1		ORDINANCE NO. 2025- 014
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18		AN EMERGENCY ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 2, ARTICLE III, DIVISION 2, PART C OF THE PALM BEACH COUNTY CODE, PERTAINING TO THE EQUAL BUSINESS OPPORTUNITY PROGRAM; PROVIDING FOR COMMERCIAL NONDISCRIMINATION POLICY; PROVIDING FOR SUSPENSION OF PALM BEACH COUNTY DIVERSITY EQUITY AND INCLUSION ("DEI") PROGRAMS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AND EFFECTIVE DATE.
19		WHEREAS, on January 20, 2025, the President of the United States signed Executive
20	Order	14168 ("EO 14168") stating the administration's opposition to "gender identity" and
21	prohib	iting federal funds to be used to "promote gender ideology;" and
22		WHEREAS, on January 21, 2025, the President of the United States signed Executive
23	Order	14173 ("EO 14173") stating the administration's opposition to "so-called 'diversity, equity
24	and in	clusion' (DEI) and 'diversity, equity, inclusion, or accessibility' (DEIA)" and declared such
25	policie	es "illegal"; and
26		WHEREAS, EO 14173 directed the head of each Federal agency to include in every
27	contra	ct or grant award a term requiring the counterparty or grant recipient to certify that it does
28	not op	erate any programs promoting DEI that violate any applicable Federal anti-discrimination
29	laws; a	and
30		WHEREAS, on April 24, 2025, the Secretary of Transportation transmitted a letter (the
31	"letter	") to "[a]ll recipients of US. Department of Transportation Funding ["DOT"]" that "any
32	policy	, program, or activity that is premised on a prohibited classification, including discriminatory
33	policie	es or practices designed to achieve so-called 'diversity, equity, and inclusion,' or 'DEI,'
34	goals,	presumptively violates Federal law" and "[a]ny discriminatory actions in [the grant
35	recipie	ents'] policies, programs, and activities based on prohibited categories constitute a clear
36	violati	on of Federal law and the terms of your grant agreements;" and
37		WHEREAS, the letter "provides notice of the Department's existing interpretation of
38	Federa	al law" and "failure to cooperate generally with Federal authorities in the enforcement of
39	Federa	al law, will jeopardize [the grant recipient's] continued receipt of Federal financial assistance

WHEREAS, Palm Beach County (the "County") maintains that all of its ordinances and

from DOT and could lead to a loss of Federal funding from DOT"; and

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programs are legal under federal law; and

WHEREAS, in fiscal year 2025, the County has received approximately \$329,600,248.00 in federal grant funds; and

WHEREAS, in the abundance of caution to avoid the cessation of millions of dollars of essential federal funds used by the County to provide and maintain critical services to the County's residents, and potential civil and criminal monetary penalties and prosecution under the False Claims Act, the County is hereby suspending certain portions of programs, ordinances, policies, and practices until further action by the Board of County Commissioners awaiting court interpretation and consistent federal regulatory guidance concerning said Executive Orders; and

WHEREAS, the County shall continue to ensure that no person shall, on the grounds of race, color, and national origin in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d to 2000d-4); creed and sex per 49 U.S.C. 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted by the County; and

WHEREAS, the County shall continue to comply with all federal laws prohibiting discrimination on the basis of race, color, national origin, or sex in the award and performance of any federally-assisted contract.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA,

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SECTION 1. COMMERCIAL NONDISCRIMINATION POLICY. Section 2-

80.24 of the Palm Beach County Code is hereby amended to read as follows:

(a) Statement of Policy. It is the policy of the County not to enter into a contract or to be engaged in a business relationship with any business entity that has discriminated in the solicitation, selection, hiring or commercial treatment of vendors, suppliers, subcontractors or commercial customers on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information, or on the basis of any otherwise unlawful use of characteristics regarding the vendor's, supplier's or commercial customer's employees or owners; provided that nothing in this policy shall be construed to prohibit or limit otherwise lawful efforts to remedy the effects

of discrimination that have occurred or are occurring in the relevant marketplace for Palm
Beach County.

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(b) Policy Implementation. The Office of EBO shall implement this policy by periodically conducting outreach and by distributing educational materials to the County's contracting and vendor community and related trade associations to advise such contractors, vendors and prospective respondents or bidders of this policy and the procedures to be followed in submitting complaints alleging violations of this policy. In addition, the County Administrator, the Director of Purchasing, and the Office of the County Attorney shall ensure that the following commercial nondiscrimination clause language is set forth in, and incorporated into, all the County contracts that result from Formal Solicitations:

Every contract and subcontract issued shall reflect the Commercial Nondiscrimination Policy and contain words that are similar in meaning to the following:

As a condition of entering into this agreement, the company represents and warrants that it will comply with the County's Commercial Nondiscrimination Policy as described in Resolution 2025 - 0748 as amended. As part of such compliance, the company shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination. The company shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the County's relevant marketplace in Palm Beach County. The company understands and agrees that a material violation of this clause shall be considered a material breach of this agreement and may result in termination of this agreement, disqualification or debarment of the company from participating in County contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

All Formal Solicitations issued shall reflect the Commercial Nondiscrimination Policy and contain words that are similar in meaning to the following:

The undersigned Respondent or Bidder hereby certifies and agrees that the following information is correct:

In preparing its response on this Solicitation, the respondent or bidder has considered all proposals submitted from qualified, potential Subcontractors and suppliers, and has not engaged in "discrimination" as defined in the County's Commercial Nondiscrimination Policy as set forth in Resolution 2025-0748 as amended, to wit: discrimination in the solicitation, selection or commercial treatment of any Subcontractor, vendor, supplier or commercial customer on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information, or on the basis of any otherwise unlawful use of characteristics regarding the vendor's, supplier's or commercial customer's employees or owners; provided that nothing in this policy shall be construed to prohibit or limit otherwise lawful efforts to remedy the effects of discrimination that have occurred or are occurring in the County's relevant marketplace of Palm Beach County. Without limiting the foregoing, "discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination." Without limiting any other provision of the solicitation for responses on this project, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the County to reject the response submitted by the respondent or bidder for this Solicitation, and to terminate any contract awarded based on the response. As part of its response, the respondent or bidder shall provide to the County a list of all instances within the immediate past four (4) years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Florida that the respondent or bidder discriminated against its Subcontractors, vendors, suppliers or commercial customers, and a description of the status or resolution of that complaint, including any remedial action taken. As a condition of submitting a response to the County, the respondent or bidder agrees to comply with the County's Commercial Nondiscrimination Policy as described in Resolution 2025 0748 as amended.

SECTION 2. SUSPENSION OF PALM BEACH COUNTY DIVERSITY EQUITY AND

- 131 <u>INCLUSION ("DEI") PROGRAMS</u>. Section 2-80.31 of the Palm Beach County Code is
- hereby amended to read as follows:

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- The Palm Beach County Board of County Commissioners suspends the following ordinances, or portions thereof, and applicable programs, policies, and practices:
 - a. Enforcement of the race- and/or gender-conscious portions of chapter 2, article III, division 2, Part C of the Palm Beach County Code and Policies and Procedures Manual

CW-O-043 (the "Equal Business Opportunity Program"). Enforcement shall include, 137 138 but is not limited to, the following: Establishing race- and/or gender-conscious affirmative procurement initiatives; i. 139 ii. Enforcing race- and/or gender- conscious subcontracting goals; and 140 iii. Certifying businesses as minority- or women-owned. 141 Notwithstanding the above, the race- and gender-neutral portions of Equal Business 142 Opportunity Program will continue to be enforced. 143 b. Written justifications for hiring positions identified to have underrepresentation 144 pursuant to any Equal Employment Opportunity/Affirmative Action Plan. 145 c. Reporting and identifying the race and gender makeup of Palm Beach County boards 146 and committees. 147 d. Utilization of references to "gender identity or expression" or similar terms in County 148 ordinances, resolutions, programs, and policies. 149 e. Any other ordinance, program, policy, and/or practice presumptively considered to be 150 a DEI and/or DEIA program. Notwithstanding any provision of this Ordinance to the 151 contrary, nothing in this Ordinance shall be construed as repealing or suspending any 152 policy or program required by federal law. 153 The foregoing ordinances or portions thereof, programs, policies, and practices are suspended 154 until further action of the Board of County Commissioners or two (2) years from the Effective 155 Date, whichever comes first. 156 SECTION 3. REPEAL OF LAWS IN CONFLICT. 157 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby 158 repealed to the extent of such conflict. Notwithstanding the foregoing, laws and ordinances 159 suspended by this Ordinance shall not be repealed unless specifically repealed by the Board of 160 County Commissioners. 161 **SECTION 4. SAVINGS CLAUSE.** 162 Notwithstanding Section 3, Repeal of Laws in Conflict, all administrative and county 163 orders, fines, and pending enforcement shall remain in full force and effect unless otherwise stated 164 in this Ordinance. 165 **SECTION 5. SEVERABILITY CLAUSE.** 166 If any section, paragraph, sentence, clause, phrase or word of this Ordinance, or the 167

application thereof, to any person or circumstance is for any reason held by a Court of competent

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jurisdiction to be unconstitutional, inoperative, invalid or void, such holding shall not affect the 169 remainder of this Ordinance or the application of any other provisions of this Ordinance which can 170 be given effect without the invalid provision or application, and to this end, all the provisions of 171 this Ordinance are hereby declared to be severable. 172 SECTION 6. INCLUSION IN THE CODE OF LAWS AND ORDINANCES. 173 The provisions of this Ordinance shall become and be made a part of the Code of Laws and 174 Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered 175 or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," 176 or other appropriate word. 177 SECTION 7. CAPTIONS. 178 The captions, section headings, and section designations used in this Ordinance are for 179 convenience only and shall have no effect on the interpretation of the provisions of this Ordinance. 180 SECTION 8. EFFECTIVE DATE. 181 The provisions of this Ordinance shall become effective upon filing with the Department 182 of State. 183 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, 184 3rd , 2025. day of 185 Florida, on this the PALM BEACH COUNTY, FLORIDA, BY ITS **JOSEPH ABRUZZO** CLERK OF THE CIRCLIN **BOARD OF COUNTY COMMISSIONERS** COURT & COMPTROLLER Maria G. Marino, Mayor APPROVED AS TO FORM AND LEGAL SUFFICIENCY County Attorney EFFECTIVE DATE: Filed with the Department of State on the 5th

, 2025.

Attachment 3
DOT letter



THE SECRETARY OF TRANSPORTATION WASHINGTON, DC 20590

April 24, 2025

To All Recipients of U.S. Department of Transportation Funding:

The U.S. Department of Transportation (Department or DOT) distributes substantial Federal financial assistance for thousands of projects, programs, and activities operated or initiated by diverse entities, including but not limited to State and local governments. The Department administers this Federal financial assistance to support the development and maintenance of the Nation's transportation infrastructure, pursuant to statutory authority and in accordance with binding contractual agreements in the form of Federal financial assistance agreements, usually grants, cooperative agreements, and loans. Accordingly, I write to clarify and reaffirm pertinent legal requirements, to outline the Department's expectations, and to provide a reminder of your responsibilities and the consequences of noncompliance with Federal law and the terms of your financial assistance agreements. It is the policy of the Department to award and to continue to provide Federal financial assistance only to those recipients who comply with their legal obligations.

As recipients of such DOT funds, you have entered into legally enforceable agreements with the United States Government and are obligated to comply fully with all applicable Federal laws and regulations. These laws and regulations include the United States Constitution, Federal statutes, applicable rules, and public policy requirements, including, among others, those protecting free speech and religious liberty and those prohibiting discrimination and enforcing controls on illegal immigration. As Secretary of Transportation, I am responsible for ensuring recipients of DOT financial assistance are aware of and comply with all applicable legal obligations.

The Equal Protection principles of the Constitution prohibit State and Federal governmental entities from discriminating on the basis of protected characteristics, including race. Indeed, as the Supreme Court declared in *Students for Fair Admission, Inc. v. Harvard (SFFA)*, 600 U.S. 181, 206 (2023), "[t]he clear and central purpose of the Fourteenth Amendment was to eliminate all official state sources of invidious racial discrimination in the States." The Court further noted that "[o]ne of the principal reasons race is treated as a forbidden classification is that it demeans the dignity and worth of a person to be judged by ancestry instead of by his or her own merit and essential qualities." *Id.* at 220. In ruling that race-based admissions programs at universities violated the Equal Protection Clause, the Court made clear that discrimination based on race is, has been, and will continue to be unlawful, except in rare circumstances. *Id.* at 220-21. Similarly, sex-based classifications violate the Equal Protection Clause absent "exceedingly persuasive" justification. *See United States v. Virginia*, 518 U.S. 515, 533 (1996).

These constitutional principles are reinforced by the Civil Rights Act of 1964, which prohibits discrimination based on protected characteristics in the Federal funding and employment contexts in Title VI (42 U.S.C. § 2000e-2), as well as the applicable non-discrimination clauses in the Federal Aid Highway Act of 1973 (23 U.S.C. §§ 140 and 324 et seq.), the Airport and Airway Improvement Act of 1982, (49 U.S.C. § 47123), and Title IX of the Education Amendments of 1972, as amended (20 U.S.C. § 1681 et seq.).

Based on binding Supreme Court precedent and these Federal laws, DOT is prohibited from discriminating based on race, color, national origin, sex, or religion in any of its programs or activities. Moreover, because DOT may not establish, induce, or endorse prohibited discrimination indirectly, it must ensure that discrimination based on race, color, national origin, sex, or religion does not exist in the programs or activities it funds or financially assists.

These same principles apply to recipients of Federal financial assistance from DOT, as both a matter of Federal law and by virtue of contractual provisions governing receipt of DOT funding. Accordingly, DOT recipients are prohibited from engaging in discriminatory actions in their own policies, programs, and activities, including in administering contracts, and their employment practices.

Whether or not described in neutral terms, any policy, program, or activity that is premised on a prohibited classification, including discriminatory policies or practices designed to achieve so-called "diversity, equity, and inclusion," or "DEI," goals, presumptively violates Federal law. Recipients of DOT financial assistance must ensure that the personnel practices (including hiring, promotions, and terminations) within their organizations are merit-based and do not discriminate based on prohibited categories. Recipients are also precluded from allocating money received under DOT awards—such as through contracts or the provision of other benefits—based on suspect classifications. Any discriminatory actions in your policies, programs, and activities based on prohibited categories constitute a clear violation of Federal law and the terms of your grant agreements.

In addition, your legal obligations require cooperation generally with Federal authorities in the enforcement of Federal law, including cooperating with and not impeding U.S. Immigration and Customs Enforcement (ICE) and other Federal offices and components of the Department of Homeland Security in the enforcement of Federal immigration law. DOT has noted reported instances where some recipients of Federal financial assistance have declined to cooperate with ICE investigations, have issued driver's licenses to individuals present in the United States in violation of Federal immigration law, or have otherwise acted in a manner that impedes Federal law enforcement. Such actions undermine Federal sovereignty in the enforcement of immigration law, compromise the safety and security of the transportation systems supported by DOT

¹ See SFFA, 600 U.S. at 230; Norwood v. Harrison, 413 U.S. 455, 465 (1973).

financial assistance, and prioritize illegal aliens over the safety and welfare of the American people whose Federal taxes fund DOT's financial assistance programs.

Under the Constitution, Federal law is "the supreme Law of the Land." U.S. Const. Art. VI. That means that where Federal and State legal requirements conflict, States and State entities must follow Federal law. Declining to cooperate with the enforcement of Federal immigration law or otherwise taking action intended to shield illegal aliens from ICE detection contravenes Federal law and may give rise to civil and criminal liability. See 8 U.S.C. § 1324 and 8 U.S.C. § 1373. Accordingly, DOT expects its recipients to comply with Federal law enforcement directives and to cooperate with Federal officials in the enforcement of Federal immigration law. The Department also expects its recipients to ensure that the Federal financial assistance they receive from DOT is provided only to subrecipients, businesses, or service providers that are U.S. Citizens or U.S. Nationals and Lawful Permanent Residents (LPRs) or legal entities allowed to do business in the U.S. and which do not employ illegal aliens.

This letter provides notice of the Department's existing interpretation of Federal law. The Department will vigorously enforce the law on equal terms as to all its recipients and intends to take appropriate measures to assess their compliance based on the interpretation of Federal law set forth in this letter. Adherence to your legal obligations is a prerequisite for receipt of DOT financial assistance. Noncompliance with applicable Federal laws, or failure to cooperate generally with Federal authorities in the enforcement of Federal law, will jeopardize your continued receipt of Federal financial assistance from DOT and could lead to a loss of Federal funding from DOT.

The Department retains authority, pursuant to its oversight responsibilities and the terms of your agreements, to initiate enforcement actions, such as comprehensive audits and possible recovery of funds expended in a manner contrary to the terms of the funding agreement. DOT may also terminate funding in response to substantiated breaches of the terms of the agreement, or if DOT determines that continued funding is no longer in the public interest. These steps, within DOT's discretion, are intended to ensure accountability and protect the integrity of Federal programs.

To assist grant recipients in meeting their legal obligations, DOT offers technical guidance and support through its program offices. Should you require clarification regarding your obligations, you are encouraged to contact your designated DOT representative promptly. Proactive engagement is strongly advised to prevent inadvertent noncompliance.

DOT remains committed to advancing a transportation system that serves the public interest efficiently and unleashes economic prosperity and a superior quality of life for American families. This mission depends upon your strict adherence to the legal framework governing our partnership, and I trust you will take all necessary steps to comply with Federal law and satisfy your legal obligations.

Sincerely,

Sean P. Duffy

Attachment 4 Attorney General Memorandum



U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

May 19, 2025

MEMORANDUM FOR

OFFICE OF THE ASSOCIATE ATTORNEY GENERAL

CIVIL DIVISION

CIVIL RIGHTS DIVISION CRIMINAL DIVISION

EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS

ALL UNITED STATES ATTORNEYS

FROM:

THE DEPUTY ATTORNEY GENERAL for Shunch

SUBJECT:

Civil Rights Fraud Initiative

Under Attorney General Bondi's leadership, "[t]he Department of Justice is committed to enforcing federal civil rights laws and ensuring equal protection under the law." Attorney General Memorandum, Ending Illegal DEI and DEIA Discrimination and Preferences (Feb. 5, 2025). One of the most effective ways to accomplish this objective is through vigorous enforcement of the False Claims Act, 31 U.S.C. § 3729 et seq., against those who defraud the United States by taking its money while knowingly violating civil rights laws.

The False Claims Act is the Justice Department's primary weapon against government fraud, waste, and abuse. Liability results in treble damages and significant penalties. It is implicated when a federal contractor or recipient of federal funds knowingly violates civil rights laws—including but not limited to Title IV, Title VI, and Title IX, of the Civil Rights Act of 1964—and falsely certifies compliance with such laws. Accordingly, a university that accepts federal funds could violate the False Claims Act when it encourages antisemitism, refuses to protect Jewish students, allows men to intrude into women's bathrooms, or requires women to compete against men in athletic competitions. Colleges and universities cannot accept federal funds while discriminating against their students.

The False Claims Act is also implicated whenever federal-funding recipients or contractors certify compliance with civil rights laws while knowingly engaging in racist preferences, mandates, policies, programs, and activities, including through diversity, equity, and inclusion (DEI) programs that assign benefits or burdens on race, ethnicity, or national origin. While racial discrimination has always been illegal, the prohibition on such policies became clear after the Supreme Court stated that "[e]liminating racial discrimination means eliminating all of it." Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll., 600 U.S. 181, 205 (2023).

President Trump reinforced that principle in Executive Order 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity, 90 Fed. Reg. 8633 (Jan. 21, 2025), explaining that racist policies "violate the text and spirit of our long-standing Federal civil-rights laws." Nevertheless, many corporations and schools continue to adhere to racist policies and preferences—albeit camouflaged with cosmetic changes that disguise their discriminatory nature.

The federal government should not subsidize unlawful discrimination. To that end, I am standing up the Civil Rights Fraud Initiative. This Initiative will utilize the False Claims Act to investigate and, as appropriate, pursue claims against any recipient of federal funds that knowingly violates federal civil rights laws. This Initiative will be co-led by the Civil Division's Fraud Section, which enforces the False Claims Act, and the Civil Rights Division, which enforces civil rights laws. Each division will identify a team of attorneys to aggressively pursue this work together. Each of the 93 United States Attorney's Offices will identify an Assistant United States Attorney to advance these efforts.

To ensure a comprehensive approach, the Civil Fraud Section and the Civil Rights Division will engage in regular coordination meetings and share relevant information about potential violations. The Civil Fraud Section and the Civil Rights Division will also engage with the Criminal Division, as well as with other federal agencies that enforce civil rights requirements for federal funding recipients, including the Department of Education, the Department of Health and Human Services, the Department of Housing and Urban Development, and the Department of Labor. The Civil Fraud Section and the Civil Rights Division will also establish partnerships with state attorneys general and local law enforcement to share information and coordinate enforcement actions.

The Department recognizes that it alone cannot identify every instance of civil rights fraud. Congress likewise has recognized as much and, as a result, has authorized private parties to protect the public interest by filing lawsuits and litigating claims under the False Claims Act—and, if successful, sharing in any monetary recovery. See 31 U.S.C. § 3730. The Department strongly encourages these lawsuits. The Department also encourages anyone with knowledge of discrimination by federal-funding recipients to report that information to the appropriate federal authorities so that the Department may consider the information and take any appropriate action. Please visit https://www.justice.gov/civil/report-fraud for more information.



RON DESANTIS
Governor

CORD BYRDSecretary of State

June 6, 2025

Joseph Abruzzo Clerk of Circuit Court Palm Beach County 301 North Olive Avenue West Palm Beach, Florida 33401

Dear Joseph Abruzzo,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Palm Beach County Ordinance No. 2025-014, which was filed in this office on June 5, 2025.

Sincerely,

Alexandra Leijon Administrative Code and Register Director

AL/dp

R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250 Telephone: (850) 245-6270