

# TOWN OF SEWALL'S POINT

JOHN TOMPECK  
Mayor

FRANK FENDER  
Vice Mayor

DAVID KURZMAN  
Commissioner

KAIJA MAYFIELD  
Commissioner



ROBERT DANIELS, ICMA-CM  
Town Manager

APRIL STONCIUS, MMC  
Town Clerk

TINA CIECHANOWSKI  
Chief of Police

JACK REISINGER, CBO  
Building Official/PW Director

MARIA PIERCE  
Finance/HR Director

**Town Commission Regular Meeting  
March 26, 2024  
6:00 PM**

## I. CALL TO ORDER

- a. Pledge of Allegiance to the Flag
- b. Roll Call

## II. PROCLAMATIONS AND PRESENTATIONS

- a. Ceremonial Swearing In - Police Officer Joshua DeBlaker

## III. PUBLIC COMMENT ON NON-AGENDA ITEMS - PLEASE SUBMIT A COMMENT CARD TO THE TOWN CLERK PRIOR TO THE START OF THE MEETING AND LIMIT YOUR COMMENTS TO THREE MINUTES. If the thirty (30) minute time period has been exhausted, the Commission will entertain any remaining comments near the end of the meeting with the same three (3) minute per person time limitation.

- a. TOSP Public Comment Guidelines
  - 1) [TSP-Public Comment Guidelines.pdf](#)

## IV. ADDITIONS, DELETIONS OR CHANGES TO THE AGENDA

## V. APPROVAL OF AGENDA

## VI. CONSENT AGENDA

- a. Building Report - February
  - 1) [Building Report - Feb 2024.pdf](#)
- b. Minutes - March 12, 2024 Regular Meeting
  - 1) [03 12 24 Regular Minutes.pdf](#)
- c. Snyder Marketing - Communication Plan
  - 1) [Proposal from Snyder for communications plan.pdf](#)
  - 2) [Snyder Marketing - Communications Plan.pdf](#)
- d. Snyder Marketing - Continuing Communication Campaign
  - 1) [Proposal for communications management.pdf](#)
  - 2) [Snyder Marketing Solutions - Communications Management.pdf](#)

## VII. PUBLIC HEARING - ORDINANCE - SECOND READING

- a. Ordinance No. 458 - Amending Land Development Regulations - Development Review Process
  - 1) [Town Manager Memo - Second Reading - Ord. No. 458 LDR Amendment.pdf](#)

- 2) [Exhibit A - Ordinance No. 458 - Amending Land Development Regulations .pdf](#)
- 3) [Exhibit B - Site Plan Check List.pdf](#)
- 4) [Exhibit C - Tree Removal Permit.pdf](#)
- 5) [Exhibit D - Florida Statute 380.04 - Development Definition - Ordinance No. 458.pdf](#)
- 6) [Exhibit E - Chapter 30 - Historic Preservation - Ordinance No. 458.pdf](#)

## **VIII. PUBLIC HEARING - ORDINANCE - FIRST READING**

### **IX. RESOLUTIONS**

#### **a. Resolution No. 969 – State Appropriation - FDOT - S. Sewall's Point Road Reconstruction - Phase 2**

- 1) [Town Manager Memo - Resolution No. 969 -FDOT Grant.pdf](#)
- 2) [Resolution No. 969 - Appropriation - FDOT - SSPR PH 2.pdf](#)
- 3) [FM# 453179-1-54-01 South Sewall's Point Road Reconstruction Phase 2.pdf](#)

### **X. OLD BUSINESS**

### **XI. NEW BUSINESS**

#### **a. Charter Review Presentation - Town Manager**

- 1) [TM Charter Review Committee Report.pdf](#)

### **XII. DISCUSSION**

#### **a. RFP – Debris Waste**

## **XIII. COMMISSION AND STAFF CLOSING COMMENTS**

## **XIV. ADJOURN**

**CIVILITY CLAUSE:** It is the policy of the Sewall's Point Town Commission that all persons addressing a town board or attending a Town board meeting shall conduct themselves in a manner that does not disrupt the orderly and efficient conduct of the meeting. Boisterous or unruly behavior; threatening or inciting an immediate breach of the peace; or use of profane, slanderous or obscene speech will not be tolerated and could result in ejection from the meeting after warning from the presiding officer. In accordance with the provisions of the Americans with Disabilities Act (ADA) this document may be requested in an alternate format. Persons in need of a special accommodation to participate in this proceeding shall, within 3 working days prior to any proceeding, contact the Town Clerk's office, One South Sewall's Point Road, Sewall's Point, Florida 34996 (772) 287-2455. If any person decides to appeal any decision made by the Town Commission with regard to any matter considered at such meeting or hearing, s/he will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.



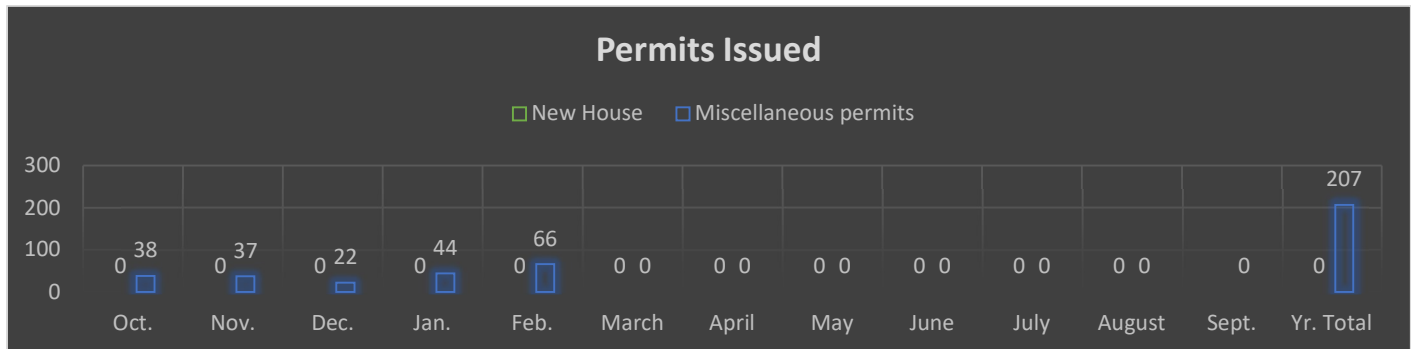
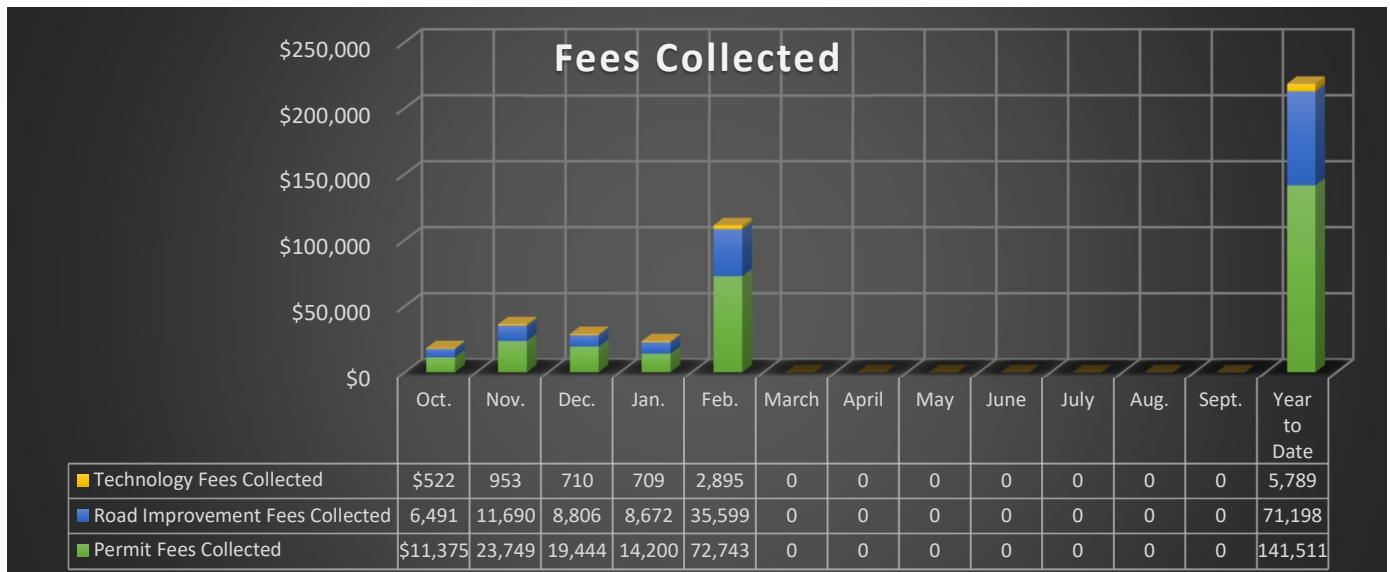
## Guidelines for Public Comments

- Everyone will have 3 minutes
- When recognized step forward to the podium and state your name for the record
- All remarks should be addressed to the Commission as a body
- The public comment period is for receipt of public comments, not debate. It is not intended as a time for problem solving but rather for hearing the citizens for their input
- Any person addressing the Commission who disrupts the orderly and efficient conduct of the meeting, uses profane or obscene language may be removed from the meeting

# TOWN OF SEWALL'S POINT



**TO:** Town Commission  
**FROM:** Jack Reisinger, Building Official through Robert Daniels, Town Manager  
**SUBJECT:** 2023-2024 Building Permitting Report  
 Regular Commission Meeting of March 26, 2024



**Building Department Budget for 2023-2024**

- Building Permit Fees: \$400,000 of which \$141,511 has been collected for the fiscal year to date.
- Road Improvement Fees: \$162,500 of which \$71,198 has been collected for the fiscal year to date.

\*\*\* 140 N SPR (fees collected in February and issued in March)

118 N SPR, 43 W High Point Rd are ready to issue any day with 2 others getting ready to submit

**Recommendation:** Staff recommends approval of the monthly Building Reports as presented.

JOHN TOMPECK  
Mayor

FRANK FENDER  
Vice Mayor

DAVID KURZMAN  
Commissioner

KAIJA MAYFIELD  
Commissioner

# TOWN OF SEWALL'S POINT



ROBERT DANIELS-ICMA-CM  
Town Manager

APRIL C. STONCIUS, MMC  
Town Clerk

TINA CIECHANOWSKI  
Chief of Police

JACK REISINGER, CBO  
Building Official/PW Director

MARIA PIERCE  
Finance/HR Director

**Town Commission Regular Meeting Minutes  
March 12, 2024  
6:00 p.m.**

## I. CALL TO ORDER

Mayor Tompeck called the meeting to order at 6:00 p.m.

### a. Pledge of Allegiance to the Flag

Mayor Tompeck lead the assembly in the Pledge of Allegiance.

### b. Roll Call

The Town Clerk called the roll with the following Commissioners present: Mayor Tompeck, Vice Mayor Fender, Commissioner Kurzman, and Commissioner Mayfield.

## II. PROCLAMATIONS AND PRESENTATIONS

There was nothing scheduled under this item.

**III. PUBLIC COMMENT ON NON-AGENDA ITEMS- PLEASE SUBMIT A COMMENT CARD TO THE TOWN CLERK PRIOR TO THE START OF THE MEETING AND LIMIT YOUR COMMENTS TO THREE MINUTES.** *If the thirty (30) minute time period has been exhausted, the Commission will entertain any remaining comments near the end of the meeting with the same three (3) minute per person time limitation.*

There were no public comments heard under this item.

## IV. ADDITIONS, DELETIONS OR CHANGES TO THE AGENDA

There were no changes made to the Agenda.

## V. APPROVAL OF AGENDA

There being no discussion, Commissioner Kurzman **moved** to approve the Agenda. Vice Mayor Fender **seconded** the motion, which **passed unanimously** by roll call vote.

## VI. CONSENT AGENDA

### a. Minutes – February 27, 2024

There being no discussion, Commissioner Mayfield **moved** to approve the Consent Agenda. Commissioner Kurzman **seconded** the motion, which **passed unanimously** by roll call vote.

**VII. PUBLIC HEARING - ORDINANCE - SECOND READING**

There was nothing scheduled under this item.

**VIII. PUBLIC HEARING - ORDINANCE - FIRST READING**

**a. Ordinance No. 458 – Amending Land Development Regulations – Development Review Process**

The Assistant Town Attorney, Susan Garrett, read the ordinance title into the record.

Mayor Tompeck called for any public comments, to which there were none.

Mayor Tompeck stated that the ordinance was reviewed previously at the Local Planning Agency meeting, which was held prior to the Commission meeting. He inquired as to if there were any questions, to which there were none.

Commissioner Mayfield **moved** to approve Ordinance No. 458 and to schedule the second reading for March 26, 2024. Commissioner Kurzman **seconded** the motion. Vice Mayor Fender requested that the discussion regarding the investigation of the tree mitigation issue from the LPA meeting be included. There being no further discussion, the motion **passed unanimously** by roll call vote.

**IX. RESOLUTIONS**

There was nothing scheduled under this item.

**X. OLD BUSINESS**

There was nothing scheduled under this item.

**ADDENDUM**

**XI. NEW BUSINESS**

**a. Grant Approval Requests**

Bonnie Flint, 6 Palmetto Drive, stated that she prepared comments similar to Mr. Tidikis' and waived her three-minute public comment.

Frank Tidikis, 12 Cranes Nest, stated that the grant approval process lacked structure and that the grant log was inaccurate. He recommended the process be slowed down, in order for the Commission and the community to be able to review the documents appropriately.

Mr. Tidikis' submitted his comments to the Town Clerk, which are attached.

Vinny Barile, 17 Fieldway Drive, stated that he would waive his comments, as they were in alignment with Mr. Tidikis' comments.

The Town Manager stated that he wanted to review the grant and approval procedures, in order to formalize it. He explained that the process entailed presenting the grants to the Commission in an expeditious manner, but that on occasion there were timeframe issues. The Town Manager advised that the grant log was not prepared by his office, and stood by the information provided to the Commission in reference to approval of the grants.

The Town Manager stated that he was advised that the grant regarding the Arbor Day Celebration was no longer available and recommended that it be pursued next year. He pointed out that the use of tree funds and scaling back on the number of trees could be an alternative for the event this year.

The Town Manager said that he received notification regarding approval of a state appropriation, and that all appropriations were approved by the Commission as part of the Legislative Agenda. He stated that he would be bringing forward the information at the next meeting for approval, and requested approval of the below grant increased funding requests.

- Florida Resiliency Grant (Increased Funding Request) Phase 3  
Requested \$5.5 Million and we just received notice of a \$2.75 Million increase.
- Florida Resiliency Grant (Increased Funding Request) Phase 2  
Requested \$5.3 Million. No award increase has been received yet.
- Florida Quality Grant (South River Road) Resiliency  
Grant application for \$4 Million. No award has been made as yet.
- Florida Forest Management Bureau – Arbor Day Tree Grant  
Requesting \$20,000. Pending Town Commission Approval

Commissioner Mayfield stated that the process had improved and that it was important to obtain the grants, in order to finish the essential projects and keep taxes status quo. She stated that staff was doing a good job and was in favor of approving the grants and the increased funding requests.

Commissioner Kurzman stated that the Town needed to acquire all grants, in order to complete the current road project for the safety of the community, as well as to keep taxes at the same rate. He remarked that the Town Manager had done a great job with communication recently, and that if there was a timeframe issue with a grant, the Town Manager reviewed it with Commission as a whole.

Mayor Tompeck stated that he agreed with the comments that were made during the public comment segment of the meeting. He said that the grants were available two to three months in advance from when the application was required to be submitted, and that there was sufficient time for the Commission to review them. Mayor Tompeck recommended that the grant writer and the town engineer submit the applications to the Commission prior to the due date for approval, in order to alleviate any last minute rushes.

There being no further discussion, Commissioner Mayfield **moved** to approve the grant list increased funding requests, and the grant applications. Commissioner Kurzman **seconded** the motion, which **passed unanimously** by roll call vote. Mayor Tompeck stated that the entire grant process needed to be reviewed moving forward since the legislative session had come to a close.

## **XII. DISCUSSION**

### **a. Summer Commission Meeting Schedule**

The Town Manager stated that in an effort to accommodate schedules during the summer, the calendar was adjusted which was similar to last year. He said that there would be one meeting in June (June 18<sup>th</sup>) and one meeting in July (July 16<sup>th</sup>), and that the full Commission was needed to attend the September meetings due to the TRIM process and budget hearings.

There being no further discussion, Commissioner Mayfield **moved** to approve and adopt the 2024 Town Commission Summer Meeting Schedule. Vice Mayor Fender **seconded** the motion, which **passed unanimously** by roll call vote.

### **b. Fiscal Year 2024/2025 Budget Calendar**

The Town Manager stated that the proposed schedule was brought forward in an effort to breakdown the dates of each requirement for the TRIM and budget procedures.

There being no further discussion, Commissioner Mayfield **moved** to approve the 2024/2025 Budget Calendar. Vice Mayor Fender **seconded** the motion, which **passed unanimously** by roll call vote.

## **ADDENDUM**

### **c. U.S. Army Corps of Engineers – South Florida Ecosystem Restoration**

The Town Manager stated that he attended an event hosted by Commissioner Doug Smith and that the attached presentation was given by the U.S. Army Corps of Engineers and the South Florida Water Management District. He said it was very interesting what the Corps had accomplished, as well as what they intended to accomplish in the next five years.

Mayor Tompeck requested a presentation from Eva Velez, P.E., Chief, Ecosystem



Restoration Branch, Programs and Project Management Division, Jacksonville District.  
at a future meeting.

**XIII. COMMISSION AND STAFF CLOSING COMMENTS**

**a. STAFF**

The Town Manager stated that eight public hearings were conducted in reference to the Stormwater Master Plan by the Town Engineer, Joe Capra, which were well-attended.

**b. COMMISSIONERS**

Vice Mayor Fender stated that he attended the Brightline train event and that the location would be in Stuart behind the courthouse, which would be completed in two years.

**XV. ADJOURN**

There being no further business, the meeting adjourned at 6:33 p.m.

**APPROVED:**

\_\_\_\_\_  
Mayor John Tompeck, Presiding Officer

**ATTEST:**

\_\_\_\_\_  
April C. Stoncius, Town Clerk

Minutes approved at the meeting of: March 26, 2024

**Comments to the Commissioners of The Town of Sewall's Point  
12 March 2024**

Good Evening, Mayor Tompeck and Commissioners Fender, Kurzman and Mayfield.

My name is Frank Tidikis and I reside at 12 Cranes Nest.

I would like to comment on the Grant Approval Process or lack thereof.

Mr. Daniels has stated that, "The preference for that approval is to have the grant writer submit a draft of the application and have the Town Commission vote to approve the grant at that time." I wholeheartedly endorse that policy as it allows the staff to do an in-depth review of the application and allows the public to review and comment on the application.

However, I disagree with the second part of the paragraph: *"In the instances that the timeframe is short, the approval vote can be held when the Town is informed that we were awarded the grant in question."* For the following reasons:

1. **Time frame should be defined.** The Commission meets twice a month and the time between the identification of an available grant, the preparation of an application and submittal should be minimal and not become routine.
2. The Grant Log is inaccurate. For example,
  - a. not reflected on the Grant Log and approved by the Commission at the 15 November 2022 meeting were grants to the Department of Emergency Management, Roads-South Sewall's Point Road and Sewers for \$2 Million each. Although the Commission approved submission, there are no copies nor are they reflected on the grant log.
  - b. At the August 15, 2024 meeting, three grants were approved for submission, with the applications appended to the agenda, but the IRL Grant Program for the South River Road repaving was listed at \$2.5 million with no application attached and is now reflected on the Grant Log as \$4 million-if it is the same grant.
  - c. Why are there no dates of Due or Submittal for two grants?
  - d. For the Legislative Appropriations Grant, there was no discussion or approval at either November meeting.

3. The applications contain errors:
  - a. The S2S grant application for \$4M was rife with errors:
    - i. It stated that all 706 homes would be connected. Whereas the Commission only authorized Option 1, Phase 1 of the Captec report.
    - ii. Total project cost for 706 connections is listed at \$16.8M
    - iii. Nitrogen reductions are projected at 29/lbs./home/year which is in conflict with other submissions.
    - iv. It stated that 706 homes are within 200 meters of a water body; whereas from Hillcrest to Kingston, there is a strip of land between 113-193 meters wide that do not meet that assertion.
  - b. The South River Road Stormwater Improvements application states:
    - i. that we are in the Central Indian River Lagoon BMAP. We have less than 15% of our homes in the St. Lucie River BMAP and we are in the clean north segment of the South Indian River Lagoon which is not in a BMAP.
    - ii. The projected nitrogen reductions do not match any other application and in addition, FDEP data reports that Sewall's Point nutrient contribution is "minimal".
  - c. Arbor Day Grant: Bob's memo says \$20,000 whereas the grant log says \$2,000.

**Suggestion: Slow down the process, get it right the first time, allow time for citizen review and input and have the log be an accurate reflection of what you have approved and submitted/or withdrawn.**

JOHN TOMPECK  
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# TOWN OF SEWALL'S POINT



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Building Official/PW Director

MARIA PIERCE  
Finance/HR Director

TO: Mayor and Commissioners  
FROM: Robert Daniels, Town Manager  
SUBJECT: Communications Plan  
Date: Regular Meeting – March 26, 2024

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## EXECUTIVE SUMMARY:

The Town Commission directed the Town Manager to seek proposals for a Communications Plan for the Town. The Town Manager reviewed concepts with two firms and one firm, Snyder Marketing Solutions and Events (Snyder) was chosen to work on the new Sewall's Point Tree Day event. Staff then utilized Snyder on a 90-day trial program where action by the Town Commission was spotlighted in an e-mail notice to residents on Constant Contact, reviewing any action taken and notable issues in the Town. Additionally, the communication was archived on our website for transparency with the public.

Since Snyder performed the assignments effectively and with excellent comments, the Town Manager chose Snyder as the vendor to complete the Town's Communication Plan. Snyder was asked to supply a communications plan proposal to the Town staff. The Proposal for consulting and development for the Communications Plan was submitted for \$12,500.

## RECOMMENDATION:

Staff recommends the Town Commission approve the proposal and expenditure of \$12,500 out of budgeted funds.



Town of Hall One South Sewall's Point Road Sewall's Point, FL 34996  
(772) 287-2455 Fax (772) 220-4765  
[townhall@sewallspoint.org](mailto:townhall@sewallspoint.org)  
[www.sewallspoint.org](http://www.sewallspoint.org)





**Snyder Marketing Solutions, Inc**  
 11 SE Osceola St  
 Stuart, FL 34994  
 (585) 813-1643  
 admin@snydermarketingsolutions.com  
 snydermarketingsolutions.com

**BILL TO**  
 Town of Sewall's Point

**INVOICE 24TSPCOMPLAN1**

DATE 03/07/2024 TERMS Due on receipt

DUE DATE 03/07/2024

| DATE       | DESCRIPTION   | QTY | RATE      | AMOUNT    |
|------------|---|-----|-----------|-----------|
| 04/01/2024 | <b>Management</b><br>2024 Communication Plan Consulting & Development - Outline strategies for communicating with residents, stakeholders, and the public at large so the Town of Sewall's point can effectively inform, engage, and connect with its community members, fostering trust, transparency, and civic participation:<br>-Goals and Objectives<br>-Target Audience<br>-Messaging Strategy<br>-Communication Channels<br>-Content Creation and Distribution<br>-Community Engagement Strategies<br>-Crisis Communication Plan<br>-Monthly Progress Meetings | 1   | 12,500.00 | 12,500.00 |

**TOTAL DUE \$12,500.00**

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MARIA PIERCE  
Finance/HR Director

TO: Mayor and Commissioners  
FROM: Robert Daniels, Town Manager  
SUBJECT: Communications Management  
Date: Regular Meeting – March 26, 2024

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## EXECUTIVE SUMMARY:

Snyder Marketing Solutions and Events has worked the past three months on developing and implementing the Town Commission Spotlight. This informational review covers action taken by the Town Commission, upcoming events, and concerns in the Town. The residents have responded positively to the increased professional communications.

The original agreement with Snyder was for three months, and they have submitted a proposal for continuing their services for the remainder of the fiscal year for Town Commission review and approval. The proposal is \$21,000 and will be paid out of budgeted funds.

## RECOMMENDATION:

Staff recommends the Town Commission approve the proposal and expenditure of \$21,000 out of budgeted funds.



Town of Hall One South Sewall's Point Road Sewall's Point, FL 34996  
(772) 287-2455 Fax (772) 220-4765  
[townhall@sewallspoint.org](mailto:townhall@sewallspoint.org)  
[www.sewallspoint.org](http://www.sewallspoint.org)





**Snyder Marketing Solutions, Inc**  
11 SE Osceola St  
Stuart, FL 34994  
(585) 813-1643  
admin@snydermarketingsolutions.com  
snydermarketingsolutions.com

**BILL TO**  
Town of Sewall's Point

**INVOICE 4APRTSP24-1**

**DATE 04/01/2024 TERMS Due on receipt**

**DUE DATE 04/01/2024**

| DATE                        | DESCRIPTION  | QTY | RATE      | AMOUNT    |
|-----------------------------|--|-----|-----------|-----------|
| 04/01/2024 <b>Marketing</b> | Communications Management - 4/2024 - 9/2024 (6 Months)<br>Community relations management, graphic design, social media management, email marketing campaign execution, and monthly progress meetings, aimed at fostering positive relationships, creating visual materials, disseminating information, and ensuring regular communication and strategy discussions for the Town of Sewall's Point. | 1   | 21,000.00 | 21,000.00 |

**TOTAL DUE \$21,000.00**

# TOWN OF SEWALL'S POINT



**TO:** Mayor and Commissioners  
**FROM:** Robert Daniels, Town Manager  
**SUBJECT:** Public Hearing – Second Reading - Ordinance No. 458  
**DATE:** Town Commission Regular Meeting - March 26, 2024

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**EXECUTIVE SUMMARY:** This is the Town Commission Public Hearing for Ordinance Number No. 458.

It is the second reading and adoption hearing for Ordinance No. 458, which resulted from the drafting of Standard Operating Procedures (SOP) for staff to process development applications. Staff is recommending that the Land Development Regulations be amended so that construction plans for developments would be approved administratively to streamline the process for both the Town and the applicants.

This Public Hearing will focus on the Town Commission's final review of the strikethrough and underline of the correctly adopted Land Development Regulations.

## **ORDINANCE TITLE AND ADVERTISEMENT:**

### **ORDINANCE NO. 458**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS, CHAPTERS 30, 46, 54, 78 AND 82, TO REMOVE CONFLICTING LANGUAGE, UPDATE AND STREAMLINE THE DEVELOPMENT REVIEW PROCESS, PROVIDE FOR ADMINISTRATIVE APPROVALS, REMOVE REFERENCES TO PRELIMINARY PLANS, REMOVE REFERENCES TO MAJOR AND MINOR SITE PLANS; PROVIDE FOR SEVERABILITY; AND PROVIDING FOR THE REPEAL OF ALL CONFLICTING ORDINANCES, CODIFICATION AND AN EFFECTIVE DATE.**

## **BACKGROUND:**

The Town of Sewall's Point is developing Standard Operating Procedures (SOP) for the processing of development applications to assist staff in this task. When drafting the SOP, it was discovered that, with the current code, the applicant could essentially be subject to three public hearings in front of the commission: site plan, construction plans, and final plat approvals. Due to the technical nature of construction plans, staff is recommending that they be approved by the Building Official only. While this change is being made, staff



recommended other changes, which included the strikethrough of any specific fees, as well as minor changes to terminologies throughout the document for consistency. It is important to note that if/when application fees do change in the Town, a fee study is required, and the final fee schedule would be reviewed and approved by the Town Commission at a public meeting.

### **SUMMARY OF MARCH 12, 2024, LPA AND COMMISSION, HEARINGS:**

The consultant presented the ordinance for first reading. The LPA and Commission had a few questions:

1. The commission needed more information about how “development” was defined in the Code so that it clearly delineated what actions on land would go through the various review process (i.e., building permits, site plans, etc.)
  - a. In response, the consultant updated the definition of “development” in the Ordinance, **Section 54-4. Definitions**, to be identical to the definition found in FSS 380.04. The Florida Law definition is more concise and clearer. **(Exhibit D)**.
2. There was also discussion about tree removal and how the commission could be assured that applicants would provide enough details in their applications about landscaping and tree removal.
  - a. In response, the consultant has provided the Site Plan checklist and Tree Removal Application which lists the documents that must be included with each development application. **(EXHIBITS B AND C)**.
3. There was also a question related to Sec. 30-5 regarding the Certificate of Authorization for work affecting historic resources.
  - a. The consultant reviewed the existing Code Chapter 30 Historic Preservation. This section of Code includes a detailed definition of “Florida Master Site File” as well as “Historic Resource”. So, with the definitions of these items listed in Chapter 30, no change is recommended.

### **RECOMMENDATION:**

Staff recommends one of the following motions:

1. “The Town Commission approves Ordinance No. 458 as drafted.
2. “The Town Commission approve Ordinance No. 458 with changes.

### **ATTACHMENTS:**

- EXHIBIT A: Ordinance No. 458 (Strike though and underline)
- EXHIBIT B: Site Plan Checklist
- EXHIBIT C: Tree Removal Application

- EXHIBIT D: Florida Statute 380.04 – Definition of Development
- EXHIBIT E: Chapter 30 of Code of Ordinances – Historic Preservation



**ORDINANCE NO. 458**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS, CHAPTERS 30, 46, 54, 78 AND 82, TO REMOVE CONFLICTING LANGUAGE, UPDATE AND STREAMLINE THE DEVELOPMENT REVIEW PROCESS, PROVIDE FOR ADMINISTRATIVE APPROVALS, REMOVE REFERENCES TO PRELIMINARY PLANS, REMOVE REFERENCES TO MAJOR AND MINOR SITE PLANS; PROVIDE FOR SEVERABILITY; AND PROVIDING FOR THE REPEAL OF ALL CONFLICTING ORDINANCES, CODIFICATION AND AN EFFECTIVE DATE**

**WHEREAS**, the Town of Sewall's Point, was chartered by the Florida Legislature in 1957; and

**WHEREAS**, the Town of Sewall's Point, adopted a Code of Ordinances in 1978 which includes Land Development Regulations; and

**WHEREAS**, the Town of Sewall's Point updated its Land Development Regulations in January 2023 to comply with the 2022 update to its Comprehensive Plan; and

**WHEREAS**, the Town of Sewall's Point desires to remove conflicting language; provide consistency of reference throughout and further streamline the process for site plan applications, review and approvals;

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA THAT:**

**Section 1.** The foregoing recitals are hereby fully incorporated herein by reference as legislative findings of the Town Commission of the Town of Sewall's Point.

**Section 2. CHAPTER 30 HISTORIC PRESERVATION**

**Sec. 30-5. - Certificate of authorization for work affecting historic resources.**

- (a) *Required.* A certificate of authorization shall be issued by the town commission prior to approving any preliminaryconcept plan involving alteration, demolition, relocation, reconstruction, excavation or new construction upon any site which will result in a change to the original appearance of an archaeological site or historic resource listed on the Florida Master Site File.

**Sec. 30-8. - Construction or exploration on archaeological site.**

- (a) *Certificate of authorization required for construction.* A certificate of authorization for construction shall be required prior to the preliminaryconcept plan approval for activity within an archaeological site listed on the Florida Master Site File. An application for a certificate of authorization for construction shall be accompanied by full plans and specifications indicating areas of work that might affect the surface and subsurface of the archaeological site.

**Section 3. CHAPTER 46 ADMINISTRATION**

**Sec. 46-31. Payment for in-house costs and professional services rendered by town.**

- (a) Each applicant for ~~a development order, building permit, rezoning, comprehensive plan amendment, special exception, variance, major or minor subdivision, plat approval, letter of determination, or any other type of application relating to land development, land use, or land improvement (collectively, "development applications")~~ any proposed development shall pay a filing fee. Unless otherwise established by ordinance, such filing fees shall be set from time to time by resolution and will be available at Town Hall and posted on the Town's website. Such costs include, but are not limited to, postage, publication, and staff services. Each filing fee shall be paid at the same time the application is filed with the town. If the costs incurred by the town exceed the filing fee, the town may invoice the applicant for the balance of the costs, and the applicant shall pay such costs upon receipt of the invoice. If any fee or cost is not timely received by the town, the application may be deemed incomplete and its processing may be delayed.
- (b) Outside professional consultants, including but not limited to, engineers, attorneys, scientists, planners, and their respective assistants and staff, may be engaged by the town, in its discretion, as needed to provide technical support in connection with a development application. Each applicant shall pay to the town the actual reasonable cost of all such outside professional consultant services upon receipt of the invoice for the services. The town shall ~~request~~require the applicant to pay a retainer deposit (at the time application is made) to cover the estimated costs of the outside professional consultant(s). If the outside professional consultant fees exceed or are anticipated to exceed the retainer deposit the town may request additional retainer deposits or may choose to invoice the applicant for such costs. Any unused retainer deposit shall be returned to the applicant when the application process has been

completed. If an applicant fails to pay a retainer deposit or any invoice for outside professional consultant services, the application may be deemed incomplete and its processing will be delayed.

- (c) No permit shall be issued or development application approved until such time as all filing fees, ~~costs~~ and retainer deposits ~~professional fees~~ have been paid in full.
- (d) This section shall not apply to applications by governmental authorities or public utilities.

#### **Section 4. Chapter 54 CONCURRENCY MANAGEMENT SYSTEM**

##### **Sec. 54-4. Definitions.**

*Development* means the carrying out of any building activity or mining operation, the making of any material change in the use of or appearance of any structure or land, or the dividing of land into three or more parcels, ~~except for the clearing of land or the deposit of refuse, solid or liquid waste, except when a development order is required.~~

*Development order* means an order granting, with or without conditions, an application for ~~rezoning, a special exception, a minor subdivision, a preliminary plan, a subdivision plat, a building permit~~ a proposed development, or any other official action of the town having the effect of permitting the development of land and containing a specific plan for development, including the determination of density and/or intensity of use.

#### **Section 5. Chapter 78 LAND DEVELOPMENT REGULATIONS ARTICLE**

##### **I. IN GENERAL**

##### **Sec. 78-6. Definitions.**

*Preliminary Concept plan* means a generalized map or drawing ~~representing the land to be subdivided, upon which basic information has been shown to indicate the general manner in which the land is proposed to be developed~~ illustrating the assessment and possible suitable development of a site.

### **ARTICLE III. PLANNING**

#### *DIVISION 1. SUBDIVISION OF LAND*

##### **Sec. 78-11. Lot splits.**

- (b) *Application.* Application for a lot split shall be in a form prescribed by the building official. Filing fee must be paid at time of application submission. (Reference Section 46-31).

##### **Sec. 78-12. Lot mergers or consolidations.**

- (a) *Application.* Application for a lot merger shall be in a form prescribed by the building official. Filing fee must be paid at time of application submission. (Reference Section 46-31).

### **Sec. 78-13. Administrative changes to plats and lot line adjustments.**

- (1) Applications and associated fees for minor changes to approved subdivision plats will be established by the building department. Filing fee must be paid at time of application submission. (Reference Section 46-31)

### **Sec. 78-14. Plat approval procedure.**

- (2) Filing fee and Rretainer deposit ~~of \$750.00~~ for anticipated costs incurred by the town. (Reference Section 46-31). The retainer deposit shall be for anticipated costs incurred by the town including but not limited tofor such items as the recording fee, or recording the approval of the town commission, should such approval be given, as required by section 78-87, engineering fees for services provided by the town engineer, planning services provided by the town planner and attorney's fees for services provided by the town attorney, all of which are provided for the benefit of the applicant in connection with the plat review and approval process regardless of whether the plat is approved or not. There shall be no cost to the town as a result of the application for a plat. Throughout the time of review, if retainer deposit is exhausted, the applicant is required to replenish this fund. Failure to do so will result in a pause of the review of the plat until the replenishment funds have been received. Any amount remaining from that deposit at the conclusion of the review will be returned to the applicant upon final decision of the commission on the plat.
- (3) Two copies of a boundary survey of the platted lands on ~~24-inch x 36-inch sheets of material format~~ in conformity with F.S. Ch. 177 that:

### **Sec. 78-17.02. Advertising costs.**

- (a) All costs of publication that exceed the filing fee shall be paid by the applicant or petitioner, ~~and any costs so incurred by the town shall be reimbursed to the town by the applicant or petitioner~~ at least five days before the public hearing.

## **DIVISION 2. SITE PLANS**

### **Sec. 78-20. Pre-application for site plans.**

- (1) *Submittal requirements:*
  - a. Three paper copies in 24 x 36 format of the ~~conceptual site~~ plan and one digital file of the entire submittal.
  - b. *Filing fee.* (Reference Section 46-31) ~~The filing fee shall be \$250.00 for each lot shown on the site plan or plat and shall be paid to the town at the time the pre-application is tendered to the town.~~

- c. *Retainer deposit for anticipated costs incurred by town.* ~~The retainer deposit shall be for anticipated costs incurred by the town including but not limited to engineering fees for services provided by the town engineer, planning services provided by the town planner and attorney's fees for services provided by the town attorney, all of which are provided for the benefit of the applicant in connection with the site plan review and approval process, regardless of whether the site plan is approved or not. The town manager, or designee shall require a deposit for review of the application by consultant(s) to ensure that the town will be reimbursed for any and all costs expended on behalf of the developer and all costs incurred for the developer's benefit.~~ Throughout the time of the review, if retainer deposit is exhausted, applicant is required to replenish this fund. Failure to do so will result in a pause of the review of the application until the replenishment funds are received. Any amount remaining from that deposit at the conclusion of the review will be returned to the applicant upon issuance of the development order.
- d. *Contents.* The following information shall be submitted and included as part of the conceptual plan:

**Sec. 78-21. Site plan and development application requirements.**

- (b) *Submittal documents.* Certified copies of the site plan shall be prepared in a form acceptable to the town and submitted to the building official, or designee for review and approval. The following is required for all site plan applications: (2) Application Filing fee. (Reference Section 46-31)
- (c) *Contents.* The site plan shall include the following:
  - (2) *Proposed site activities and design.*
    - b. *Building and other structures.*
      - 3. The location of all adjacent off-site sidewalks ~~required by section 30-547.~~

**Sec. 78-23. Final development order approval.**

- (d) *Town commission public hearing.*
  - a. At the public hearing, the town commission shall hear from all interested parties regarding whether the ~~major-proposed~~ development ~~plan-application~~ complies with the requirements of this Code. The town commission shall consider the application, the written comments of each responding department and agency, the compliance recommendation of the development department, and the comments presented to the town commission during the course of the public hearing.

**Sec. 78-82. Construction drawings, specifications and proposed plat.**

- (a) Prior to commencement of construction for any proposed ~~major-subdivision development~~, the developer shall submit to the town ~~commission-building official, or their designee~~, for ~~its~~ their review of all construction drawings and specifications for the proposed improvements, together with the proposed subdivision plat. The construction drawings and specifications shall bear the signature and impression seal of the engineer.
- (b) The following additional information shall be submitted with the construction drawings, specifications and proposed plat and shall be considered by the town ~~commission-building official, or their designee~~, before approving, modifying or denying the request for construction approval:
- (1) A letter from the county health department indicating that the land in the proposed subdivision is generally suitable for the installation and use of septic tanks, if individual waste disposal systems are to be utilized.
  - (2) A copy of the permit and other accompanying data issued by the state department of environmental protection for the construction of any central sewage collection, treatment and disposal system, if this method of waste disposal is to be used for the proposed subdivision.
  - (3) A letter from the county utilities department or its successor, indicating that it can and will serve the proposed subdivision with water, and that the proposed construction of the water utility shown on the drawings and defined in the specifications meets its requirements.
  - (4) A copy of the permit issued by the South Florida Water Management District for the drainage and related water control aspects of the proposed subdivision.
  - (5) A letter from each utility owner indicating that it will extend service to the subdivision and that easements have been provided in the necessary locations and widths and meet the requirements of the utility owner.
  - (6) Evidence of approval by any other local, state or federal agency that may be required for any aspect of the proposed subdivision.
  - (7) A letter from Florida Power and Light Company or its successor, indicating that the easements for the installation and maintenance of street lighting and fixtures shown on the applicant's construction drawings and specifications are suitable for the proposed subdivision.
- (c) The town ~~commission-building official, or their designee~~, shall review the construction drawings, specifications, proposed plat and other data enumerated in this section and shall approve, deny or recommend modifications for construction of the subdivision. If the project is denied or modifications are recommended, the town ~~commission-building official, or their designee~~, shall notify the developer in writing the reasons for denial or the nature of the recommended modifications.



- (d) No land clearing or other construction shall commence on the proposed subdivision until the town ~~commission~~building official, or their designee, has approved the construction drawings, specifications and proposed plat.

### **Sec. 78-86. Final plat review and approval.**

Prior to final plat review and approval, the developer shall submit to the town commission evidence that all improvements have been completed in accordance with the approved plans, final development order, and that any other necessary requirements have been met. The following documents, data and information shall be given the town commission by the developer for review:

- (1) The subdivision plat, prepared in accordance with the provisions of F.S. Ch. 177, and to the dimensions and in the manner prescribed by the office of the clerk of the circuit court of the county. The plat shall contain all data and information required by F.S. Ch. 177, and the wording of required certificates shall be subject to the approval of the town attorney. All signatures necessary for final approval by the town commission shall appear on the plat at the time it is presented.
- (2) ~~Any and all fees required for final approval and filing.~~ Filing fee and retainer deposit for anticipated costs incurred by the town. (Reference Section 46-31)

## **Section 6. Chapter 82 ZONING**

### **Sec. 82-271. - Lot area.**

Lot areas shall not be less than 15,000 square feet for any lot existing on February 8, 1984, and not less than 18,000 square feet for any lot created after February 8, 1984 until December 21, 1999, and not less than 30,000 square feet for any lot created (or subdivision originally approved) after December 21, 1999. The area of any private road, right-of-way or easement to be used for access to or egress from another lot or a street shall be excluded in the determination of required lot area. For the purposes of this provision, lots within a subdivision shall be deemed to be created on the date that an unexpired ~~preliminary concept~~ plan approval was granted by the town for such subdivision.

**Section 7. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section 8. Repeal of Laws in Conflict.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 9. Codification.** The sections of the ordinance may be made a part of the Town Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section,” “division,” or any other appropriate word.

**Section 10. Effective Date.** This ordinance shall take effect immediately upon adoption.

Commissioner Mayfield offered the Ordinance for its first reading and moved its adoption. The motion was seconded by Commissioner Kurzman, and upon being put to a vote, the

vote was:

|                              | <u>AYE</u> | <u>NAY</u> |
|------------------------------|------------|------------|
| JOHN TOMPECK, MAYOR          | <u>✓</u>   | _____      |
| FRANK FENDER III, VICE MAYOR | <u>✓</u>   | _____      |
| DAVE KURZMAN, COMMISSIONER   | <u>✓</u>   | _____      |
| KAIJA MAYFIELD, COMMISSIONER | <u>✓</u>   | _____      |

Passed first reading at the Regular Meeting of the Town Commission held on the 12th day of March, 2024.

\_\_\_\_\_ offered the Ordinance for its second reading and moved its adoption. The motion was seconded by \_\_\_\_\_, and upon being

put to a vote, the vote was:

|                              | <u>AYE</u> | <u>NAY</u> |
|------------------------------|------------|------------|
| JOHN TOMPECK, MAYOR          | _____      | _____      |
| FRANK FENDER III, VICE MAYOR | _____      | _____      |
| DAVE KURZMAN, COMMISSIONER   | _____      | _____      |
| KAIJA MAYFIELD, COMMISSIONER | _____      | _____      |

Passed second reading at the Regular Meeting of the Town Commission held on the 26th day of March, 2024. The Mayor thereupon declared this Ordinance approved and adopted by the Town Commission on this 26 day of March, 2024.

TOWN OF SEWALL'S POINT, FLORIDA

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John Tompeck, Mayor

ATTEST:

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April C. Stoncius, Town Clerk  
(TOWN SEAL)

Approved as to form and legal sufficiency:

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Glen J. Torcivia, Town Attorney  
Florida Bar No. 343374

# EXHIBIT B



## The Town of Sewall's Point

1 S. Sewall's Point Road  
Sewall's Point, FL 34996  
(772) 287-2455

### SITE PLAN CHECKLIST

Please include the following items in the order shown below. If any item is not included, please identify the item and the reason for its exclusion in the narrative. Please note that after staff review, other documents may be requested.

**Project Name:** \_\_\_\_\_

**Project Address:** \_\_\_\_\_

**Application type:** Site Plan

Internal  
Use ONLY

- \_\_\_\_\_ 1. **Development Application** (Specify Site Plan as Application Type)
- \_\_\_\_\_ 2. **Filing Fee:** Refer to Fee Schedule. Checks made payable to the Town of Sewall's Point
- \_\_\_\_\_ 3. **Retainer Deposit:** Refer to Fee Schedule. Checks made payable to the Town of Sewall's Point
- \_\_\_\_\_ 4. **Project Narrative:** Detailed narrative describing the proposed improvements and project scope.
- \_\_\_\_\_ 5. **Pre-Application Staff Report:** Staff report with applicant's responses to any comments.
- \_\_\_\_\_ 6. **Digital File:** one (1) digital file of the **entire** submittal.
- \_\_\_\_\_ 7. **Signed Statement:** The individual who certifies the site plan will include the following signed statement to the plan: "To the best of my knowledge, this site plan complies with the Town of Sewall's Point Land Development Regulations."
- \_\_\_\_\_ 8. **Site Plan:** three (3) paper copies of a scaled reproducible drawing on 24 x 36 format of the Site plan and any other required design documents.

A. Existing Conditions:

- \_\_\_\_\_ a) Soils map of the site. Existing USDA Soil conservation service maps are acceptable.
- \_\_\_\_\_ b) A map of existing vegetative cover, signed and sealed by a landscape architect, licensed by the State of Florida, with the location and common name of all protected trees. Groups of protected trees may be designated as clusters, with the estimated total number noted. This information shall be summarized in tabular form on the plan.
- \_\_\_\_\_ c) A topographic survey.

- d) A detailed project-area map showing existing hydrography and runoff patterns, as well as the size, location, topography, and land use of any off-site areas that drain onto, through, or from the project area.
- e) Existing surface waters, wetlands, and canals within the proposed development site, including mean high-water line and attendant drainage areas for each.
- f) A map showing the locations of any soil borings or percolation tests. Percolation tests representative of design conditions shall be performed if the surface water runoff management system includes swales, percolation (retention), or exfiltration (detention with filtration) designs.
- g) A scale drawing of the site and all land within 200 feet of any property line of the site.
- h) The location of any underground or overhead utilities, culverts, and drains on the property and within 100 feet of the proposed development boundary.
- i) The location, names, and widths of existing and proposed streets, easements, building lines, alleys, parks and other public spaces, and similar information regarding abutting property.
- j) The 100-year flood elevation, minimum required floor elevation, and boundaries of the 100-year floodplain for all parts of the proposed site.
- k) Drainage basin or watershed boundaries, identifying locations of the routes of off-site waters onto, through, or around the project.
- l) Location of wells.
- m) Location of any historic resources. If none, please note this in project narrative.

B. Proposed site activities and design:

- a) Area and percentage of total site area to be covered by an impervious surface.
- b) Grading plans, including perimeter grading.
- c) Building footprint, showing the location, dimensions, floor area, and proposed use of buildings.
- d) Building setback distances from property lines, abutting right-of-way center lines, and all adjacent buildings and structures.
- e) The location of all off-site sidewalks
- f) Minimum floor elevations of buildings within any 100-year floodplain.
- g) The location, dimensions, type, composition, and intended use of all other structures.

- h) Proposed location and sizing of potable water and wastewater facilities, if available, to serve the proposed development, including required improvements or extensions of existing off-site facilities.
- i) Location of the nearest available potable water supply and wastewater disposal system and the proposed tie-in points, or an explanation of alternative systems to be used.
- j) Boundaries of proposed dedicated utility easements.
- k) Exact locations of existing and proposed fire hydrants within 500 feet of the site.
- l) Location of irrigation wells.
- m) The layout of streets and driveways, showing proposed elevations, grades, paving, and drainage plans and profiles.
- n) A layout showing the total number and dimensions of proposed parking spaces and loading areas, as well as all proposed ingress and egress, including proposed public street modifications and projected on-site traffic flow.
- o) The location of all exterior lighting.
- p) The location and specifications of any proposed garbage enclosures.
- q) Cross sections and specifications of all proposed pavement.
- r) Typical and special roadway and surface water runoff drainage sections and summary of quantities.
- s) All Florida native trees to be removed.
- t) Proposed changes in the natural grade and any other development activities directly affecting trees to be retained.
- u) A statement of measures to be taken to protect the retained trees.
- v) A statement of proposed tree relocations.
- w) Location and dimensions of proposed landscaped areas, access aisles, and driveways.
- x) A description of existing and proposed plants for landscaped areas, including species (scientific and common names), variety and size.
- y) An irrigation plan for landscaped areas. Irrigation within areas that have native plants that can be damaged by spray type irrigation due to salinity conditions must utilize other methods such as soaker or drip hoses.
- z) A plan that describes the type and location of measures to control erosion and sedimentation, the stage of development at which they will be put into place or used, and maintenance provisions for the control measures.

aa) A description of the proposed surface water runoff management system, including:

- a. Detention and retention areas, including plans for the discharge of contained waters, maintenance, and impact on receiving surface waters.
- b. Areas of the site to be used or reserved for percolation, including an assessment of the impact on groundwater quality.
- c. Location of all water bodies to be included in the surface water runoff management system (natural and artificial) with details of hydrography, side slopes, depths, and water-surface elevations or hydrographs.
- d. Linkages with existing or planned surface water runoff management systems.
- e. Location of on- and off-site rights-of-way and easements for the system.
- f. The entity or agency responsible for the operation and maintenance of the surface water runoff management system.
- g. The location of off-site surface water runoff management systems that will be used by the proposed development, showing the names and addresses of the owners of the systems.
- h. Runoff calculations, which shall be in accord with South Florida Water Management District regulations.


- bb) Exact sites and specifications for all proposed drainage, filling, grading, dredging, and vegetation removal, including estimated quantities of excavation or fill materials computed from cross sections.
- cc) Percentage of the site's land surface that is covered with natural vegetation and percentage of natural vegetation to be removed by development.
- dd) Distances between development activities and the boundaries of protected, environmentally sensitive lands.
- ee) The manner in which habitats of endangered, threatened, and special-concern species will be protected.
- ff) Location of all proposed signs.
- gg) The proposed number, minimum area, and location of lots if development involves a subdivision of land.
- hh) The location and amount of area on the site devoted to all existing and proposed land uses, including schools, open space, churches, and residential and commercial uses.
- ii) The total number of dwelling units per acre.
- jj) The location of all land to be dedicated or reserved for all public and private uses, including rights-of-way, easements, special reservations, and the like.

APPLICATION FOR TREE REMOVAL, RELOCATION OR REPLACEMENT PERMIT



Required for any tree over 2" in diameter 4' from the top of soil
Action that severely alters a tree's natural function is EFFECTIVE REMOVAL per Ord. 70-1
\*\*\*PENALTIES FOR UNPERMITTED TREE REMOVAL ARE UP TO \$5,000 PER TREE\*\*\*

Permit application is to be submitted to Town Hall office only
DO NOT submit to the online permitting portal

Property Owner \_\_\_\_\_ Email: \_\_\_\_\_
Property Address \_\_\_\_\_ Phone \_\_\_\_\_
Contractor \_\_\_\_\_ Email: \_\_\_\_\_ Phone \_\_\_\_\_

Lot Size (check one): [ ] under 1/2 acre [ ] 1/2 to 1 acre [ ] Over 1 acre
Total Number of Trees (excluding citrus) with a trunk over 8 feet tall and 3" in diameter currently on the lot:
Palms \_\_\_\_\_ Other Trees \_\_\_\_\_

TREES PROPOSED FOR REMOVAL, RELOCATION, OR REPLACEMENT:
Species: \_\_\_\_\_ No. of Trees \_\_\_\_\_ Diameter: \_\_\_\_\_ (measured at 4' above soil)
Species: \_\_\_\_\_ No. of Trees \_\_\_\_\_ Diameter: \_\_\_\_\_ (measured at 4' above soil)
Reason for tree removal/relocation/replacement \_\_\_\_\_

PLEASE ATTACH PHOTOGRAPHS OR EMAIL TO CGOMEZ@SEWALLSPOINT.ORG
PLEASE ATTACH A SKETCH SHOWING THE LOCATION OF THE TREE(S) ON THE PROPERTY

By my signature I confirm that the information set forth above is true and that any prohibited species Invasive Plant
List Category I and II under the Florida Exotic Pest Plant Council (https://floridainvasivespecies.org/plantlist.cfm)
on the property will be removed immediately and as a condition of this permit.
Signature of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

NOTICE: The Town may require that you retain the services of a Certified Arborist to complete the International Society
of Arboriculture Basic Tree Risk Assessment if the permit application includes removal of an apparently healthy tree.

This Space for Official Use Only:
Fee of \$15 paid by \_\_\_ check or \_\_\_ credit card Received by Town Staff on \_\_\_\_\_ (date) \_\_\_\_\_ (Initials)
(No fee shall be required to remove prohibited species, dead, dying, or damaged trees)

- Review Criteria:
1. \_\_\_ yes \_\_\_ no: Would approval cause significant adverse impacts to soils, water, ecological systems, noise, wildlife
habitat, property values, and other criteria identified in Town ordinance section 70-86?
2. \_\_\_ yes \_\_\_ no: Is the subject tree a "Specimen Tree," i.e. one having high aesthetic or ecological value?

- If the answer to both questions is NO, at least one of the following three conditions must be met:
1 { \_\_\_ yes \_\_\_ no Is the tree in an area where structures or utilities are permitted under Town codes? (and)
\_\_\_ yes \_\_\_ no If yes, would preserving the tree unreasonably restrict the economic enjoyment of the property? (and)
or \_\_\_ yes \_\_\_ no If yes, can the tree reasonably be relocated on the property?
2 { \_\_\_ yes \_\_\_ no Is the tree diseased or injured? (or)
\_\_\_ yes \_\_\_ no Is the tree located too close to structures or interfering with existing utility service? (or)
or \_\_\_ yes \_\_\_ no Does the tree create an unsafe visual obstruction?
3 { \_\_\_ yes \_\_\_ no Is the tree is to be moved or replaced by another tree on the owner's property?

Permit Approved [ ] Permit Denied [ ] Reason for Denial: \_\_\_\_\_
Town Official: \_\_\_\_\_ Date: \_\_\_\_\_



# EXHIBIT D

Select Year: 2023

## The 2023 Florida Statutes (including Special Session C)

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[Title XXVIII](#)  
NATURAL RESOURCES; CONSERVATION,  
RECLAMATION, AND USE

[Chapter 380](#)  
LAND AND WATER  
MANAGEMENT

[View Entire  
Chapter](#)

### **380.04 Definition of development.—**

(1) The term “development” means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels.

(2) The following activities or uses shall be taken for the purposes of this chapter to involve “development,” as defined in this section:

(a) A reconstruction, alteration of the size, or material change in the external appearance of a structure on land.

(b) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land.

(c) Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any “coastal construction” as defined in s. [161.021](#).

(d) Commencement of drilling, except to obtain soil samples, mining, or excavation on a parcel of land.

(e) Demolition of a structure.

(f) Clearing of land as an adjunct of construction.

(g) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

(3) The following operations or uses shall not be taken for the purpose of this chapter to involve “development” as defined in this section:

(a) Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way.

(b) Work by any utility and other persons engaged in the distribution or transmission of gas, electricity, or water, for the purpose of inspecting, repairing, or renewing on established rights-of-way or corridors, or constructing on established or to-be-established rights-of-way or corridors, any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like. This provision conveys no property interest and does not eliminate any applicable notice requirements to affected land owners.

(c) Work for the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure.

(d) The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling.

(e) The use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products; raising livestock; or for other agricultural purposes.

(f) A change in use of land or structure from a use within a class specified in an ordinance or rule to another use in the same class.

(g) A change in the ownership or form of ownership of any parcel or structure.

(h) The creation or termination of rights of access, riparian rights, easements, distribution and transmission corridors, covenants concerning development of land, or other rights in land.

(4) “Development,” as designated in an ordinance, rule, or development permit includes all other development customarily associated with it unless otherwise specified. When appropriate to the context, “development” refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of subsection (1).

History.—s. 4, ch. 72-317; s. 2, ch. 83-308; s. 94, ch. 2002-20; s. 29, ch. 2002-296; s. 2, ch. 2018-34.

*Footnotes:*

-- (1) --

**Cross reference**— *Specific violations for historic preservation, § 18-85; environment, ch. 22; buildings and building regulations, ch. 50; planning and development, ch. 66; zoning, ch. 82.*

### Sec. 30-1. - Title of chapter.

This chapter shall be known and may be cited as the Town of Sewall's Point Historic Preservation Ordinance.

(Code 1978, § 11-101)

### Sec. 30-2. - Purpose and intent of chapter.

The purpose of this chapter is to evaluate and promote the sensitive use of historical resources and/or archaeological sites within the town recognized by their inclusion in or consideration for the National Register of Historic Places or the Florida Master Site File by requiring the issuance of certificates of authorization prior to allowing certain alterations to these resources.

(Code 1978, § 11-102)

### Sec. 30-3. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless specifically defined in this section, words or phrases used in this chapter shall be interpreted so as to give them meaning they have in common usage and to give this chapter the most reasonable application.

*Archaeological site* means an individual historic resource recognized for its prehistoric or historic artifacts and features and which resource is listed on the Florida Master Site File.

*Archaeologist* means a person who is registered by the Society of Professional Archaeologists, or who in the judgment of the state archaeologist meets the training and experience requirements necessary for such registration.

*Authorization* means a written authorization by the town commission to the owner of a property listed on the Florida Master Site File allowing:

- (1) A proposed alteration, relocation, demolition or moving of an archaeological site or historic resource; or

- (2) Temporary permission to clear, dig upon or excavate an archaeological site or historic resource for the purposes of conducting necessary investigations to determine the location of, evaluation of and a program for the protection of such site or resource.

*Demolition* means the complete removal of a building or structure, or portions thereof, from a site.

*Exploration* means the act of scientific examination, investigation, probing, evaluation and assessment, including archaeological excavation.

*Florida Master Site File* means a system of several paper and computer files administered by the bureau of archaeological research, division of historic resources, under the Florida Department of State, which serves as the state clearing house for information on archaeological sites, historical resources, structures and field surveys for such sites and resources, and includes resources listed on the National Register of Historic Places.

*Historic resource* means any prehistoric or historic site, building, structure, object, or other real or personal property of historical, architectural, or archaeological value, as listed on the Florida Master Site File. Historic resources may include but are not limited to monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, or culture of the town, the county, the state, or the United States.

*Historic structure* means any structure listed on the Florida Master Site File.

*Owner* means those individuals, partnerships, corporations or public agencies having a fee simple interest in real property.

*Structure* means improvements on real property. The term "structure" shall be construed as if followed by the words "or part thereof."

*Undue economic hardship* means an onerous and excessive financial burden that would be placed upon a property owner by the failure to issue a certificate of authorization, thereby amounting to the taking of the owner's property without just compensation.

(Code 1978, § 11-103)

**Cross reference—** Definitions generally, § 1-2.

Sec. 30-4. - Penalty.

A violation of this chapter shall be punished as provided in chapter 18.

Sec. 30-5. - Certificate of authorization for work affecting historic resources.

JOHN TOMPECK  
Mayor

FRANK FENDER  
Vice Mayor

KAIJA MAYFIELD  
Commissioner

DAVID KURZMAN  
Commissioner

# TOWN OF SEWALL'S POINT



ROBERT DANIELS, ICMA-CM  
Town Manager

APRIL C. STONCIUS, MMC  
Town Clerk

TINA CIECHANOWSKI  
Chief of Police

JACK REISINGER, CBO  
Building Official/PW Director

MARIA PIERCE  
Finance/HR Director

TO: Mayor and Commissioners

FROM: Robert Daniels, Town Manager

SUBJECT: Resolution No. 969 – Accepting funds from the State of Florida

Date: Regular Commission Meeting – March 26, 2024

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## EXECUTIVE SUMMARY:

On January 24, 2023, the Town Commission approved the legislative agenda for the 2023 State of Florida Legislative Session. Included in the agenda was a request for a \$1 million appropriation for the South Sewall's Point Resiliency Project Phase 2. The appropriation request was then presented to the legislative delegation in January of 2023, and the State Legislature approved it and the bill was eventually signed by the Governor. The funds were then allocated in the Florida Department of Transportation budget, making the money available through a grant to the Town.

## DISCUSSION:

The Department of Transportation has requested the approval of the grant contract by resolution and authorizing the Town Manager to sign the appropriate documentation.

## RECOMMENDATION:

Staff recommends the Town Commission approve the grant contract resolution and authorize the Town Manager to sign the documentation on behalf of the Town.



Town of Hall One South Sewall's Point Road Sewall's Point, FL 34996  
(772) 287-2455 Fax (772) 220-4765  
[townhall@sewallspoint.org](mailto:townhall@sewallspoint.org)  
[www.sewallspoint.org](http://www.sewallspoint.org)





## RESOLUTION NO. 969

**A RESOLUTION ACCEPTING GRANT FUNDS FROM THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION FOR FISCAL YEAR 2023-24, IN THE AMOUNT OF \$1,000,000.00 (ONE MILLION DOLLARS AND ZERO CENTS) FOR THE RECONSTRUCTION OF A SECTION OF SOUTH SEWALL'S POINT ROAD; APPROVING THE STATE-FUNDED GRANT AGREEMENT; AUTHORIZING THE TOWN MANAGER OR HIS DESIGNEE TO EXECUTE ALL NECESSARY DOCUMENTS IN FURTHERANCE OF THE GRANT ACCEPTANCE; AUTHORIZING AMENDMENT OF THE BUDGET; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to the State of Florida FY 2023/24 General Appropriation Act, the State of Florida Department of Transportation has grant funds available to fund local transportation projects ("the Grant Program"); and

**WHEREAS**, the Town Commission approved the submittal of an application for Appropriation funds for fiscal year 2023/24, to be used for the reconstruction of a section of South Sewall's Point Road, including increasing the size of the conveyance system to properly transmit the stormwater controlled by weirs, baffle boxes and backflow devices to hold back seal level and the rise of King Tides ("the Project"); and

**WHEREAS**, the Town of Sewall's Point was awarded Appropriation funds to reimburse a portion of the Project costs, up to the maximum amount of \$1,000,000.00 (One Million Dollars and zero cents); and

**WHEREAS**, the Grant Program is based upon joint participation but does not require matching dollars from the Town.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SEWALL'S POINT, FLORIDA:**

**SECTION 1.** The Town Commission hereby accepts grant funds from the State of Florida Department of Transportation, pursuant to the FY 2023/24 General Appropriation Act, in an amount up to the maximum of \$1,000,000.00 (One Million Dollars and zero cents).

**SECTION 2.** The Town Commission hereby approves the State-Funded Grant Agreement which governs the terms and conditions upon which the grant funds will be provided.

**SECTION 3.** The Town Manager or his designee is hereby authorized to execute all necessary documents in furtherance of the grant application and acceptance.

**SECTION 4.** The Town Manager and Finance Director are hereby directed to amend the applicable Fiscal Year Revenue and Expense Budget in accordance with the grant funds authorized by this resolution; to carry forward unexpended budgeted grant funded expenditures, and budgeted unearned grant revenues from fiscal year to fiscal year throughout the term of the grant; to adjust the budgeted grant funded expenditures and unearned revenues for program revenues, minor changes in the grant agreement, and accounting adjustments; and to close out unexpended budgeted grant expenditures and unearned budgeted grant revenues upon the expiration of the grant.

**SECTION 5.** This Resolution shall take effect immediately upon its adoption.

\_\_\_\_\_ offered the Resolution and moved its adoption. The

motion was seconded by \_\_\_\_\_, and upon being put to a vote, the vote was:

|                              | <u>AYE</u> | <u>NAY</u> |
|------------------------------|------------|------------|
| JOHN TOMPECK, MAYOR          | _____      | _____      |
| FRANK FENDER, VICE MAYOR     | _____      | _____      |
| DAVE KURZMAN, COMMISSIONER   | _____      | _____      |
| KAIJA MAYFIELD, COMMISSIONER | _____      | _____      |

The Town Manager thereupon declared this Resolution No. 969 approved and adopted by the Town Commission of the Town of Sewall's Point on this 26th day of March, 2024.

**TOWN OF SEWALL'S POINT, FLORIDA**

\_\_\_\_\_  
John Tompeck, Mayor

ATTEST:

\_\_\_\_\_  
April C. Stoncius, Town Clerk

\_\_\_\_\_  
APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:  
Glen J. Torcivia, Town Attorney

(TOWN SEAL)



STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**STATE-FUNDED GRANT AGREEMENT**

525-010-60  
PROGRAM MANAGEMENT  
12/23

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|                            |   |   |
|----------------------------|---|---|
| FPN: <u>453179-1-54-01</u> | Fund: <u>GR24</u><br>Org Code: <u>55043010404</u> | FLAIR Category: <u>088862</u><br>FLAIR Obj: <u>751000</u> |
| FPN: _____                 | Fund: _____<br>Org Code: _____                    | FLAIR Category: _____<br>FLAIR Obj: _____                 |
| FPN: _____                 | Fund: _____<br>Org Code: _____                    | FLAIR Category: _____<br>FLAIR Obj: _____                 |
| County No: <u>89</u>       | Contract No: _____                                | Vendor No: <u>F596000743001</u>                           |

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THIS STATE-FUNDED GRANT AGREEMENT ("Agreement") is entered into on \_\_\_\_\_, (This date to be entered by DOT only)

by and between the State of Florida Department of Transportation, ("Department"), and Town of Sewall's Point, ("Recipient").  
The

Department and the Recipient are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties".

**NOW, THEREFORE**, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

- 1. Authority:** The Department is authorized to enter into this Agreement pursuant to Sections 334.044, 334.044(7), and (*select the applicable statutory authority for the program(s) below*):
  - Section 339.2817 Florida Statutes, County Incentive Grant Program (CIGP), (CSFA 55.008)
  - Section 339.2818 Florida Statutes, Small County Outreach Program (SCOP), (CSFA 55.009)
  - Section 339.2816 Florida Statutes, Small County Road Assistance Program (SCRAP), (CSFA 55.016)
  - Section 339.2819 Florida Statutes, Transportation Regional Incentive Program (TRIP), (CSFA 55.026)
  - FY 2023/2024 General Appropriation Act (GAA) Line number 2042A , Local Transportation Center , CSFA 55.039

The Recipient by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D"**, **Recipient Resolution**, and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf.

- 2. Purpose of Agreement:** The purpose of this Agreement is to provide for the Department's participation in South Sewall's Point Road and Reconstruction, as further described in **Exhibit "A"**, **Project Description and Responsibilities**, attached to and incorporated into this Agreement ("Project"); to provide Department financial assistance to the Recipient; state the terms and conditions upon which Department funds will be provided; and to set forth the manner in which the Project will be undertaken and completed.
- 3. Term of the Agreement, Commencement and Completion of the Project:** This Agreement shall commence upon full execution by both Parties and the Recipient shall complete the Project on or before December 31, 2026. If the Recipient does not complete the Project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Recipient and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The Recipient acknowledges that no funding for the Project will be provided by the State under this Agreement for work on the Project that is not timely completed and invoiced in accordance with the terms of this Agreement, or for work performed prior to full execution of the Agreement. Notwithstanding the expiration of the required completion date provided in this Agreement and the consequent potential unavailability of any unexpended portion of State funding to be provided under this Agreement, the

Recipient shall remain obligated to complete all aspects of the Project identified in **Exhibit "A"** in accordance with the remaining terms of this Agreement, unless otherwise agreed by the Parties, in writing.

Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Recipient for the design phase or other non-construction phases of the Project. If the Project involves a construction phase, the Recipient shall not begin the construction phase of the Project until the Department issues a written Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Recipient shall request a Notice to Proceed from the Department.

- 4. Amendments, Extensions and Assignment:** This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be assigned, transferred or otherwise encumbered by the Recipient under any circumstances without the prior written consent of the Department.
- 5. Termination or Suspension of Project:** The Department may, by written notice to the Recipient, suspend any or all of the Department's obligations under this Agreement for the Recipient's failure to comply with applicable laws or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected. The Department may also terminate this Agreement in whole or in part at any time the interest of the Department requires such termination.
  - a. If the Department terminates the Agreement, the Department shall notify the Recipient of such termination in writing within thirty (30) days of the Department's determination to terminate the Agreement, with instructions as to the effective date of termination or to specify the stage of work at which the Agreement is to be terminated.
  - b. The Parties to this Agreement may also terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions through mutual written agreement.
  - c. If the Agreement is terminated before performance is completed, the Recipient shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Recipient.
  - d. Upon termination of this Agreement, the Recipient shall, within thirty (30) days, refund to the Department any funds determined by the Department to have been expended in violation of this Agreement.
- 6. Project Cost:**
  - a. The estimated cost of the Project is \$11,500,000.00. This amount is based upon the Schedule of Financial Assistance in **Exhibit "B", Schedule of Financial Assistance**, attached and incorporated in this Agreement. The Schedule of Financial Assistance may be modified by execution of an amendment of the Agreement by the Parties.
  - b. The Department agrees to participate in the Project cost up to the maximum amount of \$1,000,000.00 and, additionally the Department's participation in the Project shall not exceed N/A% of the total cost of the Project, and as more fully described in **Exhibit "B"**. The Department's participation may be increased or reduced upon a determination of the actual bid amounts of the Project by the execution of an amendment. The Recipient agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits incurred in connection with completion of the Project.
  - c. The Department's participation in eligible Project costs is subject to, but not limited to:
    - i. Legislative approval of the Department's appropriation request in the work program year that the Project is scheduled to be committed;

- ii. Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement; and
- iii. Department approval of the Project scope and budget at the time appropriation authority becomes available.

#### **7. Compensation and Payment:**

- a. The Department shall reimburse the Recipient for costs incurred to perform services described in the Project Description and Responsibilities in **Exhibit "A"**, and as set forth in the Schedule of Financial Assistance in **Exhibit "B"**.
- b. The Recipient shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A"**, Project Description and Responsibilities. Any changes to the deliverables shall require an amendment executed by both parties.
- c. Invoices shall be submitted no more often than monthly and no less than quarterly by the Recipient in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable and verifiable deliverables as established in **Exhibit "A"**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursements. Requests for reimbursement by the Recipient shall include an invoice, progress report and supporting documentation for the period of services being billed that are acceptable to the Department. The Recipient shall use the format for the invoice and progress report that is approved by the Department.
- d. If Recipient is considered a rural community or rural area of opportunity, as these terms are defined by Section 288.0656(2), Florida Statutes, Recipient may submit payment requests for eligible performance completed/costs incurred under this Agreement pursuant to **Exhibit "H", Alternative Advance Payment Financial Provisions**.
- e. Supporting documentation must establish that the deliverables were received and accepted in writing by the Recipient and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A"** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F", Contract Payment Requirements**.
- f. Travel expenses are not compensable under this Agreement.
- g. Payment shall only be made after receipt and approval of deliverables and costs incurred unless the payment is made under **Exhibit "H"** or advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under Section 334.044(29), Florida Statutes.

If the Department determines that the performance of the Recipient is unsatisfactory, the Department shall notify the Recipient of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Recipient shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Recipient will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Recipient will not be reimbursed or paid under **Exhibit "H"**, to the extent of the non-performance. The Recipient will not be reimbursed or paid until the Recipient resolves the deficiency. If the deficiency is subsequently resolved, the Recipient may bill the Department for any unpaid performance completed by the Recipient during the next billing period or as provided by **Exhibit "H"**, Alternative Advance Payment Financial Provisions. If the Recipient is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

Recipients receiving financial assistance from the Department should be aware of the following time frames. Inspection and approval of deliverables and costs incurred shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables and costs incurred are received, inspected, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Recipient. Interest penalties of less than one (1) dollar will not be enforced unless the Recipient requests payment. Invoices that have to be returned to a Recipient because of Recipient preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Recipient who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

- h.** The Recipient shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Recipient's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the contractor and subcontractors considered necessary by the Department for a proper audit of costs.
- i. Progress Reports.** Upon request, the Recipient agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.
- j.** If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Recipient owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- k.** The Recipient must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- l.** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's financial assistance for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Recipient. See **Exhibit "B"** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Recipient, in writing, when funds are available.
- m.** In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of

contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."

- n. Any Project funds made available by the Department pursuant to this Agreement which are determined by the Department to have been expended by the Recipient in violation of this Agreement or any other applicable law or regulation, shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Recipient files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.
- o. In determining the amount of the payment, the Department will exclude all Project costs incurred by the Recipient prior to the execution of this Agreement, costs incurred prior to issuance of a Notice to Proceed, costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved Schedule of Financial Assistance in **Exhibit "B"** for the Project, costs agreed to be borne by the Recipient or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

#### 8. General Requirements:

The Recipient shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

- a. The Recipient must obtain written approval from the Department prior to performing itself (through the efforts of its own employees) any aspect of the Project that will be funded under this Agreement.
  - If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce**. In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).
- b. The Recipient shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, including if no right-of-way is required.
- c. The Recipient shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.
- d. The Recipient shall have the sole responsibility for resolving claims and requests for additional work for the Project by the Recipient's contractors and consultants. No funds will be provided for payment of claims or additional work on the Project under this Agreement without the prior written approval of the claim or request for additional work by Department.

#### 9. Contracts of the Recipient

- a. The Department has the right to review and approve any and all third party contracts with respect to the Project before the Recipient executes any contract or obligates itself in any manner requiring the disbursement of Department funds under this Agreement, including consultant or construction contracts or amendments thereto. If the Department exercises this right and the Recipient fails to obtain such approval, the Department may deny payment to the Recipient. The Department may review the qualifications of any consultant or contractor and to approve or disapprove the employment of such consultant or contractor.
- b. It is understood and agreed by the parties hereto that participation by the Department in a project that involves the purchase of commodities or contractual services or the purchasing of capital equipment or the

equipping of facilities, where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Chapter 287.017 Florida Statutes, is contingent on the Recipient complying in full with the provisions of Chapter 287.057 Florida Statutes. The Recipient shall certify to the Department that the purchase of commodities or contractual services has been accomplished in compliance with Chapter 287.057 Florida Statutes. It shall be the sole responsibility of the Recipient to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the current budget contained in **Exhibit "B"**, or that are not consistent with the Project description and scope of services contained in **Exhibit "A"** must be approved by the Department prior to Recipient execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department.

- c. Participation by the Department in a project that involves a consultant contract for engineering, architecture or surveying services, is contingent on the Recipient's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Recipient shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.
- d. If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and the cost of the Project is to be paid from state-appropriated funds, then the Recipient must comply with the requirements of Section 255.0991, Florida Statutes.

**10. Design and Construction Standards and Required Approvals:** In the event the Project includes construction the following provisions are incorporated into this Agreement:

- a. The Recipient is responsible for obtaining all permits necessary for the Project.
- b. In the event the Project involves construction on the Department's right-of-way, the Recipient shall provide the Department with written notification of either its intent to:
  - i. Award the construction of the Project to a Department prequalified contractor which is the lowest and best bidder in accordance with applicable state and federal statutes, rules, and regulations. The Recipient shall then submit a copy of the bid tally sheet(s) and awarded bid contract, or
  - ii. Construct the Project utilizing existing Recipient employees, if the Recipient can complete said Project within the time frame set forth in this Agreement. The Recipient's use of this option is subject to approval by the Department.
- c. The Recipient shall hire a qualified contractor using the Recipient's normal bid procedures to perform the construction work for the Project. For projects that are not located on the Department's right-of-way, the Recipient is not required to hire a contractor prequalified by the Department unless the Department notifies the Recipient prior to letting that they are required to hire a contractor prequalified by the Department.
- d. The Recipient is responsible for provision of Construction Engineering Inspection (CEI) services. The Department reserves the right to require the Recipient to hire a Department pre-qualified consultant firm that includes one individual that has completed the Advanced Maintenance of Traffic Level Training. Notwithstanding any provision of law to the contrary, design services and CEI services may not be performed by the same entity. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by Department. The Department shall have the right to approve the CEI firm. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. Subject to the approval of the Department, the Recipient may choose to satisfy the requirements set forth in this paragraph by either hiring a Department prequalified consultant firm or utilizing Recipient staff that meet the requirements of this paragraph, or a combination thereof.

- e. The Recipient is responsible for the preparation of all design plans for the Project. The Department reserves the right to require the Recipient to hire a Department pre-qualified consultant for the design phase of the Project using the Recipient's normal procurement procedures to perform the design services for the Project. Notwithstanding any provision of law to the contrary, design services and CEI services may not be performed by the same entity. All design work on the Project shall be performed in accordance with the requirements of all applicable laws and governmental rules and regulations and federal and state accepted design standards for the type of construction contemplated by the Project, including, as applicable, but not limited to, the applicable provisions of the Manual of Uniform Traffic Control Devices (MUTCD) and the AASHTO Policy on Geometric Design of Streets and Highways. If any portion of the Project will be located on, under, or over any Department-owned right-of-way, the Department shall review the Project's design plans for compliance with all applicable standards of the Department, as provided in **Exhibit "O", Terms and Conditions of Construction**, which is attached to and incorporated into this Agreement.
- f. The Recipient shall adhere to the Department's Conflict of Interest Procedure (FDOT Topic No. 375-030-006).
- g. The Recipient will provide copies of the final design plans and specifications and final bid documents to the Department's Construction Project Manager prior to commencing construction of the Project. The Department will specify the number of copies required and the required format.
- h. The Recipient shall require the Recipient's contractor to post a payment and performance bond in accordance with applicable law.
- i. The Recipient shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that it will meet all applicable Recipient and Department standards.
- j. Upon completion of the work authorized by this Agreement, the Recipient shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineers Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached hereto and incorporated herein as **Exhibit "C", Engineers Certification of Completion**. The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.
- k. The Recipient shall provide the Department with as-built plans of any portions of the Project funded through the Agreement prior to final inspection.

**11. Maintenance Obligations:** In the event the Project includes construction then the following provisions are incorporated into this Agreement:

- a. The Recipient agrees to maintain any portion of the Project not located on the State Highway System constructed under this Agreement for its useful life. If the Recipient constructs any improvement on Department right-of-way, the Recipient

shall

shall not

maintain the improvements located on the Department right-of-way made for their useful life. If the Recipient is required to maintain Project improvements located on the Department right-of-way beyond final acceptance, then Recipient shall, prior to any disbursement of the State funding provided under this Agreement, also execute a Maintenance Memorandum of Agreement in a form that is acceptable to the Department. The Recipient has agreed to the foregoing by resolution, and such resolution is attached and incorporated into this Agreement as **Exhibit "D"**. This provision will survive termination of this Agreement.

**12. State Single Audit:** The administration of resources awarded through the Department to the Recipient by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit

the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any state agency inspector general, the Auditor General, or any other state official. The Recipient shall comply with all audit and audit reporting requirements as specified below.

- a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Recipient's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures including, reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS) or the Auditor General.
- b. The Recipient, a nonstate entity as defined by Section 215.97(2)(n), Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement is subject to the following requirements:
  - i. In the event the Recipient meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Recipient must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "J", State Financial Assistance (Florida Single Audit Act)** to this Agreement indicates state financial assistance awarded through the Department by this Agreement needed by the Recipient to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
  - ii. In connection with the audit requirements, the Recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
  - iii. In the event the Recipient does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Recipient is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Recipient must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the Recipient's audit period for each applicable audit year. In the event the Recipient does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Recipient's resources (i.e., the cost of such an audit must be paid from the Recipient's resources obtained from other than State entities).
  - iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:



Florida Department of Transportation  
Office of Comptroller, MS 24  
605 Suwannee Street  
Tallahassee, FL 32399-0405  
Email: [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us)

And

State of Florida Auditor General  
Local Government Audits/342  
111 West Madison Street, Room 401  
Tallahassee, FL 32399-1450  
Email: [flaudgen\\_localgovt@aud.state.fl.us](mailto:flaudgen_localgovt@aud.state.fl.us)

- v. Any copies of financial reporting packages, reports or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
  - vi. The Recipient, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Recipient in correspondence accompanying the reporting package.
  - vii. Upon receipt, and within six months, the Department will review the Recipient's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Recipient fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.
  - viii. As a condition of receiving state financial assistance, the Recipient shall permit the Department, or its designee, DFS or the Auditor General access to the Recipient's records including financial statements, the independent auditor's working papers and project records as necessary. Records related to unresolved audit findings, appeals or litigation shall be retained until the action is complete or the dispute is resolved.
- c. The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department, or its designee, DFS or the Auditor General access to such records upon request. The Recipient shall ensure that the audit working papers are made available to the Department, or its designee, DFS or the Auditor General upon request for a period of five years from the date the audit report is issued unless extended in writing by the Department.

### **13. Restrictions, Prohibitions, Controls and Labor Provisions:**

- a. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- b. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public

entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity.

- c. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Recipient.
- d. No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.
- e. The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.
- f. The Recipient shall:
  - i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Recipient during the term of the contract; and
  - ii. Expressly require any contractor and subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the contractor and subcontractor during the contract term.
- g. The Recipient shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.

#### **14. Indemnification and Insurance:**

- a. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third-party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Recipient guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Recipient or any subcontractor, in connection with this Agreement.
- b. To the extent provided by law, Recipient shall indemnify, defend, and hold harmless the Department against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of Recipient, or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by Recipient hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes. The foregoing indemnification shall not constitute a waiver of the Department's or the Recipient's sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by Recipient to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or for the acts of third parties. Nothing herein shall be construed as consent by Recipient to be sued by third parties in any manner arising out of this Agreement. This indemnification shall survive the termination of this Agreement.
- c. Recipient agrees to include the following indemnification in all contracts with contractors, subcontractors, consultants, or subconsultants (each referred to as "Entity" for the purposes of the below indemnification) who perform work in connection with this Agreement:

"To the extent provided by law, [ENTITY] shall indemnify, defend, and hold harmless the [RECIPIENT] and the State of Florida, Department of Transportation, including the Department's officers, agents, and employees, against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of [ENTITY], or any of its officers, agents, or

employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by [ENTITY].

The foregoing indemnification shall not constitute a waiver of the Department's or [RECIPIENT]'s sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify [RECIPIENT] for the negligent acts or omissions of [RECIPIENT], its officers, agents, or employees, or third parties. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or third parties. This indemnification shall survive the termination of this Agreement."

- d. The Recipient shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultants have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships or partners are covered by insurance required under Florida's Workers' Compensation law.
- e. If the Recipient elects to self-perform the Project, and such self-performance is approved by the Department in accordance with the terms of this Agreement, the Recipient may self-insure and proof of self-insurance shall be provided to the Department. If the Recipient elects to hire a contractor or consultant to perform the Project, then the Recipient shall, or cause its contractor or consultant to carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. Recipient shall, or cause its contractor to cause the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Recipient is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.
- f. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, the Recipient shall, or cause its contractor to, in addition to the insurance coverage required above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than \$6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to the paragraph above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein

shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.

- g. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

#### 15. Miscellaneous:

- a. In no event shall any payment to the Recipient constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Recipient and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- b. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- c. The Recipient and the Department agree that the Recipient, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.
- d. By execution of the Agreement, the Recipient represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- e. Nothing in the Agreement shall require the Recipient to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Recipient will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Recipient to the end that the Recipient may proceed as soon as possible with the Project.
- f. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- g. The Department reserves the right to unilaterally terminate this Agreement for failure by the Recipient to comply with the provisions of Chapter 119, Florida Statutes.
- h. The Recipient agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes
- i. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Recipient agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.
- j. This Agreement does not involve the purchase of Tangible Personal Property, as defined in Chapter 273, Florida Statutes.

#### 16. Exhibits.

- a. **Exhibits A, B, D, F, H, and J** are attached to and incorporated into this Agreement.
- b.  The Project will involve construction, therefore, **Exhibit "C"**, Engineer's Certification of Compliance is attached and incorporated into this Agreement.

- c.  Alternative Advance Payment Financial Provisions are used on this Project. If an Alternative Pay Method is used on this Project, then **Exhibit “H”**, Alternative Advance Payment Financial Provisions, is attached and incorporated into this Agreement.
- d.  This Project utilizes Advance Project Reimbursement. If this Project utilizes Advance Project Reimbursement, then **Exhibit “K”**, Advance Project Reimbursement is attached and incorporated into this Agreement.
- e.  A portion or all of the Project will utilize the Department’s right-of-way and, therefore, **Exhibit O, Terms and Conditions of Construction in Department Right-of-Way**, is attached and incorporated into this Agreement.
- f.  The following Exhibit(s), in addition to those listed in 16.a. through 16.f., are attached and incorporated into this Agreement: \_\_\_\_\_

**g. Exhibit and Attachment List**

- Exhibit A: Project Description and Responsibilities
- Exhibit B: Schedule of Financial Assistance
- \*Exhibit C: Engineer’s Certification of Compliance
- Exhibit D: Recipient Resolution
- Exhibit F: Contract Payment Requirements
- Exhibit H: Alternative Advance Payment Financial Provisions
- Exhibit J: State Financial Assistance (Florida Single Audit Act)
- \*Exhibit K: Advance Project Reimbursement
- \*Exhibit O: Terms and Conditions of Construction in Department Right-of-Way

\*Additional Exhibit(s):

\*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

*The remainder of this page intentionally left blank.*

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**STATE-FUNDED GRANT AGREEMENT**

525-010-60  
PROGRAM MANAGEMENT  
05/23

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

RECIPIENT

STATE OF FLORIDA,  
DEPARTMENT OF TRANSPORTATION

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

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

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

Name: John P. Krane, P.E.

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

Title: Director of Transportation Development, District Four

Legal Review:

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

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

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

**EXHIBIT A****PROJECT DESCRIPTION AND RESPONSIBILITIES**FPN: 453179-1-54-01

This exhibit forms an integral part of the Agreement between the State of Florida, Department of Transportation and  
Town of Sewall's Point (the Recipient)

**PROJECT LOCATION:**

- The project is on the National Highway System.
- The project is on the State Highway System.

**PROJECT LENGTH AND MILE POST LIMITS:** 0.430 Miles; BMP 0.180 to EMP 0.610

**PROJECT DESCRIPTION:** The reconstruction of a section of the South Seawall's Point Road which will be elevated. The project scope includes increasing the size of the conveyance system to properly transmit the stormwater controlled by weirs, baffle boxes and backflow devices to hold back sea level rise and King Tides. Additionally, in areas of new roadway widening, the project shall include the installation of new pipe, curb and gutter, and driveway replacement and repair.

The Recipient shall provide completed signed and sealed plans, including but not necessarily limited to roadway and signing and marking plans.

Project plans shall be produced in accordance with the design criteria and standards for Class D projects. The Recipient is required to use Florida Greenbook, or an approved minimum design standard that is in conformity with the minimum criteria that is outlined in Florida Greenbook. The recipient is required to ensure that specifications are approved in advance. The recipient is responsible for the materials testing progress, along with ensuring that all consultants and contractors for said project are qualified.

The Recipient will obtain all regulatory permits necessary to construct the Project.

The Recipient shall be responsible for coordinating, preparing, and holding all Project public involvement meetings as required per the Department's guidelines and procedures.

The Recipient must submit the following documents for the Department review with the Final Bid submittal:

- a) Copies of all permits from applicable agencies.
- b) Copies of signed acceptances from the local maintaining agency/Town roadway signalization, lighting and/ or landscaping.
- c) Level II Contamination Assessments (as needed)
- d) Right of Way Documentation
- e) Signed and sealed plans and specification Packages, respectively.

**SPECIAL CONSIDERATIONS BY RECIPIENT:**

The Recipient is required to provide a copy of the design plans for the Department's review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

The Recipient is responsible for ensuring all right of way activities are completed in conformity with all state, federal, local, and other applicable laws and regulations.

The Recipient will not be reimbursed for cost that are incurred before the execution of this agreement.

The Recipient shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

- a) Construction to be completed by December 31, 2026.

If this schedule cannot be met, the Recipient will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of funding.

**SPECIAL CONSIDERATIONS BY DEPARTMENT:**

Issuance of FDOT Notice to Proceed for Construction activities such as project advertisement and contract award is subject to the submittal and approval of the agency production package. To be included: the 100% final plans, specifications, final bid document(s), and estimates with all work shown within the right of way and applicable permits.



STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**STATE-FUNDED GRANT AGREEMENT**

**EXHIBIT B**  
**SCHEDULE OF FINANCIAL ASSISTANCE**

| PHASE OF WORK by Fiscal Year:  |  | MAXIMUM PARTICIPATION                              |                      |                     | Indicate source of Local funds   |
|--|--|--|----------------------|---------------------|--|
|  |  | (1)<br>TOTAL PROJECT FUNDS                         | (2)<br>LOCAL FUNDS   | (3)<br>STATE FUNDS  |  |
| <b>RECIPIENT NAME &amp; BILLING ADDRESS:</b><br>Town of Sewall's Point<br>1 S. Sewall's Point Road<br>Sewall's Point, FL 34996 |  | <b>FINANCIAL PROJECT NUMBER:</b><br>453179-1-54-01 |                      |                     |  |
| <b>Design- Phase 34</b>  | Maximum Department Participation<br>(Insert Program Name)              | \$   | \$                   | \$                  | <input type="checkbox"/> In-Kind<br><input type="checkbox"/> Cash            |
| FY:  | Maximum Department Participation<br>(Insert Program Name)              | \$   | \$                   | \$                  | <input type="checkbox"/> In-Kind<br><input type="checkbox"/> Cash            |
| Total Design Cost  |  | \$ 0.00<br>%                                       | \$ 0.00<br>%         | \$ 0.00<br>%        |  |
| <b>Right-of-Way- Phase 44</b>  |  |  |                      |                     |  |
| FY:  | Maximum Department Participation<br>(Insert Program Name)              | \$   | \$                   | \$                  | <input type="checkbox"/> In-Kind<br><input type="checkbox"/> Cash            |
| FY:  | Maximum Department Participation<br>(Insert Program Name)              | \$   | \$                   | \$                  | <input type="checkbox"/> In-Kind<br><input type="checkbox"/> Cash            |
| Total Right-of-Way Cost  |  | \$ 0.00<br>%                                       | \$ 0.00<br>%         | \$ 0.00<br>%        |  |
| <b>Construction- Phase 54</b>  |  |  |                      |                     |  |
| FY: 2024   | Maximum Department Participation<br>(Local Transportation Project GAA) | \$12,500,000.00                                    | \$11,500,000.00      | \$1,000,000.00      | <input type="checkbox"/> In-Kind<br><input checked="" type="checkbox"/> Cash |
| FY:  | Maximum Department Participation<br>(Insert Program Name)              | \$   | \$                   | \$                  | <input type="checkbox"/> In-Kind<br><input type="checkbox"/> Cash            |
| Total Construction Cost  |  | \$12,500,000.00<br>%                               | \$11,500,000.00<br>% | \$1,000,000.00<br>% |  |
| <b>Construction Engineering and Inspection - Phase 64</b>  |  |  |                      |                     |  |
| FY:  | Maximum Department Participation<br>(Insert Program Name)              | \$   | \$                   | \$                  | <input type="checkbox"/> In-Kind<br><input type="checkbox"/> Cash            |
| FY:  | Maximum Department Participation<br>(Insert Program Name)              | \$   | \$                   | \$                  | <input type="checkbox"/> In-Kind<br><input type="checkbox"/> Cash            |
| Total Construction Engineering and Inspection Cost   |  | \$ 0.00<br>%                                       | \$ 0.00<br>%         | \$ 0.00<br>%        |  |
| <b>(Phase : 54 Design)</b>   |  |  |                      |                     |  |
| FY:  | Maximum Department Participation<br>(Insert Program Name)              | \$   | \$                   | \$                  | <input type="checkbox"/> In-Kind<br><input type="checkbox"/> Cash            |
| FY:  | Maximum Department Participation<br>(Insert Program Name)              | \$   | \$                   | \$                  | <input type="checkbox"/> In-Kind<br><input type="checkbox"/> Cash            |
| Total Cost   |  | \$ 0.00<br>%                                       | \$ 0.00<br>%         | \$ 0.00<br>%        |  |
| <b>TOTAL COST OF THE PROJECT</b>   |  | \$12,500,000.00                                    | \$11,500,000.00      | \$1,000,000.00      |  |

**COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:**

I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, F.S. Documentation is on file evidencing the methodology used and the conclusions reached.

Jason Nwamah  
 District Grant Manager Name

Signature \_\_\_\_\_ Date \_\_\_\_\_

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**STATE-FUNDED GRANT AGREEMENT**

**EXHIBIT C**

**ENGINEER'S CERTIFICATION OF COMPLIANCE**

**Engineer's Certification of Compliance.** The Recipient shall complete and submit the following Notice of Completion and, if applicable, Engineer's Certification of Compliance to the Department upon completion of the construction phase of the Project.

**NOTICE OF COMPLETION**

STATE-FUNDED GRANT AGREEMENT  
Between  
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
and Town of Sewall's Point

PROJECT DESCRIPTION: South Sewall's Point Road Reconstruction.

FPID#: 453179-1-54-01

In accordance with the Terms and Conditions of the State-Funded Grant Agreement, the undersigned provides notification that the work authorized by this Agreement is complete as of \_\_\_\_\_, 20\_\_.

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

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

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

**ENGINEER'S CERTIFICATION OF COMPLIANCE**

In accordance with the Terms and Conditions of the State-Funded Grant Agreement, the undersigned certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification the Recipient shall furnish the Department a set of "as-built" plans certified by the Engineer of Record/CEI.

By: \_\_\_\_\_, \_\_\_\_\_ P.E.

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

Date: \_\_\_\_\_

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**STATE-FUNDED GRANT AGREEMENT**

**EXHIBIT D**

**RECIPIENT RESOLUTION**

The Recipient's Resolution authorizing entry into this Agreement is attached and incorporated into this Agreement.

**EXHIBIT F****CONTRACT PAYMENT REQUIREMENTS**  
**Florida Department of Financial Services, Reference Guide for State Expenditures**  
***Cost Reimbursement Contracts***

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

**Salaries:** Timesheets that support the hours worked on the project or activity must be kept. A payroll register, or similar documentation should be maintained. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

**Fringe benefits:** Fringe benefits should be supported by invoices showing the amount paid on behalf of the employee, e.g., insurance premiums paid. If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown. Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

**Travel:** Reimbursement for travel must be in accordance with s. 112.061, F.S., which includes submission of the claim on the approved state travel voucher along with supporting receipts and invoices.

**Other direct costs:** Reimbursement will be made based on paid invoices/receipts and proof of payment processing (cancelled/processed checks and bank statements). If nonexpendable property is purchased using state funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with DMS Rule 60A-1.017, F.A.C., regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in s. 273.02, F.S., for subsequent transfer to the State.

**Indirect costs:** If the contract stipulates that indirect costs will be paid based on a specified rate, then the calculation should be shown. Indirect costs must be in the approved agreement budget and the entity must be able to demonstrate that the costs are not duplicated elsewhere as direct costs. All indirect cost rates must be evaluated for reasonableness and for allowability and must be allocated consistently.

**Contracts between state agencies may submit alternative documentation to substantiate the reimbursement request, which may be in the form of FLAIR reports or other detailed reports.**

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address <https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.

**Select Agreement****EXHIBIT H****ALTERNATIVE ADVANCE PAYMENT FINANCIAL PROVISIONS**

If payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under Section 334.044(29), Florida Statutes:

1. The invoiced amount to the Department for contractor(s) and consultant(s) cannot exceed the amount of the invoice received from the Recipient's contractor(s) or consultant(s).
2. All of the Recipient's costs must have been incurred and paid prior to the date of the invoice.
3. All invoices received from the Recipient shall clearly separate the cost of the contractor(s) or consultant(s) from the Recipient's costs billed to the Department.
4. All invoices submitted to the Department must provide complete documentation, including a copy of the contractor's or consultant's invoice(s), to substantiate the cost on the invoice.
5. The Recipient must certify on each invoice that the costs from the contractor(s) or consultant(s) are valid and have been incurred by the contractor(s) or consultant(s).
6. Each monthly invoice subsequent to the first invoice from the Recipient must contain a statement from the Recipient that the previous month's cost incurred by the contractor(s) or consultant(s) has been paid by the Recipient to the contractor(s) or consultant(s).

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**STATE-FUNDED GRANT AGREEMENT**

**EXHIBIT J**

**STATE FINANCIAL ASSISTANCE (FLORIDA SINGLE AUDIT ACT)**

**THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:**

**Awarding Agency:** Florida Department of Transportation

- State Project Title and CSFA Number:**
- County Incentive Grant Program (CIGP), (CSFA 55.008)
  - Small County Outreach Program (SCOP), (CSFA 55.009)
  - Small County Road Assistance Program (SCRAP), (CSFA 55.016)
  - Transportation Regional Incentive Program (TRIP), (CSFA 55.026)
  - FY 2023/2024 General Appropriation Act (GAA) Line number 2042A, CSFA 55.039

**\*Award Amount:** \$1,000,000.00 (ONE MILLION DOLLARS AND ZERO CENTS.)

\*The state award amount may change with supplemental agreements

Specific project information for CSFA Number is provided at: <https://apps.fldfs.com/fsaa/searchCatalog.aspx>

**COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:**

State Project Compliance Requirements for CSFA Number are provided at: <https://apps.fldfs.com/fsaa/searchCompliance.aspx>

The State Projects Compliance Supplement is provided at: <https://apps.fldfs.com/fsaa/compliance.aspx>

JOHN TOMPECK  
Mayor

FRANK FENDER  
Vice Mayor

KAIJA MAYFIELD  
Commissioner

DAVID KURZMAN  
Commissioner

# TOWN OF SEWALL'S POINT



ROBERT DANIELS, ICMA-CM  
Town Manager

APRIL C. STONCIUS, MMC  
Town Clerk

TINA CIECHANOWSKI  
Chief of Police

JACK REISINGER, CBO  
Building Official/PW Director

MARIA PIERCE  
Finance/HR Director

TO: Mayor and Commissioners  
FROM: Robert Daniels, Town Manager  
SUBJECT: Charter Review Committee Final Report  
DATE: Regular Meeting – March 26, 2024

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## EXECUTIVE SUMMARY:

Fulfilling Article III, Section 4, the Town Commission appointed a Charter Review Committee of residents to advise the Commission on any needed Charter amendments. During a regular meeting of the Town Commission on January 9, 2024, the Commission made the following appointments to the Charter Review Committee:

Town Manager – Chairman  
H. B. Barrett  
Frank Tidikis  
Stephanie Nehme  
Dr. Chuck Farrow

The first meeting was held on January 23, 2024, and additional meetings were held on February 5, 8, and 26, 2024.

## DISCUSSION:

The Committee reviewed the Town Charter and discussed many topics but focused on the issues on which there was a consensus. Those recommendations are:

### ARTICLE I – GENERAL PROVISIONS

Section 6 – **Amend last sentence** – No person shall be eligible for election as Commissioner or remain in office who has not been a registered qualified voter in the Town of Sewall's Point for at least one year.



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- **Add Section 7 – Forfeiture of Office** – St. Augustine Language

A commissioner shall forfeit that office if the commissioner:\_\_\_\_\_

- (1) Fails to meet the qualifications for office; or
- (2) Is convicted of a felony during the commissioner's term in office; or
- (3) Is absent from three (3) consecutive regular meetings of the city commission unless such absence is excused by the commission by motion duly passed, setting forth the reason for such excuse and entered in the minutes of the meeting.

A vote of three (3) members of the city commission is required to confirm forfeiture of office.

## ARTICLE II – MUNICIPAL POWERS

- 15th. To license, tax and regulate carriages, wheelchairs, cars, vehicles, motors, omnibuses, wagons and drays, and to fix the rate to be charged for the carriage of persons and property within the Town limits and to the public works and property without the Town limits.

- **Remove tax on wheelchairs and drays**

- 37th. To provide by ordinance for the adoption of a Town plan, the creation of a Town Planning Board and the appointment of the members thereof. The Commission shall, by ordinance, prescribe the duties of the Town Planning Board, enact ordinances for the enforcement of the Board and prescribe penalties for their violation.

- **Remove Town Planning Board**

Discussions with the Town Attorney revealed that these issues identified by the Charter Review Committee could be resolved through a local ordinance instead of a ballot vote.

### **RECOMMENDATION:**

Staff recommends the Town Commission review the recommendations brought forth by the Charter Review Committee.