

## **RESOLUTION NO. 101-2021**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RELATING TO THE PROVISION OF THE UNDERGROUND UTILITY IMPROVEMENTS WITHIN THE TOWNWIDE UNDERGROUND UTILITY ASSESSMENT AREA; APPROVING THE UPDATED ASSESSMENT ROLL; PROVIDING FOR THE CONTINUED COLLECTION OF THE ASSESSMENTS TO FUND THE UNDERGROUND UTILITY IMPROVEMENTS WITHIN THE TOWNWIDE UNDERGROUND UTILITY ASSESSMENT AREA; PROVIDING FOR COLLECTION OF THE ASSESSMENTS PURSUANT TO THE UNIFORM ASSESSMENT COLLECTION ACT; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

**WHEREAS**, the Town Council adopted Chapter 90, Article II, of the Town of Palm Beach Code of Ordinances (the "Code") to provide for the imposition of special assessments to fund the construction of Capital Projects and the provision of Related Services to benefit property within Assessment Areas; and

**WHEREAS**, on June 13, 2017, the Town Council adopted Resolution No. 090-2017, the Initial Assessment Resolution for Assessments in the Townwide Underground Utility Assessment Area (the "Initial Assessment Resolution"), describing the method of assessing the cost of the Underground Utility Improvements against the real property that will be specially benefited thereby, and directing the preparation of the preliminary Improvement Assessment Roll and provision of the notices required by the Code; and

**WHEREAS**, on July 12, 2017, the Town Council also adopted Resolution No. 100-2017, the Final Assessment Resolution for Assessments in the Townwide

Underground Utility Assessment Area (the "Final Assessment Resolution"), confirming the Initial Assessment Resolution with such amendments deemed necessary by the Town Council, imposing the Improvement Assessments, providing for collection of the Improvement Assessments in thirty (30) annual installments, and approving the Improvement Assessment Roll; and

**WHEREAS**, pursuant to the provisions of the Code, the Town Council is required to adopt an Annual Rate Resolution for each Fiscal Year to approve the assessment roll for such Fiscal Year; and

**WHEREAS**, as required by the Code, notice of a public hearing has been published and mailed, if required, to each property owner proposed to be assessed notifying such property owner of the opportunity to be heard concerning the assessments; the proof of publication and an affidavit of mailing are attached hereto as Appendices A and B respectively; and

**WHEREAS**, a public hearing has been duly held on September 13, 2021, and comments and objections of all interested persons have been heard and considered as required by the terms of the Code.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, FLORIDA, AS FOLLOWS:**

**SECTION 1. AUTHORITY.** This Annual Rate Resolution is adopted pursuant to the Code; the Initial Assessment Resolution; the Final Assessment Resolution; Chapter 166, Florida Statutes; Article VIII, Section 2, Florida

Constitution; the Town of Palm Beach Charter; and other applicable provisions of law.

## **SECTION 2. DEFINITIONS.**

(A) This Resolution is the Annual Rate Resolution as defined in the Code.

(B) All capitalized terms in this Annual Rate Resolution shall have the meanings defined in the Code, Initial Assessment Resolution, as amended, and the Final Assessment Resolution, unless the context clearly indicates an alternative meaning.

## **SECTION 3. APPROVAL OF UPDATED ASSESSMENT ROLL.**

(A) The Improvement Assessment Roll, a copy of which was available at the above mentioned public hearing through electronic media and incorporated herein by reference, is hereby approved for the Fiscal Year commencing on October 1, 2021.

(B) Additionally, the Improvement Assessment Roll, as approved, includes those Tax Parcels of Assessed Property within the Townwide Underground Utility Assessment Area that cannot be set forth in that Improvement Assessment Roll due to the provisions of Section 119.071(4), Florida Statutes, concerning exempt “home addresses.”

## **SECTION 4. REIMPOSITION OF ASSESSMENTS TO FUND THE UNDERGROUND UTILITY IMPROVEMENTS.**

(A) The Tax Parcels included in the updated Improvement Assessment Roll are hereby found to be specially benefited by the provision of the Underground Utility Improvements in the amount of the annual Improvement Assessment set forth in the updated Improvement Assessment Roll.

(B) The methodology set forth in Sections 3.02 and 4.04 of the Initial Assessment Resolution, as amended and approved in the Final Assessment Resolution, for assigning Assessment Units and computing the Improvement Assessments is hereby confirmed and found to be a fair and reasonable method of apportioning the Project Cost among the benefited properties.

(C) For the Fiscal Year beginning October 1, 2021, the Project Cost shall continue to be allocated among all Tax Parcels in the Townwide Underground Utility Assessment Area, based upon each parcel's assignment of Assessment Units. Annual Improvement Assessments have been levied and imposed on all Tax Parcels within the Townwide Underground Utility Assessment Area in the manner described in the Initial Assessment Resolution, as amended and approved in the Final Assessment Resolution, and shall be collected for a period not to exceed 30 years, commencing with the ad valorem tax bill that was mailed in November 2017.

**SECTION 5.ASSESSMENT LIENS.** Upon adoption of this Annual Rate Resolution:

(A) The Improvement Assessments shall constitute a lien against the assessed property equal in rank and dignity with the liens of all state, county,

district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles, and claims until paid. The lien shall be deemed perfected upon adoption by the Town Council of this Annual Rate Resolution and shall attach to the property included on the Improvement Assessment Roll as of the prior January 1, the lien date for ad valorem taxes.

(B) As to any Tax Parcel that is acquired by a public entity through condemnation, negotiated sale or otherwise prior to adoption of the next Annual Rate Resolution, the Prepayment Amount shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles, and claims, until paid. The lien shall be deemed perfected upon adoption by the Town Council of the Annual Rate Resolution and shall attach to property included on the Improvement Assessment Roll upon adoption of the Annual Rate Resolution.

**SECTION 6. COLLECTION OF ASSESSMENTS.** The Improvement Assessments shall be collected pursuant to the Uniform Assessment Collection Act. Upon adoption of this Annual Rate Resolution, the Town Manager shall cause the certification and delivery of the Improvement Assessment Roll to the Tax Collector by September 15, in the manner prescribed by the Uniform Assessment Collection Act. The Improvement Assessment Roll, as

delivered to the Tax Collector, shall be accompanied by a Certificate to Non-Ad Valorem Assessment Roll in substantially the form attached hereto as Appendix C.

**SECTION 7. SEVERABILITY.** If any clause, section or provision of this Resolution shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said Resolution shall remain in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

**SECTION 8. EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED** in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 13th day of September, 2021.

---

---

Danielle H. Moore, Mayor

ATTEST:

---

---

Queenester Nieves, MBA, CMC Town Clerk

**APPENDIX A**  
**PROOF OF PUBLICATION**

# The Palm Beach Post

Palm Beach Daily News | **LOCALiQ**

## PROOF OF PUBLICATION STATE OF FLORIDA

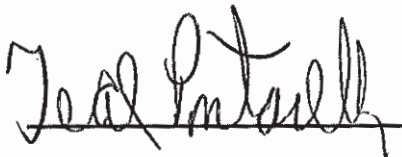
### PUBLIC NOTICE

Before the undersigned authority, personally appeared Teal Pontarelli, who on oath, says that he/she is a Legal Advertising Representative of The Palm Beach Post, a daily and Sunday newspaper, published in West Palm Beach and distributed in Palm Beach County, Martin County, and St. Lucie County, Florida; that the attached copy of advertising for a P-Main Legal ROP was published in said newspaper on: first date of Publication 08/23/2021 and last date of Publication 08/23/2021. Affiant further says that the said The Palm Beach Post is a newspaper published in West Palm Beach, in said Palm Beach County, Florida and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

PALM BEACH FINANCE, TOWN OF  
360 S COUNTY RD  
PALM BEACH, FL 33480-6735

Invoice/Order Number:	0000655965
Ad Cost:	\$1,076.25
Paid:	\$0.00
Balance Due:	\$1,076.25

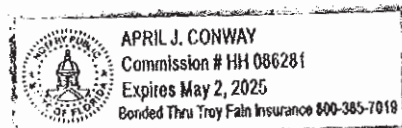
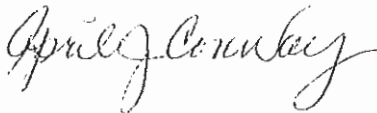
Signed



(Legal Advertising Agent)

Sworn or affirmed to, and subscribed before me, this 25th day of August, 2021 in Testimony whereof, I have hereunto set my hand and affixed my official seal, the day and year aforesaid.

Signed



Please see Ad on following page(s).



Invoice/Order Number: 0000655965  
Ad Cost: \$1,076.25  
Paid: \$0.00  
Balance Due: \$1,076.25

## NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF SPECIAL ASSESSMENTS IN THE TOWN-WIDE UNDERGROUND UTILITY ASSESSMENT AREA TO PROVIDE FOR THE UNDERGROUND UTILITY IMPROVEMENTS

Notice is hereby given that the Town Council of the Town of Palm Beach will conduct a public hearing to consider the continued imposition of non-ad valorem special assessments for the provision of the design, acquisition, construction, and installation of the Underground Utility Improvements within the boundaries of the Town-wide Underground Utility Assessment Area for the Fiscal Year beginning October 1, 2021 and future fiscal years.

The hearing will be held at 5:01 p.m. on September 13, 2021, in the Town of Palm Beach Town Council Chambers, Town Hall, 360 South County Road, Palm Beach, Florida, for the purpose of receiving public comment on the Underground Utility Assessment special assessment roll. All affected property owners have a right to appear at the hearing and to file written objections with the Town Council within 20 days of this notice.

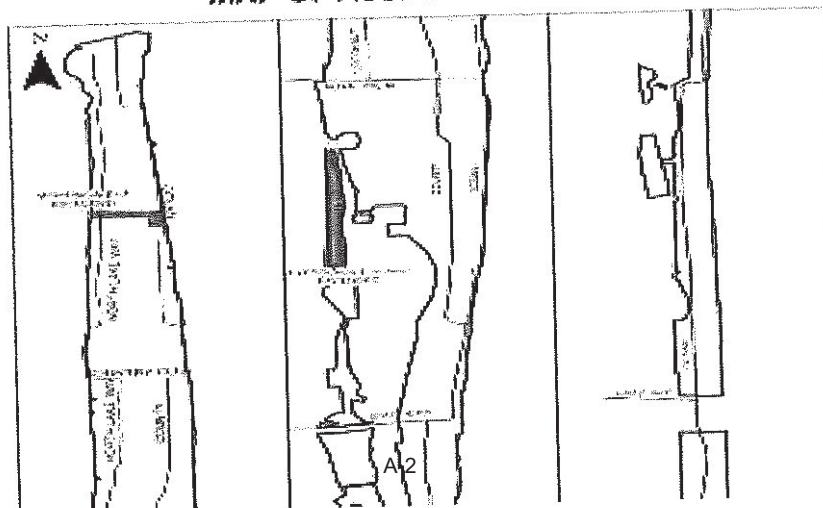
Pursuant to section 286.0105, Florida Statutes, if you decide to appeal any decision made by the Town Council with respect to any matter considered at the hearing or at any subsequent meeting to which the Town Council has continued its deliberations, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the Town Manager's Office at (561) 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) days prior to the date of the hearing.

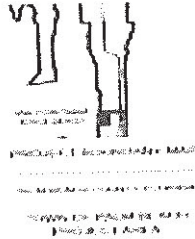
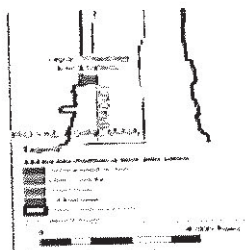
The assessment for each parcel of property will be based on the number of equivalent benefit units assigned to the Tax Parcel. A more specific description of the improvements and the method of computing the assessment for each parcel of property are set forth in the Initial Assessment Resolution adopted by the Town Council on June 13, 2017. Copies of Chapter 90, Article II of the Town Code, the Initial Assessment Resolution (Resolution No. 090-2017), the Final Assessment Resolution (Resolution No. 100-2017), and the updated Assessment Roll for the upcoming fiscal year are available for inspection at the office of the Town Manager, located at Town Hall, 360 South County Road, Palm Beach, Florida.

The assessments will be collected on the ad valorem tax bill, as authorized by section 197.3632, Florida Statutes. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title. The Town Council intends to collect the assessments in 30 annual installments, the first of which was included on the ad valorem tax bill mailed in November 2017.

If you have any questions, please contact the Town Manager's Office at (561) 838-5410, Monday through Friday between 8:30 a.m. and 5:00 p.m.

### MAP OF ASSESSMENT AREA





# TOWN COUNCIL OF THE TOWN OF PALM BEACH, FLORIDA

**APPENDIX B**

**AFFIDAVIT OF MAILING**

## **AFFIDAVIT OF MAILING**

BEFORE ME, the undersigned authority, personally appeared Jane Le Clainche, who, after being duly sworn, depose and say:


1. I, Jane Le Clainche, as the Finance Director of the Town of Palm Beach ("Town"), have been directed by the Town Council, to mail or cause to be mailed the notices required by Section 7 of Resolution No. 49-2021 and Sections 90-65 and 90-85 of the Town of Palm Beach Code.

2. In accordance with the Town of Palm Beach Code, I have caused such individual notices for each affected property owner to be prepared and each notice included the following information: the purpose of the assessment; the total amount proposed to be levied against each parcel; the unit of measurement to be applied against each parcel to determine the assessment; the number of such units contained within each parcel; the total revenue the Town expects to collect by the assessment; a statement that failure to pay the assessment will cause a tax certificate to be issued against the property which may result in a loss of title; a statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing board within 20 days of the notice; and the date, time, and place of the hearing.

3. On or before August 23, 2021, I mailed, or directed the mailing of, said notices by first class mail to each owner of property within the Town that is included on the Assessment Roll at the address then shown on the real property assessment tax roll maintained by the Palm Beach County Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

4. Additionally, in accordance with Chapter 92-264, Laws of Florida, I timely provided the information detailed in paragraph 2. above concerning the assessments to the Palm Beach County Property Appraiser for inclusion as a part of the notice of proposed property taxes under Section 200.069, Florida Statutes, the truth-in-millage notification.

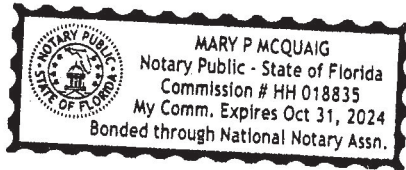
FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
Jane Le Clainche



STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing Affidavit of Mailing was sworn to and subscribed before me, by means of ☒ physical presence or ☐ online notarization, this 30 day of August 2021 by Jane Le Clainche, Finance Director, Town of Palm Beach, Florida. She is personally known to me or has produced \_\_\_\_\_ as identification and did take an oath.



  
Printed Name: Mary P. McQuaig  
Notary Public, State of Florida

At Large

My Commission Expires: Oct 31, 2024  
Commission No.: HH018835

**APPENDIX C**

**FORM OF CERTIFICATE TO  
NON-AD VALOREM ASSESSMENT ROLL**



## CERTIFICATE TO NON-AD VALOREM ASSESSMENT ROLL

I, the undersigned, hereby certify that I am the Chairman of the Board, or authorized agent of \_\_\_\_\_ the Town of Palm Beach \_\_\_\_\_, located in \_\_\_\_\_ Palm Beach \_\_\_\_\_ County, Florida; as such, I have satisfied myself that all property included or includable on the Non-Ad Valorem Assessment Roll for the aforesaid county is properly assessed so far as I have been able to ascertain; and that all required extensions on the above described roll to show the non-ad valorem assessments attributable to the property listed therein have been made pursuant to law.

I further certify that, upon completion of this certificate and the attachment of same to the herein described Non-Ad Valorem Assessment Roll as part thereof, said Non-Ad Valorem Assessment Roll will be delivered to the Tax Collector of this county.

In witness whereof, I have subscribed this certificate and caused the same to be attached to and made a part of the above described Non-Ad Valorem Assessment Roll this the \_\_\_\_\_ 13 \_\_\_\_\_ day of \_\_\_\_\_ September \_\_\_\_\_, \_\_\_\_\_ 2021 \_\_\_\_\_  
year

\_\_\_\_\_  
Chairman of the Board or authorized agent

of \_\_\_\_\_ Town of Palm Beach \_\_\_\_\_  
Name of local government

\_\_\_\_\_  
Palm Beach \_\_\_\_\_ County, Florida