

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2022	2023	2024	2025	2026
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income(County)					
In-Kind Match(County)					
NET FISCAL IMPACT					
#ADDITIONAL FTE POSITIONS (CUMULATIVE)					

Is Item Included in Current Budget? **Yes** **No**
 Does this item include the use of federal funds? **Yes** **No**


Budget Account No:

Fund Dept Unit

B. Recommended Sources of Funds/Summary of Fiscal Impact:

There is no fiscal impact associated with this agenda item

C. Departmental Fiscal Review:



III. REVIEW COMMENTS:

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

[Signature] 8/26/22
 OFMB ESW 8/25/2022

[Signature] 9/11/22
 Contract Dev. & Control

B. Legal Sufficiency

[Signature] 9/6/2022
 Assistant County Attorney

C. Other Department Review

 Department Director

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.)

MEMORANDUM OF UNDERSTANDING BETWEEN THE LAKE WORTH COMMUNITY REDEVELOPMENT AGENCY AND THE PALM BEACH COUNTY COMMISSION ON ETHICS

This Memorandum of Understanding (MOU) is entered into this _____ day of September, 2022, between the Lake Worth Community Redevelopment Agency, a special district established by the City of Lake Worth as authorized by §163.370(2)(a), Florida Statutes, and Palm Beach County, a political subdivision of the State of Florida, by and through the Palm Beach County Board of County Commissioners (BCC) for the services of the Palm Beach County Commission on Ethics.

I. Purpose

The purpose of this MOU is to clearly identify the roles and responsibilities of the Palm Beach County Commission on Ethics (“Commission on Ethics”) and the Lake Worth Community Redevelopment Agency (“Lake Worth CRA”) as they relate to the implementation of the Palm Beach County Code of Ethics (Code of Ethics) and the Palm Beach County Lobbyist Registration Ordinance (Lobbyist Registration Ordinance). The Code of Ethics and the Lobbyist Registration Ordinance are intended to promote honesty, integrity, and accountability in local government. To support this goal the Lake Worth CRA submits to the jurisdiction of the Commission on Ethics and seeks to hire the Commission on Ethics to conduct investigations, hear complaints, and process advisory opinions. In particular, this MOU is intended to have the Commission on Ethics exercise the authority, functions, and powers granted by the Palm Beach County Commission on Ethics Ordinance as to the Lake Worth CRA’s operations.

II. Background

As a dependent district, the Lake Worth CRA is not under the jurisdiction of the Commission on Ethics by statute or referendum. However, §2-258.1 of the Commission on Ethics Ordinance states as follows:

The commission on ethics may additionally be empowered to review, interpret, render advisory opinions, and enforce similar rules or regulations duly adopted by any commission, bureau, district, or other governmental entity located in the county, pursuant to agreements or memoranda of understanding between the commission on ethics and said entity.

The Lake Worth CRA and the Commission on Ethics have determined that it will serve the public interest to enter into this Memorandum of Understanding in order to accomplish the foregoing goals.

III. Agreement

The Commission on Ethics, subject to approval by the BCC, is authorized to negotiate agreements or memoranda of understanding with special districts and other public officers and entities, allowing the Commission on Ethics to exercise any and all authority, functions, and powers set forth in the Commission on Ethics Ordinance for the benefit of the public entity, in this case the Lake Worth CRA.

The Lake Worth CRA seeks to submit to the jurisdiction of the Commission on Ethics and to hire the Commission on Ethics to conduct investigations, hear complaints, and process advisory opinions in order to promote honesty, integrity, and accountability in government.

The Commission on Ethics and the Lake Worth CRA recognize that given the knowledge, experience, and ability of the staff of the Commission on Ethics in conducting investigations and interpreting the Code of Ethics and the Lobbyist Registration Ordinance, the Commission on Ethics is in the best position to expeditiously and economically fulfill these services for the CRA.

This MOU authorizes the Commission on Ethics to exercise the authority, functions, and powers granted by the Commission on Ethics Ordinance over the operations of the Lake Worth CRA.

a. Effective Date and Term

This MOU shall be in effect on October 5, 2021 and will remain in effect for five (5) years following the date of execution by the BCC. Either party may terminate this agreement with ninety days (90) written notice to the other party. Upon notice of termination by the Lake Worth CRA, any ongoing Lake Worth CRA investigations being conducted by the Commission on Ethics pursuant to this MOU shall continue until completed. The Lake Worth CRA agrees to pay all fees pursuant to section IV of this MOU for such ongoing investigations through the conclusion of all administrative and/or judicial proceedings. This provision shall survive termination of this MOU.

The parties expressly agree that time is of the essence in this Agreement and the failure by a party to complete performance within the time specified, shall, at the option of the other party without liability, in addition to any other rights or remedies, relieve the other party of any obligation to accept such performance.

b. Responsibilities and Duties

The Commission on Ethics shall exercise any and all authority, functions, and powers provided for in the Commission on Ethics Ordinance, Code of Ethics Ordinance and Lobbyist Registration Ordinance in regard to the Lake Worth CRA, including:

- A) The Commission on Ethics shall have the authority to (1) review, interpret, render advisory opinions, and enforce the Code of Ethics and Lobbyist Registration Ordinance, (2) investigate legally sufficient complaints within the jurisdiction of the Commission on Ethics and conduct public hearings as provided by the Commission on Ethics Ordinance; and 3) develop and deliver training programs and ensure that effective and meaningful training experiences are delivered in a timely and efficient manner.
- B) The Commission on Ethics shall have the power to conduct investigations and receive full and unrestricted access to the records of the board of directors and staff of the Lake Worth CRA.
- C) In the case of a refusal to obey a request for documents or for an interview, the Commission on Ethics shall have the power to subpoena witnesses, administer oaths, and require the production of records in a manner consistent with §162.08 Florida Statutes. The Commission on Ethics shall not interfere with any ongoing criminal investigation or prosecution of the State Attorney or the U.S. Attorney for the Southern District of Florida.
- D) Where the Commission on Ethics suspects a possible violation of any state, federal, or local law, or rule, regulation, or policy, the Executive Director or designee shall notify the appropriate civil, criminal, or administrative agencies. In the case of a possible violation of an

internal rule, regulation, or policy governing a Lake Worth CRA staff member or director, the Executive Director or designee shall also notify the Chairman of the CRA.

- E) The Commission on Ethics shall have the power to require directors and staff to participate in ethics training on a regular basis
- F) The Commission on Ethics "hotline" will receive complaints related to Lake Worth CRA operations. The Lake Worth CRA will support and assist the Commission on Ethics in publicizing the "hotline" and encouraging the reporting of Code of Ethics or Lobbyist Registration violations by local citizens, officials, and employees.
- G) The Commission on Ethics may exercise any of the powers contained in the Commission on Ethics Ordinance upon its own Initiative
- H) All records held by the Commission on Ethics and its staff related to an active preliminary investigation are confidential and exempt from disclosure in a manner consistent with the provisions in §112.3188(2) and §112.324, Florida Statutes.
- I) The Commission on Ethics and its staff shall be considered "an appropriate local official" for purpose of whistleblower protection provided by §112.3188(1), Florida Statutes.
- J) The Commission on Ethics may recommend remedial actions and may provide prevention and training services to Lake Worth CRA directors and staff. The Commission on Ethics may follow up to determine whether recommended remedial actions have been taken.
- K) The Commission on Ethics shall monitor the costs of investigations undertaken.
- L) The Commission on Ethics will provide an invoice for services rendered under this MOU. The CRA agrees to provide payment to Palm Beach County within thirty (30) days of receiving an invoice.
- M) As part of its obligation under this MOU, Lake Worth CRA staff will in all instances cooperate fully with Commission on Ethics staff regarding issues of staff and vendor training and in timely providing records requested by staff investigators.
- N) In any case in which the Commission on Ethics determines that the complaining party filed a frivolous or groundless complaint as defined in §57.105, Florida Statutes, or a complaint with malicious intent and with the knowledge that the complaint contains one or more material false allegations, or with reckless disregard for whether the complaint contains material false allegations, the Commission on Ethics shall order the complaining party to pay any cost and attorneys' fees incurred by the Commission on Ethics, the Lake Worth CRA, and or the alleged violator.
- O) The Commission on Ethics will maintain a website and all required databases including gift reports, voting conflict disclosures, outside employment waivers, final orders, and advisory opinions.

IV. Provision for fees

As authorized by §2-258.1 of the Commission on Ethics Ordinance, this MOU shall include a provision for fees to be paid to the Commission on Ethics from the Lake Worth CRA in exchange for such benefits at a rate established by the Commission on Ethics. The fee schedule adopted pursuant to this MOU is as indicated. These rates are fixed for the term of the contract and subject to change thereafter. There will be no cost to the Lake Worth CRA for training. Appeals will be billed on an hourly basis only at a rate of forty-seven dollars (\$47) per hour. Regarding option B (Event option) for the avoidance of doubt, the cost of a complaint that proceeds through multiple phases will be the sum of the phases completed. For example, a complaint through final hearing or settlement would cost two thousand one hundred sixty-seven dollars (\$2167).

Option B: Event [✓]

Advisory opinion	\$ 215
Complaint (inquiry through legal sufficiency finding)	\$ 320
Complaint (investigation through probable cause hearing)	\$ 1055
Complaint (probable cause hearing to settlement or final hearing)	\$ 792

V. Delegation of Duty

Nothing contained herein shall be deemed to delegate the constitutional or statutory duties of state, county, or municipal officers.

VI. Liability

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

VII. Controlling Law

This MOU shall be interpreted and construed according to, and governed by, the laws of the State of Florida. Any and all legal action necessary to enforce the MOU will be held in Palm Beach County.

VIII. Remedies

No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise of any right, power, or remedy hereunder shall preclude any other of further exercise thereof.

No provision of this MOU is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this MOU.

IX. Severability

In the event any term or provision of this MOU is determined by a court of competent jurisdiction to be illegal or otherwise invalid, such provision shall be construed or deleted and shall not affect the remaining portions of this MOU and the remainder shall be construed to be in full force and effect.

X. Amendment

This MOU shall not be modified or amended except by written agreement duly executed by the parties hereto.

XI. Notice

Each party shall furnish to the other such notice, as may be required from time to time, pursuant to this MOU, in writing, posted in the U.S. mail or by hand delivery, or by overnight delivery service and addressed as follows:

To Commission on Ethics: 300 N. Dixie Highway, Suite 450
West Palm Beach, FL 33401

To Lake Worth CRA: 1121 Lucerne Avenue
Lake Worth Beach, FL 33460

and

David N. Tolces, Esquire
Weiss Serota Helfman Cole & Bierman, PL
2255 Glades Road, Suite 200-E
Boca Raton, FL 33431

XII. Effective Date

This MOU and the rights and obligations conferred herein shall become effective upon execution by the BCC.

XIII. Point of Contact

For purposes of fulfilling the duties and responsibilities of this MOU, the points of contact will be as follows:

Commission on Ethics:
COE General Counsel
300 N. Dixie Highway, Suite 450
West Palm Beach, FL 33401
Ethics@palmbeachcountyethics.com
(561) 355-1915

Lake Worth CRA:
Joan Oliva, Executive Director
1121 Lucerne Avenue
Lake Worth Beach, FL 33460
joliva@lakeworth.org
(561) 493-2550

[remainder of this page left intentionally blank]

XIV. Entirety of Agreement

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

ATTEST:
Joseph Abruzzo, Clerk & Comptroller

PALM BEACH COUNTY, FLORIDA, THROUGH
ITS BOARD OF COUNTY COMMISSIONERS

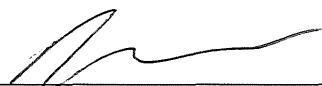
By: _____
Clerk

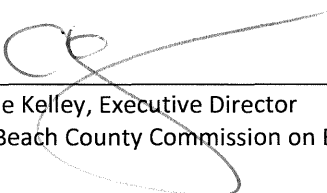
By: _____
Robert Weinroth, Mayor

[SEAL]

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND CONDITIONS

By:  _____
David Behar, Assistant County Attorney

By:  _____
Christie Kelley, Executive Director
Palm Beach County Commission on Ethics

ATTEST:
APPROVED AS TO TERMS AND CONDITIONS

LAKE WORTH COMMUNITY REDEVELOPMENT
AGENCY

By:  _____
Joan Oliva, Executive Director
Lake Worth Community Redevelopment Agency

By:  _____
Brendan Lynch, Chair