must call appropriate ONE CALL for a locate at 1-800-432-4770. An FGT representative must be present when any work is done on the easement area. The onsite FGT representative will have the authority to shutdown work by the contractor if the contractor's activities are judged to be unsafe by the FGT representative. The FGT representative will be invited to participate in contractor's safety meetings. This provision applies each time FGT's pipeline facilities are crossed.
3. Existing ground elevation (a minimum of three feet [3'] of pipeline cover) is to be maintained over the subsurface pipeline facilities within the easement area. Three feet (3') of minimum cover will also be required over the pipeline facilities at all equipment crossings for standard FDOT maximum axle load vehicles (20,000 lbs. per axle; 80,000 lbs. maximum weight).
4. For vehicles and/or construction equipment exceeding the standard FDOT wheel axle load limits and requesting approval to cross FGT's facilities, each crossing location will be reviewed on a case-by-case, site-specific basis and will require the surveyed elevation of the pipeline and/or facility verified by an FGT field representative to be performed by the party requesting the crossing encroachment and submitted to FGT. The execution of a wheel load calculation must be completed and approved by FGT prior to crossing FGT's facilities for every vehicle and/or construction equipment requesting to cross. FGT may require matting or other suitable material be installed to achieve the necessary support for such crossing. This too will be site specific and case-by-case only.
5. Where consent for roadway crossings has been granted, a minimum of forty-eight inches (48") of cover, including thirty-six (36") of undisturbed or compacted soil, shall be maintained within the easement area. All roads must cross the easement at a ninety degree (90°) angle.
6. When crossing an FGT pipeline (via drill or open lay) Contractor must visually verify the elevation of pipeline both vertically and horizontally, by means of various methods such as SUE (subsurface utility excavation) etc., with an FGT field representative on-site at all times during this operation. When using direction drill method, a minimum vertical clearance of ten feet (10') from the pipeline is required.
7. Where the encroachment includes utilities, all such utilities crossing the easement area must have a minimum separation of twenty-four inches (24") between the utility and the FGT pipeline(s) at the point of crossing and must cross at a ninety degree (90°) angle. No utilities shall be constructed between the surface of the easement area and the top of the subsurface pipeline facilities unless agreed to in writing by FGT. No parallel utilities, structures, and/or appurtenances are permitted within the easement area. All proposed aerial crossings will be reviewed on a case-by-case basis.
8. Where consent for utility lines has been granted, electric lines must be encased in pvc or steel throughout the entire easement area. All fiber optic, telephone and cable television crossing encasements to be determined by the on-site FGT field representative. Cables energized to 600 volts or more must cross a minimum of three feet (3') below the subsurface pipeline facilities, and also be encased in concrete, color coded red, across the entire right-of-way width, and have external, spiral wound, neutrals grounded on each side of the right-of-way. The cable crossing should be clearly and permanently marked on each side of the right-of-way where permissible.
9. Where consent for fencing has been granted, the Owner must install and maintain a vehicle access gate at least twelve feet (12') in width at each point in the fence line(s) crossing the Easement area. Posthole excavations for fencing placed on the easement area shall not be greater than eighteen inches (18") below the ground surface elevation. No fence posts shall be placed over the pipeline facilities or closer than six feet (6') on either side of the pipeline facilities. Any exceptions will be determined by an FGT field representative. Any such fence shall be constructed and maintained by Owner in such a manner that does not prevent FGT personnel from viewing the easement area from the ground level through the fence(s) (i.e. no solid fences allowed). No fencing parallel to the FGT pipeline facilities will be allowed within the easement area. FGT's access to its pipeline facilities shall be maintained by Owner. If the gate is locked with Owner's lock, Owner shall provide FGT with keys or allow a FGT lock to enable access.



10. No above or below ground utility appurtenances, junction boxes or retention ponds shall be allowed within the easement area.
11. No roto-mixing or vibrating machinery is allowed within the easement area.
12. When conducting pile driving operations, Owner shall adhere to a minimum separation of twenty-five feet (25') from the outside edge of the FGT pipeline.
13. Ditches shall be sloped or shoring will be used to allow entry into the excavation. Time will be allowed for a FGT representative to inspect and make coating repairs as the subsurface pipeline facilities are exposed.
14. Twelve inches (12") of backfill around the subsurface pipeline facilities shall be sand or clean fill; free of rocks and debris. Rock Shield will be installed around pipeline facilities.
15. With prior approval, no more than twenty feet (20') of pipe shall be exposed at any given time; if more than twenty feet (20') of pipe is to be exposed, all Standard Operating Procedures (SOP) must be adhered to, pressure reductions must be scheduled at least one (1) year in advance and engineering stress calculations must be performed by FGT Engineering and approved by FGT Operations prior to allowing any more than the twenty feet (20') of exposed pipe.
16. With prior approval and an FGT representative on site at all times, excavation equipment equipped with toothless buckets may be allowed to dig or excavate within three (3) feet of the pipeline facilities. All other construction/excavation equipment will not be allowed to perform any excavation within three feet (3') of the pipeline facilities. All mechanical excavation performed within three feet (3') of the pipeline will be performed parallel to the pipeline (i.e. track-hoe may not reach over the pipeline to dig on the opposite side of the pipeline).
17. All excavation within twenty-four (24") from the top or thirty-six inches (36") from the side or bottom of the pipeline shall be by manual means. After top exposure, excavation up to twenty four inches (24") from the side or bottom of the exposed pipeline may proceed by mechanical means if the FGT representative is satisfied it may be done safely with the equipment and operator available.
18. Barriers adequate to prevent vehicular damage to any exposed pipeline facilities shall be installed and maintained at all times.
19. All FGT pipeline facilities, cathodic protection equipment, and test lead wires shall be protected from damage by construction activity at all times.
20. No installation, construction, excavation, or demolition work shall be performed within the easement area on weekends or holidays unless Owner agrees to reimburse FGT for its cost, including overtime costs, associated with inspection during those periods.
21. The Developer or Contractor shall provide and install temporary construction fence along the easement boundaries for the entire length of the proposed work area to preserve and protect the pipeline(s). The fence must be maintained for the duration of the development or construction activity. Access across FGT's easement will be granted at specific locations for vehicle and equipment traffic once a Wheel Load Calculation has been completed. Additional cover or matting may be required. Any changes to this requirement must be approved in writing by FGT prior to start of work.
22. Where consent for landscaping has been granted, Owner shall not plant any trees and shrubs on the easement area which are classified as "deep rooted" or are projected to exceed an eventual growth height of four (4) feet. Trees and shrubs shall be planted so that no part, at its ultimate growth, shall be closer than ten feet (10') to the pipeline facilities.
23. These Engineering and Construction Specifications may address activities on the easement area for which FGT has not granted consent to Owner to include as part of the encroachment. Notwithstanding anything to the contrary contained in these Engineering and Construction Specifications, FGT's consent is and shall be limited to the encroachment as described and limited by the Encroachment Agreement to which this Exhibit is attached.

**EXHIBIT "B"**

Attached to and made a part of that certain  
**ENCROACHMENT AGREEMENT**

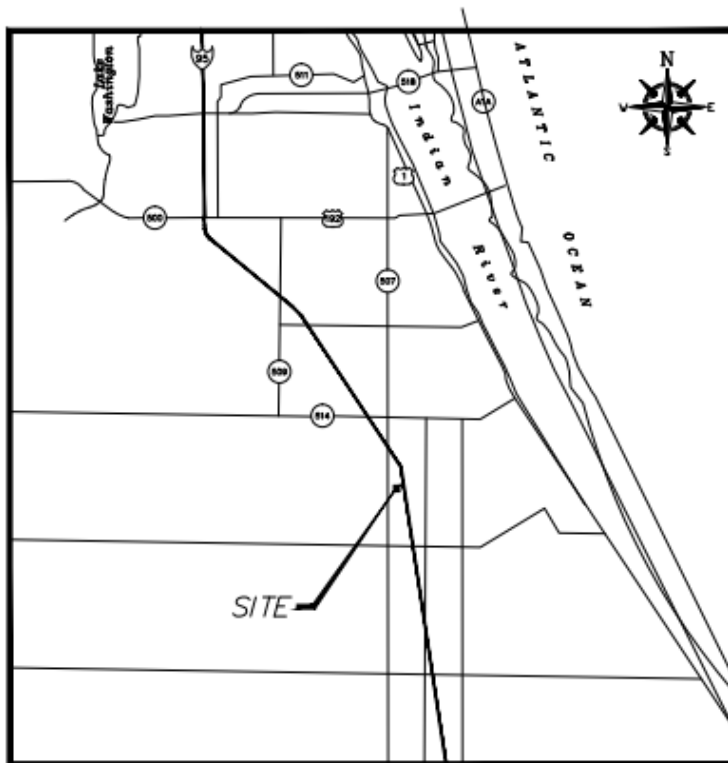
Dated \_\_\_\_\_, 2022

By and between

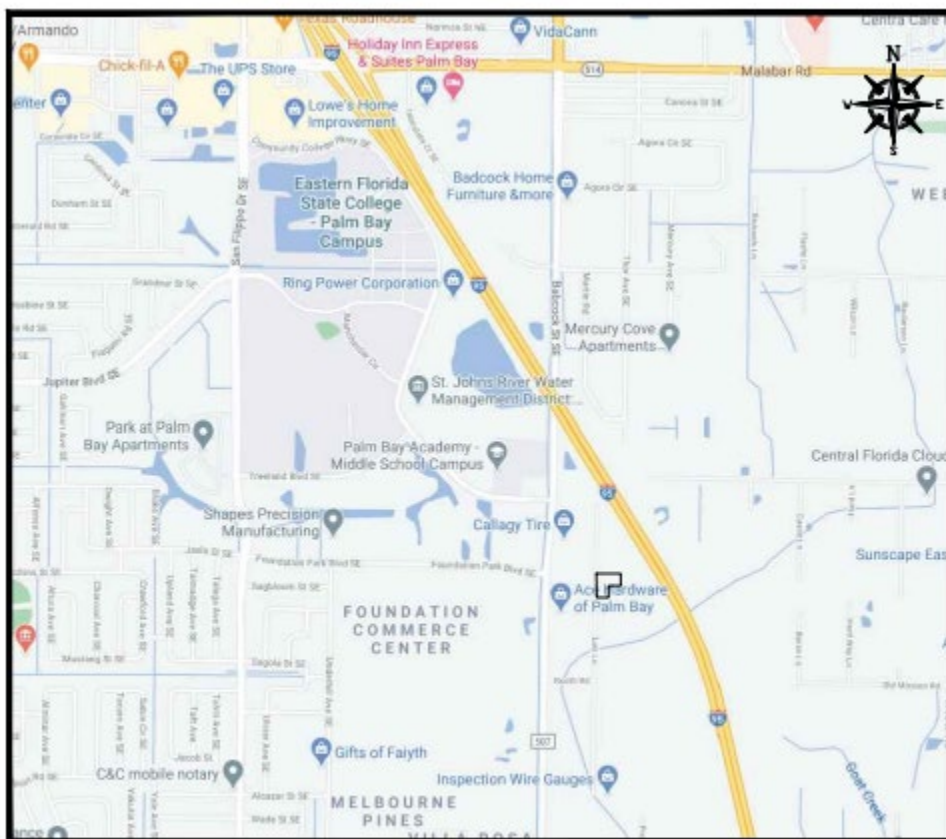
**FLORIDA GAS TRANSMISSION COMPANY, LLC**  
and **TOWN OF MALABAR**

**DESCRIPTION OF THE OWNED PREMISES**

SECTION 10, TOWNSHIP 29 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FL



*Location Map*



SECTION 10, TWP. 29 S., RNG. 37 E.

*Vicinity Map*





NO.	DATE	REVISIONS

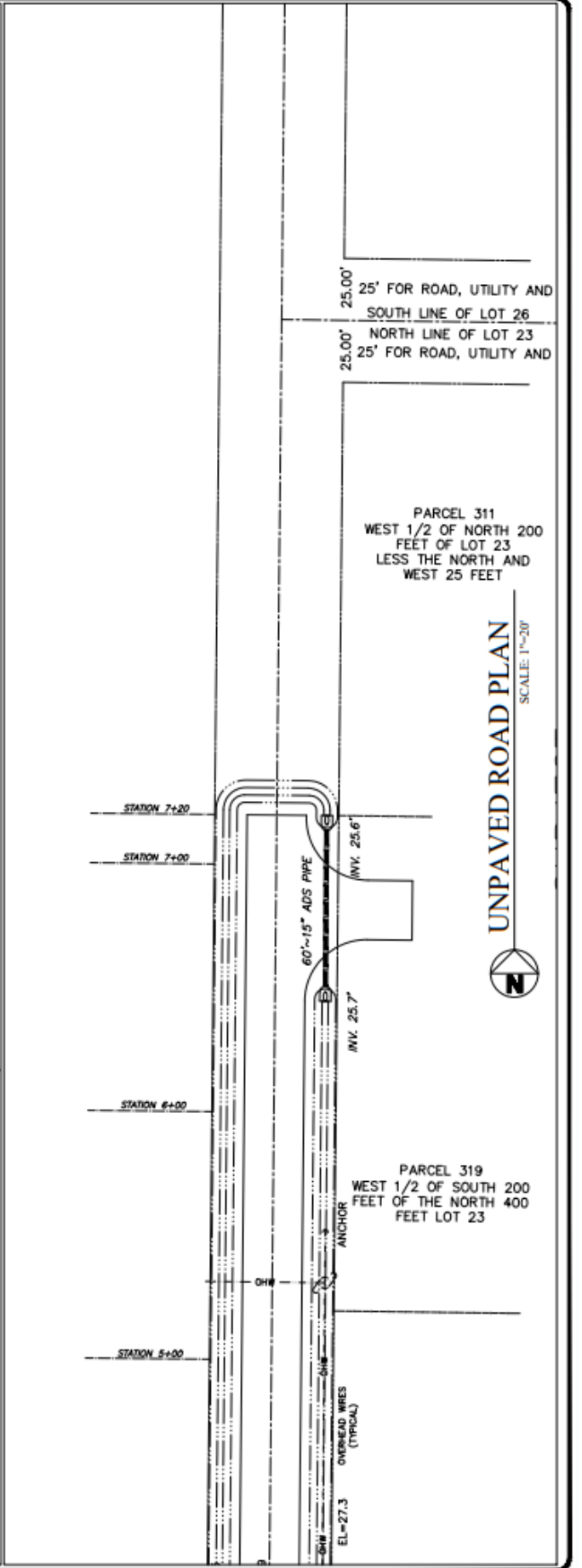
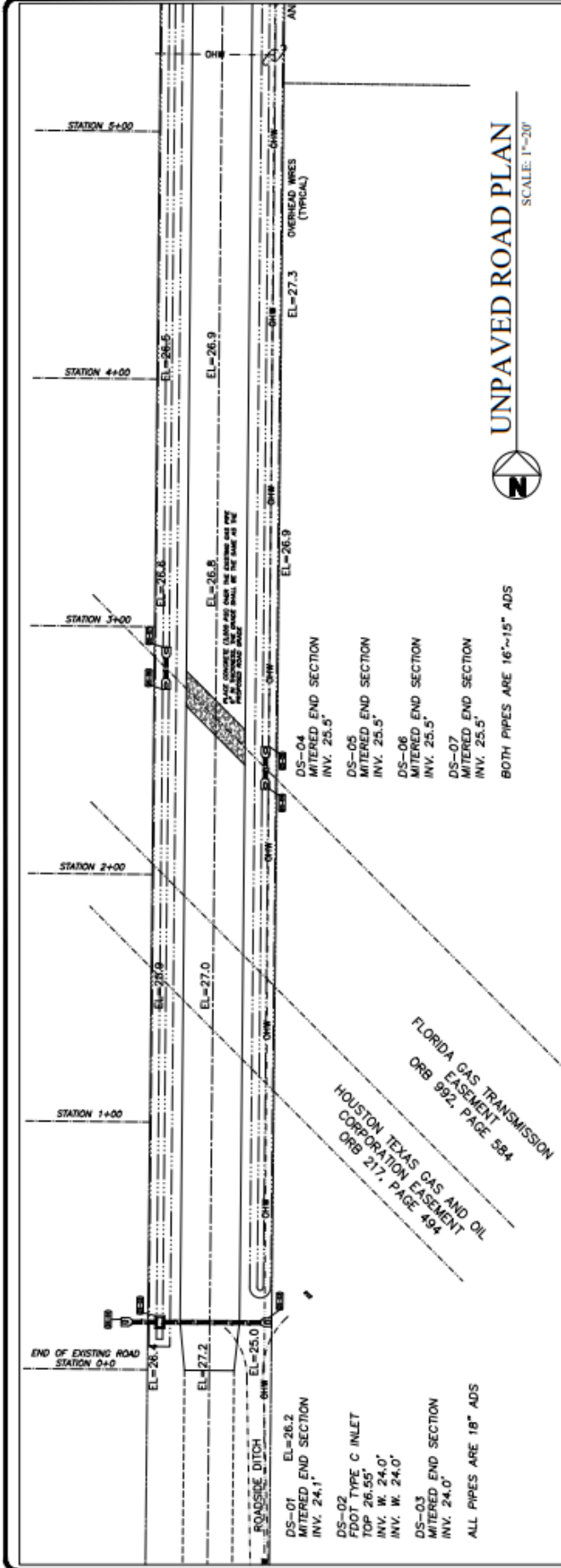
**UNPAVED ROAD**

LETTLANE

PROJECT NO. 2021-001  
 FILE NO. 2021-001-01  
 DESIGNED BY: VBT  
 DRAWN BY: VBT  
 CHECKED BY: VBT  
 DATE: 3-31-2021  
 DRAWING NO. 3

3

SHEET 3 OF 4







CERTIFICATE OF AUTHORIZATION #2388  
 State of Florida  
 Professional Engineer  
 License No. 12009

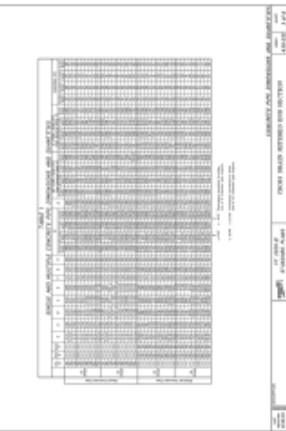
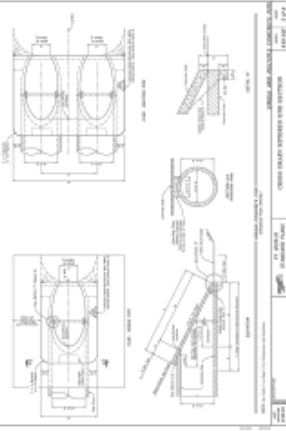

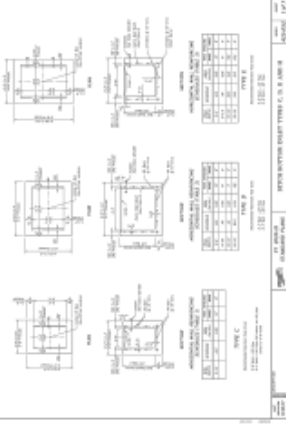
NO.	DATE

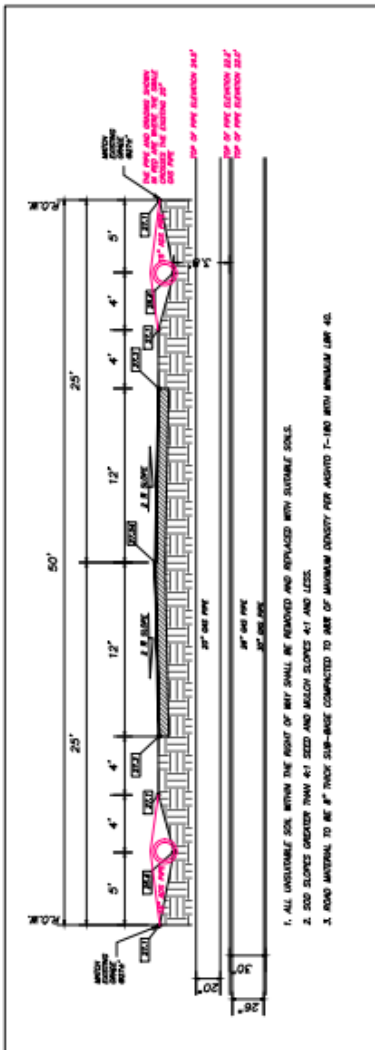
**UNPAVED ROAD**  
**LETT LANE**

PREPARED FOR:  
 KIM EAST LANE STREET SE PALM BEACH, FLORIDA 33408  
 25.00' MINIMUM

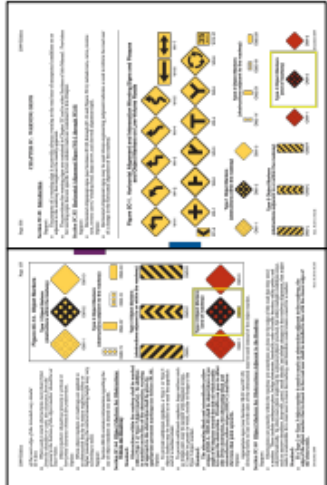
PROJECT NO.: 2021103  
 FILE NO.: 20210501  
 DESIGNED BY: VBT  
 DRAWN BY: VBT  
 CHECKED BY: VBT  
 DATE: 3-31-2021  
 DRAWING NO.: **C-4**  
 SHEET 4 OF 4





1. ALL UNDESIRABLE SOIL WITHIN THE RIGHT OF WAY SHALL BE REMOVED AND REPLACED WITH SUITABLE SOIL.  
 2. SOO SLOPES GREATER THAN 4:1 SEED AND MULCH SLOPES 4:1 AND LESS.  
 3. ROAD MATERIAL TO BE 8" THICK SUB-BASE COMPACTED TO ADE OF MINIMUM DENSITY PER AASHTO T-190 WITH MINIMUM LHM 40.



- WHERE YOU NEW ROADWAY BEGINS, INSTALL ONE (1) "NO OUTLET SIGN, W4-2 ON THE RIGHT HAND SIDE OF THE ROADWAY, 4 FEET FROM THE EDGE OF THE DRIVING SURFACE.
- AT THE END OF THE NORTH BOUND LANE INSTALL TWO (2) "OM4-2" TRAP OBJECT MARKERS, EQUALLY SPACED.
- ALL SIGNS TO BE PRISMATIC, HIGH REFLECTIVITY PANELS.

**Owner:** Patrick Harnack  
 574 East Lake Street SE, Palm Bay, Florida 32909

The planned construction is to construct 720' of unpaved road with roadside swale for stormwater management system on the existing 50' unpaved right of way. This road will be constructed in accordance with the unpaved road Ordinance and requirements of Town of Malabar.

All areas surrounding this road is zoned "X". The project lies within flood zone "X" per flood insurance rate map # 1209500680G.

**Drainage Calculations**  
 Total Drainage area = 36,000 sf  
 Impervious area = 17,280 sf  
 Permeous area = 18,720 sf  
 Total drainage area = 36,000 sf

**Required Retention Volume:**  
 $(36,000 \text{ sf} \times 1.12 \text{ ft}) = 40,320 \text{ cf}$   
 $(17,280 \text{ sf} \times 1.25 \text{ ft}) + (18,720 \text{ sf} \times 0.5 \text{ ft}) = 3,300 \text{ cf}$

**Pollutant Loading Analysis:**  
 Post-development loading: from table 11.7-3 of Applicant Handbook, Forests, Type D soil; Loading Rate= 0.070 Kg/ha-yf  
 Loading Rate= 0.871 Kg/ha-yf  
 Required Removal Efficiency =  $(0.871 - 0.070) / 0.871 \times 100\% = 92\%$   
 From table 11.7-29, 2.0" of treatment volume is needed  
 $(36,000 \text{ sf} \times 2.0 \text{ ft}) = 72,000 \text{ cf}$  of treatment  
 Required retention = 6,000 cf swale on east & west of the road from bottom elevation of 25.6' which is higher than the existing elevation from point to point as shown on sheet 11.5' below the edge of the road.  
 Total Volume of swale = 9,450 CF

**Provided retention volume = 6,000 cf @ 26.55' (2" of treatment)**

**Recovery time for treatment volume (based on the method in SJRWMD hand book)**

Retention Volume, cf =	6,000
Retention Elevation, ft =	26.55
Area of Retention Bottom, sf =	875
Bottom Elevation =	20.0
Retention Depth, ft =	6.55
Horizontal Permeability, ft/hr =	0.33
Vertical Permeability, ft/hr =	0.44
Impermeable Layer, ft =	11
Porosity =	0.2
$N_u = A_s / h_s$ =	105
$h_u$ =	0.96
$h_v$ =	0.12
$M$ =	0.29
$W$ =	0.5
$E_{sp} = T h_v / L_s$ =	0.82
Remaining volume =	5985
Remaining volume elev. =	20.5
$h_s = h_u$ =	0.6
$h_v = h_s + h_u$ =	0.9
$F_v = h_v / h_s$ =	1.5
$F_h = h_u / h_s$ =	0.40
$W$ =	11.09
$F_h$ =	0.4
$H$ =	14
$T = H + h_v / 2$ =	14.3
$t = W^2 / 4 K_v D F_v^2$ =	11.92
$T =$	12.74

# TOWN OF MALABAR

## REGULAR TOWN COUNCIL MEETING

**AGENDA ITEM NO: 13.b**  
Meeting Date: February 6, 2023

Prepared By: Richard W. Kohler, Town Clerk

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**SUBJECT: Review of Treasurer Applicant, Mr. Towne**

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### **BACKGROUND/HISTORY:**

On January 21<sup>st</sup>, 2023, Mr. Jeffrey C. Towne submitted an application to be considered for the position of Town Treasurer. Mr. Towne has indicated his interest in the position and has agreed to be in attendance of the 2/6/2023 RTCM to answer any questions from the Council.

### **ATTACHMENTS:**

Mr. Towne Cover Letter & Resume

### **ACTION:**

Discussion

January 21, 2023

Town of Malabar

Town Council

To whom it may concern:

I am interested in the position of Town Treasurer. I have over 25 years of experience in local government finance. I recently got married and am looking for a position in local government closer to home. I am also interested in working in a community that offers FRS retirement.

I have read the job duties and responsibilities as advertised. I have performed all of the functions throughout my career and have no doubt that I will be an asset to the Town. I consider myself an expert in municipal finance, including all aspects of payroll, accounting, budgeting, financial reporting, TRIM, etc. I excel at long-range financial planning, cash flow forecasting and long-term debt management.

I would be happy to discuss my education, experience and job history with you at your convenience. I have attached a copy of my resume for your review.

Regards,

Jeffrey C. Towne

**JEFFREY C. TOWNE**

**710 Hawksbill Island Drive**

**Satellite Beach, FL 32937**

**Cell: 321-423-8386**

[Jtowne77@gmail.com](mailto:Jtowne77@gmail.com)

### **CAREER STATEMENT**

To apply my leadership, finance, decision making and communication skills to help municipal government succeed.

### **HIGHLIGHTS**

Qualified with proven skills in:

Accounting and Auditing	Leadership	Collective Bargaining
Budgeting	Problem Solving	Capital Improvement Planning
Debt Issuance	Bond Rating Reviews	Public Relations
Staff Training	City Management	Team Building
Internal Control Systems	Software Usage	Communications

### **PROFESSIONAL EXPERIENCE**

#### **Budget Operations Manager**

**August 2022 – December 2022**

City of Tampa, FL

- Responsible for all budgetary activity for enterprise funds (Water, Sewer, Solid Waste) and related capital projects.
- Responsible for all budgetary activity for several other funds/departmental budgets (Tampa Convention Center, 10 CRA funds, other smaller departmental budgets).
- Six direct reports.
- Oracle Cloud Software, OpenGov Software and Microsoft Office Software.
- Responsible for reviewing and approving all City Council agenda items that had a financial component within the funds managed above.

**Gap in Service** – Took 4 months off to take care of my father whose health was in serious decline.

#### **Director of Financial Services**

**February 2017 – April 2022**

City of Melbourne, FL

- Department Director responsible for: Accounting, Financial Reporting, Budget, Procurement, Payroll/Pension, Accounts Payable and Utility Billing & Collections.
- Supervised 48 employees.
- Administered the City's Investment Program and served on the Investment Committee. Responsible for investing surplus funds, capital funds and debt service funds.



- Tasked with the creating of long-term capital improvements program and financing plan to fund improvements.
- Created multi-year operating fund financial forecasting plan.
- Ensured annual financial statements and other external financial reports were in conformance with GAAP.
- Developed internal control policies, guidelines and procedures for various financial activities.
- Served with other Directors/City Staff to select the City's Management Development Tracking System software.
- Represented the City in all financial matters.
- Created the City's first ever written Cost Allocation Plan for Enterprise Funds
- Directed preparation and monitored the City's annual budget, including the estimation of all revenue sources. Presented the budget annually to the public and City Council on behalf of the City Manager.
- Administered the City's investment program and made investment decisions for short and long-term investment opportunities.
- Created the spending plan for the American Rescue Plan Act Funds
- Coordinated bond issuance process with Bond Counsel, City Attorney, Financial Advisor, City Manager and City Council.
- Successfully managed two bond rating hearings with excellent rating results.
- Worked collaboratively with other Department Director's to help them achieve success in operations of their departments.
- Key member of the collective bargaining team to provide guidance and cost estimations for collective bargaining agreement proposals.
- Served in the Emergency Operations Center and the Finance Section Chief.
- Served on the Health Insurance Advisory Committee and the selection committee that chose a new health care insurance provider.
- Finalized the compensation and classification plan for all city non-union employees.
- Completed all projects assigned by the City Manager and Deputy City Manager.

**Deputy Town Administrator / Finance Director**

**January 2014 – August 2016**

Town of Natick, MA

- Responsible for all financial functions of the Town under discretion of the Town Administrator. Served as part of Town Administrator's "Kitchen Cabinet" leadership team.
- Responsible for Assessing Division, Comptroller Division – included accounts payable and in-house payroll and Treasurer/Collector Division.
- Prepared and monitored the Town's annual operating and capital budget. Presented the budget to the Town's 15-member Finance Committee and answered all questions from the Committee. Also, presented budget to Financial Planning Committee, Board of Selectmen and Representative Town Meeting (180 members).
- Estimated all revenue sources, including a plan for the use of excess funds.
- Monitored and maintained Town's stabilization funds.

- Prepared and presented capital plan funding schedule, including the use of long-term debt, debt exclusions, if required, stabilization funds and “free cash”.
- Worked collaboratively with all Department Director’s to establish annual budgets, including calculating all employee payroll amounts.
- “Tax Title” property collections were also a responsibility of this position. Collecting back taxes that were severely behind prior to my hiring. Collected over \$1.0 Million in back taxes compared to only \$60K prior to my arrival.
- Finance Department Personnel – actively reviewed departmental personnel and made changes to staffing to increase knowledge base and effectiveness of operations.
- Instituted daily, weekly, monthly and quarterly operating procedures with the assistance of Department Directors.
- Prepared collective bargaining cost calculations for the Town Administrator.
- Responsible for the Town’s bond rating process.
- Attended all board meetings for the Board of Selectmen, Finance Committee, Financial Planning Committee and Town Meetings.
- Evaluated Town’s relationship with existing vendors and made several significant changes to reduce costs, gain fresh perspective, and to achieve greater efficiencies.
- Streamlined the payroll input process to eliminate double keying of data entry.
- Implemented several policies, including an Investment Policy, Financial Management Principles and other internal control policies over cash depositing, accounts payable, etc.

**Chief Financial Officer / Treasurer / Tax Collector**  
City of Gloucester, MA

**September 2008 – January 2014**

- Responsible for all financial functions of the City.
- Handled all treasury functions (investments, cash book, general ledger, trust funds, etc.).
- Processed all tax collection activities (taxes, motor vehicle registrations, boat registrations, special assessments, etc.).
- Responsible for all debt transactions (rating agency calls, determining the structure of the sale, assisting in the preparation of the POS and OS, etc.).
- Prepared the annual and capital budgets for the Mayor and Chief of Staff.
- Improved collection system and recovery of amounts owed to the city.
- Performed collective bargaining cost calculations.
- Attended all City Council meeting and represented the Mayor’s Administration on all financial related matters.
- Supervised the following departments: Tax Collection, Treasury, Information Technology, Payroll, Purchasing and Assessing.
- Greatly assisted in turning the City’s financial condition from a dismal outlook to a very favorable outlook during the five-year period.
  - o “Best financial turn-around for a community I have ever seen as the Director” – Gerald Perry, Director of Accounts, Department of Revenue, Commonwealth of Massachusetts.

**President and Owner**

**July 2006 – August 2008**

East Coast Municipal Consultants, LLC

- Consulted in all aspects of municipal government operations focusing on improving internal controls, financial efficiencies, creating stronger financial policies, and serving in interim Finance Director positions during vacancies.

**Private Consulting – contract work**

**June 2003 – June 2006**

- Responsible for day-to-day operations of private company.
- Responsible for preparation of contracts, responses to proposals, and report writing.
- Responsible for client relations, marketing, attending conferences as an exhibitor attracting new business opportunities.
- Handled company's financial operations.

**Town Manager**

**December 2000 – May 2003**

Town of Salem, NH

- Reported to five-member Board of Selectmen.
- Responsible for all aspects of Town Government.
- Instrumental in hiring almost an entirely new group of Department Heads whose positions were vacant or acting at my appointment to Town Manager.
- Effectively negotiated four multi-year union contracts.
- Managed over 230 full-time employees and an additional 100 plus seasonal employees
- Worked effectively with a nine-member elected Budget Committee.
- Established a strong team-work approach amongst departments.
- Instituted an employee handbook for the first time with the assistance of the Human Resources Director.
- Won all arbitration cases for the Town.
- Successful in building a new Senior Center by working collaboratively with a private donor and Town Meeting.
- Actively sought after and received state grants to support and pay for extension of municipal sewer system.
- Responsible for preparing, recommending and implementing the annual and capital budget for the Town.

**Finance Director**

**1999 – December 2000**

Town of Salem, NH

- Reported to Town Manager, Five-member Board of Selectmen, Nine-member Budget Committee.
- 
-

- Financial duties included preparation of the annual Town operating and capital budget associated with Town Meeting warrant articles and hand out information. Prepared monthly and yearly financial statements. Actively involved with the annual financial audit.
- Approved all purchase orders, investment activity, reconciled all general ledger accounts, etc.
- Responsible for advertising, soliciting and reviewing all request for proposals for contracts and made recommendations to the Town Manager for approval.
- Responsible for the Town's Capital Improvement Program.
- Responsible for the preparation of all information for the annual independent financial audit.
- Prepared a financial model for a \$69 million water, sewer, road and drainage program and sought-after state grants to pay for a portion of program.
- Administered the grant-reporting program.

**Finance Director**

**1995 - 1999**

Town of Meredith, NH

- Reported to Town Manager
- Prepared annual Town operating budget and associated Town Meeting warrant articles.
- Prepared monthly and yearly financial statements. In addition, approved all purchase orders, investment activity, reconciliation of all general ledger accounts and bank statements.
- Improved investment income by substantial amount in first year by actively investing excess funds.
- Developed, with assistance of staff, an operating procedures manual for all appointed municipal office staff.
- Responsible for advertising, soliciting and reviewing all requests for proposals for contracts and made recommendations to Town Manager for approval.
- Finance representative to the Planning Board in developing the Town's first Capital Improvement Plan.
- Actively involved in the annual audit of the financial statements.

**Senior Auditor**

**1991 – 1995**

**Junior Auditor**

**1988 – 1991**

Plodzick and Sanderson, Concord, NH

- Planned, conducted and supervised audits of Towns, School Districts, School Administrative Units, and Non-profit organizations.
- Performed management advisory service engagements which varied from training clients personnel on laws, regulations, generally accepted accounting principles, and/or specific topics requested.
- Audited internal control processes and procedures.
- Drafted management letter comments as part of audit engagement.

**EDUCATION / PROFESSIONAL DEVELOPMENT**

Bachelor of Arts – Accounting and Business Administration Gordon College, Wenham, MA	May 1988
Board of Directors – NNEC of American Payroll Association	May 1996 – Fall 1998
Board of Directors – New England Payroll Conference	August 1997 – June 1999
Executive Board – New Hampshire GFOA (President and Vice President)	December 1998 -2000
Appointed by Governor Benson to the NH Municipal Bond Bank’s Board of Directors	2003 – 2006
FEMA courses – ICS 100, 200, 300, 400, 700, 800 (certified in Florida)	
Participated in mock disaster planning exercises	
President – Space Coast Chapter of FGFOA	2021 – 2022
Various Investment Training Courses – Met State of Florida Requirements	2017 - 2022

# TOWN OF MALABAR

## REGULAR TOWN COUNCIL MEETING

**AGENDA ITEM NO: 13.C**  
Meeting Date: February 6, 2023

Prepared By: Richard W. Kohler, Town Clerk

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**SUBJECT: Extension of Special Projects Manager Morrell's Contract – CM Scardino**

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### **BACKGROUND/HISTORY:**

After the January 9<sup>th</sup> RTCM, CM Scardino requested an agenda item for the next meeting to discuss the possibility of extending Ms. Morrell's contract as Special Projects Manager.

### **ATTACHMENTS:**

Existing SPM Contract

### **ACTION:**

Discussion

RESOLUTION 07-2021

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF LISA MORRELL AS THE MALABAR SPECIAL PROJECTS MANAGER; PROVIDING FOR ADDITIONAL TEMPORARY DUTIES; PROVIDING FOR A TERM; PROVIDING FOR REMUNERATION AND BENEFITS; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has determined the benefit of hiring Lisa Morrell as the Malabar Special Projects Manager to improve various Capital Projects currently underway or planned; and new projects to benefit and improve the overall condition of the Town for a two-year period beginning on October 1, 2021; and

WHEREAS, Malabar Town Council has been notified that the current Town Manager continues to serve temporary military active duty for possibly three (3) more months until January 2022; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

**Section 1.** The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of Lisa Morrell as the Malabar Special Projects Manager to begin on October 1, 2021 for two-years as described in Exhibit "A".

**Section 2.** The Town Council of Malabar, Brevard County, Florida, hereby directs Lisa Morrell to continue covering the employment requirements of the Town Manager until his return in January 2022 in addition to the duties as Malabar Special Projects Manager as described in Exhibit "A".

**Section 3.** The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the contract for these services to be executed.

**Section 3.** All resolutions or parts of resolutions in conflict herewith are hereby repealed.

**Section 4.** This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member Scardino. This motion was seconded by Council Member Vail and, upon being put to vote, the vote was as follows:

Council Member Marisa Acquaviva	Aye
Council Member Brian Vail	Aye
Council Member Steve Rivet	Aye
Council Member Dave Scardino	Aye
Council Member Danny White	Aye

This Resolution was then declared to be duly passed and adopted this 16th day of August 2021.

TOWN OF MALABAR

By: Patrick T. Reilly  
Mayor Patrick T. Reilly, Council Chair

ATTEST:

Debby K. Franklin

Debby K. Franklin, C.M.C.  
Town Clerk/Treasurer



Approved as to form and content:

Karl W. Bohne, Jr.

Karl W. Bohne, Jr., Town Attorney



Exhibit "A" of Reso 07-2021 Contract for Special Projects Manager

**EMPLOYMENT AGREEMENT FOR SPECIAL PROJECT MANAGER**

THIS AGREEMENT made and entered into on the 16<sup>th</sup> day of August, 2021, by and between the Town of Malabar, Florida, a municipal corporation of the State of Florida, Brevard County (hereafter the "Employer"), and Lisa Morrell (hereafter the "Employee").

**WITNESSETH:**

**WHEREAS**, Employer desires to employ the services of said Employee as Special Projects Manager for an period of two (2) years beginning October 1, 2021; and,

**WHEREAS**, it is the desire of the Town Council to provide certain salary and benefits, to establish certain expectations of employment, and to set working conditions of said Employee; and

**WHEREAS**, Employee desires to accept employment as Special Projects Manager of the Town of Malabar.

**ARTICLE I - Term of Employment**

1.01 The Town employs Employee, and Employee has accepted employment with Town upon the conditions set forth herein for a two-year term beginning October 1, 2021. During the first 90 days of employment, the Employee shall be continue to act as the Interim Town Manager until Town Manager Matthew Stinnett returns from Military Duty, in addition to the new projects. As an Employee with the title of Special Projects Manager she shall accrue benefits under Article IV.

**ARTICLE II - Employee's Duties**

2.01 The Employee is hereby employed as the Special Projects Manager of the Town of Malabar, Florida as discussed at the Council meeting on July 26, 2021. Such assignments will be bulleted here:

- Complete the RFP process for Solid Waste Collection
  - Complete the negotiation, transition and propose funding options
- Economic Recovery and Development Projects
  - Propose projects that encourage non-point access
- ARPA projects – propose and oversight
  - extend city water to Malabar Community Park (future town hall)
- Charter Review and Update (hasn't been done since 2003)
- Stormwater Masterplan follow-up with actual stormwater projects (five proposed)
- Scheduling and prioritizing capital road paving projects (Corey, Weber, Rocky Pt)
- Oversee the completion of the LDC and Code updates
- Grants Administrator
  - Pursue funding through F.I.N.D. for riverfront access
- Employee shall perform those duties specified in the meeting of 7/26/2021

- 2.02 In addition to the assignments specified in 2.01 the Town Employee with the title of Special Projects Manager shall continue acting as the Interim Town Manager until the return of Town Manager Matthew Stinnett.
- 2.03 Employee agrees to perform these duties to the best of her ability, and to perform those duties in a manner consistent with the best interests of the Town and in a professional and ethical manner.
- 2.04 The Employee shall devote substantially all of her productive time, ability, and attention to the business of the Town, both during normal business hours and outside normal business hours as the business of the Town may require, such as attending Council, Board and Committee meetings. To that end, it is agreed, that as compensation for time spent on Town business during non-business hours, the Employee shall be entitled to take compensatory time off as they shall deem appropriate during normal business hours within same pay period. This compensatory time off shall have no cash value as outlined in the Employee Manual. Employee shall not be involved in non-employee connected business for remuneration without approval of the Town Council.

#### ARTICLE III - Compensation

- 3.01 The Town agrees to pay Employee for their services rendered an annual base salary of \$100,000.00, payable in installments at the same time as other employees of the Town are paid. The Employee shall be required to keep a time sheet and submit it to the Clerk each pay period to track regular, vacation, sick and compensatory time off.
- 3.02 The Town shall not at any time during the term of the Agreement reduce the salary, compensation or other financial benefits of Employee.

#### ARTICLE IV - Employee Benefits

- 4.01 Employee shall be entitled to participate in any Employee benefit plan established by the Town. This includes Health, Dental, Vision insurance for family coverage paid 100% by the Town; a Life insurance policy equal to (1X) the annual wages; and Short-term and Long-term Leave provided to all Fulltime employees at Town's expense.
- 4.02 The Town agrees to pay the required contribution for Regular Class of the Employer portion for inclusion in the Florida Retirement System. This reduction from Senior Management is due to the new Employment classification not having any control over subordinate employees. The employee shall be required to pay the employee portion just as other Town employees.
- 4.03 Employee shall annually accrue sick leave on the same basis and at the same rate as other Town employees and is held to the same limits per the Employee Manual. Employee may participate in any refunding program for sick leave offered to other employees.
- 4.04 Employee will earn 18 days' vacation annually, accrued at 1-1/2 days per month. The Employee shall be required to take five consecutive days off each year per the Employee Manual. The Employee shall get Town Council approval of the taking of vacation time by the Employee
- 4.05 The Town hereby agrees to budget for and to pay the travel and subsistence expenses for travel outside Brevard County of Employee for official travel, meetings, conferences and seminars to adequately pursue the necessary official and other functions for the Town, based on the miles recorded for Town business on a an Employer provided mileage log similar to what other employees complete based on Florida Statutes limits as

currently set at .445 cents per mile and as defined in Florida Statutes 112.012, including but not limited to the Annual Conferences of the Florida League of Cities, GFOA, FCCMA and such other national, regional, state and local government organization groups and committees thereof which Employee serves as a member.

- The Town also agrees to budget and to pay for the registration fees of Employee for short courses, institutes and seminars that are necessary for their professional development and for the good of the Town.
  - The Town shall pay 100% of the Employee's annual professional organizational dues.
- 4.06 The Town shall defend, save harmless and indemnify Employee pursuant to F.S. 111.07 and 111.071. The Town shall be required to provide independent legal representation at the Town's expense to the Employee for any matter for which this indemnity shall apply. Legal representation, provided by the Town for Employee, shall extend until a final determination of the legal action including any appellate proceedings. Employee recognizes that the Town shall have the right to compromise and settle any claim or suit. Such payments shall continue beyond Employee's service to the Employer as long as litigation is pending.

#### ARTICLE V - Termination, Severance Pay, and Suspension

- 5.01 In the event employment of Employee is terminated at the pleasure of the Town or for any reason other than those set forth in paragraph 5.02 of this article, the Employee shall receive a lump sum cash payment equal to two (2) months aggregate salary computed as of the time of termination. Employee shall also receive full pay for unused vacation and accrued sick leave up to the caps provided in the Employee Manual.
- 5.02 In the event Employee is terminated for cause then the Town shall have no obligation to pay aggregate future salary but shall pay accumulated vacation above up to the caps provided in the Employee Manual. For purposes herein the Term "for cause" shall mean the grounds for removal from office in F.S. 112.51, misconduct as defined in F.S. 443.036 (29) and for misfeasance or malfeasance, or the conviction of any crime involving dishonesty, or the conviction of any crime designated as a felony under the laws of the jurisdiction imposing the penalty, breach of this Agreement, violation of the Town Charter, code of ordinances, resolutions and rules or employment policies of the town. For purposes of this section the term "conviction" shall mean a plea of no contest, a plea or adjudication of guilt or withholding guilt, or any plea involving entry into or participation in any diversion program. The Town Council may terminate the Employee without full pay and benefits at any time during the term of this Agreement based upon the grounds in this section, but only if after a public hearing a majority of the Council (3 members) votes to terminate Employee, "for cause", provided; however, that Employee shall have been given written notice setting forth any charges at least 10 days prior to such hearing.
- 5.03 In the event Employee voluntarily resigns their position with the Town, then Employee shall give the Town thirty (30) days written notice in advance, unless the parties other-wise agree. Employee will be entitled to full pay for all accumulated vacation and accrued sick leave at their then-current salary up to the caps as set forth in the Employee Manual. The employee shall be entitled to compensation for work performed before the effective date of their resignation.
- 5.04 Suspension: The Town Council may suspend the Employee without full pay and benefits at any time during the term of this Agreement, but only if after a public hearing a majority of the Council (3 members) votes to suspend Employee, "for cause", as defined

in section 5.02 above, provided; however, that Employee shall have been given written notice setting forth any charges at least 10 days prior to such hearing.

- 5.05 Disability: If Employee is permanently disabled or is otherwise unable to perform their duties because of sickness, accident, injury, mental incapacity or health for a period of four successive weeks beyond any accrued sick leave, The Town shall have the option to terminate this Agreement, subject to the severance pay requirements of Section 5.01. Nothing herein is intended to override the provisions of the Family Medical Leave Act.

ARTICLE VI - General Provisions

- 6.01 The text herein shall constitute the entire Agreement between the parties along with a copy of the current Employee Manual. This Agreement shall be binding upon and inure to the benefit of the Employee heirs at law and executors of Employee.
- 6.02 This Agreement shall become effective on the date of its approval by the Town Council.
- 6.03 If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable the remainder of the Agreement or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

IN WITNESS WHEREOF, this Agreement has been entered into the day and year first written above.

Dorothy Carmel  
Witness

[Signature]  
Lisa Morrell, Special Projects Manager

Collette Buzzabe  
Witness

THE TOWN OF MALABAR

By: Patrick T. Reilly  
Mayor Patrick T. Reilly



ATTEST:  
Debby K. Franklin  
Debby K. Franklin, C.M.C. Town Clerk/Treasurer

**TOWN OF MALABAR  
SPECIAL TOWN COUNCIL MEETING  
MONDAY, JULY 26, 2021, 7:30 PM**

**2725 MALABAR ROAD, MALABAR, FLORIDA**

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**AGENDA**

- 1. CALL TO ORDER, PRAYER AND PLEDGE**
- 2. ROLL CALL**
- 3. ACTION ITEMS:**
  - 3.a. Set date for First Public Hearing on Millage and Budget – Tuesday 9/14/2021**
  - 3.b. Discussion of Management Level Staff that report to Council (CM Vail)**
- 4. ADJOURNMENT:**

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to ensure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105). The Town does not Provide this service. In compliance with F.S. 86.26 and the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for his meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

**MALABAR TOWN COUNCIL SPECIAL MEETING MINUTES**  
**JULY 26, 2021 7:30 PM**

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road.

**1. CALL TO ORDER:**

Council Chair, Mayor Patrick T. Reilly called meeting to order at 7:30 pm. CM Acquaviva led P&P.

**2. ROLL CALL:**

CHAIR:

VICE CHAIR:

COUNCIL MEMBERS:

MAYOR PATRICK T. REILLY  
STEVE RIVET  
MARISA ACQUAVIVA  
BRIAN VAIL  
DAVID SCARDINO  
DANNY WHITE, excused  
LISA MORRELL  
KARL BOHNE, excused  
DEBBY FRANKLIN

TOWN MANAGER: (ITM)

TOWN ATTORNEY:

TOWN CLERK/TREASURER:

**3. ACTION ITEMS:**

**3.a. Set date for First PH on Millage and Budget – Tuesday 9/14/2021 @7:30pm**  
Franklin described error – previous date read into record stated a date that conflicted with the PH for Brevard Cty. Revised agenda report but Council nor Clerk read the correct date into the record on RTCM of 7/19/2021. That is why this needs to be corrected at this meeting. The first PH listed on the TRIM notice cannot be the same date as the PH for either School or Cty.

MOTION: CM Rivet / CM Vail to direct staff to set the first PH for millage and budget for Tuesday, Sept 14, 2021, at 7:30 here at Town Hall. The proposed maximum millage was already voted on to be 2.4999.

VOTE: All Ayes.

**3.b. Discussion of Management Level Staff that report to Council (CM Vail)**

Mayor asked CM Vail to start.

CM Vail said Council has a lot of important issues to deal with in the next couple months. He has spoken with TM Matt and learned that his orders to serve could push his time out to February 2022. TM Matt has a feeling he may be back sooner but still would like to take time off before resuming job. CM Vail would like Council to discuss continuing a relationship with the ITM. We have a current ITM position ending on 9/30 and a TC/T stating an intention to retire in Nov and the TM that may not be back until Feb 2022. Who is going to take the helm? We need to create a new position as a consultant.

CM Vail has spoken with TC/T and it could be funded within current budget. He proposes a compensation package of 92K based on a combination of 66K in payments and 26K in benefits for two years. Spell it out in the contract.

CM Acquaviva asked how he came up with this number. CM Vail said he had talked to TM, ITM and TC/T and came up with that number through staff. This new position would be primarily a 30,000 ft view of level of services needs for management/consultant oversight. There are CE violations in process, NPDES reporting, ARPA funds in the amount of 1.3 mil in future requiring verification and support of expenditures and subsequent reporting. The current staff is overloaded beyond our existing needs and the staff is overwhelmed. Some contractual tasks could include Emp manual, Code and LDR updates; monitor and reporting the state and local legislation regarding upcoming ARPA and what can be charged on that.

CM Vail said TC/T may consider staying if we do something in this direction. Over and above the needs of the Town exceed what can be done by one person as TM. This consultant position could be an asset to provide input on issues that the TM doesn't have time for that. She could also act as a lobbyist acting as an advocate for issues important to the Town and inform Council of such information.

CM Rivet said this is a proposal for a top-level position. It should start when her contract is up.

CM Acquaviva said she had this conversation with staff as well. Is there some means to keep her. She also had interaction and did not get that feedback.

CM Vail said we are working in our methods to keep working forward.

CM Acquaviva said the TC/T put in writing that she is leaving. She went to the ITM and said we need to advertise for a clerk. Budget is not very big.

Mayor Reilly said he heard the PB Dir of Econ Development retired and could we have something like that. That is how the discussion started for him.

CM Rivet said the biggest change he has seen in the increase in professionalism of the Town. He has been more than pleased with the professional development with staff. He agrees with CM Acquaviva that we must watch the budget but can't be too penny wise.

CM Acquaviva is not against it – but wants to be part of the conversation. The proposed cost is exorbitant. She gets it but she wants to be judicious. She thought we had to do discussion about hiring a new Clerk tonight.

Mayor disclosed he had also asked TC/T to work on potential funding to retain Ms. Morrell for another year or two.

TC/T said she has talked to several Council Members individually but cannot act as a conduit. She has also discussed with Matt and the FD. This is not a staffing issue. It is a chance to better the entire Town by continuing to take advantage of the wealth of knowledge and experience that Ms. Morrell has brought us. She would be an added asset that could assist the Town in every way to make positive changes and accomplish things we have struggled with for decades.

CM Acquaviva said her questions were not personal. This is the only forum to ask them, and as a responsible employer, she feels the duty to ask them.

Mayor Reilly asked TC/T Franklin to explain how the ARP funds will affect this situation.

TC/T said the federal government is scheduled to send the Town approximately 1.3 million dollars. We believe that some of the consultant fees can be back charged to the ARP funds since most of what the consultant will be doing falls under the ARP guidelines. TC/T said it would be advantageous if the Town Council would continue the relationship with Ms. Morrell beyond Sept 30. I have discussed this with TM Matt and he agrees. The entire Town would benefit from retaining her services. Not to replace a position but rather enhance all the positions and see some projects through to fruition. Although I have notified you of my intent to retire, I committed to a year while Matt was out. I would make that same offer – I would be honored to stay one more year to work with Matt and Lisa and get some major projects accomplished. But the crisis right now is we have:

- a TM that may not be back till Dec
- a TC/T leaving dec 1

- a ITM separated at 9/30
- a rotating Lt acting FD Chief

and these are our commitments:

- Health ins co that quit on us
- Solid Waste that quit on us
- RFP for same on street that will need review and ranking
- Surplus land sale being completed
- New capital playground equipment being installed, and park being refreshed
- FD Union contract up for negotiations now with due date of Nov 1
- Master plan for SW projects that need to be prioritized, funded, and sent for engineering services to be rendered include:

- complete RFP process with Solid Waste collection
- economic recovery and development projects
- ARP projects – propose and oversight
- Grants Administrator
- Lobbyist/Advocate for Malabar benefit
- Charter Review update
- Oversight of capital SW projects
- Scheduling and prioritize SW and other Capital projects
- Complete the update on Code and LDR
- Pursue finding through FIND for riverfront access.

We don't have staff that we had in 2006.

CM Rivet said we can't think cheaply.

CM Scardino said we need personnel. We don't have that human infrastructure.

**MOTION:** CM Scardino / CM Vail to direct staff to draft a contract for consulting services for Lisa Morrell as a Special Projects Consultant.

Discussion: Mayor wanted to throw out 100k plus benefits. CM Scardino asked if this position could help with Code Enforcement? CM Acquaviva reminds him that the Town only has reactive Code Enforcement.

ITM Morrell states she has grown to really enjoy the Town of Malabar. She would be happy to continue to assist in its growth. She would like to discuss her options with her family but is very glad to see a succession plan coming into place.

**VOTE:** All Ayes.

**5. PUBLIC COMMENTS: General Items (Speaker Card Required) None:**

**6. REPORTS – MAYOR AND COUNCIL MEMBERS / STAFF**

CM Acquaviva: Nothing

CM Vail: Nothing

CM Rivet: Nothing

CM White: excused

CM Scardino: Nothing

Mayor: Nothing



Clerk: Franklin asked about a date for some publicity for the presentation of the SandHill Crane picture done for the Town by resident Lloyd Behrendt.

Thinking about a daytime "reveal" – The consensus was to do the reveal at a RTCM.

15. **ANNOUNCEMENTS:** Openings on T&G Committee.

16. **ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 8:20P.M.

BY: Patrick T. Reilly  
Mayor Patrick T. Reilly, Council Chair

ATTEST:

Debby Franklin

Debby Franklin, C.M.C.  
Town Clerk/Treasurer

Date Approved: 08/02/2021

# TOWN OF MALABAR

## REGULAR TOWN COUNCIL MEETING

**AGENDA ITEM NO: 13.d**  
Meeting Date: February 6, 2023

Prepared By: Richard W. Kohler, Town Clerk

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**SUBJECT: Assistance in the Treasurer's Office – CM Scardino**

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### **BACKGROUND/HISTORY:**

After the January 9<sup>th</sup> RTCM, CM Scardino requested an agenda item for the next meeting to discuss the possibility of hiring an additional employee to assist SPM Morrell in her duties as acting Treasurer.

### **ATTACHMENTS:**

None

### **ACTION:**

Discussion

# TOWN OF MALABAR

## COUNCIL MEETING

**AGENDA ITEM NO: 13.e**  
**Meeting Date: February 6, 2023**

**Prepared By: Matthew Stinnett, Town Manager**

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**SUBJECT: Discussion/ CM Acquaviva – Town Clerk Communication**

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### **BACKGROUND/HISTORY:**

CM Acquaviva would like to discuss expectations for communication from the Clerk to Council regarding significant decisions such as the recently advertised, interviewed, and hired Deputy Clerk position.

### **ATTACHMENTS:**

None

### **FINANCIAL IMPACT:**

N/A

### **ACTION OPTIONS:**

Item for discussion and possible Council direction.