

TOWN OF BAY HARBOR ISLANDS

January 8, 2018

AGENDA

STATEMENT OF DECORUM

All comments must be addressed to the Council as a body and not to individuals. Any person making a racial or slanderous remark or who becomes boisterous while addressing the Town Council, staff, etc. shall be barred from the audience by the presiding officer. No profanity, shouting, heckling, verbal outbursts or disruptive behavior in support of or opposition to a speaker or his/her remarks is permitted. Please mute or turn off your cell phone or other electronic devices at the start of the meeting. Failure to do so may result on being barred from the meeting. Persons exiting the Chambers shall do so quietly.

CALL TO ORDER: 7:00 p.m.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

REQUESTS FOR WITHDRAWALS, DEFERMENTS AND FUTURE AGENDA ITEMS:

TOWN MANAGER'S REPORT:

COUNCIL REPORTS: Each Council Member will be afforded two (2) minutes to make their reports.

PUBLIC COMMENT:

*There is a three (3) minute time limit for each speaker during public comment and a two (2) minute time limit for each speaker during all other agenda items. Your cooperation is appreciated in observing the three (3) minute rule. If you have a matter you would like to discuss which requires more than three (3) minutes, please arrange a meeting with the Town Manager or appropriate administrative official. **A request form is available from staff; please fill it in and return it to the Town Clerk prior to the start of the meeting if you would like to speak during public comment.** Please come forward to the podium, give your name and address, and the name and address of the organization you are representing if any.*

CONSENT AGENDA: *(Consent agenda items are those which are routine, do not require discussion or explanation prior to Town Council action, or have already been discussed and/or explained and do not require further discussion or explanation. Items can be removed from the consent agenda by the request of an individual Council member for independent consideration provided such request is made prior to the vote on the consent agenda.)*

1. **Approval** of the following Meeting Minutes:
 - a. Budget Workshop - July 24, 2017
 - b. Regular Council Meeting held August 14, 2017
 - c. Budget Hearing held on September 18, 2017
 - d. Public Hearing held on September 18, 2017
 - e. Special Council Meeting held on September 18, 2017
2. **Consideration and Approval** of a resolution amending the schedule for Building permits to decrease the fee for change of contractor. Enclosed is a copy of the proposed resolution.
3. **Consideration and Approval** of the Council Meeting dates for the 2018 calendar year. Enclosed is a copy of the calendar of the proposed dates.

4. **Approval** of a resolution updating and adopting new values for town owned TDR (Transfer of Development Rights) units in the residential districts and establishing a value for Town owned units in the B-1 Commercial District. Enclosed is a copy of the resolution and supporting documents.
- 4.5 **Approval** of a resolution authorizing deposits and withdrawals of the Town Funds in certain accounts pursuant to the authority given under Chapter 655.043, Florida Statutes. Enclosed is a copy of the proposed resolution.
5. **Consideration** and **Approval** of a Memorandum of Understanding (MOU) between the Town of Surfside, the Village of Bal Harbour and the Town of Bay Harbor Islands to research and assess the development of a more cost-effective shuttle bus operation of all three municipalities. Enclosed is a copy of the proposed MOU.

STAFF RECOMMENDATION: Approval

ORDINANCES ON SECOND READING:

6. **Consideration** and **Approval** of an ordinance on **second** reading amending Chapter 16 of the Town Code to permit payroll deductions for the payment of purchases of credited service for past military and/or police service. Enclosed is a copy of the proposed ordinance.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 16, THE TOWN OF BAY HARBOR ISLANDS EMPLOYEES RETIREMENT SYSTEM, OF THE TOWN OF BAY HARBOR ISLANDS CODE OF ORDINANCES, TO PERMIT PAYROLL DEDUCTIONS FOR THE PAYMENT OF PURCHASES OF CREDITED SERVICE FOR PAST MILITARY AND/OR POLICE SERVICE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council Discretion

POLL VOTE

7. **Consideration** and **Approval** of an ordinance on **second** reading amending Section 18-22 of the Town Code to require property owners to underground the service lines. Enclosed is a copy of the proposed ordinance.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING SECTION 18-22 ENTITLED NEW CONSTRUCTION AND REHABILITATED STRUCTURES, TO REQUIRE PROPERTY OWNERS TO UNDERGROUND THE SERVICE LINE OR LATERAL FROM THE BUILDING TO THE UTILITY POLES OR UNDERGROUND FACILITIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council Discretion

POLL VOTE

8. **Consideration** and **Approval** of an ordinance on **second** reading amending Section 23-11 of the Town Code to allow for additional building height in the B-1 Business District. Enclosed is a copy of the proposed ordinance.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S ZONING AND PLANNING CODE TO AMEND SECTION 23-11(C) TO ALLOW FOR ADDITIONAL BUILDING HEIGHT IN THE B-1 BUSINESS DISTRICT PROVIDED A DEVELOPER PARTICIPATES IN THE TOWN'S PUBLIC BENEFITS PROGRAM; ESTABLISHING A PUBLIC BENEFITS PROGRAM FOR ADDITIONAL BUILDING HEIGHT INCLUDING SPECIFIC PUBLIC BENEFITS DESIRED BY THE TOWN; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council Discretion

POLL VOTE

ORDINANCES ON FIRST READING:

9. **Consideration** and **approval** of an ordinance on **first** reading amending Chapter 16 to provide a five (5) year cliff vesting schedule for police officer members of the Retirement System. Enclosed is a copy of the proposed ordinance.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 16, THE TOWN OF BAY HARBOR ISLANDS EMPLOYEES RETIREMENT SYSTEM, OF THE TOWN OF BAY HARBOR ISLANDS CODE OF ORDINANCES, PROVIDING FOR A FIVE-YEAR CLIFF VESTING SCHEDULE FOR POLICE OFFICER MEMBERS OF THE RETIREMENT SYSTEM; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council Discretion

POLL VOTE

TOWN MANAGER ITEMS: *(Town business items requiring Council approval)*

10. **Discussion** and **direction** with regard to Council Member Fuller's request to design an amphitheater and passive park at the lot located on 95th Street and West Bay Harbor Drive. Staff is proposing a budget in the amount of \$156,000, if approved the Town will solicit a request for proposals (RFP) for the project. Enclosed is a cost estimate and renderings on the proposed park location.

STAFF RECOMMENDATION: Council Discretion

11. **Consideration and Approval** to extend contract BHI-128 with LMK Pipe Renewal LLC. in the amount of \$250,000 to continue sewer lateral lining to reduce the volume of infiltration that enter the sanitary collection system. Enclosed is a Memo from Randy Daniel, Town Engineer.

STAFF RECOMMENDATION: Approval

POLL VOTE

12. **Approval** of contract award BHI 188 to perform the lining of the sewer main to Miller Pipeline Corporation the amount of \$29,337.50 . Enclosed is a copy of the bids and contract.

STAFF RECOMMENDATION: Approval

POLL VOTE

DISCUSSION ITEMS:

13. **Discussion** regarding an amendment to the Town Code to establish additional lighting requirements for new multi-family developments.
14. **Discussion** requested by Council Member Reid regarding parking regulations that allow underground parking garages.

ADJOURNMENT: Set for 11:00 p.m. (Any items not addressed by 11:00 PM, will be continued to the following day at 7:00 PM)

Pursuant to Florida Statutes 286.0105, the Town hereby advises the public that should any person decide to appeal any decision of the Town Council with respect to any matter to be considered at this meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose he or she may 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.

AGENDA ITEM REPORT

January 8, 2018

ITEM NUMBER: 1.

ITEM:

Approval of the following Meeting Minutes:

- a. Budget Workshop - July 24, 2017
- b. Regular Council Meeting held August 14, 2017
- c. Budget Hearing held on September 18, 2017
- d. Public Hearing held on September 18, 2017
- e. Special Council Meeting held on September 18, 2017

DESCRIPTION:

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba Chang, Deputy Town Clerk

ATTACHMENTS

1.	7-24-17 DRAFT	7-24-17 DRAFT.pdf
2.	8-14-17 DRAFT	8-14-17 DRAFT.pdf
3.	9-18-17 Budget PH DRAFT	9-18-17 Budget PH DRAFT.pdf
4.	9-18-17 DRAFT PH Moratorium	9-18-17 DRAFT PH Moratorium.pdf
5.	9-18-17 Spc Mtg	9-18-17 Spc Mtg.pdf

TOWN OF BAY HARBOR ISLANDS
WORKSHOP MEETING

A Budget Workshop Meeting was held on Wednesday, July 24, 2017 at 7:00 p.m. in the Council Chambers. The meeting was opened with the Pledge of Allegiance. Upon roll call, the following Council Member responded:

Mayor Jordan W. Leonard

Council Member Joshua Fuller

Council Member Kelly Reid

Council Member Elizabeth Tricoche

Council Member Robert Yaffe

Item 1. Brief overview of the proposed budget by Town Manager Ronald J. Wasson.

Town Manager Wasson provided an overview of the proposed Budget. He explained that as usual he met with all of the department heads and members of the Town Council to review what needs to be budgeted for the upcoming fiscal year. The budget draft assumes a millage rate of 4.2. The Town had a 15% increase in property value to 1 Billion Dollars.

Miami Dade County has indicated an increase in wholesale rates for water by 5.76% and sewage disposal rates by 4.95%. The Town has budgeted a 25% increase in healthcare; a 1.4% salary increase to all general employees and 4% salary increase for Police based on the proposed PBA contract.

Community Center, will be operating on a 7 day schedule and will continue to maintain programs and events such as movies on the green, senior on the go, senior Zumba, Halloween parade, 5/10 run, summer camp, winter and spring camp, after school program and 9/11 event.

The Police Department budgeted for the addition of one vehicle, body armor equipment, hand held radios, laptops and radar.

Public Works Department budgeted for the sewer laterals, storm water outfalls, underwater camera, road resurfacing, gutter & curb replacement and the additions of 2 vehicles.

Some of the housekeeping items that the Town will also focus is the 95th Street parking lot; flower baskets for Kane Concourse; and a new police boat.

There was a brief discussion on the how to develop a Transportation Fund to cover the cost for the resurfacing of the road in the future. Town Manager Wasson suggested that a small fee could be added to the water billing to cover future projects to keep the Town maintenance on schedule.

Town Manager Wasson also stated that the Police boat that is used for marine patrol will need to be replace and asked for funding for the expenditure from General Reserves Fund. He also asked for an additional \$7,500 for legislative funds to be used for the Miami Dade County League of Cities annual installation Gala.

Item 2. Discussion and review of proposed budget.

Council Member Tricoche asked for the current balance on Causeway Reserves. Finance Director, Short responded that the causeway reserves were low, but was projecting a rebound on the traffic after the completion of the bridge construction. He estimated that over \$3,000,000 would go into the Reserves Fund. Council Member Tricoche suggested expanding the Community Center programs on the weekends. She also would like for the splash pad on the 98th Street Park to be replaced. Town Manager Wasson stated that expenditure has been budgeted.

Council Member Reid was concerned with the 25% increase on healthcare; suggested public workshop to discuss the development of a Transportation Fund and inquired about the Causeway Reserves Fund.

Council Member Fuller asked for staff to elaborate on expenses to public buildings on page 6 for the proposed budget in the amount of \$28,500. Town Manager Wasson stated that was to upgrade the Council chambers flooring. Council Member Fuller requested that expenses be removed from the proposed budget.

Consensus was to remove the chambers flooring expenses in the amount of \$28,500 from the proposed budget.

Council Member Fuller suggested continuing to utilize the existing police boat for other activities such as training or county organization to help the community. He also would like to budget for any additional places that would need bike lanes. Council Member Tricoche requested a report on the impact of pedestrian safety. She also suggested the bike paths around the school parameter. Lastly, Council Member Fuller requested to allocate \$200,000 to \$300,000 for the vacant lot on 95th Street.

Council Member Yaffe spoke on the Causeway Fund; he suggested creating guidelines to continue to save money for when the bridge would need to be replaced and inquired about the plans for Town Hall renovations. Town Manager Wasson explained that the Kimley & Horn and Associates will present a brief overview on the options to expand the Town Hall building.

Mayor Leonard would like to have the police explore scholarship annually and was also in favor of the transportation fund to be developed for the roads maintenance. He was opposed to utilizing the General Reserves to purchase the police boat and suggested a method for the Town to pay back to reserves. He also suggested offering the residents free snacks such as popcorn, water and juice for the kids for outdoor movies. Council Member Reid suggested food vendors to service the residents to avoid funding the snacks. Mayor Leonard also reminded the Council that the 70th Town Anniversary could have more expenses.

PUBLIC COMMENT

Victor Maya, 1155 103 Street came forward and was in favor of a new marine boat for the Police Department. He suggested placing cameras around the waterways to monitor the water and environmental issues. He felt that the Town had a lack of budget for the Town Hall renovations.

CLOSED PUBLIC COMMENT

Council Member Reid was in favor of replacing the marine boat for the Police Department, she felt that there were a lot of boats that were speeding and suggested adding cameras to monitor.

Item 3. Discussion regarding the tentative millage to be advertised via the Notice of Proposed Taxed to be mailed by Miami-Dade County.

Finance Director Alan Short clarified that if it was the Town Council consensus to move forward with the Transportation Fund it will take time to develop and implement.

There was a brief discussion on the proposed millage rate to advertise and on the development of a transportation fund to save money for road improvements.

ACTION: Council Member Fuller made a motion to approve the proposed millage rate of 4.1%. Council Member Yaffe seconded the motion and it passed unanimously.

Item 4. Discussion regarding additional workshop (if necessary) and the dates and times for the Budget Hearings and Special Council meetings to adopt the millage and budget. It is suggested that the first Budget Hearing be held at 7:00 PM on September 11, immediately preceding the Regular Council Meeting. The second Hearing could be scheduled after 5:00 PM on any of the following dates: September 18, 25, 26, 27, or 28.

ACTION: Consensus was to schedule the first budget hearing for September 11th, and the second budget hearing for September 18, 2017 at 7:00 p.m.

There being no further business to discuss meeting was adjourned at 8:29 p.m.

MAYOR

ATTEST

TOWN CLERK

**MINUTES OF A REGULAR MEETING
TOWN OF BAY HARBOR ISLANDS**

A regular meeting of the Town Council was held on Monday August 14, 2017 at 7:01 p.m. in the Council Chambers. Upon roll call the following members responded:

Mayor Jordan Leonard	
Council Member Joshua Fuller	Council Member Kelly Reid
Council Member Isaac Salver	Council Member Elizabeth Tricoche

REQUESTS FOR WITHDRAWALS, DEFERMENTS AND FUTURE AGENDA ITEMS:

Item 3. Consideration of a request for appointment to fill a vacancy to the Planning & Zoning Board.
Enclosed are copies of the residents resumes.

Mayor Leonard requested that Item #3 be deferred to the next regular meeting.

Item 16. Discussion and direction requested by Town Manager Wasson regarding the addition and remodel of the Town Hall Building.

Mayor Leonard suggested advertising a Special Council Meeting on the Town's newsletter for the discussion of Town Hall renovations and expansion.

Item 19. Discussion regarding the location of digital signs requested by Council Member Reid.

Council Member Reid deferred item 19 to a later date.

TOWN MANAGER'S REPORT:

Item 1. Report on investment performance. Mr. Dan Brea of BNY Mellon will provide a report on the period ended June 30, 2017.

Dan Brea, BNY Mellon, came forward and provided an update on the Town investments performance. He reported that the interests' rates were predicted to rise at a slow pace, but as long as it was at slow increments the Town Portfolio would be fine.

Item 2. Town Attorney's update on legal matters:

(a) Fencing of vacant lots

Assistant Town Attorney Simone researched case law relating to the fencing of the vacant lots and found that there were no legal requirements on the matter. The Town Code currently required fencing for construction sites, vacant properties and pools.

(b) Marijuana Regulations

Assistant Town Attorney Simone asked for the Council direction on the subject matter. The Town has the option to ban the use until federal law permits otherwise. The second option would be that if the Town wished to regulate the use, it would be allowed under the same terms as a pharmacy. He clarified that the Town Code did not allow for medical offices and clinic to be on the ground floor. If permitted, the proposed use would fall under the category as a pharmacy and may be dispense from the ground floor. The third option, the Council could limit the distance from a school such as 500 or 100 feet. Miami Dade County Code currently had a 1000 feet restriction from a school.

There was a brief discussion from the Council on the proposed options; request for more research on the subject matter; and a possible moratorium.

Assistant Town Attorney Simone suggested the Town Council have a discussion on a possible moratorium on medical marijuana dispensing facilities within the Town.

Council Member Salver stated that the Florida League of Cities recently had a discussion with Attorney Gary Resnick with regards to the Telecommunication Act. He felt that the Bill would dismiss the rights of the local cities. Based on the conversation with Attorney Resnick, if there was no language in the Code on utilities, the utility provider could utilize our resources to their advantage. The Bill will go into effect July 1st, 2018. He requested for the Town Attorneys to look into this matter and see if a moratorium would be needed.

COUNCIL REPORTS: Each Council Member will be afforded two (2) minutes to make their reports.

Council Member Tricoche reported Vice Mayor Bruder was recovering from her wrist surgery and she hoped she would be able to attend the next Council Meeting.

Council Member Fuller welcomed everyone back from summer vacation and reported he attended the Florida league of Cities Meetings.

Council Member Salver attended the Retirement Board Meeting last week and stated that the Town Finance Director Short would be retiring soon and wished him well.

Council Member Reid reminded the residents to attend Coffee with the Cops.

Mayor Leonard reminded the residents to take notice of the children on the streets, since school was back in session.

PUBLIC COMMENT: There is a three (3) minute time limit for each speaker during public comment and a two (2) minute time limit for each speaker during all other agenda items. Your cooperation is appreciated in observing the three (3) minute rule. If you have a matter you would like to discuss which requires more than three (3) minutes, please arrange a meeting with the Town Manager or appropriate administrative official. A request form is available from staff; please fill it in and return it to the Town Clerk prior to the start of the meeting if you would like to speak during public comment. Please come forward to the podium, give your name and address, and the name and address of the organization you are representing if any.

Victor Maya, 1135 103 St, came forward and asked on the selection process for the Finance Director. He also inquiry about the proposed Town Hall renovations and/ or expansion.

Ken Eskin, 1310 99 street, came forward and suggested a Car Show event to be held in Town. He felt that a Car Show event could revitalize the Business District.

Council Member Reid suggested monthly events to be held all winter, similar to the Town of Surfside. The Town of Surfside currently host event every other Thursday plus winter events.

Consensus was for Town Manager Wasson to research and report back to the Council on possible ideas of events to host in Town.

Frances Neu hut, 9920 W. Broadview Drive, came forward and stated that there was in increase on the seal level rise and the backyards were flooded. She also suggested more trees for shade in the 98th Street Park.

CLOSED PUBLIC COMMENT

At this time Item #9 was taken out of Consent Agenda for discussion.

Item 9. Request for approval by Congress Driftwood, LLC. for a sales center for two projects being built on 10301 E. Bay Harbor Drive and 9781 E. Bay Harbor Drive. The sales center would be located on an existing building, 9919-9927 E. Bay Harbor Drive, which is being renovated to accommodate this temporary use.

Council Member Reid requested clarification on the time line of the proposed sales center.

Town Clerk Siegel responded that the applicant was seeking an approval for 18 months. They would be required to obtain a Business Tax Receipt with the Town Clerk office. If the applicant exceeds the time, they will need to come back for the Council approval for the time extension.

ACTION: Council Member Salver made a motion to approve the sales center. Council Member Fuller seconded the motion and it passed unanimously.

CONSENT AGENDA: (Consent agenda items are those which are routine, do not require discussion or explanation prior to Town Council action or have already been discussed and/or explained and do not require further discussion or explanation. Items can be removed from the consent agenda by the request of an individual Council member for independent consideration provided such request is made prior to the vote on the consent agenda.)

Item 4. Approval of the following meeting Minutes:

- a. April 19, 2017 - Organizational Meeting**
- b. April 19, 2017 - Public Hearing**
- c. April 19, 2017 - Regular Council Meeting**
- d. May 8, 2017 - Regular Council Meeting**
- e. June 12, 2017- Regular Council Meeting**

Item 5. Resolution establishing supplementary rules for the Parks and Recreation Committee.
Enclosed is a copy of the resolution for advisory committees that was adopted by the Town Council in 2014. Also enclosed is the proposed resolution for the Parks and Recreation Committee.

Item 6. Approval of proposal in the amount not to exceed \$18,600 in favor of Hazen and Sawyer to perform Night Flow Isolation testing for the sewer collection system. Approval should include an appropriation from Sewer Fund Reserves.

Item 7. Approval of inland marine insurance policy for the Shepard Broad Causeway Bridge for the year beginning July 15, 2017 to July 14, 2018 in the amount of \$159,639.

Item 8. Approval of a request by Mayor Leonard for an expenditure not to exceed \$1,500 to host a Miami Dade County League of Cities meeting September 7th, 2007 at the Seaview Hotel in conjunction with the Village of Bal Harbour and the Town of Surfside. The expenditure is being shared by all three towns.

Mayor Leonard clarified that it's not uncommon for cities to host the Miami Dade County League of Cities Monthly Board Meeting. This year the fees will be split with the Town of Surfside, and the Village of Bal Harbour.

Town Manager Wasson asked for the Town Council to approve the expenditure not to exceed \$3,000.

Item 10. Approval of a three (3) year contract between the Town Bay Harbor Islands and the Dade County Police Benevolent Association (PBA) Inc. The current contract is scheduled to expire in September of 2017. Enclosed is a copy of Town Manager Wasson memorandum.

ACTION: Council Member Fuller made a motion to approve the Consent Agenda. Council Member Salver seconded the motion and it passed by unanimous poll vote.

ORDINANCES ON FIRST READING:

Item 11. Consideration and Approval of an ordinance on first reading requested by Council Member Salver amending Section 5-5 of the Town regarding the current parking plan for construction sites in Town.

AN ORDINANCE OF THE TOWN OF BAY HARBOR ISLANDS FLORIDA AMENDING SECTION 5-5 OF THE BAY HARBOR ISLANDS TOWN CODE OF ORDINANCES REQUIRING A STAGING PLAN FOR SINGLE FAMILY, MULTI-FAMILY, AND COMMERCIAL PROJECTS; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

Council Member Fuller suggested adding substantial renovations to section 3F.

ACTION: Council Member Salver made a motion to approve the proposed ordinance on first reading with the additional text. Council Member Tricoche seconded the motion and it passed by unanimous poll vote.

Council Member Salver suggested implementing a resident sticker system to identify the resident vehicles for the West Island. Town Clerk Siegel reminded the Council that the previous resident sticker identification system that was in place a few years ago, failed.

There was a brief discussion from the Council on how to implement a system to identify the residents' vehicles, and research on other cities resident identification system.

Consensus was for Staff to research a system to identify the resident's vehicles.

TOWN MANAGER ITEMS: (Town business items requiring Council approval)

Item 12. Consideration and Approval of Engineering & Architectural Firms for Continuing Services Agreements with (1) Calvin, Giordano and Associates, (2) Kimley Horn and Associates, (3) Chen Moore and Associates, (4) Keith & Schnars and (5) Behar, Font & Partners. All Continuing Services Agreements shall be for a period of three (3) years.

There was a brief discussion on the bid tabulations scores and how they were ranked.

ACTION: Council Member Salver made a motion to approve the Engineering & Architectural Firms continuing services agreements. Council Member Fuller seconded the motion and it passed unanimously.

Item 13. Approval of award of contract BHI 182 to Jennings Engineering and Construction for the sewer manholes and lift stations in the amount of \$42,600.

ACTION: Council Member Fuller made a motion to approve contract BHI 182 to Jennings Engineering & Construction. Council Member Reid seconded the motion and it passed unanimous poll vote.

Item 14. Approval of a proposal from Calvin, Giordano & Associates for Professional & Engineering services for the Broad Causeway corridor shoulder installation project in the amount of \$167,950.

Town Manager Wasson stated that the expenditure would be paid via a grant that was available for the Town in the amount of \$1,200,000. The funds would be available in July of 2018. He felt that the proposed project would allow for pedestrians and bike riders to be safe while on the west Bridge to the waterway bridge.

PUBLIC COMMENT

France Neuhut, 1060 Kane Concourse, came forward and suggested a more pedestrian friendly bridge for the residents.

CLOSED PUBLIC COMMENT

ACTION: Council Member Reid made a motion to approve Broad Causeway corridor shoulder installation project. Council Member Tricoche seconded the motion and it passed unanimous by poll vote.

Item 15. Approval of an award of contract to Artificial Group, LLC to provide commercial "English Garden Hanging Baskets" in the amount of \$18,055.04.

Town Manager Wasson stated that the Town had budgeted \$40,000 for this expenditure but plans to expand the project to other potential areas.

PUBLIC COMMENT

Frances Neuhut, 1060 Kane Concourse, came forward and asked for the locations where the hanging baskets would be placed and was also concerned with the lighting on the Business District.

CLOSED PUBLIC COMMENT

ACTION: Council Member Tricoche made a motion to award the contract to Artificial Group, LLC. Council Member Fuller seconded the motion and it passed unanimously.

DISCUSSION ITEMS:

Item 17. Discussion and possible action requested by Mayor Leonard of possible locations for a Community Pool.

Town Manager Wasson stated that he researched the options on possible locations for a community pool in Town. He explained that owning the land certainly reduced the costs and recommended the vacant land adjacent to the Community Center located on 95 Street and West Bay Harbor Drive. He also presented the Council with a rough sketch of a pool for the proposed location.

Mayor Leonard felt that the cost estimates were too high and asked for the Council to consider asking staff to look for possible partnerships and other options.

There was a brief discussion on the proposed locations, operational costs, and cost estimate to build a community pool.

Consensus was for staff to continue to research other possible locations and ideas for a community pool.

Item 18. Discussion and direction with regard to Council Member Fuller's request to design an amphitheater and passive park at the lot located on 95th Street and West Bay Harbor Drive.

Council Member Fuller felt that the cost estimate for the proposed design was too high. He would like a less expensive and simple design such as an amphitheater and an open field. He suggested that the proposed space be designed for senior events and movie night.

There was a brief discussion on the cost estimate and possible events that would be held on the proposed location.

PUBLIC COMMENT

Ken Eskin 1310 99 Street, came forward and was opposed to a community pool and suggested adding exercise equipment to the north park.

Victor Maya, 1155 103 Street, came forward and suggested for the Parks & Recreation Committee to research ideas.

Frances Neuhut, 1060 Kane Concourse, came forward and suggested a basketball court for the teenagers.

CLOSED PUBLIC COMMENT

ACTION: Consensus was for staff to come back with a less expensive simplified design that would have an amphitheater with an open field.

Item 20. Discussion and possible action requested by Council Member Reid regarding the service station lease. The lease agreement term is for 10 years (signed in Aug. 2008) with a 5 year extension option. Enclosed is a letter from the tenant exercising their option to a 5 year extension.

Town Manager Wasson stated that the tenant was exercising their option to extend the lease agreement for 5 more years.

Item 21. Discussion requested by Council Member Reid to create a Sustainability & Resiliency Committee. The proposed committee would address task/ objectives from the Environmental Impact & the Disaster Preparedness Committees.

Council Member Reid thanked Council Member Salver for suggesting combining the two committees; she was concerned with the local flooding and sea level rise. She suggested combining the two committees to create the sustainability & Resiliency committee.

ACTION: Consensus was to move forward and combine the Environmental Impact & the Disaster Prepared Committee and rename them to the Sustainability & Resiliency Committee.

There being no other business to discuss meeting was adjourned at 8:42 p.m.

MAYOR

ATTEST

TOWN CLERK

**MINUTES OF A BUDGET PUBLIC HEARING
TOWN OF BAY HARBOR ISLANDS**

A Budget Public Hearing of the Town Council was held Monday, September 18, 2017 at 7:00 p.m. in the Council Chambers. Upon roll call the following Council Members responded:

Mayor Jordan Leonard	
Vice Mayor Stephanie Bruder	Council Member Joshua Fuller
Council Member Kelly Reid	Council Member Isaac Salver
Council Member Elizabeth Tricoche	Council Member Robert Yaffe

Item 1. Announcement of the proposed 2017 property tax rate of 3.9995 mills, which is 5.83% more than the rolled-back rate, needed to fund expenses for the year beginning October 1, 2017 and ending September 30, 2018.

Town Manager Wasson explained that the Finance Director Short prepared a memorandum that outlines the proposed budget and budget cuts based on the Council discussion from the Budget Workshop.

Item 2. Public Comment concerning the proposed millage rate and proposed 2017-2018 Budget.

Frances Neuhut, 1060 Kane Concourse, came forward and suggested for the Town to budget money for he broadcasting channel that plays the council meetings. She also felt that the Business District need to be revitalize.

Kathleen Kennedy, 9180 West Bay Harbor Drive, came forward and thanked the Town staff for their efforts before and after Hurricane Irma.

Dr. Denis Neuhut, 1060 Kane Concourse, came forward and asked if the Town staff or Council made any efforts on the tax assessments increases for commercial properties.

Item 3. Consideration and Approval of an ordinance on first reading to levy the Town's property tax millage.

AN ORDINANCE PROVIDING FOR A MILLAGE OF 3.9995 WHICH IS 5.83% MORE THAN THE ROLLED-BACK RATE FOR THE TOWN OF BAY HARBOR ISLANDS FOR THE CURRENT YEAR, A.D. 2017; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Council Member Yaffe asked about the hurricane expenses listed on the Finance Director memorandum. Town Manager Wasson clarified that the funds where coming from general reserves.

ACTION: Council Member Yaffe made a motion to approve the proposed ordinance on first reading. Council Member Tricoche seconded the motion and it passed unanimous poll vote.

Item 4. Consideration and Approval of an ordinance on first reading making appropriations for the operation of the General Fund, Water Fund, Sewer Fund, Parking Fund, Solid Waste Fund, Causeway Fund, and Stormwater Fund.

AN ORDINANCE MAKING APPROPRIATIONS FOR THE GENERAL, WATER, SEWER, PARKING, SOLID WASTE, CAUSEWAY, AND STORMWATER FUNDS FOR THE YEAR BEGINNING OCTOBER 1, 2017 AND ENDING SEPTEMBER 30, 2018, IN THE TOTAL SUM OF \$19,665,939; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

ACTION: Council Member Salver made a motion to approve the proposed ordinance on first reading. Vice Mayor Bruder seconded the motion and it passed by unanimous poll vote.

Council Member Reid would like to budget for hurricane preparedness supplies such as water and sand bags.

Item 5. Announcement of the date, time and place of the second Budget Hearing.

Mayor Leonard announced the second Budget Hearing to be held on Monday, September 25, 2017 at 7:00 p.m.

There being no further business to discuss meeting was adjourned at 7:16 p.m.

MAYOR

ATTEST

TOWN CLERK

**TOWN OF BAY HARBOR ISLANDS
MINUTES OF A PUBLIC HEARING**

A Public Hearing of the Town Council was held on September 18, 2017 at 7:21 p.m. in the Council Chambers. Upon roll call the following members responded:

Mayor Jordan Leonard

Vice Mayor Stephanie Bruder

Council Member Joshua Fuller

Council Member Kelly Reid

Council Member Isaac Salver

Council Member Elizabeth Tricoche

Council Member Robert Yaffe

Item 1. Discussion and possible action of a resolution to impose a temporary moratorium on medical marijuana dispensing facilities within the Town of Bay Harbor Islands.

Town Attorney Simone explained that the proposed resolution was to discuss a possible temporary moratorium on medical marijuana dispensaries. The Council should discuss whether the Town will ban the dispensing of medical marijuana until federal law allows it or if the use was permitted, the dispensary would be treated as a pharmacy. The other provision for discussion was a 500 feet radius from a school.

There was a brief discussion on 500 feet radius map; possible ban or how they could dispense and time to research the matter.

PUBLIC COMMENT

Kathleen Kennedy, 9180 W. Bay Harbor Drive, came forward and supported the medical dispensing of medical marijuana.

CLOSED PUBLIC COMMENT

ACTION: Vice Mayor Bruder made a motion to approve the proposed resolution. Council Member Tricoche seconded the motion and it passed unanimously.

There being no further business to discuss meeting was adjourned at 7:29 p.m.

MAYOR

ATTEST

TOWN CLERK

TOWN OF BAY HARBOR ISLANDS
SPECIAL COUNCIL MEETING AGENDA

A Special meeting of the Town Council was held on September 18, 2017 at 7:31 p.m. in the Council Chambers. Upon roll call the following members responded:

Mayor Jordan Leonard

Vice Mayor Stephanie Bruder

Council Member Joshua Fuller

Council Member Kelly Reid

Council Member Isaac Salver

Council Member Elizabeth Tricoche

Council Member Robert Yaffe

PUBLIC COMMENT

Harry Bruder, 1281 94 Street; Kathleen Kennedy, 9180 W. Bay Harbor Drive; Linda Zilber, 1231 95 Street; and Liza Hernandez, 1152 101 Street, came forward and thanked the Town staff on an awesome job on the recovery efforts after Hurricane Irma.

Liza Hernandez asked for the Town Council approval to collaborate with the Florida International University (FIU) to collect donations for displaced families in the Keys.

Consensus was to move forward with the collection sites for donations of displaced families affected by Hurricane Irma at Town Hall and the Community Center.

Ms. Hernandez also requested permission for the upcoming Farmer's Market to be moved to Kane Concourse.

Consensus was for Staff to coordinate with Ms. Hernandez on suitable locations to have the Farmer's Market.

CLOSED PUBLIC COMMENT

Item 1. Approval of proposal from Preferred Governmental Insurance Trust for property, liability, and workers' compensation coverage for 2017 / 2018 in the amount of \$247,867.

ACTION: Council Member Yaffe made a motion to approve the proposal for the Town's insurance. Vice Mayor Bruder seconded the motion and it passed by unanimous poll vote.

Item 2. Approval of award of contract BHI-183 to BrightView Landscape Services for landscaping and irrigation maintenance in the amount of \$356,018.15. Enclosed are supporting bid and administrative tabulation documents by Kathryn O'Leary Richards of O'Leary Richards Design Associates, Inc.

ACTION: Council Member Salver made a motion to award the landscaping contract to Brightview Landscape Services. Vice Mayor Bruder seconded the motion and it passed by unanimous poll vote.

Item 3. Approval of an award of contract to Calvin, Giordano & Associates, Inc to conduct a Comprehensive Traffic Study for the Town in the amount of \$22,000.

ACTION: Council Member Reid made a motion to award the contract to Calvin, Giordano & Associates. Council Member Tricoche seconded the motion.

There was a brief discussion on new developments in Town and the Business District, and to possibly conduct the traffic study at a later time.

At this time Vice Mayor Bruder withdrew her motion to approve the traffic study.

Item 4. Approval of an expenditure in the amount of \$19,820.77 to underground the overhead telephone facilities on the west end bridge. Enclosed is a copy of the cost estimate provided by AT&T.

PUBLIC COMMENT

Frances Neuhut, 1060 Kane Concourse, came forward and asked why the Council did not hold the December Regular Council meeting.

CLOSED PUBLIC COMMENT

ACTION: Council Member Yaffe made a motion to approve the expenditure. Vice Mayor Bruder seconded the motion and it passed unanimously.

COUNCIL REPORTS:

The Town Council thanked the entire Town staff on all of their efforts after Hurricane Irma.

Council Member Fuller congratulated Council Member Salver on his appointment to the Board of the Florida League of Cities.

Vice Mayor Bruder thanked all the Town residents' for their well wishes during her recovery period.

Council Member Salver asked if the Town Attorney office had any information on the communication bill and would like to know if a moratorium was needed. Assistant Town Attorney Simone responded that he research the matter and will report at the next meeting.

Mayor Leonard agreed with the Council on the Town staff recovery efforts after Hurricane Irma. He reported that he been in contact with FEMA and County staff on ways to help with processing claims.

Town Manager Wasson reported Town staff was still working on the cleaning up operation after the Hurricane and Public Works Department has been working 7 days. He also stated that due to recent

federal regulations the Police Department will be requiring to have separate servers from Town Hall. The estimated cost for the servers' separation was around \$40,000. He added that the Town would go out to obtain proposals. Chief Hemingway stated that FBI has asked for more restriction from the Florida Department of Law Enforcement.

There being no further business to discuss meeting was adjourned at 8:27 p.m.

MAYOR

ATTEST

TOWN CLERK

DRAFT

AGENDA ITEM REPORT

January 8, 2018

ITEM NUMBER: 2.

ITEM: Consideration and Approval of a resolution amending the schedule for Building permits to decrease the fee for change of contractor. Enclosed is a copy of the proposed resolution.

DESCRIPTION:

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba Chang, Deputy Town Clerk

ATTACHMENTS

1.	Proposed Resolution	reso-building permit fee schedule- change of contractor fee.pdf
2.	Exhibit A	BUILDING DEPARTMENT PERMIT FEE SCHEDULE - REV.pdf

RESOLUTION NO. ____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA; AMENDING THE SCHEDULE FOR PERMITS AND BUILDING DEPARTMENT ACTIVITIES, AS PROVIDED IN SECTIONS 5-6(a) AND 5-6(b) TO DECREASE THE FEE FOR CHANGE OF CONTRACTOR.

WHEREAS, the Town Council of the Town of Bay Harbor Islands is responsible for the public health, safety, and welfare of the citizens of the Town of Bay Harbor Islands and those coming to the Town; and

WHEREAS, the Town Council of the Town of Bay Harbor Islands is charged with preserving and maintaining the high quality and standards, and aesthetic beauty contained within the Town; and

WHEREAS, the imposition and collection of permitting fees, and uniformity in the scheduling, itemization and revision of such fees is essential for the public health, safety and welfare and to the preservation of high quality standards within the Town; and

WHEREAS, pursuant to Section 5-6(b), a fee schedule shall be established from time to time by administrative order which shall not become effective until approved by resolution of the Town Council; and

WHEREAS, it has come to the Town Council's attention that the fees being charge for a "Change or Contractor" are too high and not in-line with the fees being charged by neighboring municipalities;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Bay Harbor Islands that attached hereto and incorporated herein is an amended permit fee schedule adopted pursuant to Section 5-6(b). Any other fees not listed on the attached fee schedule or specifically established by ordinance shall be subject to the minimum permit fee set on the schedule.

PASSED and ADOPTED this ____ day of _____.

MAYOR

ATTEST:

TOWN CLERK

EXHIBIT A - RESOLUTION NO. _____

BUILDING DEPARTMENT-PERMIT FEE SCHEDULE

Master building permit fees will be based on the estimated cost of construction including all systems. For the purpose of determining the cost of construction and / or building estimated costs. A verified contract figure including all systems may be used to determine the construction value or the estimated construction cost including all systems may be computed per the latest edition of R.S. Means Square Foot Costs as published by R.S. Means Co., Inc. whichever is greater. The estimated construction value will be then used to determine the master permit fee.	Separate sub-trade values, Electrical, Plumbing, Mechanical) shall be based on a verifiable contract amount or the estimated construction cost of work as calculated by the latest issue of R.S. Means Square Foot Costs, as published by R.S. Means Co, Inc. whichever is greater.
DESCRIPTION	FEE
PROCESSING FEE	\$25.00 MIN. \$5,001 OR MORE \$5/\$1,000 = JOB COST
UP FRONT PROCESSING FEES - NEW CONSTRUCTION	SINGLE FAMILY - \$250.00 MULTI FAMILY / COMMERCIAL - \$1,000.00
BUILDING PERMITS	
NEW CONSTRUCTION	\$150.00 MINIMUM OR 3% OF JOB COST **COPY OF CONTRACT REQUIRED
ADDITION AND OR ALTERATION TO EXISTING STRUCTURE	\$150.00 MINIMUM OR 2% OF JOB COST **COPY OF CONTRACT REQUIRED
ROLL-OFF WASTE CONTAINER	\$65.00/CONTAINER
DEMOLITION OF BUILDINGS	
SINGLE FAMILY	\$500.00
MULTI FAMILY / COMMERCIAL	\$1,500.00
SIGN PERMIT FEES MINIMUM SIGN FEE (ILLUMINATED SIGN REQUIRES AN ELECTRICAL PERMIT) For detailed sign fees see Town Code Chapter 17	\$75.00
REVIEW OF 40- YEAR RE-CERTIFICATION	\$250.00
STRUCTURAL	\$100.00/HOUR
PLAN REVIEW REVISIONS PER PAGE	\$25.00 RESIDENTIAL \$50.00 COMMERCIAL
PLUMBING PERMIT FEES	\$150.00 MINIMUM OR 3% OF JOB COST (sub-trade value) **COPY OF CONTRACT REQUIRED
MINIMUM PLUMBING OR GAS FEE PER PERMIT	
ELECTRICAL PERMIT FEES	\$150.00 MINIMUM OR 3% OF JOB COST -(sub-trade value) **COPY OF CONTRACT REQUIRED
MECHANICAL PERMIT FEES	\$150.00 MINIMUM OR 3% OF JOB COST-(sub-trade value) **COPY OF CONTRACT REQUIRED
BUILDING INFORMATION LETTERS	\$25.00
CHANGE OF CONTRACTOR	50% OF ORIGINAL PERMIT FEE \$100.00
LOST PLAN FEE	\$6.00 PER PAGE

DESCRIPTION	FEE
PERMIT CARD REPLACEMENT	\$5.00
ANY CHARGE NOT SPECIFICALLY COVERED PAYROLL RATE PLUS 50%	\$35.00 MIN
CERTIFICATE OF COMPLETION (SINGLE FAMILY, TOWNHOUSE, COMMERCIAL SHELL)	\$50.00
REINSPECTION FEE A FEE FOR EACH INSPECTOR WHO MUST RETURN SHALL BE CHARGED WHEN EXTRA INSPECTION TRIPS ARE NECESSARY DUE TO ANY OF THE FOLLOWING: 1. WRONG ADDRESS BEING GIVEN ON CALL FOR INSPECTION 2. REQUIRED CORRECTIONS NOT BEING MADE OR COMPLETED AT TIME SPECIFIED 3. FAILURE TO PROVIDE ACCESS TO THE PROPERTY OR USE. 4. PERMITS OR PLANS NOT POSTED. 5. WORK NOT TO CODE OR PER APPROVED PLANS. 2ND REINSPECTION AFTER THE INITIAL REINSPECTION SHALL REQUIRE PAYMENT OF A RE-INSPECTION FEE 3RD REINSPECTION SPECIAL INSPECTIONS/MEETINGS/CONFERENCES	\$75.00 \$100.00 \$250.00 \$25/HALF HOUR OR FRACTION THEREOF
CERTIFICATES OF USE AND OCCUPANCY. PERMANENT USE AND OCCUPANCY CERTIFICATES SHALL REMAIN VALID FOR AN UNLIMITED TIME, UNLESS REVOKED FOR CAUSE OR ABANDONED AND PROVIDING THERE IS NO CHANGE OF USE, OWNERSHIP, OR NAME, OR THAT THERE IS NO ENLARGEMENT.	\$100.00
OCCUPANCY WITHOUT C.O... PER DAY	\$250.00/DAY PLUS DOUBLE C.O. FEE
DUMPSTER BOND (REFUNDABLE) - MAY BE USED TO REMOVE DUMPSTER DURING STORM WARNINGS.	\$250.00 POSTING OF CONSTRUCTION BONDS - FOR DAMAGE TO SIDEWALKS, PARKWAYS, PARKWAY TREES AND SHRUBS, STREET PAVEMENT OR OTHER MUNICIPAL OR PRIVATE PROPERTY.
MARKING OF BFE (MECHANICAL EQUIPMENT)	\$25.00
ALL INSPECTIONS MUST BE REQUESTED IN ACCORDANCE WITH REQUIREMENTS OF THE FLORIDA BUILDING CODE. FINAL INSPECTIONS ARE TO BE CALLED IN WITHIN 30 DAYS OF COMPLETION OF THE WORK ANY DAMAGE TO TOWN PROPERTY MUST BE CORRECTED TO THE SATISFACTION OF THE TOWN. FAILURE TO COMPLY WITH THESE AND/OR AND OTHER REQUIREMENTS MAY RESULT IN FORFEITURE OF THE BOND. TO BE DETERMINED BY THE BUILDING OFFICIAL OR TOWN MANAGER. INITIAL BOND WILL NOT EXCEED \$5,000.00	FAILURE TO COMPLY WITH THESE AND/OR AND OTHER REQUIREMENTS MAY RESULT IN FORFEITURE OF THE BOND. TO BE DETERMINED BY THE BUILDING OFFICIAL OR TOWN MANAGER. INITIAL BOND WILL NOT EXCEED \$5,000.00
<u>SCANNING PLANS</u>	<u>\$1.75 PER PAGE</u>
EXTENSION REQUEST - 180 DAYS	50% OF ORIGINAL PERMIT FEE

DESCRIPTION	FEE
SEWER ALLOCATION LETTERS	\$25.00
CONSTRUCTION TRAILER	\$250.00 RENEWAL FEE - \$250 PER SIX MONTH
USE OF RIGHT OF WAY - PERMIT BOND - SEC 18-1 TOWN CODE	\$150.00 1 ½% OF JOB COST - NOT TO EXCEED \$20,000
NEW CONSTRUCTION - ZONING INSPECTION FINAL ZONING INSPECTION ZONING PLAN REVIEW	SINGLE FAMILY - \$500.00 MULTI FAMILY / COMMERCIAL - \$3,000.00 \$90.00 PER HOUR
WORK WITHOUT PERMITS - AFTER THE FACT PERMIT	DOUBLE PERMIT FEE + \$100 FINE

AGENDA ITEM REPORT

January 8, 2018

ITEM NUMBER: 3.

ITEM: Consideration and Approval of the Council Meeting dates for the 2018 calendar year. Enclosed is a copy of the calendar of the proposed dates.

DESCRIPTION:

The proposed 2018 Council meeting dates will continue to be schedule for the second Monday of the month with the exception of the months of April, which will be third Monday of the month; September, which will also have to be held on the third Monday of the month and October, which will be held on the second Tuesday of the month.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba Chang, Deputy Town Clerk

ATTACHMENTS

1.	2018 Meeting Dates	2018 meeting date only.pdf
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**REGULAR COUNCIL MEETING
DATES - 2018
(Second Monday of each month)**

Council Meeting Dates
Monday, January 8
Monday, February 12
Monday, March 12
Monday, April 16*
Monday, May 14
Monday, June 11
Monday, August 13
Monday, September 17*
Tuesday, October 9*
Monday, November 12

- * Town Elections - April 10, 2018
- * Rosh Hashanah - September 10, 2018
Sukkot - September 24 - 30, 2018
- * Columbus Day - October 8th, 2018

AGENDA ITEM REPORT

January 8, 2018

ITEM NUMBER: 4.

ITEM: Approval of a resolution updating and adopting new values for town owned TDR (Transfer of Development Rights) units in the residential districts and establishing a value for Town owned units in the B-1 Commercial District. Enclosed is a copy of the resolution and supporting documents.

DESCRIPTION:

The last time the TDR values were updated was in March of 2016. There has not been a great deal of TDR sales, but the town has experienced an increase in property values, especially as it relates to waterfront property and as supported by the enclosed appraisal. Also, in the past, the Town had not established a value for the bank of units in the B-1 District and this is now included in this resolution. The B-1 District Units are all non-waterfront and therefore are more comparable to the residential district's non-waterfront units. At this time, staff is recommending that the Town Council adopt the values suggested by the appraisal as follows:

Town-owned TDR dwelling units transferred to Waterfront properties: \$100,000.00

Town-owned TDR dwelling units transferred to Non-waterfront properties: \$70,000.00

Town-owned TDR dwelling units transferred to Commercial Mixed Use Sites: \$70,000.00

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Marlene Siegel, Town Clerk

ATTACHMENTS

1.	TDR - town owned units value	TDR - town owned units value.docx
2.	TDR Appraisal - Nov 2017	TDR Appraisal - Nov 2017.pdf

RESOLUTION NO. _____

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
BAY HARBOR ISLANDS, FLORIDA, UPDATING AND ADOPTING
NEW VALUES FOR THE TOWN-OWNED TDR DWELLING
UNITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR
CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the Town of Bay Harbor Islands is a municipality located within Miami-Dade County, Florida; and

WHEREAS, the Town has adopted amendments to its Comprehensive Plan that included, among other items, a Density Averaging System that provides for a Transfer of Development Rights (TDR) program; and

WHEREAS, the Florida Department of Community Affairs (DCA) found the Town's Phase 1 EAR-Based Comprehensive Plan amendments "in Compliance" on March 21st, 2005; and

WHEREAS, the Town adopted Land Development Regulations to implement the provisions contained within the adopted Comprehensive Plan including a Density Monitoring System (DMS) and Transfer of Development Rights (TDR) program; and

WHEREAS, as part of the implementation of the new Land Development Regulations, the Town is required to adopt a methodology and establish the value of Town-owned dwelling units that are capable of being conveyed through the Transfer of Development Rights (TDR) program to private parties; and

WHEREAS, the Town adopted a methodology to determine the value of a Town-owned Transfer of Development Rights (TDR) dwelling units in 2006 and established initial values for Town-owned TDR units; and

WHEREAS, the methodology includes provisions to periodically review and update the values for town-owned TDR units to reflect real estate market trends; and

WHEREAS, the Town retained a qualified professional Appraiser to assist the Town in analyzing current real estate sales, comparable values, other municipal TDR programs and establishing a value for Town-owned TDR dwelling units; and

WHEREAS, the Town Council has considered the staff input and the findings and recommendations found in the Appraiser's dated November 2017 TDR study and held a public meeting to consider the proposed Transfer of Development Rights (TDR) valuation methodology and updated values and took public input.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA:

SECTION 1. The Town Council hereby adopts the updated TDR values set forth in the attached Exhibit A.

SECTION 2. Severability. That a decision by a court of competent jurisdiction declaring invalid any section, paragraph, sentence, clause, phrase or other part of this Resolution shall not affect the validity of this Resolution as a whole or any parts thereof, other than the part so declared to be invalid.

SECTION 3. Conflict. That all Sections or parts of Sections of the Code of Ordinances, all Ordinances or parts of Ordinances, and all Resolutions, or parts of Resolutions, in conflict are hereby repealed to the extent of such conflict.

SECTION 4. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this ____ day of _____, 2018.

JORDAN W. LEONARD, MAYOR

ATTEST:

MARLENE M. SIEGEL, TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

CRAIG B. SHERMAN, TOWN ATTORNEY

EXHIBIT A

TOWN OF BAY HARBOR ISLANDS

TRANSFER OF DEVELOPMENT RIGHT (TDR) DWELLING UNIT VALUES

The Town of Bay Harbor Islands, Florida hereby adopts the following values for each Town-owned Transfer of Development Rights (TDR) dwelling unit:

Town-owned TDR dwelling units transferred to Waterfront properties:

\$100,000.00

Town-owned TDR dwelling units transferred to Non-waterfront properties:

\$70,000.00

Town-owned TDR dwelling units transferred to Commercial Mixed Use Sites:

\$70,000.00

APPRAISAL REPORT

TRANSFERABLE DEVELOPMENT RIGHTS

LOCATED AT:

BAY HARBOR ISLANDS, FLORIDA

PREPARED FOR:

**TOWN OF BAY HARBOR ISLANDS
9665 BAY HARBOR TERRACE
BAY HARBOR ISLANDS, FLORIDA**

AS OF:

NOVEMBER 1, 2017

PREPARED BY:

**QUINLIVAN APPRAISAL, P.A.
7300 NORTH KENDALL DRIVE – SUITE 530
MIAMI, FLORIDA 33156**

QUINLIVAN APPRAISAL
A PROFESSIONAL ASSOCIATION
7300 NORTH KENDALL DRIVE, SUITE 530
MIAMI, FLORIDA 33156

Thomas F. Magenheimer, MAI
State Certified General Appraiser
RZ 553

Telephone (305) 663-6611
Fax (305) 670-4330
tmagmai@aol.com

November 21, 2017

Ronald J. Wasson, Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154

Dear Mr. Wasson:

In accordance with your request and authorization, I have prepared this Appraisal Report to estimate the Market Value of the Transfer of Development Rights for dwelling units for the Town of Bay Harbor Islands.

The Town of Bay Harbor Islands has implemented a program allowing unused public and private development rights to be sold. Transfer of Development Rights (TDR) refers to the method of transferring the "right to develop" from one site to another. With the use of TDRs, sites would be able to build to a higher density while the maximum overall density of the Town would not exceed that allowed by the Town's adopted Comprehensive Plan and Land Development Regulations. Currently, the maximum density on the Eastern Island is thirty-four dwelling units per acre for the sites zoned Medium-High Density Residential.

The Appraisal Report that follows sets forth the assumptions and limiting conditions, pertinent facts about the area, comparable data, the results of the investigations and analyses, and the reasoning leading to the conclusions set forth. The client has requested appraisal services to assist the town in determining the value of Town-owned dwelling units that could be transferred to receiver sites.

The value of a property can be estimated by various methods which include Direct Sales Comparison, Allocation, Extraction, Development Approach, Land Residual or Ground Rent Capitalization. However, the Direct Sales Comparison Approach is the most preferred and utilized technique when sales of comparable sites are available. The other methodologies are indirect techniques which are generally used when an area is mostly developed and sales of comparable sites are scarce.

Mr. Ronald J. Wasson, Town Manager
Town of Bay Harbor Islands
November 21, 2017
Page 2

The Direct Sales Comparison Method was utilized in valuing the Transfer of Development Right (TDR) dwelling units due to the availability of recent sales and sales contracts. In the Direct Sales Comparison Method, sales of similar recently sold properties with a similar highest and best use as the subject property are analyzed, compared and adjusted by time, property characteristics and location to indicate the Market Value of a Transfer of Development Right dwelling unit. Additionally, sales of multiple family residential land sites are researched, analyzed and adjusted to estimate the value of the subject TDRs. The land sales are analyzed on a price paid per dwelling unit.

Based on the investigation and analyses undertaken, I have formed the opinion that the Transferable Development Rights had a Market Value as of November 1, 2017 as follows:

TRANSFERABLE DEVELOPMENT RIGHTS

NON-WATERFRONT SITES	\$70,000 PER DWELLING UNIT
COMMERCIAL MIXED USE SITES	\$70,000 PER DWELLING UNIT
WATERFRONT SITES	\$100,000 PER DWELLING UNIT

Respectfully submitted,



Thomas F. Magenheimer, MAI
State-Certified General Appraiser
Certification Number: RZ0000553

TFM/dm
(17-075)

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COVER PAGE

TRANSMITTAL LETTER

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ASSUMPTIONS AND LIMITING CONDITIONS

QUALIFICATIONS

CLIENT LIST

CERTIFICATION OF VALUE

The undersigned hereby certifies that, to the best of my knowledge and belief:

- (A) The statements of fact contained in the report are true and correct.
- (B) The reported analyses, opinions and conclusions are limited only by the assumptions and limiting conditions set forth, and are my personal, unbiased professional analyses, opinions and conclusions.
- (C) I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
- (D) I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- (E) My engagement in this assignment is not contingent upon developing or reporting predetermined results.
- (F) The appraiser's compensation for completing this assignment is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal. Furthermore, the appraisal assignment is not based on a requested minimum valuation, a specific valuation or the approval of a loan.
- (G) The appraiser's analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice, the requirements of the State of Florida for state-certified appraisers, the Uniform Appraisal Standards for Federal Land Acquisition and the Uniform Act 49 Code of Federal Regulations Part 24B.
- (H) Use of this report is subject to the requirements of the State of Florida relating to review by the Real Estate Appraisal Subcommittee of the Florida Real Estate Commission.
- (I) Thomas F. Magenheimer has made a personal inspection of the property that is the subject of this report.

- (J) No one provided significant professional assistance to the person signing this report.
- (K) The reported analyses, opinions, and conclusions are developed, and this report is prepared, in conformity with the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute.
- (L) The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- (M) The undersigned performed appraisal services concerning the property dated May 8, 2015, September 4, 2015, and February 19, 2016.

As of the date of this report, Thomas F. Magenheimer has completed the requirements under the continuing education program for The Appraisal Institute.



THOMAS F. MAGENHEIMER, MAI
STATE-CERTIFIED REAL ESTATE APPRAISER
CERTIFICATION NUMBER: RZ0000553

SUMMARY OF SALIENT FACTS AND CONCLUSIONS

Purpose of Appraisal	Market Value
Property Rights Appraised	Fee Simple
Location	Bay Harbor Islands, Florida
Final Estimate of Value	
Non-Waterfront TDRs	\$70,000 per dwelling unit
Commercial Mixed Use TDRs	\$70,000 per dwelling unit
Waterfront TDRs	\$100,000 per dwelling unit
Date of Value Estimate	November 1, 2017
Date of Report	November 21, 2017

INTRODUCTION

INTRODUCTION

IDENTIFICATION OF THE PROPERTY

Waterfront, non-waterfront, and commercial mixed use transferrable development rights

LOCATION

Town of Bay Harbor Islands, Florida

PURPOSE AND DATE OF APPRAISAL

The purpose of this Appraisal is to estimate the Market Value of waterfront, non-waterfront, and commercial mixed use transferrable development rights within the Town of Bay Harbor Islands, as of November 1, 2017.

INTENDED USE AND USER OF APPRAISAL

The intended use of this appraisal is to estimate the market value of the property for future development planning. The intended user is the Town of Bay Harbor Islands.

PROPERTY RIGHTS APPRAISED

The property is appraised in fee simple: a fee without limitations to any particular class of heirs or restrictions, but subject to the limitations of eminent domain, escheat, police power and taxation, as well as utility easements of record.

DEFINITION OF MARKET VALUE

Market Value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- (1) buyer and seller are typically motivated;
- (2) both parties are well informed or well advised and acting in what they consider their own best interest;
- (3) a reasonable time is allowed for exposure to the open market;
- (4) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- (5) the price represents a normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Source: Interagency Appraisal and Evaluation Guidelines, December 10, 2010, Federal Register, Volume 75, No. 237, Page 77472

SCOPE OF THE APPRAISAL

SCOPE OF THE APPRAISAL

Transfer of Development Rights refers to the method of transferring the “right to develop” from one site to another. In this report, the Market Value for a Transfer of Development Right dwelling units were estimated for the waterfront lots, non-waterfront lots and commercial mixed use lots based on a sales comparison approach. The commercial mixed use TDRs are for the residential components of mixed use commercial and residential developments. All of the commercial TDR’s are non-waterfront properties.

The value of a property can be estimated by various methods which include Direct Sales Comparison, Allocation, Extraction, Development Approach, Land Residual or Ground Rent Capitalization. However, the Direct Sales Comparison Approach is the most preferred and utilized technique when sales of comparable sites are available. The other methodologies are indirect techniques which are generally used when an area is primarily built-up and sales of comparable TDRs are scarce.

The Direct Sales Comparison Method of valuing the Transfer of Development Rights (TDRs) was relied on due to the availability of recent sales. In the Direct Sales Comparison Method, sales of similar recently sold TDRs and sales contracts from TDRs with a similar highest and best use as the subject property are analyzed, compared and adjusted by time, property characteristics and location to indicate the Market Value of the subject property as though unimproved. The reliability of this approach is dependent upon the availability of comparable sales data, the verification of the sales data, the degree of comparability and the absence of non-typical conditions affecting the sale. Additionally, sales of multiple family residential land sites are researched, analyzed and adjusted to estimate the value of the subject TDRs. The land sales are analyzed on a price paid per dwelling unit.

Sales prices are typically confirmed with a party to the transaction, i.e. buyer, seller, real estate agent, municipal officials or attorney to the transaction.

LOCATION ANALYSIS

COUNTY DATA

Miami-Dade County - Location and Size

Miami-Dade County, which comprises the metropolitan area of Miami, is situated on the southeast tip of the state of Florida. It is bordered on the east by the Atlantic Ocean, on the west by Monroe and Collier Counties, on the north by Broward County, and on the south by Monroe County (the Florida Keys).

Miami-Dade County, the largest county in area and population in the state of Florida, covers an area of 2,054 square miles with an altitude ranging from sea level to 25 feet. Water covers 354 square miles of the County.

Although the County is relatively large, approximately half of the total area is comprised of the Everglades, which is a natural area that will not be developed. Therefore, only the eastern section of Miami-Dade County encompasses the area which is currently developed or available for future development.

Miami-Dade County's location, its southern latitude and proximity to the Gulf Stream provide for mild winters and pleasant summers.

Population

The state of Florida has increased rapidly in population from 9,740,000 in 1980 to 12,937,926 in 1990 and 15,982,378 in 2000. The 2010 population of Florida was 18,801,310, an increase of 17.6% over the 2000 population.

Miami-Dade County's population increased from 1,626,000 in 1980 to 1,937,094 in 1990, reflecting an average annual compounded growth rate of 1.77%, compared with 2.88% for the state of Florida. By 2000, Miami-Dade County's population increased to approximately 2,253,362. The population grew to 2,496,435 by the Year 2010, an increase of 10.8% over the 2000 population. By the Year 2015 the population increased to 2,693,117, an increase of 7.9% over the 2010 population.

Miami-Dade County's population growth during the last four decades has been dramatic especially in relation to national trends. From 1950 to 1990 the United States population increased by 60% while the population of Miami-Dade County has almost quadrupled from 495,084 to 1,937,000. During this period, the state of Florida was elevated from the 20th most populous state to the 4th in 1990 and continues to be the fourth most populous state.

During the 1960s, the major increase in Miami-Dade County's population was due to the large immigration of Cubans. Today, Cuban and other Spanish speaking people comprise approximately 62% of Miami-Dade County's population. The increase in Hispanic population has had favorable effects on the local economy and has helped to create a multi-national cultural environment in the area.

The overall population of Miami-Dade County is well dispersed throughout the entire area, yet has several key areas of concentration. During the 1960s, several sub-areas accounted for approximately 70% of the growth. These areas include Hialeah, northern Miami-Dade County, the Beach area, the Miami River area, the area southwest of Miami International Airport, as well as the Kendall and Cutler Ridge areas. In the first half of the 1970s, population growth continued in an uneven fashion especially in the urban fringes.

Since 1970, approximately three-fourths of the total population growth for the County has occurred in the unincorporated areas. The older centrally located cities such as Miami, Miami Beach and Coral Gables have grown at modest rates from 1970 to 1990. Unincorporated Miami-Dade County has evidenced the most rapid growth which continues to occur in areas in northeast Miami-Dade County (Aventura), as well as the currently expanding southwest area, especially in sections of Flagler Street, S.W. 8th Street, North Kendall Drive and Homestead.

Population trends indicate that most of the population growth in Miami-Dade County between 2010 and 2020 will occur in outlying areas such as North Miami Beach, the Kendall area west of the Florida Turnpike, the S.W. 8th Street area west of the Florida Turnpike, the Hialeah-Miami Lakes area, as well as those areas both east and west of U.S. Highway 1 between Cutler Ridge and Florida City.

Employment Trends

The dominant characteristic of Miami-Dade County is that it is primarily trade and service based. Personal, business and repair services have had a substantial increase in importance in the economic base over the last decade. The major sectors of the economy include services, wholesale and retail trade, transportation, communications, public utilities, government and manufacturing. The most dominant industries which form the County's economic base are construction and tourism.

Tourism is Miami-Dade County's biggest industry with an estimated 15.5 million visitors in 2015 contributing to more than 50 percent of the area's economy. Aviation and related industries are responsible for another large segment of the economy.

The largest employer in Miami-Dade County is the Miami-Dade County School Board, followed by Miami-Dade County, Federal Government, State of Florida, University of Miami, Baptist Health Systems of South Florida, American Airlines, Jackson Health System, Florida International University, City of Miami, Mount Sinai Medical Center, and Florida Power and Light. Assuming additional importance is the growing prominence of Miami-Dade County as a center for international trade, finance and tourism. The establishment of Miami as the "Gateway of the Americas" should provide the area with a much needed degree of economic diversification. This should enable Miami-Dade County to weather slowdowns in the national economy by an increase of trade through the Port of Miami, growth of international arrivals at the airport, the Free Trade Zone, and the substantial foreign investment in the local economy, particularly in real estate.

In November of 2016, Florida's unemployment rate was 4.9 percent, down from 5.1 percent in November of 2014 and a high of 10.7 percent in March of 2011. The unemployment rate for Miami-Dade County in October of 2016 was 5.6 percent, down from 6.2 percent a year earlier.

TABLE 1

ESTIMATES OF MIAMI-DADE COUNTY TOURIST TRENDS

	INTERNATIONAL	DOMESTIC	TOTAL
2009	5,684,400	6,251,564	11,935,964
2010	6,060,100	6,544,000	12,604,100
2011	6,461,900	6,908,600	13,370,600
2012	6,801,200	7,102,032	13,903,232
2013	7,131,700	7,087,200	14,218,900
2014	7,260,000	7,303,200	14,563,200
2015	7,506,100	7,990,200	15,496,300

Source: Greater Miami Convention and Visitors Bureau, Tourism Facts and Figures

Figures for 2015 indicate 15,496,300 overnight visitors came to Miami-Dade County, a 6.4% increase from 2014. In 2014, the total overnight visitors increased to 14,563,200, an increase of 2.4% over 2013.

TABLE 2

ESTIMATES OF DOMESTIC VISITORS BY REGION

DOMESTIC MARKET	2011	2012	2013	2014	2015
NEW YORK	25.3%	25.5%	25.9%	26.0%	26.3%
CHICAGO	5.9%	5.8%	5.9%	5.9%	5.9%
PHILADELPHIA	5.7%	5.7%	5.6%	6.0%	5.6%
BOSTON	4.3%	4.3%	4.3%	4.3%	4.2%
ATLANTA	3.8%	3.9%	3.9%	3.9%	3.9%
WASHINGTON, DC	2.8%	2.8%	2.8%	2.8%	2.8%
DALLAS	2.6%	2.7%	2.7%	2.7%	2.7%
LOS ANGELES	2.0%	1.9%	2.1%	2.1%	2.1%
DETROIT	2.1%	2.1%	2.0%	1.9%	1.9%
HOUSTON	1.8%	1.8%	1.8%	1.8%	1.8%

Source: Greater Miami Convention and Visitors Bureau, Tourism Facts and Figures

Table 2 indicates that the bulk of domestic visitors to Miami-Dade County originate from the New York (26%), Chicago (5.9%) and Philadelphia (5.6%) market areas. Of the top ten domestic market visitors, the majority (38.9%) are from northeastern market areas.

T A B L E 3

ESTIMATES OF INTERNATIONAL VISITORS BY REGION

REGION	2011	2012	2013	2014	2015
EUROPEAN COUNTRIES	20.2%	20.0%	19.2%	19.7%	20.2%
CARIBBEAN COUNTRIES	10.8%	10.5%	10.0%	10.4%	10.6%
CENTRAL AMERICAN COUNTRIES	8.3%	8.0%	7.8%	8.2%	8.2%
SOUTH AMERICAN COUNTRIES	49.2%	50.3%	52.1%	50.4%	49.8%
CANADA	9.7%	9.4%	9.2%	9.5%	9.3%
OTHER COUNTRIES	1.8%	1.8%	1.7%	1.8%	1.9%
TOTAL	100%	100%	100%	100%	100%

Source: Greater Miami Convention and Visitors Bureau, Tourism Facts and Figures

Table 3 shows that the bulk of international visitors to Miami-Dade County originate from Central and South American Countries (58.6%), followed by European Countries (19.7%) and Caribbean Countries (10.4%). England and Germany accounted for the largest proportion of European visitors.

In 2015 there were a total of 2,965,728 million passengers passing through the Port of Miami. During 2015, the number of Port of Miami passengers decreased 6.2% from 2014. The passenger count for 2016 is expected to increase to nearly 3.031 million with the introduction of new ships to the port. Through August of 2016 approximately 15,441,947 passengers arrived through Miami International Airport. The passengers arriving at the airport increased 2% from the same period the previous year. The arrivals at the airport are fairly evenly distributed between international and domestic passengers. Through August 2016, domestic arrivals totaled 7,989,219 and international arrivals totaled 7,452,723.

As of August 2016, there were approximately 53,742 motel and hotel rooms in 414 lodging facilities in Greater Miami and the Beaches. The area had an occupancy rate of 76.1 percent in 2016, down 2% from 2015. The airport area had the highest occupancy rate as of November 2016 at around 86.5%.

Average room rate for hotel rooms in Miami-Dade County was \$187.17 in 2016, down from \$191.19 in 2015. Therefore, the average hotel room rates in 2016 indicate an decrease of 2.1% over the 2015 rate.

The first in a series of new luxury properties opened in February 2004 when the 380-room Ritz Carlton opened in Miami Beach. In May of 2005, the 210-room Le Meridian opened in Sunny Isles Beach. Three other new hotels with a total of 271 rooms opened in Miami Beach during 2005. In 2016, new hotel openings included the East Hotel (353-rooms) in Brickell, The Langford (126-rooms) downtown, Me by Melia (125-rooms) downtown and the East Hotel (352-rooms) in Brickell. New hotels expected to open in 2017 include SLS Lux Brickell Hotel (85-rooms) in Brickell, Yotel Miami (250-rooms) downtown, Fasano Hotel (175-rooms) in Miami Beach, the Surf Club Four Seasons (80-rooms) in Surfside, Plymouth Hotel (110-rooms) in Miami Beach, and Greystone Hotel (92-rooms) in Miami Beach.

Miami-Dade Financial Resources

Over the course of the last decade, Greater Miami has evolved into a major international financial center. Domestic and international businesses find convenient access to a full array of services provided by locally-based state and national commercial banks, savings and loan associations, foreign banks, non-depository credit institutions, securities and commodities brokers and insurance companies.

Greater Miami has the largest concentration of domestic and international banks south of New York City. With more than 90 percent of the state's foreign banks operating offices in Miami, this market dominates international banking in Florida.

Overall, about 150 domestic banks, foreign banks and Edge Act banks operate in Greater Miami. The greatest concentration is located along Brickell Avenue in downtown Miami.

Transportation

Miami-Dade County has an extensive expressway system with access to all points in the County. However, due to the rapidly increasing population, some of the expressways, especially Interstate 95, are becoming overburdened. In 1985 Miami-Dade County completed a 20.5 mile elevated rapid transit system. This system originally extended southward from downtown Miami to Dadeland, paralleling U.S. Highway 1 and northwesterly from downtown Miami to Hialeah. In 1999, the system was extended about a mile from Hialeah to the Palmetto Expressway at NW 74th Street. An expansion to the Miami International Airport opened in 2013. In conjunction with this system, there is a Downtown People Mover Automated Transit system which encircles the central business district of Miami and extends south to the Brickell area and north to the Omni area.

Miami-Dade County is served by the CSX and Florida East Coast Railroads for freight and Amtrak Rail, Greyhound and Trailways Interstate bus lines for passenger service.

Miami International Airport, one of the nation's largest and busiest, had 412,915 aircraft arrivals and departures through December 2015, an increase of 2.6% over the previous year. The airport is currently undergoing a \$5.4 billion expansion. A South Terminal has recently been completed and a North Terminal completed in 2013 and a fourth runway has been constructed.

Miami has become a port of embarkation for airlines and ships bound for Central and South

American Countries. The Port of Miami, besides being the largest passenger port in the nation, is also important as a cargo center with a 2015 annual tonnage of approximately 8.614 million, up 11.9% from 7.700 million in 2014. The port's traditional customer base has been Europe, China, Latin America and the Caribbean, accounting for 65% of the port's total volume.

Miami's comprehensive transportation system and its strategic location have enabled it to become an important international transportation center, providing commercial access to Latin America and the Caribbean.

Government

Miami-Dade County is comprised of unincorporated areas, as well as 36 municipalities, the largest of which is the city of Miami.

Miami-Dade County is governed under a modified two-tier metropolitan government. The purpose of this type government was to establish one governing body for the county, and to establish one supply of services such as fire, police, etc. for the county. The upper tier is the County, which provides broad "regional" or county functions, such as metropolitan planning, welfare, health and transit services. The thirty-six municipalities represent the lower tier of government, providing a varying array of services within their jurisdictional boundaries. The County also maintains lower tier functions, such as the provision of municipal-type services, including police and fire, to the unincorporated areas and certain municipalities on a negotiated basis.

The County operates under the strong mayor form of government. Legislative and policy-making authority is vested in the elected thirteen-member Board of County Commissioners; the mayor appointed County Manager is the chief administrator. Miami-Dade County has operated under the metropolitan form of government since 1957, when the Home Rule Charter was passed by the local electorate. Prior to Home Rule, the County had to rely on the State Legislature for the enactment of its laws.

County government had not been able to respond to the tremendous demand for municipal services in this rapidly urbanizing area, which is larger than the State of Rhode Island or Delaware. The need to combine services duplicated by the County and numerous cities was also clearly evident. The Charter permitted the limited County government to reorganize into a general purpose "municipal-type" government capable of performing the full range of public functions into an area wide operation.

Real Estate

The Miami-Dade County Office Market contains approximately 100.8 million square feet of office space. Approximately 31.0% of this space is located in the Miami central business district and adjacent Brickell Avenue, 25% in the Airport West area, and 15% in Coral Gables. The vacancy rate of office buildings in Miami-Dade County declined during the third quarter of 2016 to about 9.9%, down from 12.8% in 2015. During 2016, 1,685,607 square feet of office space is under construction in Miami-Dade County. Office rental rates in new buildings typically range from \$23.41 to \$43.63 per square foot. The low end of the range is for office space in the suburban markets. The upper end of the range is for first class office space in Downtown Miami,

Brickell Avenue, Coconut Grove and Coral Gables.

The Greater Miami Industrial Market consists of approximately 235.51 million square feet of industrial space in 8,883 buildings.

The approximate percentage location of this space is as follows:

MARKET AREA	% OF TOTAL MARKET SPACE
AIRPORT WEST	29.6%
HIALEAH	25.6%
MEDLEY	16.7%
MIAMI LAKES	3.3%
NORTHEAST DADE	4.8%
NORTHCENTRAL DADE	14.9%
SOUTH DADE	5.1%
TOTAL	100%

The county's vacancy rate for the overall Miami-Dade County industrial market as of the third quarter of 2016 was 3.9%. The county's overall vacancy rate has fallen from a high of 4.7% in 2015. Airport West, the largest industrial area, had a vacancy rate of 4.1% as at the third quarter of 2016. Industrial rental rates generally average \$9.41 per square foot in the third quarter of 2016, up from an average of \$8.77 per square foot in 2014. New industrial space under constructed in the third quarter of 2016 totaled 4,359,300 square feet, which is more than all of 2014 and 2015 combined.

Miami-Dade's single-family home sales decreased 10.8% in September of 2016 in comparison with September of 2016 according to the Miami Association of Realtors. A total of 1,066 homes were reported sold in September of 2016. In September of 2016, the median sales price for single-family units was \$314,500, up 9.6% from the previous year.

Existing condo sales showed an decrease of 18.3% in September of 2016 from September of 2016 according to the Miami Association of Realtors. A total of 1,064 condo units were reported sold in September of 2015. The median sales price for condos increased to \$219,000 or an increase of 9.2% during the same period.

Marcus & Millichap Apartment Research Market Report shows a vacancy rate of 2.5% for rental apartment buildings in the Third Quarter of 2016, 70 basis points lower than in 2015. The vacancy rate had been declining steadily since 2006 due to the reduction of inventory caused by the large amount of condominium conversions. Since 2007 many ownership housing units, including both condominiums and single family houses, were placed into the rental market by developers and individual owners. Apartment rents in Miami-Dade County indicated an increase of 3.9% during 2016. New apartment construction during 2015 was nearly 2,450 units. New apartment construction during 2016 is expected to increase to 7,200 units.

The Miami-Dade County retail market contains approximately 127.51 million square feet in 10,191 buildings. The major retail markets in Miami-Dade County include Hialeah, Coral Gables/South Miami-Dade, Aventura and Kendall. Rental rates typically range from \$16.18 to \$64.49 per square foot with rates in the \$80.00 to \$120 per square foot on South Beach. The overall Miami-Dade County vacancy rate for the third quarter of 2016 was approximately 2.9%, which is marginally down from 3.1% in the third quarter of 2015. As of the third quarter of 2016, 2,454,946 square feet of retail space was under construction.

Conclusions

In the future, one of the principal growth areas for Miami-Dade County is expected to be the international sector. Miami-Dade County, because of its geographic location and excellent transportation facilities, is well-suited to attract both business individuals and tourists from Latin America. It is already one of the principal shopping markets for Central and South Americans visiting the United States and one of the principal export points for goods and services destined for Latin America.

The existence of major financial institutions, retail outlets, corporations and other business entities, coupled with its geographic location, transportation systems and planned international trade centers give Miami-Dade County an excellent opportunity for continued growth as an international center.

During the next 12 months all segments of the commercial real estate market should continue to experience decreasing vacancy rates and increasing rental rates. With decreasing inventories for both single family residences and condominium apartment units, sales activity is expected to rise during the next 12 months.

LOCATION MAP



NEIGHBORHOOD DATA

The subject property is located in Bay Harbor Islands, approximately nine miles northeast of the central business district of Miami.

The town of Bay Harbor Islands is located west of the cities of Bal Harbour and Surfside across Indian Creek. Bay Harbor Island is bordered to the north and west by the Intracoastal Waterway, to the east by Indian Creek Waterway and to the south by Indian Creek Lake.

The town of Bay Harbor Islands is approximately one-half mile in length and one-quarter mile in width. The town was founded in 1947 by local attorney, Shepard Broad. Bay Harbor Islands contains approximately 0.37 square miles of land area and has a population as of 2010 of approximately 5,628. The population of the town increased 9.4% since 2000. Bay Harbor Islands has a total of 3,103 housing units, of which 1,235 are renter-occupied.

Bay Harbor Islands is connected to Miami via the Broad Causeway which crosses the Intracoastal Waterway and joins with N.E. 123rd Street in North Miami.

96th Street (Kane Concourse), is the primary east/west traffic artery in the town of Bay Harbor Islands. Various restaurants, retail stores and office buildings are located along 96th Street. The buildings were constructed primarily in the 1950s and 1960s and are generally in good condition.

The cities of Bal Harbour and Surfside, which are located along the Atlantic Ocean, are primarily tourist oriented. Mid- and high-rise hotels and condominium apartment buildings constructed in the 1950s and 1960s front Collins Avenue. Collins Avenue (State Road A1A) is a primary traffic artery along the east side of Miami-Dade County. Collins Avenue extends northerly from the south tip of Miami Beach to Broward County.

Bal Harbour Shops, located five blocks east of town, is an attractive specialty shopping mall containing 410,000 square feet and anchored by the department stores Neiman-Marcus, and Saks Fifth Avenue.

Single-family residences and multi-family apartment buildings are located to the north and south of the subject. The single-family residences, constructed primarily during the 1950s and 1960s, generally range in sale price from \$500,000 to \$850,000 for non-waterfront residences. Waterfront houses generally range in sale price from \$1,150,000 to \$3,500,000.

In summary, the subject neighborhood is a fully developed area containing commercial properties, single-family residences, apartments and hotels. This is a desirable area which should remain stable for several years into the future.

NEIGHBORHOOD MAP



LAND SALES ANALYSIS

LAND SALES ANALYSIS

A value estimate is concluded by comparing the subject site to comparable land sales. Generally, the comparable land sales are adjusted by time, property, and location to indicate the Market Value of the subject site as though unimproved. This process is known as the Direct Sales Comparison Method.

The Direct Sales Comparison Method is a process of analyzing sales of similar recently sold land parcels in order to derive an indication of the most probable sales price of the site being appraised. The reliability of this approach is dependent upon the availability of comparable sales data, the verification of the sales data, the degree of comparability and the absence of non-typical conditions affecting the sale.

The following pages contain sales of similar land sites which have recently sold. Several other sales were considered, but were not included because there was too wide a difference in physical factors, location and time.

Various analytical techniques may be used to identify and measure adjustments. The techniques of comparative analysis can be grouped into two categories: quantitative and qualitative.

When quantitative analytical techniques are applied, mathematical processes are used to identify which elements of comparison require adjustment and to measure the amount of these adjustments.

The primary quantitative techniques, **Paired Data Analysis**, is a process in which two or more market sales are compared to derive an indication of the size of the adjustment for a single characteristic. Ideally, the sales being compared will be identical in all respects except for the element being measured.

Although paired data analysis is a theoretically sound method, it is sometimes impractical because only a narrow sampling of sufficiently similar properties may be available and it is difficult to quantify the adjustments attributable to all the variables.

The primary qualitative techniques, **Relative Comparison Analysis**, is the study of the relationship indicated by market data without recourse to quantification. This technique is utilized because it reflects the imperfect nature of real estate markets. To apply the technique, the appraisers analyze comparable sales to determine whether the comparables' characteristics are inferior, superior, or equal to those of the subject property.

A search is made of real estate market for all sales within the subject or competitive locations. While many sales were reviewed, the sales contained herein are considered most comparable to the subject properties as to all major factors of comparison.

A detailed breakdown of each sale, a summary of the sales, a sales map and a value conclusion follows herein.

LAND SALE 1

DATE: March 2, 2015

PRICE: \$8,500,000

TYPE INSTRUMENT: Special Warranty Deed

RECORDATION: O. R. Book 29524, Page 207

FOLIO NUMBERS: 13-2227-001-0020
13-2227-001-0030

GRANTOR: BH South Island, LLC

GRANTEE: JCH Bay Harbor, LLC

LEGAL: Lots 3 & 4, Block 1, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46 Page 5 of the Public Records of Miami-Dade County, Florida.

LOCATION: 9521 East Bay Harbor Drive
Bay Harbor Islands, Florida

SITE DESCRIPTION:

Dimensions: 139 feet x 150 feet
Size: 20,850 Square Feet
0.48 Acres
Zoning: RM-1, Multifamily District
Maximum Legal Density: 41 dwelling units
Current Use: Vacant

UNIT PRICE: \$407.67 per square foot of land area
\$207,317 per dwelling unit

FINANCING: Cash.

REMARKS: This is a waterfront site. This site sold previously in April of 2013 for \$4,500,000. A nine-story apartment building with 41 units is planned for this site.



SALE 1

LAND SALE 2

DATE: January 25, 2016

PRICE: \$9,000,000

TYPE INSTRUMENT: Warranty Deed

RECORDATION: O. R. Book 29939, Page 349

FOLIO NUMBER: 13-2227-001-0960

GRANTOR: Bruder Enterprises, Inc.

GRANTEE: Congress Driftwood, LLC

LEGAL: Lots 19 & 20, Block 4, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46 Page 5 of the Public Records of Miami-Dade County, Florida.

LOCATION: 9955 East Bay Harbor Drive
Bay Harbor Islands, Florida

SITE DESCRIPTION:

Dimensions: 150 feet x 150 feet
Size: 22,500 Square Feet
0.52 Acres
Zoning: RM-1, Multifamily District
Maximum Legal Density: 18 dwelling units
Current Use: Vacant

UNIT PRICE: \$400.00 per square foot of land area
\$500,000 per dwelling unit

FINANCING: Cash.

REMARKS: This is a waterfront site.



SALE 2

LAND SALE 3

DATE: February 6, 2016

PRICE: \$1,653,800

TYPE INSTRUMENT: Special Warranty Deed

RECORDATION: O. R. Book 29955, Page 4814

FOLIO NUMBER: 13-2227-001-2620

GRANTOR: Ellner Realty, Inc.

GRANTEE: Pro-Nan Investments IV, LLC

LEGAL: Lot 15, less the South 11 feet, Block 22, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46 Page 5 of the Public Records of Miami-Dade County, Florida.

LOCATION: 1035 – 94th Street
Bay Harbor Islands, Florida

SITE DESCRIPTION:

Dimensions: 75 feet x 139 feet
Size: 10,425 Square Feet
0.24 Acres

Zoning: RM-2, Multifamily District

Maximum Legal Density: 8 dwelling units

Current Use: Apartment buildings with six units built in 1957

UNIT PRICE: \$158.64 per square foot of land area
\$206,725 per dwelling unit

FINANCING: Cash.

REMARKS: This is a non-waterfront site.



SALE 3

LAND SALE 4

DATE: February 9, 2016

PRICE: \$2,021,300

TYPE INSTRUMENT: Special Warranty Deed

RECORDATION: O. R. Book 29955, Page 4816

FOLIO NUMBER: 13-2227-001-2630

GRANTOR: Ellner Realty, Inc.

GRANTEE: Pro-Nan Investments IV, LLC

LEGAL: Lot 16, Block 22, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46 Page 5 of the Public Records of Miami-Dade County, Florida.

LOCATION: 1029 – 94th Street
Bay Harbor Islands, Florida

SITE DESCRIPTION:

Dimensions: 75 feet x 150 feet
Size: 11,250 Square Feet
0.26 Acres

Zoning: RM-2, Multifamily District

Maximum Legal Density: 9 dwelling units

Current Use: Apartment building with 12 units built in 1951

UNIT PRICE: \$179.67 per square foot of land area
\$224,589 per dwelling unit

FINANCING: Cash.

REMARKS: This is a non-waterfront site.



SALE 4

LAND SALE 5

DATE: February 12, 2016

PRICE: \$4,400,000

TYPE INSTRUMENT: Warranty Deed

RECORDATION: O. R. Book 29965, Page 2423

FOLIO NUMBERS: 13-2227-001-2950
13-2227-001-2960

GRANTOR: 1045-92 BH, LLC

GRANTEE: BHI The Club 2, LLC

LEGAL: Lots 13 & 14, Block 15, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46 Page 5 of the Public Records of Miami-Dade County, Florida.

LOCATION: 1055 – 92nd Street
Bay Harbor Islands, Florida

SITE DESCRIPTION:

Dimensions: 139 feet x 150 feet
Size: 21,675 Square Feet
0.50 Acres

Zoning: RM-2, Multifamily District

Maximum Legal Density: 17 dwelling units

Current Use: Vacant

UNIT PRICE: \$203.00 per square foot of land area
\$258,823 per dwelling unit

FINANCING: Purchase money mortgage of \$3,400,000.

REMARKS: This is a non-waterfront site. The legal density of the site is 17 units.



SALE 5

LAND SALE 6

DATE: March 31, 2016

PRICE: \$16,500,000

TYPE INSTRUMENT: Warranty Deed

RECORDATION: O. R. Book 30021, Page 3815

FOLIO NUMBER: 13-2227-001-0770

GRANTOR: Bay Harbor Continental, Inc.

GRANTEE: P3 Investments I, LLC

LEGAL: Tract "F", **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46 Page 5 of the Public Records of Miami-Dade County, Florida.

LOCATION: 1135 – 103rd Street
Bay Harbor Islands, Florida

SITE DESCRIPTION:

Dimensions: Irregular
Size: 51,270 Square Feet
1.18 Acres

Zoning: RM-1, Multifamily District

Maximum Legal Density: 41 dwelling units

Current Use: 36 unit co-op building

UNIT PRICE: \$321.83 per square foot of land area
\$402,439 per dwelling unit

FINANCING: Cash.

REMARKS: This is a waterfront site. The existing improvement will be demolished for a redevelopment of the site.



SALE 6

LAND SALE 7

DATE: December 9, 2016

PRICE: \$1,660,000

TYPE INSTRUMENT: Warranty Deed

RECORDATION: O. R. Book 30383, Page 478

FOLIO NUMBER: 13-2227-001-1510

GRANTOR: Avi Shlomo

GRANTEE: Neset Kockar

LEGAL: Lot 8, Block 7, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46 Page 5 of the Public Records of Miami-Dade County, Florida.

LOCATION: 1160 – 101st Street
Bay Harbor Islands, Florida

SITE DESCRIPTION:

Dimensions: 75 feet x 150 feet
Size: 11,250 Square Feet
0.26 Acres
Zoning: RM-2, Multifamily District
Maximum Legal Density: 9 dwelling units
Current Use: Duplex built in 1951

UNIT PRICE: \$147.56 per square foot of land area
\$184,444 per dwelling unit

FINANCING: Cash.

REMARKS: This is a non-waterfront site.



SALE 7

LAND SALE 8

DATE: January 12, 2017

PRICE: \$3,300,000

TYPE INSTRUMENT: Special Warranty Deed

RECORDATION: O. R. Book 30386, Page 1930

FOLIO NUMBER: 13-2227-001-3890
13-2227-001-3760

GRANTOR: Elysee Homes, LLC

GRANTEE: Flolin, LLC

LEGAL: Lots 1 & 16, Block 22, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46 Page 5 of the Public Records of Miami-Dade County, Florida.

LOCATION: 9720 Bay Harbor Terrace
Bay Harbor Islands, Florida

SITE DESCRIPTION:

Dimensions: 150 feet x 150 feet
Size: 22,500 Square Feet
0.52 Acres

Zoning: RM-2, Multifamily District

Maximum Legal Density: 18 dwelling units

Current Use: A 12-unit apartment complex built in 1952

UNIT PRICE: \$146.67 per square foot of land area
\$183,333 per dwelling unit

FINANCING: Cash.

REMARKS: This is a non-waterfront site. The property was sold for land value only.



SALE 8

LAND SALE 9

DATE: February 6, 2017

PRICE: \$1,599,000

TYPE INSTRUMENT: Warranty Deed

RECORDATION: O. R. Book 30418, Page 262

FOLIO NUMBER: 13-2227-001-3880

GRANTOR: Nohum Labkowski

GRANTEE: Neset Kocker

LEGAL: Lot 15, Block 22, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46 Page 5 of the Public Records of Miami-Dade County, Florida.

LOCATION: 1125 – 97th Street
Bay Harbor Islands, Florida

SITE DESCRIPTION:

Dimensions: 75 feet x 150 feet
Size: 11,250 Square Feet
0.26 Acres
Zoning: RM-2, Multifamily District
Maximum Legal Density: 9 dwelling units
Current Use: Apartment building with four units built in 1951

UNIT PRICE: \$142.13 per square foot of land area
\$177,667 per dwelling unit

FINANCING: Cash.

REMARKS: This is a non-waterfront site. The site is proposed to be redeveloped with a seven-story apartment building with nine units.



SALE 9

LAND SALE 10

DATE: October 4, 2017

PRICE: \$1,250,000

TYPE INSTRUMENT: Warranty Deed

RECORDATION: O. R. Book 30713, Page 4934

FOLIO NUMBER: 13-2227-001-2780

GRANTOR: BH 93, LLC

GRANTEE: 1055-93 Bay Harbor, LLC

LEGAL: Lot 13, Block 14, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46 Page 5 of the Public Records of Miami-Dade County, Florida.

LOCATION: 1055 – 93rd Street
Bay Harbor Islands, Florida

SITE DESCRIPTION:

Dimensions: 75 feet x 150 feet
Size: 11,250 Square Feet
0.26 Acres
Zoning: RM-2, Multifamily District
Maximum Legal Density: 9 dwelling units
Current Use: Vacant

UNIT PRICE: \$111.11 per square foot of land area
\$138,889 per dwelling unit

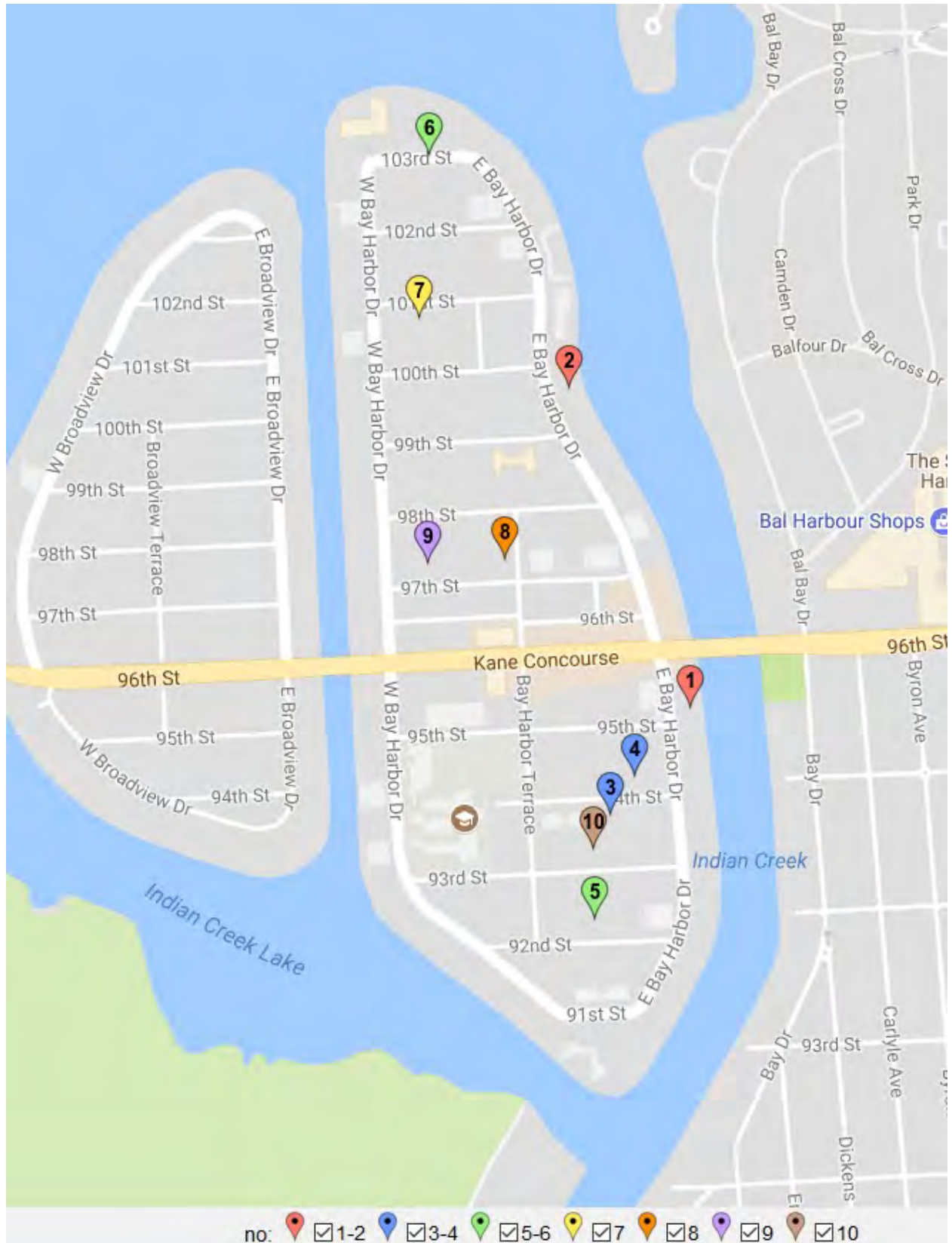
FINANCING: Cash.

REMARKS: This is a non-waterfront site.



SALE 10

LAND SALE MAP



SUMMARY OF WATERFRONT LAND SALES

CHARACTERISTIC	SALE 1	SALE 2	SALE 6
DATE OF SALE	3/2/15	1/25/16	3/31/16
SALE PRICE	\$8,500,000	\$9,000,000	\$16,500,000
O.R. BOOK/PAGE	29524/207	29939/349	30021/3815
ADDRESS	9521 E. Bay Harbor Drive	9955 E. Bay Harbor Drive	1135-103 Street
LAND SIZE (SF)	20,850	22,500	51,270
LAND SIZE (ACRES)	0.48	0.52	1.18
ZONING	RM-1	RM-1	RM-1
MAXIMUM DENSITY	41	118	41
CURRENT USE	Vacant	Vacant	Apartments
WATERFRONT	Yes	Yes	Yes
PRICE PAID/SF	\$407.67	\$400.00	\$321.83
PRICE PAID/UNIT	\$207,317	\$500,000	\$402,439

SUMMARY OF INLAND LAND SALES

CHARACTERISTIC	SALE 3	SALE 4	SALE 5	SALE 7
DATE OF SALE	2/5/16	2/9/16	2/12/16	12/9/16
SALE PRICE	\$1,653,800	\$2,021,300	\$4,400,000	\$1,660,000
O.R. BOOK/PAGE	29955/4814	29955/4816	29965/2423	30383/478
ADDRESS	1036 – 94 Street	1029 – 94 Street	1055 – 92 Street	1160 – 101 Street
LAND SIZE (SF)	10,425	11,250	21,676	11,250
LAND SIZE (ACRES)	0.24	0.26	0.50	0.26
ZONING	RM-2	RM-2	RM-2	RM-2
MAXIMUM DENSITY	8	9	26	9
CURRENT USE	Apartments	Apartments	Apartments	Duplex
WATERFRONT	No	No	No	No
PRICE PAID/SF	\$158.64	\$179.67	\$203.00	\$147.56
PRICE PAID/UNIT	\$206,725	\$224,589	\$169,230	\$184,444

SUMMARY OF INLAND LAND SALES

CHARACTERISTIC	SALE 8	SALE 9	SALE 10
DATE OF SALE	1/12/17	2/6/17	10/4/17
SALE PRICE	\$3,300,000	\$1,559,000	\$1,250,000
O.R. BOOK/PAGE	30386/1930	30418/262	30713/4934
ADDRESS	9720 Bay Harbor Terrace	1125 – 97 Street	1055 – 93 Street
LAND SIZE (SF)	22,500	11,250	11,250
LAND SIZE (ACRES)	0.52	0.26	0.26
ZONING	RM-2	RM-2	RM-2
MAXIMUM DENSITY	18	9	9
CURRENT USE	Apartments	Apartments	Vacant
WATERFRONT	No	No	No
PRICE PAID/SF	\$146.67	\$142.13	\$111.11
PRICE PAID/UNIT	\$183,333	\$177,667	\$138,888

ANALYSIS OF LAND SALES

The land sales range in unit price from \$91.56 to \$199.09 per square foot of land area. The prices per dwelling unit range from \$64,583 to \$156,250. The sales range in time from March of 2013 to June of 2015.

Property Rights

The fee simple interest is the property right of the subject property being valued. The comparable sales involved the same type of property rights.

Financing

The financing of the sales does not indicate any adjustments of their prices for favorable/below market financing.

Conditions of Sale

All of the sales were arm's-length transactions. An arm's-length transaction is defined as a transaction freely arrived at in the open market unaffected by abnormal pressure or by the absence of normal competitive negotiation as might be true in the case between related parties.

Date of Sale (Market Conditions)

The sales occurred between March of 2015 and October of 2017. An upward trend in price is evident in this market area over this time period.

Location

The subject property is located on an island between the mainland of Florida and Miami Beach known as Bay Harbor Islands. The sale sites are similarly located in Bay Harbor Islands. The locations of the sale sites are considered similar to the location of the subject.

Land Size

The sale sites range in size from 10,425 to 51,270 square feet. The sizes of the sale sites do not appear to affect the unit prices.

Zoning

The subject is zoned for multiple family residential usage. The sale sites all are zoned for multiple family use. The zoning of the sale sites is similar to the zoning of the subject site.

Conclusion

The land sales range in unit price from \$111.11 to \$407.67 per square foot of land area.

Two conclusions can be drawn from an analysis of the sales. Firstly, sales of waterfront sites indicate higher unit prices than sales of non-waterfront sites. Secondly, there has been an upward trend in sale prices for waterfront sites. The sales of non-waterfront site do not indicate much change in prices.

The correlation between the price per dwelling unit of the land sales and the value of a Transferable Development Right is not direct. The land of development site includes land area required for parking and landscaped open space. Therefore, the value of a Transferable Development Right should be less than the value per dwelling unit of land site.

While Transferable Development Rights increase the maximum density of a site, the application of Transfer Development Right dwelling units to a site does not increase the land size of the site. Since the land which can be used for parking and other accessory uses remains the same as the maximum density of the site increases, the added value of each subsequent dwelling unit decreases with each added dwelling unit by Transferable Development Rights.

TDR SALES ANALYSIS

SALES ANALYSIS – TRANSFERRABLE DEVELOPMENT RIGHTS (TDRs)

A value estimate is concluded by comparing the subject TDRs to comparable TDR sales. Generally, the comparable sales are adjusted by time, property, and location to indicate the Market Value of the subject TDRs. This process is known as the Direct Sales Comparison Method.

The Direct Sales Comparison Method is a process of analyzing sales of similar recently sold or under contract TDRs in order to derive an indication of the most probable sales price of the site being appraised. The reliability of this approach is dependent upon the availability of comparable sales data, the verification of the sales data, the degree of comparability and the absence of non-typical conditions affecting the sale.

The following pages contain sales of similar TDRs which have recently sold or are under contract to sell. Several other sales were considered, but were not included because there was too wide a difference in physical factors, location and time.

Various analytical techniques may be used to identify and measure adjustments. The techniques of comparative analysis can be grouped into two categories: quantitative and qualitative.

When quantitative analytical techniques are applied, mathematical processes are used to identify which elements of comparison require adjustment and to measure the amount of these adjustments.

The primary quantitative techniques, **Paired Data Analysis**, is a process in which two or more market sales are compared to derive an indication of the size of the adjustment for a single characteristic. Ideally, the sales being compared will be identical in all respects except for the element being measured.

Although paired data analysis is a theoretically sound method, it is sometimes impractical because only a narrow sampling of sufficiently similar properties may be available and it is difficult to quantify the adjustments attributable to all the variables.

The primary qualitative techniques, **Relative Comparison Analysis**, is the study of the relationship indicated by market data without recourse to quantification. This technique is utilized because it reflects the imperfect nature of real estate markets. To apply the technique, the appraisers analyze comparable sales to determine whether the comparables' characteristics are inferior, superior, or equal to those of the subject property.

A search is made of real estate market for all sales within the subject or competitive locations. While many sales were reviewed, the sales contained herein are considered most comparable to the subject properties as to all major factors of comparison.

A detailed breakdown of each sale, a summary of the sales, a sales map and a value conclusion follows herein.

TDR SALE 1

DATE: April 13, 2014

PRICE: \$157,500

TYPE INSTRUMENT: Warranty Deed

RECORDATION: O. R. Book 29137, Page 4187

GRANTOR: Claude Rolle, et ux

GRANTEE: 1150 – 101 BH, LLC

DONOR SITE LEGAL: Lot 15, Block 6, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

DONOR SITE LOCATION: 1145 – 101 Street
Bay Harbor Island, Florida

RECEIVER SITE LEGAL: Lot 7, Block 7, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

RECEIVER SITE LOCATION: 1150 – 101 Street
Bay Harbor Island, Florida

NUMBER OF TDRs: 5

UNIT PRICE: \$31,500 per TDR

REMARKS: The receiver site is a non-waterfront site. The donor site is subject to review and approval by the town for zoning compliance. The sale contract was executed in October of 2013.

TDR SALE 2

DATE: July 24, 2014

PRICE: \$186,000

TYPE INSTRUMENT: Warranty Deed

RECORDATION: O. R. Book 29267, Page 3883

GRANTOR: 9350 Condo Association

GRANTEE: Beau Rivage, LLC

DONOR SITE LEGAL: Lots 11, 12 & 13, Block 8, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

DONOR SITE LOCATION: 9350 West Bay Harbor Island Drive
Bay Harbor Island, Florida

RECEIVER SITE LEGAL: Lot 28, Block 4, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

RECEIVER SITE LOCATION: 9781 East Bay Harbor Drive
Bay Harbor Island, Florida

NUMBER OF TDRs: 4

UNIT PRICE: \$46,500 per TDR

REMARKS: The receiver site is a waterfront site. The donor site is subject to review and approval by the town for zoning compliance.

TDR SALE 3

DATE: July 24, 2014

PRICE: \$165,000

TYPE INSTRUMENT: Warranty Deed

RECORDATION: O. R. Book 29288, Page 4929

GRANTOR: 9350 Condo Association

GRANTEE: Furmanos, LLC

DONOR SITE LEGAL: Lots 11, 12 & 13, Block 8, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

DONOR SITE LOCATION: 9350 West Bay Harbor Island Drive
Bay Harbor Island, Florida

RECEIVER SITE LEGAL: Lots 4 & 5, Block 17, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

RECEIVER SITE LOCATION: 1170 – 93rd Street
Bay Harbor Island, Florida

NUMBER OF TDRs: 4

UNIT PRICE: \$41,250 per TDR

REMARKS: The receiver site is a non-waterfront site. The donor site is subject to review and approval by the town for zoning compliance.

TDR SALE 4

DATE:	December 4, 2014
PRICE:	\$630,000
TYPE INSTRUMENT:	Warranty Deed
RECORDATION:	O. R. Book 29416, Page 1458
GRANTOR:	Town of Bay Harbor Island
GRANTEE:	Bayview 102 Realty, LLC
DONOR SITE LEGAL:	Town of Bay Harbor TDR bank
DONOR SITE LOCATION:	Bay Harbor Island, Florida
RECEIVER SITE LEGAL:	Lots 12 & 13, Block 5, BAY HARBOR ISLAND , according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.
RECEIVER SITE LOCATION:	1133 – 102 Street Bay Harbor Island, Florida
NUMBER OF TDRs:	18
UNIT PRICE:	\$35,000 per TDR
REMARKS:	The receiver site is a non-waterfront site. Since the donor site are TDRs from a nonspecific site, the donor site is not subject to review and approval by the town for zoning compliance.

TDR SALE 5

DATE:	February 2, 2015
PRICE:	\$690,000
TYPE INSTRUMENT:	Warranty Deed
RECORDATION:	O. R. Book 29491, Page 2766
GRANTOR:	Town of Bay Harbor Island
GRANTEE:	BH 98, LLC
DONOR SITE LEGAL:	Town of Bay Harbor TDR bank
DONOR SITE LOCATION:	Bay Harbor Island, Florida
RECEIVER SITE LEGAL:	Lots 25 & 26, Block 4, BAY HARBOR ISLAND , according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.
RECEIVER SITE LOCATION:	9821 East Bay Harbor Drive Bay Harbor Island, Florida
NUMBER OF TDRs:	23
UNIT PRICE:	\$30,000 per TDR
REMARKS:	The receiver site is a waterfront site. Since the donor site TDRs are from a nonspecific site, the donor site is not subject to review and approval by the town for zoning compliance.

TDR SALE 6

DATE: February 11, 2015

PRICE: \$80,000

TYPE INSTRUMENT: Warranty Deed

RECORDATION: O. R. Book 29508, Page 2940

GRANTOR: 9300 West Bay Harbor Drive Condominium, Inc.

GRANTEE: Island Club Towers, LLC

DONOR SITE LEGAL: Lots 14 & 15, Block 2, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

DONOR SITE LOCATION: 9300 West Bay Harbor Island Drive
Bay Harbor Island, Florida

RECEIVER SITE LEGAL: Lots 19-22, Block 22, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

RECEIVER SITE LOCATION: 9551 East Bay Harbor Drive
Bay Harbor Island, Florida

NUMBER OF TDRs: 2

UNIT PRICE: \$40,000 per TDR

REMARKS: The receiver site is a waterfront site. The donor site is subject to review and approval by the town for zoning compliance

TDR SALE 7

DATE: February 17, 2015

PRICE: \$80,000

TYPE INSTRUMENT: Warranty Deed

RECORDATION: O. R. Book 29508, Page 2952

GRANTOR: Ana G. White, et al

GRANTEE: Island Club Towers, LLC

DONOR SITE LEGAL: Lots 14 & 15, Block 2, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

DONOR SITE LOCATION: 9300 West Bay Harbor Drive
Bay Harbor Island, Florida

RECEIVER SITE LEGAL: Lots 19 & 20, Block 1, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

RECEIVER SITE LOCATION: 9161 East Bay Harbor Drive
Bay Harbor Island, Florida

NUMBER OF TDRs: 2

UNIT PRICE: \$40,000 per TDR

REMARKS: The receiver site is a waterfront site. The donor site is subject to review and approval by the town for zoning compliance. The sale contract was executed in October of 2013.

TDR SALE 8

DATE: February 17, 2015

PRICE: \$344,000

TYPE INSTRUMENT: Warranty Deed

RECORDATION: O. R. Book 29508, Page 2763

GRANTOR: Trio Commons Community Association Inc.

GRANTEE: Island Towers, LLC

DONOR SITE LEGAL: Lot 1, Block 8, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

DONOR SITE LOCATION: 9970 East Bay Harbor Island Drive
Bay Harbor Island, Florida

RECEIVER SITE LEGAL: Lots 19-22, Block 22, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

RECEIVER SITE LOCATION: 9551 East Bay Harbor Drive
Bay Harbor Island, Florida

NUMBER OF TDRs: 8

UNIT PRICE: \$43,000 per TDR

REMARKS: The receiver site is a waterfront site. The donor site is subject to review and approval by the town for zoning compliance.

TDR SALE 9

DATE: March 2, 2015

PRICE: \$540,000

TYPE INSTRUMENT: Warranty Deed

RECORDATION: O. R. Book 29524, Page 204

GRANTOR: BH South Island, LLC

GRANTEE: JCG Bay Harbor, LLC

DONOR SITE LEGAL: Lots 3 & 4, Block 1, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

DONOR SITE LOCATION: 9521 East Bay Harbor Island Drive
Bay Harbor Island, Florida

RECEIVER SITE LEGAL: Lots 3 & 4, Block 1, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

RECEIVER SITE LOCATION: 9521 East Bay Harbor Island Drive
Bay Harbor Island, Florida

NUMBER OF TDRs: 18

UNIT PRICE: \$30,000 per TDR

REMARKS: The receiver site is a waterfront site. The donor site is a waterfront site. The donor site is subject to review and approval by the town for zoning compliance. The existing improvements had excess density above the density permitted by zoning

TDR SALE 10

DATE:	June 8, 2015
PRICE:	\$105,000
TYPE INSTRUMENT:	Warranty Deed
RECORDATION:	O. R. Book 29647, Page 4348
GRANTOR:	Town of Bay Harbor Island
GRANTEE:	1150 – 101 BH, LLC
DONOR SITE LEGAL:	Town of Bay Harbor TDR bank
DONOR SITE LOCATION:	1150 – 101 Street Bay Harbor Island, Florida
RECEIVER SITE LEGAL:	Lot 7, Block 7, BAY HARBOR ISLAND , according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.
RECEIVER SITE LOCATION:	1150 – 101 Street Bay Harbor Island, Florida
NUMBER OF TDRs:	3
UNIT PRICE:	\$35,000 per TDR
REMARKS:	The receiver site is a dry site. Since the donor site TDRs are from a nonspecific site, the donor site is not subject to review and approval by the town for zoning compliance.

TDR SALE 11

DATE: October 30, 2015

PRICE: \$325,000

TYPE INSTRUMENT: Warranty Deed

RECORDATION: O. R. Book 29837, Page 2121

GRANTOR: 9201 WBH, LLC

GRANTEE: Island Club Towers, LLC

DONOR SITE LEGAL: Lot 7, Block 17, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

DONOR SITE LOCATION: 9201 East Bay Harbor Island Drive
Bay Harbor Island, Florida

RECEIVER SITE LEGAL: Lots 19-21, Block 1, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

RECEIVER SITE LOCATION: 9161 East Bay Harbor Island Drive
Bay Harbor Island, Florida

NUMBER OF TDRs: 5

UNIT PRICE: \$65,000 per TDR

REMARKS: The receiver site is a waterfront site. The donor site is a waterfront site. The donor site is subject to review and approval by the town for zoning compliance.

TDR CONTRACT 1

CONTRACT DATE: March 15, 2015

PRICE: \$237,500

GRANTOR: Town of Bay Harbor Island

GRANTEE: JCG Bay Harbor, LLC

DONOR SITE LEGAL: Town of Bay Harbor TDR bank

DONOR SITE LOCATION: Bay Harbor Island, Florida

RECEIVER SITE LEGAL: Lots 3 & 4, Block 1, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

RECEIVER SITE LOCATION: 9521 East Bay Harbor Drive
Bay Harbor Island, Florida

NUMBER OF TDRs: 5

UNIT PRICE: \$47,500 per TDR

REMARKS: The receiver site is a waterfront site. Since the donor site are TDRs from a nonspecific site, the donor site is not subject to review and approval by the town for zoning compliance.

TDR CONTRACT 2

DATE: July 15, 2015

PRICE: \$208,000

GRANTOR: TPCP Corp.

GRANTEE: Verzaca Group

DONOR SITE LEGAL: Lots 17 & 18, Block 4, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

DONOR SITE LOCATION: 10001 East Bay Harbor Island Drive
Bay Harbor Island, Florida

RECEIVER SITE LEGAL: Lots 7 & 8, Block 6, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

RECEIVER SITE LOCATION: 1150 - 102nd Street
Bay Harbor Island, Florida

NUMBER OF TDRs: 4

UNIT PRICE: \$52,000 per TDR

REMARKS: The receiver site is a dry site. The donor site is a waterfront site. The donor site is subject to review and approval by the town for zoning compliance.

TDR CONTRACT 3

DATE: July 15, 2015

PRICE: \$208,000

GRANTOR: TPCP Corp.

GRANTEE: Verzaca Group

DONOR SITE LEGAL: Lots 17 & 18, Block 4, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

DONOR SITE LOCATION: 10001 East Bay Harbor Island Drive
Bay Harbor Island, Florida

RECEIVER SITE LEGAL: Lots 7 & 8, Block 6, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

RECEIVER SITE LOCATION: 1150 - 102nd Street
Bay Harbor Island, Florida

NUMBER OF TDRs: 4

UNIT PRICE: \$52,000 per TDR

REMARKS: The receiver site is a dry site. The donor site is a waterfront site. The donor site is subject to review and approval by the town for zoning compliance.

TDR CONTRACT 4

CONTRACT DATE: July 15, 2015

PRICE: \$95,000

GRANTOR: Town of Bay Harbor Island

GRANTEE: Global Reach Investments, LLC

DONOR SITE LEGAL: Town of Bay Harbor TDR bank

DONOR SITE LOCATION: Bay Harbor Island, Florida

RECEIVER SITE LEGAL: Lot 16, Block 2, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

RECEIVER SITE LOCATION: 9290 West Bay Harbor Drive
Bay Harbor Island, Florida

NUMBER OF TDRs: 2

UNIT PRICE: \$47,500 per TDR

REMARKS: The receiver site is a waterfront site. Since the donor site are TDRs from a nonspecific site, the donor site is not subject to review and approval by the town for zoning compliance.

TDR CONTRACT 5

DATE: July 17, 2015

PRICE: \$145,500

GRANTOR: Oceanus Condominium, Inc.

GRANTEE: Bay Harbor Hotel, LLC

DONOR SITE LEGAL: Lot 5, Block 16, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

DONOR SITE LOCATION: 1060 – 92nd Street
Bay Harbor Island, Florida

RECEIVER SITE LEGAL: Lots 36 & 37, Block 4, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

RECEIVER SITE LOCATION: 9601 East Bay Harbor Island Drive
Bay Harbor Island, Florida

NUMBER OF TDRs: 2

UNIT PRICE: \$72,750 per TDR

REMARKS: The receiver site is a waterfront site. The donor site is a dry site. The donor site is subject to review and approval by the town for zoning compliance.

TDR CONTRACT 6

DATE: November 18, 2015

PRICE: \$210,000

GRANTOR: 9350 BHJ, LLC.

GRANTEE: Bay Harbor Hotel, LLC

DONOR SITE LEGAL: Lot 1, Block 18, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

DONOR SITE LOCATION: 9350 Bay Harbor Terrace
Bay Harbor Island, Florida

RECEIVER SITE LEGAL: Lots 35, 36 & 37, Block 4, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

RECEIVER SITE LOCATION: 9601 East Bay Harbor Island Drive
Bay Harbor Island, Florida

NUMBER OF TDRs: 3

UNIT PRICE: \$70,000 per TDR

REMARKS: The receiver site is a waterfront site. The donor site is a dry site. The donor site is subject to review and approval by the town for zoning compliance.

TDR CONTRACT 7

DATE: May 19, 2017

PRICE: \$63,000

GRANTOR: Southern Star Condominium Association

GRANTEE: Atlantis 103, LLC

DONOR SITE LEGAL: Lots 1 & 2, Block 17, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

DONOR SITE LOCATION: 9260 Bay Harbor Terrace
Bay Harbor Island, Florida

RECEIVER SITE LEGAL: Lots 6 & 7, Block 5, **BAY HARBOR ISLAND**, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

RECEIVER SITE LOCATION: 10281 West Bay Harbor Drive
Bay Harbor Island, Florida

NUMBER OF TDRs: 1

UNIT PRICE: \$63,000 per TDR

REMARKS: The receiver site is a non-waterfront site. The donor site is a dry site. The donor site is subject to review and approval by the town for zoning compliance.

SUMMARY OF TDR SALES

CHARACTERISTIC	SALE 1	SALE 2	SALE 3	SALE 4	SALE 5	SALE 6
DATE OF SALE	4/13/14	7/24/14	7/24/14	12/4/14	2/2/15	2/11/15
SALE PRICE	\$157,500	\$186,000	\$165,000	\$630,000	\$690,000	\$80,000
O.R. BOOK/PAGE	29137/4187	29267/3883	29288/4929	29416/1458	29491/2766	29508/2940
SELLER	Claude Rolle, et al	9350 Condo Assoc.	9350 Condo Assoc.	Town of Bay Harbor Islands	Town of Bay Harbor Islands	9300 W. Bay Harbor Drive Condo. Inc.
BUYER	1150 -101 BH, LLC	Beau Rivage, LLC.	Furmanos, LLC	Bayview 102 Realty, LLC	BH 98, LLC	Island Club Towers, LLC
DONOR ADDRESS	1145- 101 Street	9350 W. Bay Harbor Dr.	9350 W. Bay Harbor Dr.	Bay Harbor Island TDR Bank	Bay Harbor Island TDR Bank	9300 W. Bay Harbor Dr.
RECEIVER ADDRESS	1150 – 101 Street	9781 E. Bay Harbor Dr.	1170 – 93 Street	1135 – 102 Street	9821 E. Bay Harbor Dr.	9551 E. Bay Harbor Dr.
WATERFRONT	No	Yes	Yes	No	Yes	Yes
NUMBER OF TDRs	5	4	4	18	41	2
PRICE PAID/TDR	\$31,500	\$46,500	\$41,250	\$35,000	\$30,000	\$40,000
ADJUSTMENTS						
PROPERTY RIGHTS	=	=	=	=	=	=
FINANCING	=	=	=	=	=	=
MARKET CONDITIONS	+	+	+	+	+	+
CONDITONS OF SALE	=	=	=	=	=	=
LOCATION	=	=	=	=	=	=
TOTAL ADJUSTMENTS	+	+	+	+	+	+

SUMMARY OF TDR SALES

CHARACTERISTIC	SALE 7	SALE 8	SALE 9	SALE 10	SALE 11
DATE OF SALE	2/17/15	2/17/15	3/2/15	6/8/15	10/30/15
SALE PRICE	\$80,000	\$344,000	\$540,000	\$105,000	\$325,000
O.R. BOOK/PAGE	29508/2952	29508/2763	29524/204	29647/4348	29837/2121
SELLER	Ana G. White, et al	Trio Commons Community Assoc. Inc.	BH South Island, LLC	Town of Bay Harbor Islands	9201 WBH, LLC
BUYER	Island Club Towers, LLC	Island Towers, LLC	JCG Bay Harbor, LLC	1150-101 BH, LLC	Island Club Towers, LLC
DONOR ADDRESS	9300 W. Bay Harbor Dr.	9970 E. Bay Harbor Dr.	1135 – 99 Street	Bay Harbor Island TDR Bank	9201 W. Bay Harbor Dr.
RECEIVER ADDRESS	9161 E. Bay Harbor Dr.	9551 E. Bay Harbor Dr.	1135 – 99 Street	1150 – 101 St.	9161 E. Bay Harbor Dr.
WATERFRONT	Yes	Yes	Yes	No	Yes
NUMBER OF TDRs	2	9	18	3	5
PRICE PAID/TDR	\$40,000	\$43,000	\$30,000	\$35,000	\$65,000
ADJUSTMENTS					
PROPERTY RIGHTS	=	=	=	=	=
FINANCING	=	=	=	=	=
MARKET CONDITIONS	+	+	+	+	+
CONDCTIONS OF SALE	=	=	=	=	=
LOCATION	=	=	=	=	=
TOTAL ADJUSTMENTS	+	+	+	+	+

SUMMARY OF TDR CONTRACTS

CHARACTERISTIC	CONTRACT 1	CONTRACT 2	CONTRACT 3	CONTRACT 4	CONTRACT 5	CONTRACT 6	CONTRACT 7
DATE OF CONTRACT	3/25/15	6/6/15	6/6/15	7/15/15	7/17/15	11/18/15	5/19/17
SALE PRICE	\$237,500	\$208,000	\$208,000	\$95,000	\$145,500	\$210,000	\$63,000
SELLER	Town of Bay Harbor Islands	TPCP Corp.	TPCP Corp.	Town of Bay Harbor Islands	Oceanus Condominium Inc.	9350 BHJ, LLC	Southern Star Condominium Association
BUYER	JCG Bay Harbor, LLC	Verzasca Group	Verzasca Group	Global Reach Investments, LLC	Bay Harbor Hotel, LLC	Bay Harbor Hotel, LLC	Atlantis, LLC
DONOR ADDRESS	Bay Harbor Island TDR Bank	10001 E. Bay Harbor Dr.	10001 E. Bay Harbor Dr.	Bay Harbor Island TDR Bank	1060 – 92 nd Street	9350 Bay Harbor Terrace	9260 Bay Harbor Terrace
RECEIVER ADDRESS	9521 E. Bay Harbor Dr.	1150 – 102 St.	1150 – 102 St.	9290 W. Bay Harbor Dr.	9601 E. Bay Harbor Dr.	9601 E. Bay Harbor Dr.	10281 W. Bay Harbor Dr.
WATERFRONT	Yes	No	No	Yes	Yes	Yes	No
NUMBER OF TDRs	5	4	4	2	2	3	1
PRICE PAID/TDR	\$47,500	\$52,000	\$52,000	\$47,500	\$72,750	\$70,000	\$63,000
ADJUSTMENTS							
PROPERTY RIGHTS	=	=	=	=	=	=	=
FINANCING	=	=	=	=	=	=	=
MARKET CONDITIONS	+	=	=	=	=	=	=
CONDITONS OF SALE	=	=	=	=	=	=	=
LOCATION	=	=	=	=	=	=	=
TOTAL ADJUSTMENTS	+	=	=	=	=	=	=

ANALYSIS OF TDR SALES

The Transferrable Development Rights (TDR) sales range in unit price from \$30,000 to \$65,000 per unit. The sales range in time from April of 2014 to October of 2015. Pending sales contracts for TDRs range in unit price from \$47,500 to \$72,750 per unit. The pending sales contracts range in time from March of 2015 to May of 2017.

Property Rights

The fee simple interest is the property right of the subject property being valued. The comparable sales involved the same type of property rights.

Financing

The financing of the sales does not indicate any adjustments of their prices for favorable/below market financing.

Conditions of Sale

All of the sales were arm's-length transactions. An arm's-length transaction is defined as a transaction freely arrived at in the open market unaffected by abnormal pressure or by the absence of normal competitive negotiation as might be true in the case between related parties.

Date of Sale (Market Conditions)

The sales occurred between April of 2014 and October of 2015. The unit prices of the TDRs require upward adjustments to reflect the increasing market conditions indicated by the fee simple land sales analyzed earlier in this report. The pending sale contracts were negotiated in the past. The transactions are not closed until the property owner files for a building permit with the city.

Location

The subject property is located in the Town of Bay Harbor Islands, islands between the mainland of Florida and Miami Beach. The comparable sales are also located in Town of Bay Harbor Islands. The locations of the sales are considered similar to the location of subject.

A search for sales of TDRs in other municipalities in Miami-Dade County was conducted. However, the TDRs in most of the other municipalities in the county provide added density through buildable square footage instead of residential units. Therefore, sales from other municipalities in the county would not be directly comparable to the subject TDRs.

Conclusion

The TDR sales range in unit price from \$30,000 to \$65,000 per unit. Pending sales contracts for TDRs range in unit price from \$47,500 to \$72,750 per unit.

The unit prices of most of the sales are considered lower limits of the current value for the subject TDRs. The sales were previously negotiated in 2013. As stated previously, the land sales in the Town of Bay Harbor Islands indicate an upward trend in sale prices. The current value of TDRs in the Town of Bay Harbor Islands should similarly reflect an increase in prices. Furthermore, the Town of Bay Harbor Islands has a limited number of TDRs to sell. After the completion of the transactions for the pending TDR sales, the town TDR bank will only have 134 TDRs remaining available. Therefore, as the number of available TDRs becomes less, scarcity should cause the value of the TDRs to increase.

The unit prices of all of the sales, are considered lower limits of the current value for the subject TDRs. The Sales range in price per TDR \$30,000 to \$65,000 per TDR. The pending sales contracts from \$47,500 to \$72,750 per unit. The pending sales contracts indicate a significant upward trend in price.

The pending sales contracts also indicate that sales of waterfront TDRs are higher than sales of non-waterfront TDRs. TDRs in the Town of Bay Harbor Island can be applied to waterfront or inland receiver sites. Sales of waterfront apartment units historically rent and sell at higher prices than inland apartment units due to waterfront amenities such as views and boat access. As indicated by the land sales analyzed previously in this report, waterfront land sites usually sell at a higher price per square foot of land area and price per dwelling unit. Therefore, logically, TDRs applied to waterfront sites would sell at a higher price than TDRs applied to inland sites.

The commercial TDR's are practically the same as non-waterfront TDR's. Commercial TDR's would be for the residential component of a mixed use commercial and residential development. All of the commercial TDR's would be non-waterfront properties.

Based on the above analysis of the sales and pending sales contracts of TDRs located in the Town of Bay Harbor Island, it is estimated that the TDRs for non-waterfront lots in the Town of Bay Harbor Islands have a value of \$70,000 per dwelling unit. The TDR's for commercial mixed use lots are estimated to have a value of \$70,000 per dwelling unit. The TDRs for waterfront lots in the Town of Bay Harbor Islands have a value of \$100,000 per dwelling unit.

NON-WATERFRONT TRANSFERABLE DEVELOPMENT RIGHT VALUE INDICATION: \$70,000

COMMERCIAL TRANSFERABLE DEVELOPMENT RIGHT VALUE INDICATION: \$70,000

WATERFRONT TRANSFERABLE DEVELOPMENT RIGHT VALUE INDICATION: \$100,000

ADDENDA

ASSUMPTIONS AND LIMITING CONDITIONS

This Appraisal Report has been made with the following general assumptions:

1. No responsibility is assumed for the legal description or for matters including legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated.
2. The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated.
3. Responsible ownership and competent property management are assumed.
4. The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
5. All engineering is assumed to be correct. The plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.
6. If no survey has been furnished to the appraisers, all measurements have been confirmed either in the field, in the plat book or by other reliable sources and are presumed to be accurate.
7. It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
8. It is assumed that there is full compliance with all applicable federal, state and local environmental regulations and laws unless noncompliance is stated, defined and considered in the Appraisal Report.
9. It is assumed, unless a study has been provided otherwise, that no hazardous material such as asbestos, urea formaldehyde or other toxic waste exists in the property. The existence of a potentially hazardous material could have a significant effect on the value of the property.

10. In reference to proposed construction, the real estate taxes and other expenses are estimated. These amounts are not guaranteed.
11. It is assumed in the valuation of the subject land site, unless a compliance letter has been furnished to us, that the State of Florida Growth Management Act does not prevent the issuance of a building permit.
12. It is assumed that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, state or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.
13. It is assumed that the utilization of the land and improvements is within the boundaries of property lines of the property described and that there is no encroachment or trespass unless noted in the report.

This Appraisal Report has been made with the following general limiting conditions:

1. The distribution, if any, of the total valuation of this report between land and improvements applies only under the stated program of utilization. The separate allocations for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.
2. Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the appraisers, and in any event, only with proper written qualification and only in its entirety.
3. The appraisers herein by reason of this appraisal is not required to give further consultation, testimony, or be in attendance in court with reference to the property in question unless arrangements have been previously made.
4. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraisers, or the firm with which the appraisers are connected) shall be disseminated to the public through advertising, public relations, news, sales, or other media without the prior written consent and approval of the appraisers.

QUALIFICATIONS OF THE APPRAISER

THOMAS F. MAGENHEIMER

Experience:

11/84 - Present	QUINLIVAN APPRAISAL, P.A. 7300 North Kendall Drive, Suite 530 Miami, Florida
1/2007 – Present	President T. F. MAGENHEIMER APPRAISAL, INC. 7300 North Kendall Drive, Suite 530 Miami, Florida

Education:

University of Richmond, Richmond, Virginia
BA - Bachelor of Arts in History (1982)

Professional Affiliations:

Member of the Appraisal Institute (MAI No. 09166)
Real Estate Salesman - State of Florida - Certificate m 0344882
Certified General Appraiser, State of Florida, License m RZ0000553
Member Sigma Alpha Epsilon Fraternity

Qualified as an Expert Witness in the Following Courts:

Miami-Dade County Circuit Court
Broward County Circuit Court
United States Bankruptcy Court

Other Activities:

Admissions Committee - South Florida-Caribbean Chapter of the Appraisal Institute - (1992 - 1993)
Newsletter Editor - South Florida-Caribbean Chapter of the Appraisal Institute - (1991 - 1995)
President - South Florida-Caribbean Chapter of the Appraisal Institute - (1996)
Board of Trustees - Palmer-Trinity School (1989 - 1993)

Institutions and Corporations:

AT&T
Archdiocese of Miami
Atlantic Security Bank
The Bank of America
Bank United
Barry University
Bessemer Trust Company
California Bank and Trust
Chevron Oil Company
Chase Manhattan Bank
Chemical Bank
Citibank
Citrus Bank
City National Bank of Miami
Coamerica Bank
Coconut Grove Bank
Commerce Bank
Commercial Bank of Florida
Consolidated Bank
Colonial Bank
County National Bank
Eagle National Bank
Eastern National Bank
Equitable Bank
Espirito Santo Bank
Farm Credit of South Florida
Fidelity Bank
First International Bank
First National Bank of South Miami
Florida International University
First Nationwide Bank
Florida Memorial College
Florida Power and Light Company
Florida Rock Industries
Great Eastern Bank of Florida
Greyhound Lines
HSBC
Hemisphere National Bank
Intercontinental Bank
International Bank of Miami, N.A.
Jefferson Bank
LaSalle National Bank

Marine Midland Bank
McDonalds Corp.
Mellon United National Bank
Metro Bank
Miami-Dade County Community College
Miami-Dade Water and Sewer Authority
Northern Trust Bank of Florida
Ocean Bank
Pacific National Bank
Pan American Bank
Pointe Bank
Shell Oil Company
South Trust Bank
SunTrust Bank
TotalBank
Trade National Bank
Trust for Public Lands
UniBank
Union Planters National Bank
University of Miami
Wachovia
Wal-Mart
YMCA

Governmental Agencies:

City of Aventura
City of Coral Gables
City of Hialeah
City of Miami
City of Miami Parking Authority
City of Miami Beach
City of Miramar
City of North Bay Village
City of North Miami Beach
City of South Miami
City of Sunny Isles Beach
Miami-Dade County Aviation Department
Miami-Dade County Department of Development & Facilities Management
Miami-Dade County HUD
Miami-Dade County Property Appraisal Adjustment Board
Miami-Dade County Public Schools
Miami-Dade County Public Works Department
Miami-Dade County Transportation Administration

Miami-Dade Water & Sewer Department
South Florida Water Management District
State of Florida, Attorney General's Office
State of Florida, Department of Community Affairs
State of Florida, Department of Corrections
State of Florida, Department of Environmental Protection
State of Florida, Department of Insurance
State of Florida, Department of Rehabilitation and Liquidation
State of Florida, Department of Transportation
Town of Golden Beach
United States Army Corps of Engineers
United States Department of Justice
United States Department of Commerce
United States Department of the Interior
United States General Services Administration
Village of Islamorada
Village of Key Biscayne
Village of Pinecrest

Law Firms:

Akerman Senterfitt
Greenberg, Traurig
Daniels, Kashton, Downs and Robertson
Holland and Knight, LLP
Shutts & Bowen
Ruden McClosky, LLP
Steel, Hector & Davis, LLP
Weiss, Serota, Helfman, Pastoriza, Guedes, Cole and Boniske, P.A.

Types of Properties Appraised:

Single Family Residences	Vacant Land
Apartment Buildings	Hotel/Motels
Office Buildings	Warehouses
Retail Stores	Nursing Homes
Shopping Centers	Mobile Home Parks
Condominium Apartment Buildings	Schools
Golf Courses	Service Stations
Residential Subdivisions	Marinas
Automobile Dealerships	Wetlands

AGENDA ITEM REPORT

January 8, 2018

ITEM NUMBER: **4.5**

ITEM: Approval of a resolution authorizing deposits and withdrawals of the Town Funds in certain accounts pursuant to the authority given under Chapter 655.043, Florida Statutes. Enclosed is a copy of the proposed resolution.

DESCRIPTION:

The resolution is being updated to reflect the new Finance Director Melissa Cruz.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba Chang, Deputy Town Clerk

ATTACHMENTS

1.	Proposed Resolution	authorizing signatures-deposits-withdrawals.pdf
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RESOLUTION NO.

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
BAY HARBOR ISLANDS, AUTHORIZING DEPOSITS AND
WITHDRAWALS OF TOWN FUNDS IN CERTAIN ACCOUNTS.**

Pursuant to the authority given under Chapter 665.43, Florida Statutes,

BE IT RESOLVED that the executive officers of this Town be and are hereby authorized to deposit the funds of the Town from time to time with BANK OF AMERICA, N.A., and until further order of the Town Council to withdraw same from time to time upon check or draft of the Town, or other orders for payment of money, signed in the name of the Town in the following manner:

1. Town of Bay Harbor Islands - General Fund - Operation Account - #1460950007
2. Town of Bay Harbor Islands - General Fund - Tax Receipts - #1596364502
3. Town of Bay Harbor Islands - General Fund - Accounts Payable - #1595441644
4. Town of Bay Harbor Islands - Broad Causeway - Revenue Fund - #1460001727
5. Town of Bay Harbor Islands - Broad Causeway - Debt Service Fund - #4281203772
6. Town of Bay Harbor Islands - Parking Meter Fund - #1460001719
7. Town of Bay Harbor Islands - Water Revenue Account - #1460012184
8. Town of Bay Harbor Islands - Sewer Operating Account - #1460950057
9. Town of Bay Harbor Islands - Deposit Fund - #1460012176
10. Town of Bay Harbor Islands - Law Enforcement Trust Fund - #6387960852
11. Town of Bay Harbor Islands - Federal Law Enforcement Trust Fund - #4282365284
12. Town of Bay Harbor Islands - S. Wright Services - #6385236621
13. Town of Bay Harbor Islands - Solid Waste Fund - #1463224188
14. Town of Bay Harbor Islands - Sewer Debt Service & Reserve - #3449508568
15. Town of Bay Harbor Islands - Payroll Account #1460950015

by RONALD J. WASSON, Town Manager, or _____

by MARLENE M. SIEGEL, Town Clerk, or _____

by JUAN C. JIMENEZ, Assistant Manager, or _____

by MELISSA CRUZ, Finance Director _____

and be it **FURTHER RESOLVED**, that **BANK OF AMERICA, N.A.**, be and it hereby is authorized and requested to accept, honor and pay, without further inquiry and until written notice of the authority hereby granted is received by said bank, all checks, drafts and other orders for the payment or withdrawal of money (including checks drawn to the individual order of the officer signing the same), when signed as by the foregoing resolution provided, including all such instruments payable or endorsed to the order of this Town.

and be it **FURTHER RESOLVED**, that **BANK OF AMERICA, N.A.**, be and is hereby authorized to transfer funds between items above upon receiving request to do so from the Town Manager or the Town Finance Officer.

PASSED and ADOPTED this 8 day of January, 2018.

MAYOR

ATTEST:

TOWN CLERK

AGENDA ITEM REPORT

January 8, 2018

ITEM NUMBER: 5.

ITEM: Consideration and Approval of a Memorandum of Understanding (MOU) between the Town of Surfside, the Village of Bal Harbour and the Town of Bay Harbor Islands to research and assess the development of a more cost-effective shuttle bus operation of all three municipalities. Enclosed is a copy of the proposed MOU.

DESCRIPTION:

At the June 12th, 2017, Regular Council Meeting, the Town Council approved a proposal from the Florida International University (FIU) to conduct a study on the local transit bus for all three municipalities. The objective is to provide a more efficient and cost effective shuttle bus operation.

Enclosed is a copy of the MOU.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

The total cost of the study is \$38,964, which will be divided up equally among the three (3) local municipalities (Town of Surfside, Village of Bal Harbor and the Town). The Town has budgeted \$12,988 for this service.

BUDGET IMPACT:

Submitted By: Alba Chang, Deputy Town Clerk
Juan C Jimenez, Assistant Town Manager

ATTACHMENTS

1.	MOU	MOU - Bus Study.pdf
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**MEMORANDUM OF UNDERSTANDING
BETWEEN THE TOWN OF SURFSIDE,
FLORIDA, THE VILLAGE OF BAL HARBOUR,
FLORIDA, AND THE TOWN OF BAY HARBOR
ISLANDS**

This Memorandum of Understanding is entered into this _____ day of December, 2017 by and between the Town of Surfside, Florida ("Surfside"), The Village of Bal Harbour ("Bal Harbour") and the Town of Bay Harbor Islands ("Bay Harbor Islands"). Surfside, Bal Harbour, and Bay Harbor Islands are collectively referred to as the "Parties."

WHEREAS, Surfside, Bal Harbour, and Bay Harbor Islands are municipalities located within Miami-Dade County that border with each other; and

WHEREAS, the Parties each provide no fare shuttle ("free") bus services to their passengers with a common transfer point at the Surfside Publix located at 94th Street and Harding Ave.; and

WHEREAS, the Parties have already collaborated on the preparation of brochures showing the route alignments and stops of all three shuttles and their respective schedules; and

WHEREAS, the Parties desire to further collaborate to possibly restructure the current transit service for a more efficient and cost-effective system to provide better service to all three communities; and

WHEREAS, the Parties wish to engage a research team from the Lehman Center for Transportation Research ("LCTR") at Florida International University ("FIU") to research and assess the development of a more cost-effective shuttle bus operation in Surfside, Bal Harbour and Bay Harbor Islands that better meet the needs of residents and visitors ("Research Project"); and

WHEREAS, the Parties wish to equally share the cost of the Research Project; and

WHEREAS, the Parties find that the adoption of this Memorandum of Understanding ("MOU") is in the best interest and welfare of Surfside, Bal Harbour, and Bay Harbor Islands.

NOW, THEREFORE, the Parties agree as follows:

1. The above recitals are true and correct and incorporated herein by reference.
2. The Parties agree to authorize Surfside's manager and attorney to negotiate and execute an agreement with FIU LCTR to conduct the Research Project in substantially the same form as those outlined in FIU LCTR's proposal that is set forth in Exhibit "A" attached hereto in an amount not to exceed \$38,964.00 ("Cost").

3. The Parties agree to equally share the Cost of the Research Project.
4. The Parties agree that this MOU represents the Parties' entire agreement and it cannot be amended or modified without the express consent of the Parties.
5. The Parties have had the opportunity to consult with legal counsel of their choosing.
6. The Parties signify their agreement with this MOU by affixing their signatures below.
7. This MOU shall become effective the date on which it is fully ratified by the Parties.

Town of Bay Harbor Islands, Florida

By: _____
Ronald Wasson, Town Manager

Date: _____

Town of Surfside, Florida

By: _____

Date: _____

Village of Bal Harbour, Florida

By: _____

Date: _____

AGENDA ITEM REPORT

January 8, 2018

ITEM NUMBER: 6.

ITEM: Consideration and Approval of an ordinance on **second** reading amending Chapter 16 of the Town Code to permit payroll deductions for the payment of purchases of credited service for past military and/ or police service. Enclosed is a copy of the proposed ordinance.

DESCRIPTION:

This change was negotiated in the last PBA contract.

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Marlene Siegel, Town Clerk

ATTACHMENTS

1.	Proposed Ordinance	PD Retirement Update Ordinance.pdf
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ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 16, THE TOWN OF BAY HARBOR ISLANDS EMPLOYEES RETIREMENT SYSTEM, OF THE TOWN OF BAY HARBOR ISLANDS CODE OF ORDINANCES, TO PERMIT PAYROLL DEDUCTIONS FOR THE PAYMENT OF PURCHASES OF CREDITED SERVICE FOR PAST MILITARY AND/OR POLICE SERVICE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Bay Harbor Islands and [INSERT NAME OF UNION] have agreed to allow Police Officer members of the Town of Bay Harbor Islands Employees Retirement System to pay for the purchase of credited service for past military and/or police service by payroll deductions over a period not to exceed fifteen (15) years; and

WHEREAS, the Town Council has received and reviewed an actuarial impact statement related to these changes,

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA:

Section 1. That Section 16-24.1(b), Credit for uniformed service, and for prior military and/or police service, of Chapter 16, Town of Bay Harbor Islands Employees Retirement System, is hereby amended by adding a new Subsection (k) as follows:

Sec. 16-24.1. - Credit for uniformed service, and for prior military and/or police service.

- (b) *Purchase of prior military and/or police service:* A police officer member may purchase credited service for military service occurring prior to the member's first or initial employment with the Town, as well as for service as a police officer for a different employer occurring prior to the member's first or initial employment with the town, as long as the member is not entitled

to receive a benefit for such other prior service as a police officer. The maximum number of years of credited service that may be purchased pursuant to this subsection (b) for prior military and prior police service combined shall be four years. The member shall pay the full actuarial cost of the service purchase as calculated by the fund's actuary and based upon the member's salary at the time that the service credit is requested, plus any and all professional fees related to the purchase. Payment by the member of the required amount shall be made in whole or in part by lump-sum within six months of the request for credit, and any balance by payroll deduction as provided below, but not later than the member's retirement date, upon receipt of which service credit shall be given. Multiple requests to purchase service pursuant to this sub-section may be made at any time prior to retirement.

If the member elects to pay any part of the cost by payroll deduction, payment may be spread over a period not to exceed fifteen (15) years. The member must execute an irrevocable, binding payroll deduction authorization form for equal biweekly payroll deductions, the sum total of which shall be sufficient to amortize the full cost of the credited service with interest at 6% per annum. The member shall not be entitled to any option to receive directly any part of the amount subject to the payroll deduction authorization. While employed by the Town, the member shall not be able to make payment directly to the Retirement System for any part of the cost to be paid by payroll deduction. Contributions made by payroll deductions shall be picked-up by the Town. The effective date of the pick-up shall be the later of the adoption of this Ordinance or the execution of the payroll deduction authorization form. Member contributions made pursuant to a binding irrevocable payroll deduction shall be designated and considered as employee contributions even though they are being paid by the Town. The contributions are hereby designated as being picked-up by the Town and paid from the same source as the payment of salary and wages to the members. If the cost of the credited service being purchased is not paid in full prior to the termination of the member's employment, then the balance due to the Retirement System shall be picked-up by the Town from any payment due to the member by the Town, and the irrevocable payroll deduction authorization shall so provide. Should any balance still remain, the Retirement System shall reduce the amount of service purchased to conform with the amount of contributions paid.

Section 2. That if any section, paragraph, sentence or word of this Ordinance or the application thereof to any person or circumstance is held invalid, that the invalidity shall not affect the other sections, paragraphs, sentences, words or applications of this Ordinance.

Section 3. That it is the intention of the Town Council of the Town of Bay Harbor Islands, and it is therefore ordained, that the provisions of this Ordinance shall become and be made a part of the Town of Bay Harbor Islands' Code of Ordinances, that sections of this Ordinance may be renumbered or relettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 4. That all Ordinances, parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5. That this Ordinance shall be in full force and take effect immediately applying retroactively upon its passage and adoption.

PASSED on First Reading this _____ day of _____, 2017.

PASSED and ADOPTED on Second Reading on this _____ day of _____, 2017.

JORDAN W. LEONARD
MAYOR

ATTEST:

MARLENE M. SIEGEL
TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

CRAIG SHERMAN, ESQ.
TOWN ATTORNEY

AGENDA ITEM REPORT

January 8, 2018

ITEM NUMBER: 7.

ITEM: Consideration and Approval of an ordinance on **second** reading amending Section 18-22 of the Town Code to require property owners to underground the service lines. Enclosed is a copy of the proposed ordinance.

DESCRIPTION:

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Marlene Siegel, Town Clerk

ATTACHMENTS

1.	Proposed Ordinance	Ordinance - Underground service line.pdf
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ORDINANCE NO. ____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING SECTION 18-22 ENTITLED NEW CONSTRUCTION AND REHABILITATED STRUCTURES, TO REQUIRE PROPERTY OWNERS TO UNDERGROUND THE SERVICE LINE OR LATERAL FROM THE BUILDING TO THE UTILITY POLES OR UNDERGROUND FACILITIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Bay Harbor Islands adopted the first Zoning and Planning Code for the community in June 1957; and

WHEREAS, the Town Council periodically studies various land development and uses trends and issues and amends the Zoning and Planning Code accordingly; and

WHEREAS, the Town Council is charged with the protection of the health, safety and welfare of the Town's residents; and

WHEREAS, the Town Code of Ordinances requires new construction and rehabilitated structures to underground its utilities, including electrical wire, as part of any site plan approval and building permit; and

WHEREAS, the Town Council wishes to clarify that part of this requirement includes undergrounding service lines or laterals from the building to the utility provider's facilities.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA:

Section 1: That Chapter 18, Article II Entitled Underground Utilities is hereby amended to amend Section 18-22 entitled New construction and rehabilitated structures, as more fully set forth in the attached Exhibit "A", and by reference is made a part hereof.

Section 2: That if any section, paragraph, sentence or word of this Ordinance or the application thereof to any person or circumstance is held invalid, that the invalidity shall not affect the other sections, paragraphs, sentences, words or application of this Ordinance.

Section 3: That it is the intention of the Town Council of the Town of Bay Harbor Islands, Florida, and it is therefore ordained, that the provisions of the Ordinance shall become and be made a part of the Town of Bay Harbor Islands' Code of Ordinances, that sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 4: That all Ordinances, parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5: That this Ordinance shall be in full force and take effect immediately upon its passage and adoption.

PASSED on First Reading this ____ day of _____ 2017.

PASSED AND ADOPTED on Second Reading this ____ day of _____ 2018.

MAYOR

ATTEST:

TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

TOWN ATTORNEY

EXHIBIT A

Amendments to the Town of Bay Harbor Islands, Florida Code of Ordinances

CHAPTER 18

STREETS AND SIDEWALKS

ARTICLE II. UNDERGROUND UTILITIES

Sec. 18-21. Town policy.

It is the general policy of the Town of Bay Harbor Islands to require the underground installation of utilities to the greatest extent feasible, in order to assure public safety, foster tree preservation, and improve and protect the aesthetic character of the town. For purposes of this section, "utility" shall mean electric power, telecommunications and cable television service.

Sec. 18-22. New construction and rehabilitated structures.

(a) All new construction including but not limited to single-family residences, multiple dwelling units and commercial properties shall be required to install underground utility service facilities, including the service line or lateral from the building to the poles or underground facilities.

(b) When a structure undergoes rehabilitation wherein the cost of the rehabilitation is 50 percent or more of the assessed value of the existing structure as determined by the Dade County Property Appraiser's Office, utility service facilities for that structure shall be converted from overhead to underground, including the service line or lateral from the building to the poles or underground facilities.

(c) In the event that a utility provider is unwilling or unable to underground its utility service facilities due to reliability/service issues or otherwise, the property owner shall be required to install all infrastructure necessary for the property to connect to the undergrounding of the utility service facilities when the utility provider agrees to underground its utility service facilities, in accordance with all applicable ordinances, codes, statutes and utility company specifications. For electric service facilities, such infrastructure shall include, but shall not be limited to, installing electric service entrance facilities to accommodate an underground service lateral. The property owner shall be responsible for all costs associated with the installation of utility service facilities to accommodate underground utility service.

AGENDA ITEM REPORT

January 8, 2018

ITEM NUMBER: 8.

ITEM: Consideration and Approval of an ordinance on **second** reading amending Section 23-11 of the Town Code to allow for additional building height in the B-1 Business District. Enclosed is a copy of the proposed ordinance.

DESCRIPTION:

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Marlene Siegel, Town Clerk

ATTACHMENTS

1.	proposed ordinance	B-1 Bldg Hgt Final Draft Ord Nov 2 2017.pdf
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ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S ZONING AND PLANNING CODE TO AMEND SECTION 23-11(C) TO ALLOW FOR ADDITIONAL BUILDING HEIGHT IN THE B-1 BUSINESS DISTRICT PROVIDED A DEVELOPER PARTICIPATES IN THE TOWN'S PUBLIC BENEFITS PROGRAM; ESTABLISHING A PUBLIC BENEFITS PROGRAM FOR ADDITIONAL BUILDING HEIGHT INCLUDING SPECIFIC PUBLIC BENEFITS DESIRED BY THE TOWN; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Bay Harbor Islands adopted the first Zoning and Planning Code for the community in June 1957; and

WHEREAS, the Town Council periodically studies various land development trends and issues and amends the Zoning and Planning Code accordingly; and

WHEREAS, the Town retains the services of an urban planning professional to study land development activities and land development regulations and recommend strategies and Code modifications to address identified problems; and

WHEREAS, the Town previously studied and modified many of the land development regulations within the B-1 Business District, which included a maximum building height limit of sixty-five (65) feet; and

WHEREAS, the Town's Charter contains a provision that limits the height of all new buildings to not more than seventy-five (75) feet, unless a referendum is held; and

WHEREAS, it has become evident that to encourage and achieve high-quality commercial, office or mixed-use developments with proper floor-to-ceiling heights, additional building height could be allowed in exchange for participation and contributions to a defined Town Public Benefits Program, as many other communities have established, but tailored to the specific desires and needs of the Town of Bay Harbor Islands; and

WHEREAS, the Town Council desires to amend the Town's Zoning and Planning Code to add such provisions; and

WHEREAS, a public meeting was held by the Town Council, acting in its capacity as the designated Local Planning Agency (LPA), to review and recommend actions on proposed modifications to the Town's Zoning and Planning Code;

WHEREAS, the Town Council held a duly advertised public meeting(s) to consider the proposed modifications to the Town's Zoning and Planning Code.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA:

Section 1: That the Town of Bay Harbor Islands Zoning and Planning Code is hereby amended to amend Section 23-11(C) to allow for additional building height in the B-1 Business District provided a developer participates in the Town's Public Benefits Program; establishing a Public Benefits Program for additional building height including specific public benefits desired by the Town.

Section 2: That is any section, paragraph, sentence or word of this Ordinance or the application thereof to any person or circumstance is held invalid, that the invalidity shall not affect the other sections, paragraphs, sentences, words or application of this Ordinance.

Section 3: That it is the intention of the Town Council of the Town of Bay Harbor Islands, and it is therefore ordained, that the provisions of the Ordinance shall become and be made a part of the Town of Bay Harbor Islands' Code of Ordinances, that sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 4: That all Ordinances, parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5: That this Ordinance shall be in full force and take effect immediately upon its passage and adoption.

PASSED on First Reading this ____ day of _____, 2017.

PASSED on Second Reading this ____ day of _____, 2017.

JORDAN LEONARD
Mayor

ATTEST:

MARLENE M. SIEGEL, CMC
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

CRAIG SHERMAN, ESQ.
Town Attorney

EXHIBIT A
Amendments to the Town of Bay Harbor Islands
Zoning and Planning Code – Chapter 23

Sec. 23-11. Land development regulations.

In all area districts hereinabove set forth and designated, there shall be front, rear and side yard setbacks provided for of not less than the dimensions specified, and other land development standards, as follows, to wit:

(C) B-1 Business district.

Miscellaneous regulations:

(8) Building height: No building or portion thereof shall exceed 65 feet in height, except for those allowable rooftop structures listed in subsection 23-12(11) (“Standard Height”). Notwithstanding the above, buildings or portions of buildings in the district may be increased with bonus height up to a maximum of 75 feet in height (“Maximum Height”), upon the submission of a written request setting forth the proposed participation and contribution into the Town’s Public Benefit Program (“Request”) as set forth below, provided:

- a) The Town Council approves the Request at a public meeting, and
- b) The developer participates and contributes to the Town’s Public Benefits Program as set forth herein.

(8.1) Public Benefits Program – The intent of the Public Benefits Program established in this section is to allow bonus building height in the B-1 Business District up to the Maximum Height in exchange for a developer’s contributions to specified programs that provide benefits to the public. The bonus height may be permitted if the proposed development contributes toward the specified public benefits, in the manner and amount set forth herein.

(8.2) The bonus height may be permitted from the Standard Height up to the Maximum Height in exchange for contribution to the Town for the following public benefits:

- Affordable / workforce housing equal to at least 25% of the number of dwelling units proposed (sales / rental costs 120% or less of the median family income of Miami-Dade County);
- Dedication and construction of Public Parks and Open Space (land / facilities) of a size, location, and types of facilities acceptable to the Town;
- Undergrounding electrical, telecommunication and other overhead wire and pole facilities (min. underground one (1) complete platted block in the business district, or payment in lieu of the cost to the Town thereof);
- Green Buildings (USGBC Gold or Platinum only);

- Excess parking spaces above the minimum Code requirements for the project that are available and open for general public use (at least 25);
- Public buildings, land and facilities owned by the Town;
- Excess parking spaces above the minimum Code requirements for the project that are available and open for general public use (at least 25);
- Public infrastructure projects listed in the Town's Capital Improvement Plan (CIP); or
- Any other contribution(s) acceptable to the Town Council, provided that the contribution(s) serve a public purpose.

AGENDA ITEM REPORT

January 8, 2018

ITEM NUMBER: 9.

ITEM: Consideration and approval of an ordinance on **first** reading amending Chapter 16 to provide a five (5) year cliff vesting schedule for police officer members of the Retirement System. Enclosed is a copy of the proposed ordinance.

DESCRIPTION:

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba Chang, Deputy Town Clerk

ATTACHMENTS

1.	proposed ordinance	Cliff Vesting Ordinance Amendment (1Dec2017).pdf
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ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 16, THE TOWN OF BAY HARBOR ISLANDS EMPLOYEES RETIREMENT SYSTEM, OF THE TOWN OF BAY HARBOR ISLANDS CODE OF ORDINANCES, PROVIDING FOR A FIVE-YEAR CLIFF VESTING SCHEDULE FOR POLICE OFFICER MEMBERS OF THE RETIREMENT SYSTEM; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Bay Harbor Islands and the Police Benevolent Association have agreed through collective bargaining to amend the vesting schedule for police officer members to provide for five-year cliff vesting;

WHEREAS, the Town Council has received and reviewed an actuarial impact statement related to these changes,

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA:

Section 1. That Paragraph (h)(4) of Section 16-40, Schedule, of Chapter 16, Town of Bay Harbor Islands Employees Retirement System, is hereby amended by adding the following underlined language as follows:

Section 16-40 – Schedule

(h) Death and termination benefits

(4) If a member terminates his employment, either voluntarily or by discharge, and is not at such time eligible for either a normal, early, delayed or disability retirement benefit under this system, he or she shall be entitled to a percentage of his or her accrued benefit according to the following schedule:

<i>Vesting Schedule—Police Officer</i>	
<i>Police Officer Members who Terminate Service before [insert date of adoption]</i>	
<i>Completed Years of Credited Service</i>	<i>Cumulative Vested Interest (percent)</i>
Less than 5	None
5	50
6	60
7	70
8	80
9	90
10	100
<i>Police Office Members who Terminate Service on or after [insert date of adoption]</i>	
<u>Less than 5</u>	<u>None</u>
<u>5</u>	<u>100</u>
<i>Vesting Schedule—General Employee</i>	
<i>Completed Years of Credited Service</i>	<i>Cumulative Vested Interest (percent)</i>
Less than 5	None
5	100

Section 2. That if any section, paragraph, sentence or word of this Ordinance or the application thereof to any person or circumstance is held invalid, that the invalidity shall not affect the other sections, paragraphs, sentences, words or applications of this Ordinance.

Section 3. That it is the intention of the Town Council of the Town of Bay Harbor Islands, and it is therefore ordained, that the provisions of this Ordinance shall become and be made a part of the Town of Bay Harbor Islands' Code of Ordinances, that sections of this Ordinance may be renumbered or relettered to accomplish such

intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 4. That all Ordinances, parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5. That this Ordinance shall be in full force and take effect immediately applying retroactively upon its passage and adoption.

PASSED on First Reading this _____ day of _____, 2017.

PASSED and ADOPTED on Second Reading on this _____ day of _____, 2017.

**JORDAN W. LEONARD
MAYOR**

ATTEST:

**MARLENE M. SIEGEL
TOWN CLERK**

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

**CRAIG SHERMAN, ESQ.
TOWN ATTORNEY**

AGENDA ITEM REPORT

January 8, 2018

ITEM NUMBER: 10.

ITEM: Discussion and direction with regard to Council Member Fuller's request to design an amphitheater and passive park at the lot located on 95th Street and West Bay Harbor Drive. Staff is proposing a budget in the amount of \$156,000, if approved the Town will solicit a request for proposals (RFP) for the project. Enclosed is a cost estimate and renderings on the proposed park location.

DESCRIPTION:

The Town Council held discussion at the June 12 and August 14th, Regular Council Meetings, on the future use of the vacant land located at the 95th Street and West Bay Harbor Drive.

Consensus was for staff to provide cost estimates not to exceed \$350,000 for a park design and amphitheater.

Staff is submitting a proposed budget in the amount of \$156,000 for the proposed amphitheater. If approved, the Town will advertise request for proposals for the project.

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

If approved, this expenditure will require appropriations from the General Reserves Fund.

BUDGET IMPACT:

Submitted By: Marlene Siegel, Town Clerk
Joshua Fuller, Council Member
Ronald Wasson, Town Manager

ATTACHMENTS

1.	Proposed Budget	95th Street Park Budget.pdf
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Bay Harbor Islands 95th Street Park

Budget Estimates:

- Shade Structures \$50,000 (\$8,000 foundations)
- Fencing \$10,000
- Grass & Irrigation \$10,500 (cost covered by Monarch)
- Landscaping \$15,000
- Concrete \$40,000
- Electrical (Lights and Outlets) \$3,800
- Chairs/Tables \$5,000

Subtotal	\$142,000
Contingency (10%)	\$14,000

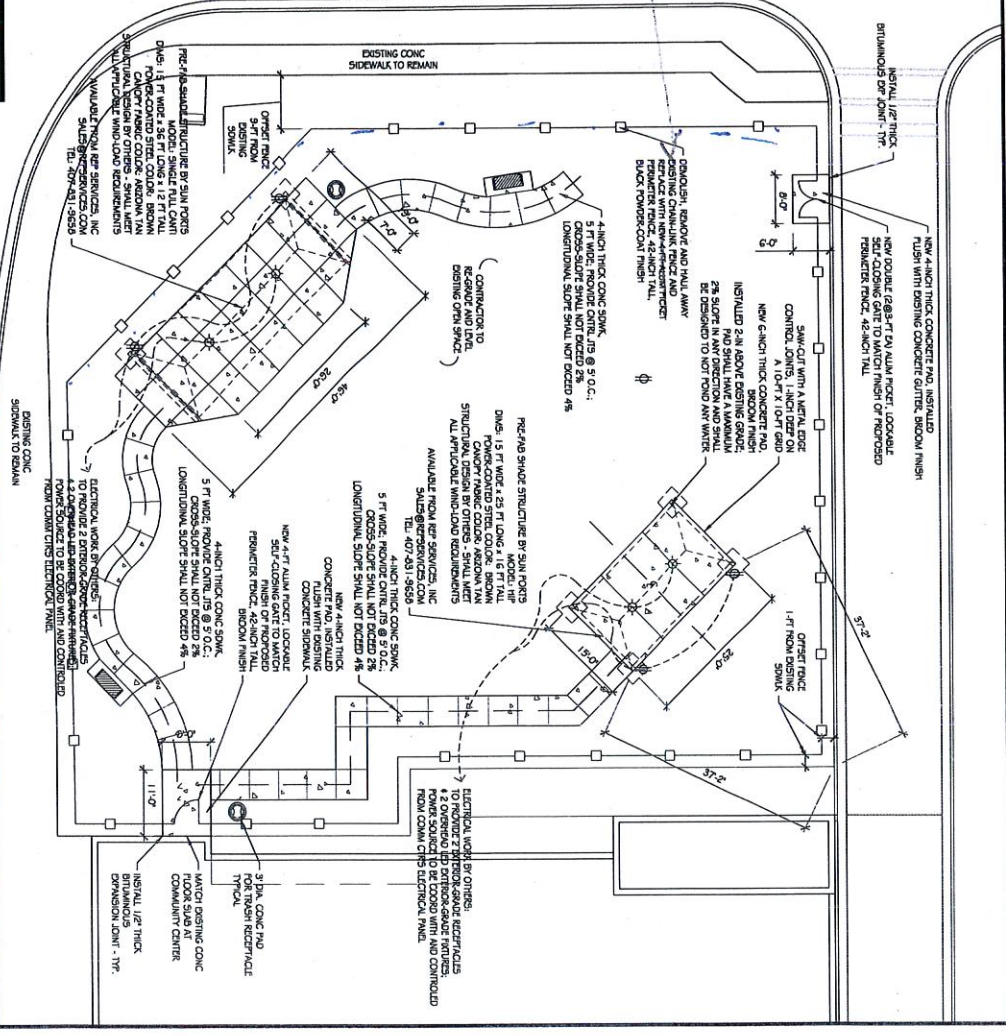
Total Cost Estimate \$156,000

The plan depicts a landscaped area with several key elements:

- Plantings:** Numerous trees and shrubs are indicated by circles and cross-hairs. Callouts specify species and sizes, such as "QUERCUS VIRGINIANA LIVE OAK 6\"

[illegible]

DATE	1:20
PROJECT No	17-9594
PURPOSE OF THIS SET	SP201
30% SCHEMATIC PLAN	



AGENDA ITEM REPORT

January 8, 2018

ITEM NUMBER: 11.

ITEM: Consideration and Approval to extend contract BHI-128 with LMK Pipe Renewal LLC. in the amount of \$250,000 to continue sewer lateral lining to reduce the volume of infiltration that enter the sanitary collection system. Enclosed is a Memo from Randy Daniel, Town Engineer.

DESCRIPTION:

The Town is obligated to reduce infiltration/inflow (I/I) to a maximum amount of 5,000 gallons per day per inch- diameter- mile. All the sewer mains have been already lined and at the time of this writing, a contract to repair sewer manholes is ongoing. A significant source of I/I is the sewer laterals and the Contract with LMK has been successful in reducing this unwanted flow.

In addition, the cost of treating sewage continues to be expensive and reduced volumes translates directly to dollars saved. Currently the Town pays the County \$1.7341 for every 1,000 gallons of potable water purchased. That same volume of water costs the Town \$3.6389 to treat as sewage (wet weather rate).

It is recommended that the contract with LMK be extended in an additional amount not to exceed \$250,000.00 to line 71 more sewer laterals.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

The amount of \$250,000 was allocated in fiscal 2017-2018.

BUDGET IMPACT:

Submitted By: Randy Daniel, Town Engineer

ATTACHMENTS

1.	Memo for 7th Extension	2017-2018 LMK Contract Extension 7 for Lateral lining.doc
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Interoffice
MEMORANDUM



From: Randy Daniel, P.E. - Town Engineer/Director of
Public Works

To: Ron Wasson - Town Manager

Copy: J.C. Jimenez - Assistant Town Manager
Doug Armstrong- Assistant Director of Public Works

Date: November 6th 2017

Subject: Contract # 128 Repairs to Sewer Lateral Clay Hubs
Request for Contract Extension with LMK Pipe Renewal LLC for T-Liner

1.0 Preamble

This memorandum seeks approval for LMK Pipe Renewal LLC, to continue sewer lateral lining to reduce the volume of infiltration that enters the sanitary collection system. The Town pays the City of Miami Beach, the amount of \$3.45 (effective October 1st 2016) per 1,000 gallons to treat sewage. (The cost of drinking water is \$1.78 per 1,000 gallons).

Collection systems are required by DERM to have maximum infiltration/inflow (I/I) volumes below 5,000 gallon/day/inch-diameter-mile. All the gravity collection mains have already been lined and the remaining infrastructure that could allow I/I are sewer manholes and sewer laterals.

The gravity sewer collection system consists of Vitrified Clay Pipe (VCP), which over the years has developed cracks (expected for VCP) and weakened joints. Given our high levels of ground water resulting from tidal influences, tremendous volumes of water could easily enter the collection system if there are unrepaired breaches.

2.0 Background

In September 2007 Council approved the contract award to LMK Pipe Renewal, LLC (LMK) to inspect all sewer laterals and repair the worst ones using T-Liner. The work associated with that contract was successfully performed and 49 sewer laterals were repaired. As a result of the bid process and subsequent verification that T-Liner continues to be superior to other alternatives, this Contract was extended in 2009-2010, 2012-2013, 2013-2014, 2014-2015, 2015-2016 and 2016-2017 when 17, 18, 42, 23, 85 and additional sewer laterals were repaired, respectively. A summary of previous contract extensions, council approvals and

associated work is presented in Table 1.

TABLE 1
Previous Contract Extensions

	Fiscal Year	Amount Paid	Amount Approved	Laterals lined	Comments
Original Contract	2007-2008	\$236,384.00	\$298,745.00	49	Contract cost included the CCTV inspection of all sewer laterals
1 st Extension	2009-2010	\$69,725.00	\$70,000.00	17	
2 nd Extension	2012-2013	\$64,812.00	\$70,000.00	18	
3 rd Extension	2013-2014	\$159,610.52	\$140,000.00	42	Funds carried over from 2012-2013;\$70,000 budgeted in fiscal 2013-2014
4 th Extension	2014-2015	\$103,455.00	\$105,000.00	23	
5 th Extension	2015-2016	\$292,323.00	\$300,000.00		\$300,000 budgeted in fiscal 2015-2016
6 th Extension	2016-2017	\$174,545.00	\$200,000.00	97	\$200,000 budgeted in fiscal 2016-2017
7 th Extension	2017-2018		\$250,000.00	71	TO BE APPROVED
TOTAL		\$1,100,845.52	\$1,433,745.00	288	

This memorandum seeks approval to extend the contract with LMK for a seventh time, to line another 100 sewer laterals, in sub-basins F and C, and to perform sewer point repairs as required.

If approved, at the end of this contract extension the grand total of sewer laterals lined is expected to be **288**.

It is important to point out that, in addition to lining sewer laterals, the approved contract amount is also utilized to abandon sewer laterals that are not in use such as parking lots, or where the property owner/developer decided to use one of two or more laterals and effectively abandon the other lateral(s) available. In these cases sectional liners are installed which abandon the lateral at the main thereby substantially reducing the potential for infiltration.

Sewer point repairs that require open excavation to the sewer main or lateral, repair and roadway restoration, are also covered under the approved contract amount.

3.0 Contract Competiveness

When the contract was awarded in 2007 the rate for a twenty five foot sewer lateral was \$3,875.00. The rates were unchanged for the first extension but LMK offered a reduction of \$375.00 per lateral for the second extension, to \$3,500.00.

On August 13th 2015, LMK signed a contract with the City of Plantation. The rate in the Plantation Contract for T liners is \$2,875.00, exactly \$1,000.00 less than the rate that LMK was contracted in 2007 to provide. LMK continues to offer the Town of Bay Harbor Islands the same low bid rate as they are contracted to provide the City of Plantation, or any other client that they may be involved with.

The current rate is lower than the original rate by \$1,000.00.

4.0 Determination of locations for T- liner

Table # 2 identifies the catchment basins where sewer lining work is being proposed and the associated streets on the East Island. Sub Basin F is the target for repairs as the level of infiltration in this basin is higher than Sub Basin E where similar work was performed in fiscal 2016-2017.

In addition, developers on the East Island are required to use the sewer laterals that exist on their properties and in this regard it is imperative that these laterals are structurally sound and hydraulically efficient. Wherever a construction site exists, all the laterals between the set up manholes, in addition to those servicing the construction site, are proposed to be lined.

TABLE # 2

7th Contract Extension for LMK Pipe Renewal LLC
Sewer Manhole sections earmarked for Lateral Repair

Sewer catchment Basin #	No	MH-MH	Sewer Lateral Diameter (in)	Number of Laterals	Street Name	Anticipated Cost
F	1	MH 95A-95	6"	3	EAST BAY HARBOR DR	\$10,110.00
	2	MH 95-94	6"	7	EAST BAY HARBOR DR	\$23,590.00
	3	MH 94-93	6"	7	EAST BAY HARBOR DR	\$23,590.00
	4	MH 93-100	6"	7	EAST BAY HARBOR DR	\$23,590.00
	5	MH 100-101	6"	3	EAST BAY HARBOR DR	\$10,110.00
	6	MH 101-102	6"	7	EAST BAY HARBOR DR	\$23,590.00
	7	MH 102-103	6"	7	EAST BAY HARBOR DR	\$23,590.00
	8	MH 103-104	6"	7	EAST BAY HARBOR DR	\$23,590.00
	9	MH106-106A	6"	8	93 rd Street	\$26,960.00
	10	MH 89-89A	6"	4	92 nd Street	\$13,480.00
	11	MH 63-60	6"	6	102 nd Street	\$20,220.00
	12	MH 50 - 46	6"	5	EAST BAY HARBOR DR	\$16,850.00
					Contingency	\$10,730.00
			Total	71	Total	\$250,000.00

5.0 Discussion

T-liner continues to be the superior technique/ product for preventing infiltration into sewer laterals, primarily because there are no joints in this system. The alternative to T Liner is a system referred to as "Top Hat" which involves a joint at the main line.

The rate offered to the Town for T-Liner has been reduced to match current

rates that have been competitively bid. The new rates are \$1,000.00 less than original.

The experience with the T-Liner product has been exceptional; LMK has conducted CCTV inspections of work that was installed in 2007 and the results clearly illustrate that the product is still in good condition after 10 years in service.

The amount of \$250,000 was allocated in fiscal 2017-2018.

6.0 Recommendation

It is recommended that the contract with LMK be extended in an additional amount not to exceed \$250,000.00 to line 71 more sewer laterals.

AGENDA ITEM REPORT

January 8, 2018

ITEM NUMBER: 12.

ITEM: Approval of contract award BHI 188 to perform the lining of the sewer main to Miller Pipeline Corporation the amount of \$29,337.50 . Enclosed is a copy of the bids and contract.

DESCRIPTION:

BHI-188 to perform the lining of the sewer mains was publicly advertised on November 20th, 2017 on the Daily Business Review and the Town website. The scope of work will address the two remaining sections of sewer mains to be lined (MH 80-83 & MH 91-91A).

On December 8th, 2017, the Town Clerk's office received a total six bids ranging from the highest of \$220,250.00 to a low of \$29,337.50. Based on the response from the other five bidders, the highest bid was 7.5 times more than the low bid and was rejected without further consideration.

The other bids were fairly close and the next high bid is about \$10,000 higher than the lowest bid. The amount of \$162.50 separated the two lowest bids. Both of these contractors have previously worked with the Town and Jennings Engineering and Construction, whose bid was \$162.50 above the lowest bid is currently employed by the Town to perform the Sewer Manhole lining Project (BHI 182).

The lowest bid was submitted by Miller Pipeline Corp (Miller). Miller has previously worked with the Town in performing storm water outfall lining. Miller's work has been of very good quality and they have been easy to work with.

Miller is therefore deemed to be the lowest responsive bidder and is hereby recommended for Contract award in the amount of \$29,337.50.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

This is not a budgeted expense and it is further recommended that the funds in the amount of \$29,337.50 be appropriated from the sewer reserves.

BUDGET IMPACT:

Submitted By: Randy Daniel, Town Engineer

ATTACHMENTS

1.	BHI-188 CONTRACT DOCUMENTS	BHI-188 LINING OF SEWER MAINS.pdf
2.	BHI-188 BID RESULTS	BIDS RESULTS FOR BHI-188.pdf

TOWN OF BAY HARBOR ISLANDS

CONTRACT DOCUMENTS



November 16, 2017

**FOR
CONTRACT NO.
BHI-188**

LINING OF SEWER MAINS

MH 80-83 & MH 91-91A

THE TOWN OF BAY HARBOR ISLAND
LINING OF SEWER MAIN MH 80-83 & MH 91-91A

CONTRACT NO. BHI 188

TABLE OF CONTENTS

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IB	Instructions to Bidders	1 - 7
P	Proposal	1 - 5
BB	Bid Bond	1 - 2
NA	Notice of Intent to Award	1
C	Agreement (Contract)	1 - 5
PFB	Performance Bond	1 - 3
PYB	Payment Bond	1 - 3
NP	Notice to Proceed	1
GC	General Conditions	1 - 42
SC	Supplementary Conditions	1 - 12
TS	Technical Specifications	1 - 8
SS	Sworn Statement	1 - 3

ADVERTISEMENT FOR BIDS

Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154
Phone: (305) 866-6241

Sealed Bids must be received by the Town of Bay Harbor Islands at 9665 Bay Harbor Terrace, Bay Harbor Islands, Florida 33154, up to **2:00 P.M. on December 8, 2017** (bids received after this time will not be accepted) at which time bids will be publicly opened and read aloud for the furnishing of all materials, labor, equipment, supplies and appurtenances necessary for:

TOWN OF BAY HARBOR ISLANDS CONTRACT NO. BHI -188 LINING OF SEWER MAIN MH 80-83 & MH 91-91A

Bids must be submitted in accordance with the project specifications.

The Scope of Work for this project is as follows:

Furnish all labor, materials, accessories, equipment, tools, transportation, services and technical competence for performing all operations required for restoring approximately 675 feet of 8" vitrified clay sewer pipe, by the Cured-in-place pipe lining method. The work shall include preparing the existing sewers for the purpose of lining and videotaping the sewer mains after they are repaired.

Work shall also include cutting out the coupons for service connections, bypass pumping, dewatering, maintaining traffic control, and all other appurtenant and miscellaneous related items and work, required for a successfully completed project.

All bids must be submitted as a Total Bid Amount with associated Contract Unit Pricing per the Proposal Form.

Specifications and Drawings may be examined during office hours at the office of the Town Manager:

Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154
Phone: (305) 866-6241

Copies of the above documents may be obtained at the above location upon payment of \$25.00 made payable to the Town of Bay Harbor Islands.

Bid Security in the amount of five percent (5%) of the Bid must accompany each bid in accordance with the Instructions to Bidders.

Bids requested shall be set forth in the Bid Form attached to and being a part of the Contract Documents. The Contract Documents will be issued upon request up to 48 hours prior to opening of the Bids.

Bids may be modified or withdrawn in accordance with the Instructions to Bidders and shall remain open for a period of 60 calendar days after the date set for opening.

A Pre-bid Meeting will be held on **December 04, 2017 at 11:00 AM** at Town of Bay Harbor Islands, 9665 Bay Harbor Terrace, Bay Harbor Islands. Attendance at this meeting is not mandatory.

The Town of Bay Harbor Islands reserves the right to waive any irregularities and to reject any and all bids.

By Order of the Town Council
Town of Bay Harbor Islands

Ron Wasson
Town Manager

PUBLISHED: Daily Business Review

DATE:

INSTRUCTION TO BIDDERS

1. DEFINED TERMS

Terms used in these Instructions to Bidders which are defined in the Standard General Conditions of the Construction Contract, prepared by the Engineer's Joint Contract Documents Committee (EJCDC) and NSPE-ASCE Document 1910-8-A-1, CSI 56465 (1996 Edition) have the meanings assigned to them in the General Conditions. The term "Successful Bidder" means the lowest, qualified, responsible Bidder to whom Town (on the basis of the Town's evaluation as hereinafter provided) makes an award and whose Bid the Town determines is in its' best interest.

2. COPIES OF BIDDING DOCUMENTS

- 2.1 Complete sets of the Bidding Documents in the number and for the non-refundable sum, stated in the Advertisement or Invitation to Bid may be obtained from the Town (unless another issuing office is designated in the Advertisement or Invitation to Bid).
- 2.2 Complete sets of Bidding Documents shall be used in preparing Bids; Town assumes no responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.3 The Town in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids on the Work and do not confer a license or grant for any other use.

3. QUALIFICATIONS OF BIDDERS

To demonstrate qualifications to perform the Work, each Bidder must be prepared to submit within five days of Town's request, written evidence of the types set forth in the Supplementary Conditions, such as financial data, previous experience and evidence of authority to conduct business in the jurisdiction where the Project is located. Each Bid must contain evidence of Bidder's qualification to do business in the state of Florida (copy of Contractor's License).

4. EXAMINATION OF CONTRACT DOCUMENTS AND SITE

- 1.1 Before submitting a Bid, each Bidder must (a) examine the Contract Documents thoroughly, (b) visit the site to familiarize himself with local conditions that may in any manner affect cost, progress or performance of the Work, (c) familiarize himself with federal, state and local laws,

ordinances, rules and regulations that may in any manner affect cost, progress or performance of the Work; and (d) study and carefully correlate Bidder's observations with the Contract Documents.

- 4.2 Reference is made to the Supplementary Conditions for the identification of those reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Work, which have been relied upon by Town in preparing the Drawings and Specifications. Town will make copies of such reports available to any Bidder requesting them. These reports are not guaranteed as to accuracy or completeness, nor are they part of the Contract Documents. Before submitting his Bid, each Bidder will, at his own expense, make such additional investigations and tests as the Bidder may deem necessary to determine his Bid for performance of the Work in accordance with the time, price and other terms and conditions of the Contract Documents.
- 4.3 On request, Town will provide each Bidder access to the site to conduct such investigations and tests as each Bidder deems necessary for submission of his Bid.
- 4.4 The lands upon which the Work is to be performed rights-of-way for access thereto and other lands designated for use by Contractor in performing the Work, are identified in the Supplementary Conditions, General Requirements or Drawings.
- 4.5 The submission of a Bid will constitute an incontrovertible representation by the Bidder that he has complied with every requirement of this Article 4 and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Work.

5. INTERPRETATIONS

All questions about the meaning or intent of the Contract Documents shall be submitted to Town in writing. Replies will be issued by Addenda mailed or delivered to all parties recorded by Town as having received the Bidding Documents. Questions received less than ten days prior to the date for opening of Bids will not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

6. BID SECURITY

- 6.1 Bid Security shall be made payable to Town in an amount of five percent (5%) of the Bidder's maximum Bid price and in the form of a Certified or

Cashiers check or a Bid Bond (on form attached, if a form is prescribed) issued by a Surety meeting the requirements of paragraph 5.01 of the General Conditions.

- 6.2 The Bid Security of the Successful Bidder will be retained until such Bidder has executed the Agreement and furnished the required Contract Security, whereupon it will be returned; if the successful Bidder fails to execute and deliver the Agreement and furnish the required Contract Security within ten (10) days of the Notice of Intent to Award, Town may annul the Notice of Intent to Award and the Bid Security of that Bidder will be forfeited. The Bid Security of any Bidder whom Town believes to have a reasonable chance of receiving the award may be retained by Town until the earlier of the seventh day after the "effective date of the Agreement" (which term is defined in the General Conditions) by Town to Contractor and the required Contract Security is furnished or the sixty-first day after the Bid opening. Bid Security of other Bidders will be returned within fourteen (14) days of the Bid opening.

7. CONTRACT TIME

The number of days within which, or the date by which, the Work is to be completed (the Contract Time) is included in the Agreement.

8. LIQUIDATED DAMAGES

Provisions for liquidated damages, if any, are set forth in the Agreement.

9. SUBSTITUTE MATERIAL AND EQUIPMENT

The Contract, if awarded, will be on the basis of material and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute or "or-equal" items. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or "or-equal" item of material or equipment may be furnished or used by Contractor if acceptable to Town, application for such acceptance will not be considered by Town until after the "effective date of the Agreement". The procedure for submitting any such application by Contractor for consideration by Town is set forth in paragraphs 6.05, 6.05.A and 6.05.B of the General Conditions which may be supplemented in the General Requirements.

10. SUBCONTRACTORS, ETC.

- 10.1 If the Supplementary Conditions require the identity of certain Subcontractors and other persons and organizations to be submitted to Town in advance of the Notice of Award, the apparent Successful Bidder, and any other Bidder

so requested will, within seven (7) working days after the day of the Bid opening, submit to Town a list of all Subcontractors and other persons and organizations (including those who are to furnish the principal items of material and equipment) proposed for those portions of the Work as to which such identification is so required. Such list shall be accompanied by an experience statement with pertinent information as to similar projects and other evidence of qualification for each such Subcontractor, person and organization if requested by Town. If Town after due investigation has reasonable objection to any proposed Subcontractor, other person or organization, either may before giving the Notice of Award request the apparent Successful Bidder to submit an acceptable substitute without an increase in the Bid price. If the apparent Successful Bidder declines to make any such substitution, the contract shall not be awarded to such Bidder, but his declining to make any such substitution will not constitute grounds for sacrificing his Bid Security. Any Subcontractor, other person or organization so listed and to whom Town does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to Town.

- 10.2 In contracts where the Contract Price is on the basis of Cost-of-the-Work Plus a Fee, the apparent Successful Bidder, prior to the Notice of Award, shall identify in writing to Town those portions of the Work that such Bidder proposes to subcontract and after the Notice of Award may only subcontract other portions of the Work with Town's written consent.
- 10.3 No Contractor shall be required to employ any Subcontractor, other person or organization against whom he has reasonable objection.

11. BID FORM

- 11.1 The Bid Form is attached hereto; additional copies may be obtained from Town.
- 11.2 Bid Forms must be completed in ink or by typewriter. The Bid price of each item on the form must be stated in numerals. Contractor must bid on all alternates in the bid form.
- 11.3 Bids by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign), and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.

- 11.4 Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.
- 11.5 All names must be typed or printed below the signature.
- 11.6 The Bid shall contain an acknowledgement of receipt of all Addenda (the numbers of which shall be filled in on the Bid Form).
- 11.7 The address to which communications regarding the Bid are to be directed must be shown.

12. SUBMISSION OF BIDS

Bids shall be submitted at the time and place indicated in the Invitation to Bid and shall be included in an opaque sealed envelope, marked with the Project title and name and address of the Bidder and accompanied by the Bid Security and other required documents. If the Bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face thereof.

13. MODIFICATION AND WITHDRAWAL OF BIDS

- 13.1 Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.
- 13.2 If, within twenty-four hours after Bids are opened, any Bidder files a duly signed written notice with Town and promptly thereafter demonstrates to the reasonable satisfaction of Town that there was a material and substantial mistake in the preparation of his Bid, that Bidder may withdraw his Bid and the Bid Security will be returned. Thereafter, that Bidder will be disqualified from further bidding on the Work.

14. OPENING OF BIDS

Bids will be opened publicly.

- 14.1 Bids are opened publicly, read aloud, and an abstract of the amounts of the base Bids and major alternates (if any) will be made available after the opening of Bids.

15. BIDS TO REMAIN OPEN

All Bids shall remain open for sixty (60) days after the day of the Bid opening, but Town may, in its sole discretion, release any Bid and return the Bid Security prior to that date.

16. AWARD OF CONTRACT

- 16.1 Town reserves the right to reject any and all Bids, to waive any and all informalities and to negotiate contract terms with the Successful Bidder, and the right to disregard all nonconforming, non-responsive or conditional Bids. Discrepancies between words and figures will be resolved in favor of words. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between the indicated value and the correct value as calculated by the product of the unit price and the estimated quantity will be resolved by using the stated unit price.
- 16.2 In evaluating Bids, Town shall consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, alternates, additive/deductive amounts, and unit prices, if requested in the Bid forms. **THE TOWN AT ITS SOLE DISCRETION SHALL AWARD THIS CONTRACT BASED ON THE TOTAL BID AMOUNT.** It is Town's intent to accept alternates (if any are accepted) in the order, in which they are listed in the Bid form, but award will not be based on alternates and the Town may accept them in any order or combination.
- 16.3 Town will consider the qualifications and experience of the Contractor, Subcontractors, and other persons or organizations (including those who are to furnish the principal items of material or equipment) proposed for all portions of the Work. The identity of Subcontractors and other persons and organizations must be submitted as provided in the Supplementary Conditions. Operating costs, maintenance considerations, performance data and guarantees of materials and equipment will also be considered by Town.
- 16.4 Town will conduct such investigations as Town deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of the Bidders, proposed Subcontractors and other persons and organizations to do the Work in accordance with the Contract Documents to Town's satisfaction within the prescribed time. Issues such as past performance, adherence to schedule, and change order requests will be included in this evaluation. The weighing of these factors is at the discretion of the Town.

- 16.5 At the sole discretion of the Town, the Town reserves the right to reject the Bid of any Bidder based upon the evaluation noted in Section 16.4 above. References will NOT be limited to those submitted by the Contractor.
- 16.6 If the contract is to be awarded, it will be awarded to the lowest responsible Bidder whose evaluation by Town indicates to Town that the award will be in the best interests of the Project.
- 16.7 If the contract is to be awarded, Town will give the Successful Bidder a Notice of Award within sixty (60) days after the day of the Bid opening.

17. PERFORMANCE AND OTHER BONDS

Paragraph 5.01 of the General Conditions and the Supplementary Conditions set forth Town's requirements as to Performance and Payment Bonds. When the Successful Bidder delivers the executed Agreement to Town, it shall be accompanied by the required Contract Security.

18. SIGNING OF AGREEMENT

When Town gives a Notice of Award to the Successful Bidder, it will be accompanied by at least two (2) unsigned counterparts of the Agreement and all other Contract Documents. Within ten (10) working days of receipt, Contractor shall sign and deliver at least two (2) counter-parts of the Agreement to Town with all other Contract Documents attached. Within ten days thereafter, Town will deliver all fully signed counterparts to Contractor. Town will identify those portions of the Contract Documents not fully signed by Contractor and such identification shall be binding on all parties.

PROPOSAL
To
Town of Bay Harbor Islands

Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

Gentlemen:

The undersigned, as Bidder, hereby declares that the only persons, company, or parties interested in the Proposal or the Contract to be entered into, as principals, are named herein; and that this Proposal is made without connection with any other person, company, or parties making a Bid or Proposal; and that it is in all respects fair and in good faith without collusion or fraud.

That the Bidder has carefully and to his full satisfaction examined the attached Instructions to Bidders, General Conditions, Supplementary Conditions, Special Conditions, Detailed Specifications, and Form of Contract and Bond, and that he has read all addenda issued prior to the opening of Bids; and that he has made a full examination of the location of the proposed work and hereby agrees to furnish, unless otherwise provided, all implements, machinery, equipment, transportation, tools, materials, supplies, labor, and other things necessary to the prosecution and completion of the work generally described as follows:

Furnish all labor, materials, accessories, equipment, tools, transportation, services and technical competence for performing all operations required for restoring approximately 675 feet of 8" vitrified clay sewer pipe, by the Cured-in-place pipe lining method. The work shall include preparing the existing sewers for the purpose of lining and videotaping the sewer mains after they are repaired.

Work shall also include cutting out the coupons for service connections, bypass pumping, dewatering, maintaining traffic control, and all other appurtenant and miscellaneous related items and work, required for a successfully completed project.

It is proposed that the project herein described shall be constructed for the Total Bid Amount based on the Contract Unit Prices in this Proposal, all in accordance with the requirements and provisions of the Contract Documents. The Town at its sole discretion shall award this contract based on the Total Bid Amount.

BID FORM

The following bid form is presented to assist the Owner in evaluating the bid. In the event of discrepancy, the Total Bid Amount will govern. Payment shall be made for the items listed on the bid form on the basis of the work actually performed and completed per Specification Section Measurement and Payment

<u>Bid Item No.</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Value</u>
1	Clean and TV 8" Sewer Mains	675	L.F.	\$	\$
2	Prepare pipe interior, install pipe liner for 8" pipe, use Insignia seals to achieve water tightness & televise	675	L.F.	\$	\$
3	Maintenance of Traffic	1	LS	\$	\$
4.	Contingency	1	LS	\$	\$
					<u>TOTAL \$</u> _____

TOTAL BID AMOUNT \$ _____
TOTAL BID AMOUNT (IN WORDS) _____

QUALIFICATION REQUIREMENTS

Only those Bidders and Subcontractor(s) who are qualified will be considered as bona fide bidders. As Bidder, we certify to have constructed at least three (3) similar projects in the last five (5) year period as indicated by the following:

- 1) NAME OF PROJECT _____
 YEAR OF PROJECT _____
 OWNER OF PROJECT _____
 OWNER TELEPHONE NO. _____
 LOCATION OF PROJECT _____
 DESIGNING ENGINEER _____
 ADDRESS _____
 SCOPE OF WORK _____
 APPROXIMATE VALUE \$ _____
- 2) NAME OF PROJECT _____
 YEAR OF PROJECT _____
 OWNER OF PROJECT _____
 OWNER TELEPHONE NO. _____
 LOCATION OF PROJECT _____
 DESIGNING ENGINEER _____
 ADDRESS _____
 SCOPE OF WORK _____
 APPROXIMATE VALUE \$ _____
- 3) NAME OF PROJECT _____
 YEAR OF PROJECT _____
 OWNER OF PROJECT _____
 OWNER TELEPHONE NO. _____
 LOCATION OF PROJECT _____
 DESIGNING ENGINEER _____
 ADDRESS _____
 SCOPE OF WORK _____
 APPROXIMATE VALUE \$ _____

List Subcontractors and other persons and organizations proposed by the Bidder to perform portions of the work: N/A

- 1) NAME OF SUBCONTRACTOR _____
- 2) NAME OF SUBCONTRACTOR _____
- 3) NAME OF SUBCONTRACTOR _____

NOTE: For additional Subcontractors: Copy this form and attach additional pages as needed.

If awarded the Contract, the undersigned agrees to execute the attached Contract within ten (10) calendar days after the date on which Notice of Award is received and to be substantially complete within 20 working days and all work within not more than 30 working days after date of receipt of written Notice to Proceed with such extensions of time as are provided for in the General Conditions.

The undersigned understands the contract time starts on date of Notice to Proceed.

There is enclosed a Bid Guarantee consisting of five percent (5%) of Base Bid Amount.

The undersigned furthermore agrees that, in case of failure on his part to execute said contract and bond within ten (10) working days after being awarded the contract, the check, bond or other security accompanying his bid and the money payable thereon, shall become the property of the Town, by forfeit as agreed and liquidated damages; otherwise the check or bond accompanying his proposal shall be returned to the undersigned.

The undersigned, if awarded the contract, agrees to furnish at time of signing of contract, Performance and Payment Bonds each in the amount of 100% of the contract as set forth in "Instructions to Bidders".

The undersigned states that this proposal is the only proposal for this project in which he is interested.

The undersigned further agrees to bear the full cost of maintaining all work until final acceptance.

SUBMITTED

FIRM NAME

BUSINESS ADDRESS

BUSINESS TELEPHONE

SIGNATURE OF RESPONSIBLE OFFICIAL

TITLE

STATE OF INCORPORATION

FULL NAMES & ADDRESSES OF PERSONS OR PARTIES INTERESTED IN THE
FOREGOING BID, AS PRINCIPALS: _____

Addenda No(s) _____ received and attached hereto.

NOTICE OF INTENT TO AWARD

TO: _____
Contractor

Address

ATT: _____
Name and Title

PROJECT: LINING OF SEWER MAINS MH 80-83 & MH 91-91A
Town of Bay Harbor Islands
Contract No. BHI - 188

Gentlemen:

This is to advise that you have been awarded the contract for the above referenced project as a result of your bid in the amount of: _____ (\$ _____) submitted to the Town of Bay Harbor Islands (Owner) on _____.

Two (2) sets of the Project Manual for this project are attached. Each set contains an un-executed Agreement and the requirement for attaching the Performance and Payment Bonds. Please execute all copies of the Agreement and attach a copy of the Performance and Payment Bonds to each Agreement and return the Project Manuals to our office for final execution by the Town.

Your attention is invited to the provision whereby your proposal guarantee may be forfeited in the event the Agreement with satisfactory Performance and Payment Bonds attached is not executed and delivered to the Town within ten (10) working days from _____.

Sincerely,

By: _____
Ron Wasson, Town Manager

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, _____
(hereinafter called the Principal), and _____ (hereinafter called the
Surety); a Corporation chartered and existing under the laws of the State of _____
with its principal offices in the City of _____ and authorized to do business
in the State of Florida, and the Town of Bay Harbor Islands, and having an Agent
resident therein, such Agent and Company acceptable to the Town of Bay Harbor
Islands, are held and firmly bound unto the Town of Bay Harbor Islands (hereinafter
called Owner), in the sum of _____
Dollars (\$ _____), good and lawful money of the United States of
America, to be paid upon demand of the said Owner, to which payment well and truly to
be made we bind ourselves, our heirs, executors, administrators, successors and
assigns, jointly and severally and firmly by these presents.

WHEREAS; the above bounded Principal contemplates submitting or has
submitted a proposal to the said Owner for furnishing all necessary labor,
materials, equipment, machinery, tools, apparatus, services, all State
Workmen's Compensation and Unemployment Compensation Taxes incurred
in the performance of the contract, and means of transportation for construction
of:

TOWN OF BAY HARBOR ISLANDS

LINING OF SEWER MAINS MH 80-83 & MH 91-91A

CONTRACT NO. BHI - 188

for said Owner, and;

WHEREAS; the Principal desires to file this Bond in accordance with law, in
lieu of a certified Bidder's check otherwise required to accompany this Proposal
in the amount of five percent (5%) of the base bid.

NOW THEREFORE, the conditions of this obligation are such that, if the
Proposal be accepted, the Principal shall within ten (10) working days after

receipt of notification of the acceptance thereof, execute a contract in accordance with the Proposal and upon the terms, conditions and price set forth therein, in the form and manner required by the Owner and execute sufficient and satisfactory Performance, Payment and Warrantee Bonds payable to the Town of Bay Harbor Islands, Florida, each in an amount of one hundred percent (100%) of the total contract price, as indicated in the Proposal, in form and with security satisfactory to the said Owner, then this obligation to be void, otherwise to be and remain in full force and virtue in law; and the Surety shall upon failure of the Principal to comply with any or all of the foregoing requirements within the time specified above immediately pay to the aforesaid Owner upon demand the amount hereof in good and lawful money of the United States of America, not as a penalty but as liquidated damages.

IN WITNESS WHEREOF, THE said _____, as "Principal" herein has caused these presents to be signed in its name, by its _____ under its corporation seal, and the said _____ as "Surety" herein, has caused these presents to be signed in its name by its _____, and attested by its _____, under its corporate seal, this _____ day of _____, A.D., 2018.

ATTEST:

(Title)

BY: _____
(Principal)

ATTEST:

BY: _____
(Surety) Attorney-in-Fact

(Attorneys-in-Fact who sign this bond must file with it a certified copy of their power-of-attorney to sign said Bond).

NOTICE OF INTENT TO AWARD

TO: _____
Contractor

Address

ATT: _____
Name and Title

PROJECT: LINING OF SEWER MAINS MH 80-83 & MH 91-91A
Town of Bay Harbor Islands
Contract No. BHI - 188

Gentlemen:

This is to advise that you have been awarded the contract for the above referenced project as a result of your bid in the amount of: _____ (\$ _____) submitted to the Town of Bay Harbor Islands (Owner) on _____.

Two (2) sets of the Project Manual for this project are attached. Each set contains an un-executed Agreement and the requirement for attaching the Performance and Payment Bonds. Please execute all copies of the Agreement and attach a copy of the Performance and Payment Bonds to each Agreement and return the Project Manuals to our office for final execution by the Town.

Your attention is invited to the provision whereby your proposal guarantee may be forfeited in the event the Agreement with satisfactory Performance and Payment Bonds attached is not executed and delivered to the Town within ten (10) working days from _____.

Sincerely,

By: _____
Ron Wasson, Town Manager

AGREEMENT (CONTRACT)
BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT is dated as of the ____ day of _____, in the Year 2018 by and between the Town of Bay Harbor Islands (hereinafter called OWNER), and _____ (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1 WORK: The CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

The project consists of

TOWN OF BAY HARBOR ISLANDS

LINING OF SEWER MAINS MH 80-83 & MH 91-91A

CONTRACT NO. BHI 188

Article 2 NOT APPLICABLE

Article 3 CONTRACT TIME

- 3.1 The Work will be substantially completed within 10 working days after the date that the Contract Time commences to run, as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within 12 working days after the date when the Contract Time commences to run.
- 3.2 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not substantially complete within the time specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not substantially complete on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree, that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER Two Hundred and 00/100 dollars (\$200) for each day that expires after the time specified in Paragraph 3.1 for substantial completion until the Work is substantially complete.

AGREEMENT (CONTRACT)

BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT is dated as of the ____ day of _____, in the Year 2018 by and between the **Town of Bay Harbor Islands** (hereinafter called OWNER), and _____ (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1 WORK: The CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

The project consists of

TOWN OF BAY HARBOR ISLANDS

LINING OF SEWER MAINS MH 80-83 & MH 91-91A

CONTRACT NO. BHI 188

Article 2 NOT APPLICABLE

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- 3.1 The Work will be substantially completed within 10 working days after the date that the Contract Time commences to run, as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within 12 working days after the date when the Contract Time commences to run.
- 3.2 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not substantially complete within the time specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not substantially complete on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree, that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER Two Hundred and 00/100 dollars (\$200) for each day that expires after the time specified in Paragraph 3.1 for substantial completion until the Work is substantially complete.

Liquidated damages will be substantially completed within 10 working days after the date that the Contract Time commences to run, as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within 12 working days after the date when the Contract Time commences to run.

- 3.2 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not substantially complete within the time specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not substantially complete on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree, that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER Two Hundred and 00/100 dollars (\$200) for each day that expires after the time specified in Paragraph 3.1 for substantial completion until the Work is substantially complete. Liquidated damages shall be deducted from the final CONTRACTOR pay request.

Article 4 CONTRACT PRICE

- 4.1 OWNER shall pay CONTRACTOR for performance of the Work in accordance with the Contract Document and the Schedule of Values provided for payment request purposes in current funds as follows:

Contract Price: \$ _____

Contract Price (in Words): _____

Article 5 PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for payment will be processed as provided in the General Conditions.

- 5.1 Progress Payments. TOWN shall make progress payments on account of the Contract Price within 30 days of TOWN approval of the CONTRACTOR'S Application for payment. The Applications for Payment shall be in AIA format. All progress payments will be on the basis of the progress of the Work measured by the schedule of values provided for in paragraph 14.01 of the General Conditions.

5.1.1 Prior to Substantial Completion, progress payments will be in an amount equal to: 90% of the Work completed, less the aggregate of payments previously made.

5.1.2 Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 95% of the Contract Price, less such amounts determined in accordance with paragraph 14.02.B.5 of the General Conditions.

5.2 Final Payment. Upon final completion and acceptance of the Work in accordance with paragraph 14.07.B.1 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended in said paragraph 14.07.B.1.

Article 6 INTEREST Not Applicable

Article 7 CONTRACTOR'S REPRESENTATIONS

In order to induce TOWN to enter into Procurement Agreement, CONTRACTOR makes the following representations:

7.1 CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the work.

7.2 CONTRACTOR has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Work which were relied upon in the preparation of the Drawings and Specifications and which have been identified in the Supplementary Conditions.

7.3 CONTRACTOR has made or caused to be made examinations, investigations and tests and studies of such reports and related data in addition to those referred to in paragraph 7.2 as he deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.

7.4 CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports, and data with the terms and conditions of the Contract Documents.

7.5 CONTRACTOR has given TOWN written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by OWNER is acceptable to CONTRACTOR.

Article 8 CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR are attached to this Agreement, made a part hereof and consists of the following:

- 8.1 This Agreement
- 8.2 Exhibits to this Agreement
- 8.3 Performance and Payment Bonds
- 8.4 Notice of Award
- 8.5 General Conditions
- 8.6 Supplementary Conditions
- 8.7 Technical Specifications
- 8.8 Addenda (if any)
- 8.9 CONTRACTOR'S BID
- 8.10 Documentation submitted by CONTRACTOR prior to Notice of Award
- 8.11 Any Modifications, including Change Orders, duly delivered after execution of Agreement.
- 8.12 Location map

There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be altered, amended or repealed by a Modification (as defined in Section 1 of the General Conditions).

Article 9 MISCELLANEOUS

- 9.1 Terms used in this Agreement which are defined in Article 1 of the General Conditions shall have the meanings indicated in the General Conditions.
- 9.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 9.3 TOWN and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners,

9.4 This Contract may be executed in counterparts.

9.5 Should there be any action brought to enforce the terms of this Contract, the prevailing party shall be entitled to recovery of attorney=s fees (including paralegal fees) incurred through mediation, arbitration, or the appellate processes.

9.6 The TOWN shall retain the ownership of all shop drawings and design drawings once payment thereof is made.

9.7 TOWN and CONTRACTOR hereby knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in respect to any action or proceeding based upon the Contract Documents or arising out of, under, or in connection with the work or the Project.

C-5

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that _____
(Insert full name and address or
_____ as Principal, hereinafter called Contractor, and
legal title of Contractor)
_____ as Surety, hereinafter
(Insert full name and address or legal title of Surety)

called Surety, are held and firmly bound unto the Town of Bay Harbor Islands, Florida,
as obligee, hereinafter called Owner, in the amount of _____
_____ Dollars (\$ _____) for the payment whereof
Contractor and Surety bind themselves, their heirs, executors, administrators, successors
and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Contractor has by written agreement dated _____, 2018, entered into a
contract with Owner for **Lining of Sewer Main MH 80-83 & MH 91-91A, Contract No.**
BHI-188, Town of Bay Harbor Islands in accordance with the General Conditions of
Contract, Supplementary Conditions, and Technical Specifications which is hereinafter
referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notification of any alteration or extension of time made by the Town.

Whenever Contractor shall be, and declared by Town to be in default under the Contract, the Town having performed Town's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

1. Complete the Contract in accordance with its terms and conditions, or
2. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Town elects, upon determination by the Town and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Town, and make available as Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by Town to Contractor under the Contract and any amendments thereto, less the amount properly paid by Town to Contractor.

Any suit under this bond must be instituted before the expiration of one (1) year from the date on which final payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Town named herein or the heirs, executors, administrators or successors of the Town.

This bond is issued in compliance with Section 255.05, Florida Statutes (1987), as may be amended. A claimant, except a laborer, who is not in privity with the Contractor and who has not received payment for his labor, materials, or supplies shall, within 45 days after beginning to furnish labor, materials, or supplies for the prosecution of the Work, furnish the Contractor with a notice that he intends to look to the bond for protection. A claimant who is not in privity with the Contractor and who has not received payment for his labor, materials, or supplies shall, within 90 days after performance of the labor or after complete delivery of the materials or supplies, deliver to the Contractor and to the surety written

notice of the performance of the labor or delivery of the materials or supplies and of the nonpayment. No action for the labor, materials, or supplies may be instituted against the Contractor or the surety unless both notices have been given. No action shall be instituted against the Contractor or the surety on the bond after 1 year from the performance of the labor or completion of delivery of the materials or supplies.

Signed and sealed this _____ day of _____, 2018.

Principal (Seal)

Witness

Title

Surety (Seal)

Witness

Title

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that _____
(Insert full name and address or

_____ as Principal, hereinafter called Contractor, and
legal title of Contractor)

_____ as Surety, hereinafter
(Insert full name and address or legal title of Surety)

called Surety, are held and firmly bound unto the Town of Bay Harbor Islands, Florida, as
Obligee, hereinafter called Owner, in the amount of _____

Dollars (\$_____) for the payment whereof Contractor and Surety bind
themselves, their heirs, executors, administrators, successors and assigns, jointly and
severally, firmly by these presents.

WHEREAS,

Contractor has by written agreement dated _____, 2018, entered into a
contract with Owner for Lining of Sewer Mains MH 80-83 and 91-91A, Contract No. BHI
188, Town of Bay Harbor Islands in accordance with the Specifications which Contract
is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a Subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.
2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Town shall not be liable for the payment of any costs or expenses of any such suit.
3. No suit or action shall be commenced hereunder by any claimant:
 - a. Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: the Principal, the Owner, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Town or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the State in which the aforesaid project is located, save that such service need not be made by a public officer.
 - b. After the expiration of one (1) year following the date on which Principal ceased Work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
 - c. Other than in a State Court of competent jurisdiction in and for the

County or other political subdivision of the State in which the Project, or any part thereof, is situated, or in the United States District Court for the district in which the Project, or any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens, which may be filed of record against said improvements, whether or not claim for the amount of such lien be presented under and against this bond.
5. This bond is issued in compliance with Section 255.05, Florida Statutes (1987), as may be amended. A claimant, except a laborer, who is not in privity with the Contractor and who has not received payment for his labor, materials, or supplies shall, within 45 days after beginning to furnish labor, materials, or supplies for the prosecution of the Work, furnish the Contractor with a notice that he intends to look to the bond for protection. A claimant who is not in privity with the Contractor and who has not received payment for his labor, materials, or supplies shall, within 90 days after performance of the labor or after complete delivery of the materials or supplies, deliver to the Contractor and to the surety written notice of the performance of the labor or delivery of the materials or supplies and of the nonpayment. No action for the labor, materials, or supplies may be instituted against the Contractor or the surety unless both notices have been given. No action shall be instituted against the Contractor or the surety on the bond after 1 year from the performance of the labor or completion of delivery of the materials or supplies.

Signed and sealed this _____ day of _____, 2018.

Witness

Witness

NOTICE TO PROCEED

TO: _____
Contractor

Street Address

City

ATTN: _____
Name and Title

PROJECT: Lining Of Sewer Mains MH 80-81 & MH 91-91A
Town of Bay Harbor Islands
Contract No. BHI -188

Gentlemen:

One executed copy of your contract for the above project has been forwarded to you.
The Commencement date is _____, 2018. Completion date shall be
_____, 2018.

Your attention is invited to the provision whereby you shall start to perform your obligations under the Contract Documents on the Commencement date. Said date shall begin the Contract Time.

Sincerely,

By: _____
Ron Wasson, Town Manager

SUPPLEMENTARY CONDITIONS

1.01 GENERAL:

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 edit.) and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect. If there is a conflict between the Contract, General Conditions (No. 1910-8, 1996 edit.) and these Supplementary Conditions, the terms of the Supplementary Conditions shall control.

The Contractor shall note physically by cross out or cross reference notations all changes in the General Conditions called for in the Supplementary Conditions before submitting his Bid.

Unless otherwise indicated in these Supplementary Conditions, replace the term "ENGINEER" wherever used in the Standard General Conditions of Contract and in these Supplementary Conditions, with "TOWN". The words "TOWN" and "OWNER" may be used interchangeably throughout these documents.

ARTICLE 1 - DEFINITIONS - Page 6

SC-1.01.A

The terms used in these Supplementary Conditions which are defined in the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 edit.) have the meanings assigned to them in the General Conditions, unless otherwise indicated.

Amend paragraph SC-1.01.A.42 by replacing it with the following paragraph:

Subcontractor – An individual or entity having a direct contract with CONTRACTOR. Sub-Subcontractor is an individual or entity having a direct contract with any Subcontractor for the performance of a part of Work at the Project.

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Law.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and



AMERICAN CONSULTING
ENGINEERS COUNCIL

Issued and Published Jointly By
 **National Society of
Professional Engineers**
Professional Engineers in Private Practice



AMERICAN SOCIETY OF
CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
a practice division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

AMERICAN CONSULTING ENGINEERS COUNCIL

AMERICAN SOCIETY OF CIVIL ENGINEERS

This document has been approved and endorsed by

The Associated General



Contractors of America

Construction Specifications Institute



These General Conditions have been prepared for use with the Owner-Contractor Agreements (No. 1910-8-A-1 or 1910-8-A-2) (1996 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other. Comments concerning their usage are contained in the EJCDC User's Guide (No. 1910-50). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (No. 1910-17) (1996 Edition).

EJCDC No. 1910-8 (1996 Edition)

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1420 King Street, Alexandria, VA 22314

American Consulting Engineers Council
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American Society of Civil Engineers
345 East 47th Street, New York, NY 10017

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GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Contract Documents and printed with initial or all capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof.

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the Contract Documents.

2. *Agreement*--The written instrument which is evidence of the agreement between OWNER and CONTRACTOR covering the Work.

3. *Application for Payment*--The form acceptable to ENGINEER which is to be used by CONTRACTOR during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

5. *Bid*--The offer or proposal of a bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

6. *Bidding Documents*--The Bidding Requirements and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

7. *Bidding Requirements*--The Advertisement or Invitation to Bid, Instructions to Bidders, Bid security form, if any, and the Bid form with any supplements.

8. *Bonds*--Performance and payment bonds and other instruments of security.

9. *Change Order*--A document recommended by ENGINEER which is signed by CONTRACTOR and OWNER and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the

Contract Times, issued on or after the Effective Date of the Agreement.

10. *Claim*--A demand or assertion by OWNER or CONTRACTOR seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

11. *Contract*--The entire and integrated written agreement between the OWNER and CONTRACTOR concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*--The Contract Documents establish the rights and obligations of the parties and include the Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR's Bid (including documentation accompanying the Bid and any post Bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Notice to Proceed, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and ENGINEER's written interpretations and clarifications issued on or after the Effective Date of the Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents. Only printed or hard copies of the items listed in this paragraph are Contract Documents. Files in electronic media format of text, data, graphics, and the like that may be furnished by OWNER to CONTRACTOR are not Contract Documents.

13. *Contract Price*--The moneys payable by OWNER to CONTRACTOR for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of paragraph 11.03 in the case of Unit Price Work).

14. *Contract Times*--The number of days or the dates stated in the Agreement to: (i) achieve Substantial Completion; and (ii) complete the Work so that it is ready for final payment as evidenced by ENGINEER's written recommendation of final payment.

15. *CONTRACTOR*--The individual or entity with whom OWNER has entered into the Agreement.

16. *Cost of the Work*--See paragraph 11.01.A for definition.

17. *Drawings*--That part of the Contract Documents prepared or approved by ENGINEER which graphically shows the scope, extent, and character of the Work to be performed by CONTRACTOR. Shop Drawings and other CONTRACTOR submittals are not Drawings as so defined.

18. *Effective Date of the Agreement*--The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

19. *ENGINEER*--The individual or entity named as such in the Agreement.

20. *ENGINEER's Consultant*--An individual or entity having a contract with ENGINEER to furnish services as ENGINEER's independent professional associate or consultant with respect to the Project and who is identified as such in the Supplementary Conditions.

21. *Field Order*--A written order issued by ENGINEER which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

22. *General Requirements*--Sections of Division I of the Specifications. The General Requirements pertain to all sections of the Specifications.

23. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

24. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

25. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

26. *Liens*--Charges, security interests, or encumbrances upon Project funds, real property, or personal property.

27. *Milestone*--A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

28. *Notice of Award*--The written notice by OWNER to the apparent successful bidder stating that upon timely compliance by the apparent successful bidder with the conditions precedent listed therein, OWNER will sign and deliver the Agreement.

29. *Notice to Proceed*--A written notice given by OWNER to CONTRACTOR fixing the date on which the Contract Times will commence to run and on which CONTRACTOR shall start to perform the Work under the Contract Documents.

30. *OWNER*--The individual, entity, public body, or authority with whom CONTRACTOR has entered into the Agreement and for whom the Work is to be performed.

31. *Partial Utilization*--Use by OWNER of a substantially completed part of the Work for the purpose for which it is intended (or a related purpose) prior to Substantial Completion of all the Work.

32. *PCBs*--Polychlorinated biphenyls.

33. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

34. *Project*--The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part as may be indicated elsewhere in the Contract Documents.

35. *Project Manual*--The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.

36. *Radioactive Material*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

37. *Resident Project Representative*--The authorized representative of ENGINEER who may be assigned to the Site or any part thereof.

38. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

39. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for CONTRACTOR and submitted by CONTRACTOR to illustrate some portion of the Work.

40. *Site*--Lands or areas indicated in the Contract Documents as being furnished by OWNER upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by OWNER which are designated for the use of CONTRACTOR.

41. *Specifications*--That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

42. *Subcontractor*--An individual or entity having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the Site.

43. *Substantial Completion*--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

44. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements these General Conditions.

45. *Supplier*--A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with CONTRACTOR or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by CONTRACTOR or any Subcontractor.

46. *Underground Facilities*--All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases,

steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

47. *Unit Price Work*--Work to be paid for on the basis of unit prices.

48. *Work*--The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

49. *Work Change Directive*--A written statement to CONTRACTOR issued on or after the Effective Date of the Agreement and signed by OWNER and recommended by ENGINEER ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

50. *Written Amendment*--A written statement modifying the Contract Documents, signed by OWNER and CONTRACTOR on or after the Effective Date of the Agreement and normally dealing with the nonengineering or nontechnical rather than strictly construction-related aspects of the Contract Documents.

1.02 Terminology

A. Intent of Certain Terms or Adjectives

1. Whenever in the Contract Documents the terms "as allowed," "as approved," or terms of like effect or import are used, or the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of ENGINEER as to the Work, it is intended that such action or determination will be solely to evaluate, in general, the completed Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The

use of any such term or adjective shall not be effective to assign to ENGINEER any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.10 or any other provision of the Contract Documents.

B. Day

1. The word "day" shall constitute a calendar day of 24 hours measured from midnight to the next midnight.

C. Defective

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it does not conform to the Contract Documents or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER's recommendation of final payment (unless responsibility for the protection thereof has been assumed by OWNER at Substantial Completion in accordance with paragraph 14.04 or 14.05).

D. Furnish, Install, Perform, Provide

1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. When "furnish," "install," "perform," or "provide" is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of CONTRACTOR, "provide" is implied.

E. Unless stated otherwise in the Contract Documents, words or phrases which have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 - PRELIMINARY MATTERS

2.01 Delivery of Bonds

A. When CONTRACTOR delivers the executed Agreements to OWNER, CONTRACTOR shall also deliver to OWNER such Bonds as CONTRACTOR may be required to furnish.

2.02 Copies of Documents

A. OWNER shall furnish to CONTRACTOR up to ten copies of the Contract Documents. Additional copies will be furnished upon request at the cost of reproduction.

2.03 Commencement of Contract Times; Notice to Proceed

A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

2.04 Starting the Work

A. CONTRACTOR shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to the date on which the Contract Times commence to run.

2.05 Before Starting Construction

A. CONTRACTOR's Review of Contract Documents: Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. CONTRACTOR shall promptly report in writing to ENGINEER any conflict, error, ambiguity, or discrepancy which CONTRACTOR may discover and shall obtain a written interpretation or clarification from ENGINEER before proceeding with any Work affected thereby; however, CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless CONTRACTOR knew or reasonably should have known thereof.

B. Preliminary Schedules: Within ten days after the Effective Date of the Agreement (unless otherwise specified

in the General Requirements), CONTRACTOR shall submit to ENGINEER for its timely review:

1. a preliminary progress schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;

2. a preliminary schedule of Shop Drawing and Sample submittals which will list each required submittal and the times for submitting, reviewing, and processing such submittal; and

3. a preliminary schedule of values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

C. *Evidence of Insurance:* Before any Work at the Site is started, CONTRACTOR and OWNER shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which CONTRACTOR and OWNER respectively are required to purchase and maintain in accordance with Article 5.

2.06 *Preconstruction Conference*

A. Within 20 days after the Contract Times start to run, but before any Work at the Site is started, a conference attended by CONTRACTOR, ENGINEER, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in paragraph 2.05.B, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.07 *Initial Acceptance of Schedules*

A. Unless otherwise provided in the Contract Documents, at least ten days before submission of the first Application for Payment a conference attended by CONTRACTOR, ENGINEER, and others as appropriate will be held to review for acceptability to ENGINEER as provided below the schedules submitted in accordance with paragraph 2.05.B. CONTRACTOR shall have an additional ten days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to CONTRACTOR until acceptable schedules are submitted to ENGINEER.

1. The progress schedule will be acceptable to ENGINEER if it provides an orderly progression of the Work to completion within any specified Milestones and the Contract Times. Such acceptance will not impose on ENGINEER responsibility for the progress schedule, for sequencing, scheduling, or progress of the Work nor interfere with or relieve CONTRACTOR from CONTRACTOR's full responsibility therefor.

2. CONTRACTOR's schedule of Shop Drawing and Sample submittals will be acceptable to ENGINEER if it provides a workable arrangement for reviewing and processing the required submittals.

3. CONTRACTOR's schedule of values will be acceptable to ENGINEER as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is called for by one is as binding as if called for by all.

B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to OWNER.

C. Clarifications and interpretations of the Contract Documents shall be issued by ENGINEER as provided in Article 9.

3.02 *Reference Standards*

A. *Standards, Specifications, Codes, Laws, and Regulations*

1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids).

except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard, specification, manual or code, or any instruction of a Supplier shall be effective to change the duties or responsibilities of OWNER, CONTRACTOR, or ENGINEER, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents, nor shall any such provision or instruction be effective to assign to OWNER, ENGINEER, or any of ENGINEER's Consultants, agents, or employees any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 Reporting and Resolving Discrepancies

A. Reporting Discrepancies

1. If, during the performance of the Work, CONTRACTOR discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, CONTRACTOR shall report it to ENGINEER in writing at once. CONTRACTOR shall not proceed with the Work affected thereby (except in an emergency as required by paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in paragraph 3.04; provided, however, that CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any such conflict, error, ambiguity, or discrepancy unless CONTRACTOR knew or reasonably should have known thereof.

B. Resolving Discrepancies

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

a. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or

b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 Amending and Supplementing Contract Documents

A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof in one or more of the following ways: (i) a Written Amendment; (ii) a Change Order; or (iii) a Work Change Directive.

B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways: (i) a Field Order; (ii) ENGINEER's approval of a Shop Drawing or Sample; or (iii) ENGINEER's written interpretation or clarification.

3.05 Reuse of Documents

A. CONTRACTOR and any Subcontractor or Supplier or other individual or entity performing or furnishing any of the Work under a direct or indirect contract with OWNER: (i) shall not have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of ENGINEER or ENGINEER's Consultant, including electronic media editions; and (ii) shall not reuse any of such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of OWNER and ENGINEER and specific written verification or adaption by ENGINEER. This prohibition will survive final payment, completion, and acceptance of the Work, or termination or completion of the Contract. Nothing herein shall preclude CONTRACTOR from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS

4.01 Availability of Lands

A. OWNER shall furnish the Site. OWNER shall notify CONTRACTOR of any encumbrances or restrictions not of general application but specifically related to use of the Site with which CONTRACTOR must comply in performing the Work. OWNER will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If CONTRACTOR and OWNER are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in OWNER's furnishing the Site, CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

B. Upon reasonable written request, OWNER shall furnish CONTRACTOR with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and OWNER's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

C. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.02 Subsurface and Physical Conditions

A. *Reports and Drawings:* The Supplementary Conditions identify:

1. those reports of explorations and tests of subsurface conditions at or contiguous to the Site that ENGINEER has used in preparing the Contract Documents; and

2. those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) that ENGINEER has used in preparing the Contract Documents.

B. *Limited Reliance by CONTRACTOR on Technical Data Authorized:* CONTRACTOR may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," CONTRACTOR may not rely upon or make any Claim against OWNER, ENGINEER, or any of ENGINEER's Consultants with respect to:

1. the completeness of such reports and drawings for CONTRACTOR's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or

3. any CONTRACTOR interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

4.03 Differing Subsurface or Physical Conditions

A. *Notice:* If CONTRACTOR believes that any subsurface or physical condition at or contiguous to the Site that is uncovered or revealed either:

1. is of such a nature as to establish that any "technical data" on which CONTRACTOR is entitled to rely as provided in paragraph 4.02 is materially inaccurate; or

2. is of such a nature as to require a change in the Contract Documents; or

3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then CONTRACTOR shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by paragraph 6.16.A), notify OWNER and ENGINEER in writing about such condition. CONTRACTOR shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

B. *ENGINEER's Review:* After receipt of written notice as required by paragraph 4.03.A, ENGINEER will promptly review the pertinent condition, determine the necessity of OWNER's obtaining additional exploration or tests with respect thereto, and advise OWNER in writing (with a copy to CONTRACTOR) of ENGINEER's findings and conclusions.

C. Possible Price and Times Adjustments

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in CONTRACTOR's cost of, or time required for, performance of the Work; subject, however, to the following:

a. such condition must meet any one or more of the categories described in paragraph 4.03.A; and

b. with respect to Work that is paid for on a Unit Price Basis, any adjustment in Contract Price will be subject to the provisions of paragraphs 9.08 and 11.03.

2. CONTRACTOR shall not be entitled to any adjustment in the Contract Price or Contract Times if:

a. CONTRACTOR knew of the existence of such conditions at the time CONTRACTOR made a final commitment to OWNER in respect of Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or

b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for CONTRACTOR prior to CONTRACTOR's making such final commitment; or

c. CONTRACTOR failed to give the written notice within the time and as required by paragraph 4.03.A.

3. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in paragraph 10.05. However, OWNER, ENGINEER, and ENGINEER's Consultants shall not be liable to CONTRACTOR for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by CONTRACTOR on or in connection with any other project or anticipated project.

4.04 Underground Facilities

A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to OWNER or ENGINEER by the owners of such Underground Facilities, including OWNER, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. OWNER and ENGINEER shall not be responsible for the accuracy or completeness of any such information or data; and

2. the cost of all of the following will be included in the Contract Price, and CONTRACTOR shall have full responsibility for:

a. reviewing and checking all such information and data,

b. locating all Underground Facilities shown or indicated in the Contract Documents,

c. coordination of the Work with the owners of such Underground Facilities, including OWNER, during construction, and

d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, CONTRACTOR shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to OWNER and ENGINEER. ENGINEER will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, CONTRACTOR shall be responsible for the safety and protection of such Underground Facility.

2. If ENGINEER concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that CONTRACTOR did not know of and could not reasonably have been expected to be aware of or to have anticipated. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, OWNER or CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

4.05 Reference Points

A. OWNER shall provide engineering surveys to establish reference points for construction which in ENGINEER's judgment are necessary to enable CONTRACTOR to proceed with the Work. CONTRACTOR shall be responsible for laying out the Work, shall protect and preserve the established reference points and property

monuments, and shall make no changes or relocations without the prior written approval of OWNER. CONTRACTOR shall report to ENGINEER whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.06 Hazardous Environmental Condition at Site

A. *Reports and Drawings:* Reference is made to the Supplementary Conditions for the identification of those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that have been utilized by the ENGINEER in the preparation of the Contract Documents.

B. *Limited Reliance by CONTRACTOR on Technical Data Authorized:* CONTRACTOR may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," CONTRACTOR may not rely upon or make any Claim against OWNER, ENGINEER or any of ENGINEER's Consultants with respect to:

1. the completeness of such reports and drawings for CONTRACTOR's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or

3. any CONTRACTOR interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.

C. CONTRACTOR shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. CONTRACTOR shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by CONTRACTOR, Subcontractors, Suppliers, or anyone else for whom CONTRACTOR is responsible.

D. If CONTRACTOR encounters a Hazardous Environmental Condition or if CONTRACTOR or anyone for whom CONTRACTOR is responsible creates a Hazardous

Environmental Condition, CONTRACTOR shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by paragraph 6.16); and (iii) notify OWNER and ENGINEER (and promptly thereafter confirm such notice in writing). OWNER shall promptly consult with ENGINEER concerning the necessity for OWNER to retain a qualified expert to evaluate such condition or take corrective action, if any.

E. CONTRACTOR shall not be required to resume Work in connection with such condition or in any affected area until after OWNER has obtained any required permits related thereto and delivered to CONTRACTOR written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If OWNER and CONTRACTOR cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by CONTRACTOR, either party may make a Claim therefor as provided in paragraph 10.05.

F. If after receipt of such written notice CONTRACTOR does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then OWNER may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If OWNER and CONTRACTOR cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in paragraph 10.05. OWNER may have such deleted portion of the Work performed by OWNER's own forces or others in accordance with Article 7.

G. To the fullest extent permitted by Laws and Regulations, OWNER shall indemnify and hold harmless CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and the officers, directors, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by CONTRACTOR or by anyone for whom CONTRACTOR is responsible. Nothing

in this paragraph 4.06.E shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

H. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by CONTRACTOR or by anyone for whom CONTRACTOR is responsible. Nothing in this paragraph 4.06.F shall obligate CONTRACTOR to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

I. The provisions of paragraphs 4.02, 4.03, and 4.04 are not intended to apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 - BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

A. CONTRACTOR shall furnish performance and payment Bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all CONTRACTOR's obligations under the Contract Documents. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. CONTRACTOR shall also furnish such other Bonds as are required by the Contract Documents.

B. All Bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

C. If the surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements

of paragraph 5.01.B, CONTRACTOR shall within 20 days thereafter substitute another Bond and surety, both of which shall comply with the requirements of paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

A. All Bonds and insurance required by the Contract Documents to be purchased and maintained by OWNER or CONTRACTOR shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue Bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.03 *Certificates of Insurance*

A. CONTRACTOR shall deliver to OWNER, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by OWNER or any other additional insured) which CONTRACTOR is required to purchase and maintain. OWNER shall deliver to CONTRACTOR, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by CONTRACTOR or any other additional insured) which OWNER is required to purchase and maintain.

5.04 *CONTRACTOR's Liability Insurance*

A. CONTRACTOR shall purchase and maintain such liability and other insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from CONTRACTOR's performance of the Work and CONTRACTOR's other obligations under the Contract Documents, whether it is to be performed by CONTRACTOR, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;

2. claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR's employees;

3. claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTOR's employees;

4. claims for damages insured by reasonably available personal injury liability coverage which are sustained; (i) by any person as a result of an offense directly or indirectly related to the employment of such person by CONTRACTOR, or (ii) by any other person for any other reason;

5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and

6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The policies of insurance so required by this paragraph 5.04 to be purchased and maintained shall:

1. with respect to insurance required by paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insureds (subject to any customary exclusion in respect of professional liability) OWNER, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;

3. include completed operations insurance;

4. include contractual liability insurance covering CONTRACTOR's indemnity obligations under paragraphs 6.07, 6.11, and 6.20;

5. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least thirty days prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the CONTRACTOR pursuant to paragraph 5.03 will so provide);

6. remain in effect at least until final payment and at all times thereafter when CONTRACTOR may be

correcting, removing, or replacing defective Work in accordance with paragraph 13.07; and

7. with respect to completed operations insurance and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment (and CONTRACTOR shall furnish OWNER and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to OWNER and any such additional insured of continuation of such insurance at final payment and one year thereafter).

5.05 OWNER's Liability Insurance

A. In addition to the insurance required to be provided by CONTRACTOR under paragraph 5.04, OWNER, at OWNER's option, may purchase and maintain at OWNER's expense OWNER's own liability insurance as will protect OWNER against claims which may arise from operations under the Contract Documents.

5.06 Property Insurance

A. Unless otherwise provided in the Supplementary Conditions, OWNER shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amount as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:

1. include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an additional insured;

2. be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, and such other perils or causes of loss as may be specifically required by the Supplementary Conditions;

3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);

4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by OWNER prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by ENGINEER;

5. allow for partial utilization of the Work by OWNER;

6. include testing and startup; and

7. be maintained in effect until final payment is made unless otherwise agreed to in writing by OWNER, CONTRACTOR, and ENGINEER with 30 days written notice to each other additional insured to whom a certificate of insurance has been issued.

B. OWNER shall purchase and maintain such boiler and machinery insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with paragraph 5.07.

D. OWNER shall not be responsible for purchasing and maintaining any property insurance specified in this paragraph 5.06 to protect the interests of CONTRACTOR, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by CONTRACTOR, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

E. If CONTRACTOR requests in writing that other special insurance be included in the property insurance policies provided under paragraph 5.06, OWNER shall, if possible, include such insurance, and the cost thereof will be charged to CONTRACTOR by appropriate Change Order or Written Amendment. Prior to commencement of the Work

at the Site, OWNER shall in writing advise CONTRACTOR whether or not such other insurance has been procured by OWNER.

5.07 Waiver of Rights

A. OWNER and CONTRACTOR intend that all policies purchased in accordance with paragraph 5.06 will protect OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder. OWNER and CONTRACTOR waive all rights against each other and their respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by OWNER as trustee or otherwise payable under any policy so issued.

B. OWNER waives all rights against CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them for:

1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to OWNER's property or the Work caused by, arising out of, or resulting from fire or other peril whether or not insured by OWNER; and

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by OWNER during partial utilization pursuant to paragraph 14.05, after Substantial Completion

pursuant to paragraph 14.04, or after final payment pursuant to paragraph 14.07.

C. Any insurance policy maintained by OWNER covering any loss, damage or consequential loss referred to in paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against CONTRACTOR, Subcontractors, ENGINEER, or ENGINEER's Consultants and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them.

5.08 Receipt and Application of Insurance Proceeds

A. Any insured loss under the policies of insurance required by paragraph 5.06 will be adjusted with OWNER and made payable to OWNER as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of paragraph 5.08.B. OWNER shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order or Written Amendment.

B. OWNER as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to OWNER's exercise of this power. If such objection be made, OWNER as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, OWNER as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, OWNER as fiduciary shall give bond for the proper performance of such duties.

5.09 Acceptance of Bonds and Insurance; Option to Replace

A. If either OWNER or CONTRACTOR has any objection to the coverage afforded by or other provisions of the Bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by paragraph 2.05.C. OWNER and CONTRACTOR shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the Bonds and insurance required

of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent Bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 Partial Utilization, Acknowledgment of Property Insurer

A. If OWNER finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.01 Supervision and Superintendence

A. CONTRACTOR shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction, but CONTRACTOR shall not be responsible for the negligence of OWNER or ENGINEER in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents. CONTRACTOR shall be responsible to see that the completed Work complies accurately with the Contract Documents.

B. At all times during the progress of the Work, CONTRACTOR shall assign a competent resident superintendent thereto who shall not be replaced without written notice to OWNER and ENGINEER except under extraordinary circumstances. The superintendent will be CONTRACTOR's representative at the Site and shall have authority to act on behalf of CONTRACTOR. All communications given to or received from the superintendent shall be binding on CONTRACTOR.

6.02 Labor; Working Hours

A. CONTRACTOR shall provide competent, suitably qualified personnel to survey, lay out, and construct the Work as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, and CONTRACTOR will not permit overtime work or the performance of Work on Saturday, Sunday, or any legal holiday without OWNER's written consent (which will not be unreasonably withheld) given after prior written notice to ENGINEER.

6.03 Services, Materials, and Equipment

A. Unless otherwise specified in the General Requirements, CONTRACTOR shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All warranties and guarantees specifically called for by the Specifications shall expressly run to the benefit of OWNER. If required by ENGINEER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 Progress Schedule

A. CONTRACTOR shall adhere to the progress schedule established in accordance with paragraph 2.07 as it may be adjusted from time to time as provided below.

1. CONTRACTOR shall submit to ENGINEER for acceptance (to the extent indicated in paragraph 2.07) proposed adjustments in the progress schedule that will not result in changing the Contract Times (or Milestones). Such adjustments will conform generally to the progress schedule then in effect and additionally will comply with

any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the progress schedule that will change the Contract Times (or Milestones) shall be submitted in accordance with the requirements of Article 12. Such adjustments may only be made by a Change Order or Written Amendment in accordance with Article 12.

6.05 Substitutes and "Or-Equals"

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to ENGINEER for review under the circumstances described below.

1. "Or-Equal" Items: If in ENGINEER's sole discretion an item of material or equipment proposed by CONTRACTOR is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by ENGINEER as an "or-equal" item, in which case review and approval of the proposed item may, in ENGINEER's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment ENGINEER determines that: (i) it is at least equal in quality, durability, appearance, strength, and design characteristics; (ii) it will reliably perform at least equally well the function imposed by the design concept of the completed Project as a functioning whole, and;

b. CONTRACTOR certifies that: (i) there is no increase in cost to the OWNER; and (ii) it will conform substantially, even with deviations, to the detailed requirements of the item named in the Contract Documents.

2. Substitute Items

a. If in ENGINEER's sole discretion an item of material or equipment proposed by CONTRACTOR does not qualify as an "or-equal" item under

paragraph 6.05.A.1, it will be considered a proposed substitute item.

b. CONTRACTOR shall submit sufficient information as provided below to allow ENGINEER to determine that the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by ENGINEER from anyone other than CONTRACTOR.

c. The procedure for review by ENGINEER will be as set forth in paragraph 6.05.A.2.d, as supplemented in the General Requirements and as ENGINEER may decide is appropriate under the circumstances.

d. CONTRACTOR shall first make written application to ENGINEER for review of a proposed substitute item of material or equipment that CONTRACTOR seeks to furnish or use. The application shall certify that the proposed substitute item will perform adequately the functions and achieve the results called for by the general design, be similar in substance to that specified, and be suited to the same use as that specified. The application will state the extent, if any, to which the use of the proposed substitute item will prejudice CONTRACTOR's achievement of Substantial Completion on time, whether or not use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) to adapt the design to the proposed substitute item and whether or not incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute item from that specified will be identified in the application, and available engineering, sales, maintenance, repair, and replacement services will be indicated. The application will also contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change, all of which will be considered by ENGINEER in evaluating the proposed substitute item. ENGINEER may require CONTRACTOR to furnish additional data about the proposed substitute item.

B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is shown or indicated in and expressly

required by the Contract Documents, CONTRACTOR may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by ENGINEER. CONTRACTOR shall submit sufficient information to allow ENGINEER, in ENGINEER's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The procedure for review by ENGINEER will be similar to that provided in subparagraph 6.05.A.2.

C. *Engineer's Evaluation:* ENGINEER will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to paragraphs 6.05.A and 6.05.B. ENGINEER will be the sole judge of acceptability. No "or-equal" or substitute will be ordered, installed or utilized until ENGINEER's review is complete, which will be evidenced by either a Change Order for a substitute or an approved Shop Drawing for an "or equal." ENGINEER will advise CONTRACTOR in writing of any negative determination.

D. *Special Guarantee:* OWNER may require CONTRACTOR to furnish at CONTRACTOR's expense a special performance guarantee or other surety with respect to any substitute.

E. *ENGINEER's Cost Reimbursement:* ENGINEER will record time required by ENGINEER and ENGINEER's Consultants in evaluating substitute proposed or submitted by CONTRACTOR pursuant to paragraphs 6.05.A.2 and 6.05.B and in making changes in the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) occasioned thereby. Whether or not ENGINEER approves a substitute item so proposed or submitted by CONTRACTOR, CONTRACTOR shall reimburse OWNER for the charges of ENGINEER and ENGINEER's Consultants for evaluating each such proposed substitute.

F. *CONTRACTOR's Expense:* CONTRACTOR shall provide all data in support of any proposed substitute or "or-equal" at CONTRACTOR's expense.

6.06 *Concerning Subcontractors, Suppliers, and Others*

A. CONTRACTOR shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to OWNER as indicated in paragraph 6.06.B), whether initially or as a replacement, against whom OWNER may have reasonable objection. CONTRACTOR shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom CONTRACTOR has reasonable objection.

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or

entities to be submitted to OWNER in advance for acceptance by OWNER by a specified date prior to the Effective Date of the Agreement, and if CONTRACTOR has submitted a list thereof in accordance with the Supplementary Conditions, OWNER's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. CONTRACTOR shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued or Written Amendment signed. No acceptance by OWNER of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of OWNER or ENGINEER to reject defective Work.

C. CONTRACTOR shall be fully responsible to OWNER and ENGINEER for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions. Nothing in the Contract Documents shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between OWNER or ENGINEER and any such Subcontractor, Supplier or other individual or entity, nor shall it create any obligation on the part of OWNER or ENGINEER to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

D. CONTRACTOR shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR.

E. CONTRACTOR shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with ENGINEER through CONTRACTOR.

F. The divisions and sections of the Specifications and the Identifications of any Drawings shall not control CONTRACTOR in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

G. All Work performed for CONTRACTOR by a Subcontractor or Supplier will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor

or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and ENGINEER. Whenever any such agreement is with a Subcontractor or Supplier who is listed as an additional insured on the property insurance provided in paragraph 5.06, the agreement between the CONTRACTOR and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against OWNER, CONTRACTOR, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, CONTRACTOR will obtain the same.

6.07 *Patent Fees and Royalties*

A. CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of OWNER or ENGINEER its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by OWNER in the Contract Documents. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees or agents, and other consultants of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

6.08 *Permits*

A. Unless otherwise provided in the Supplementary Conditions, CONTRACTOR shall obtain and pay for all construction permits and licenses. OWNER shall assist CONTRACTOR, when necessary, in obtaining such permits

and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. CONTRACTOR shall pay all charges of utility owners for connections to the Work, and OWNER shall pay all charges of such utility owners for capital costs related thereto, such as plant investment fees.

6.09 Laws and Regulations

A. CONTRACTOR shall give all notices and comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither OWNER nor ENGINEER shall be responsible for monitoring CONTRACTOR's compliance with any Laws or Regulations.

B. If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, CONTRACTOR shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work; however, it shall not be CONTRACTOR's primary responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve CONTRACTOR of CONTRACTOR's obligations under paragraph 3.03.

C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work may be the subject of an adjustment in Contract Price or Contract Times. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in paragraph 10.05.

6.10 Taxes

A. CONTRACTOR shall pay all sales, consumer, use, and other similar taxes required to be paid by CONTRACTOR in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

6.11 Use of Site and Other Areas

A. Limitation on Use of Site and Other Areas

1. CONTRACTOR shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not

unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or area resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of the Work, CONTRACTOR shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

3. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultant, and the officers, directors, partners, employees, agents, and other consultants of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against OWNER, ENGINEER, or any other party indemnified hereunder to the extent caused by or based upon CONTRACTOR's performance of the Work.

B. *Removal of Debris During Performance of the Work:* During the progress of the Work CONTRACTOR shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. *Cleaning:* Prior to Substantial Completion of the Work CONTRACTOR shall clean the Site and make it ready for utilization by OWNER. At the completion of the Work CONTRACTOR shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading Structures:* CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall CONTRACTOR subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.12 Record Documents

A. CONTRACTOR shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Written Amendments, Change Orders, Work

Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to ENGINEER for reference. Upon completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to ENGINEER for OWNER.

6.13 Safety and Protection

A. CONTRACTOR shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. all persons on the Site or who may be affected by the Work;
2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. CONTRACTOR shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All damage, injury, or loss to any property referred to in paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of OWNER or ENGINEER or ENGINEER's Consultant, or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of CONTRACTOR or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them). CONTRACTOR's duties and

responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and ENGINEER has issued a notice to OWNER and CONTRACTOR in accordance with paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 Safety Representative

A. CONTRACTOR shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

6.15 Hazard Communication Programs

A. CONTRACTOR shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

6.16 Emergencies

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, CONTRACTOR is obligated to act to prevent threatened damage, injury, or loss. CONTRACTOR shall give ENGINEER prompt written notice if CONTRACTOR believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If ENGINEER determines that a change in the Contract Documents is required because of the action taken by CONTRACTOR in response to such an emergency, a Work Change Directive or Change Order will be issued.

6.17 Shop Drawings and Samples

A. CONTRACTOR shall submit Shop Drawings to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals. All submittals will be identified as ENGINEER may require and in the number of copies specified in the General Requirements. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show ENGINEER the services, materials, and equipment CONTRACTOR proposes to provide and to enable ENGINEER to review the information for the limited purposes required by paragraph 6.17.E.

B. CONTRACTOR shall also submit Samples to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample

submittals. Each Sample will be identified clearly as to material, Supplier, pertinent data such as catalog numbers, and the use for which intended and otherwise as ENGINEER may require to enable ENGINEER to review the submittal for the limited purposes required by paragraph 6.17.E. The numbers of each Sample to be submitted will be as specified in the Specifications.

C. Where a Shop Drawing or Sample is required by the Contract Documents or the schedule of Shop Drawings and Sample submittals acceptable to ENGINEER as required by paragraph 2.07, any related Work performed prior to ENGINEER's review and approval of the pertinent submittal will be at the sole expense and responsibility of CONTRACTOR.

D. Submittal Procedures

1. Before submitting each Shop Drawing or Sample, CONTRACTOR shall have determined and verified:

a. all field measurements, quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

b. all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work;

c. all information relative to means, methods, techniques, sequences, and procedures of construction and safety precautions and programs incident thereto; and

d. CONTRACTOR shall also have reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.

2. Each submittal shall bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR's obligations under the Contract Documents with respect to CONTRACTOR's review and approval of that submittal.

3. At the time of each submittal, CONTRACTOR shall give ENGINEER specific written notice of such variations, if any, that the Shop Drawing or Sample submitted may have from the requirements of the Contract Documents, such notice to be in a written communication separate from the submittal; and, in addition, shall cause a specific notation to be made on each Shop

Drawing and Sample submitted to ENGINEER for review and approval of each such variation.

E. ENGINEER's Review

1. ENGINEER will timely review and approve Shop Drawings and Samples in accordance with the schedule of Shop Drawings and Sample submittals acceptable to ENGINEER. ENGINEER's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. ENGINEER's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

3. ENGINEER's review and approval of Shop Drawings or Samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called ENGINEER's attention to each such variation at the time of each submittal as required by paragraph 6.17.D.3 and ENGINEER has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample approval; nor will any approval by ENGINEER relieve CONTRACTOR from responsibility for complying with the requirements of paragraph 6.17.D.1.

F. Resubmittal Procedures

1. CONTRACTOR shall make corrections required by ENGINEER and shall return the required number of corrected copies of Shop Drawings and submit as required new Samples for review and approval. CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by ENGINEER on previous submittals.

6.18 Continuing the Work

A. CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with OWNER. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except

as permitted by paragraph 15.04 or as OWNER and CONTRACTOR may otherwise agree in writing.

6.19 *CONTRACTOR's General Warranty and Guarantee*

A. CONTRACTOR warrants and guarantees to OWNER, ENGINEER, and ENGINEER's Consultants that all Work will be in accordance with the Contract Documents and will not be defective. CONTRACTOR's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than CONTRACTOR, Subcontractors, Suppliers, or any other individual or entity for whom CONTRACTOR is responsible; or

2. normal wear and tear under normal usage.

B. CONTRACTOR's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents:

1. observations by ENGINEER;

2. recommendation by ENGINEER or payment by OWNER of any progress or final payment;

3. the issuance of a certificate of Substantial Completion by ENGINEER or any payment related thereto by OWNER;

4. use or occupancy of the Work or any part thereof by OWNER;

5. any acceptance by OWNER or any failure to do so;

6. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by ENGINEER;

7. any inspection, test, or approval by others; or

8. any correction of defective Work by OWNER.

6.20 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them from

and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage:

1. is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom; and

2. is caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by any negligence or omission of an individual or entity indemnified hereunder or whether liability is imposed upon such indemnified party by Laws and Regulations regardless of the negligence of any such individual or entity.

B. In any and all claims against OWNER or ENGINEER or any of their respective consultants, agents, officers, directors, partners, or employees by any employee (or the survivor or personal representative of such employee) of CONTRACTOR, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for CONTRACTOR or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of CONTRACTOR under paragraph 6.20.A shall not extend to the liability of ENGINEER and ENGINEER's Consultants or to the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them arising out of:

1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or

2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

ARTICLE 7 - OTHER WORK

7.01 *Related Work at Site*

A. OWNER may perform other work related to the Project at the Site by OWNER's employees, or let other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

1. written notice thereof will be given to CONTRACTOR prior to starting any such other work; and

2. if OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in paragraph 10.05.

B. CONTRACTOR shall afford each other contractor who is a party to such a direct contract and each utility owner (and OWNER, if OWNER is performing the other work with OWNER's employees) proper and safe access to the Site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work and shall properly coordinate the Work with theirs. Unless otherwise provided in the Contract Documents, CONTRACTOR shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. CONTRACTOR shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of ENGINEER and the others whose work will be affected. The duties and responsibilities of CONTRACTOR under this paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of CONTRACTOR in said direct contracts between OWNER and such utility owners and other contractors.

C. If the proper execution or results of any part of CONTRACTOR's Work depends upon work performed by others under this Article 7, CONTRACTOR shall inspect such other work and promptly report to ENGINEER in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of CONTRACTOR's Work. CONTRACTOR's failure to so report will constitute an acceptance of such other work as fit and proper for integration with CONTRACTOR's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

A. If OWNER intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:

1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;

2. the specific matters to be covered by such authority and responsibility will be itemized; and

3. the extent of such authority and responsibilities will be provided.

B. Unless otherwise provided in the Supplementary Conditions, OWNER shall have sole authority and responsibility for such coordination.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

A. Except as otherwise provided in these General Conditions, OWNER shall issue all communications to CONTRACTOR through ENGINEER.

8.02 *Replacement of ENGINEER*

A. In case of termination of the employment of ENGINEER, OWNER shall appoint an engineer to whom CONTRACTOR makes no reasonable objection, whose status under the Contract Documents shall be that of the former ENGINEER.

8.03 *Furnish Data*

A. OWNER shall promptly furnish the data required of OWNER under the Contract Documents.

8.04 *Pay Promptly When Due*

A. OWNER shall make payments to CONTRACTOR promptly when they are due as provided in paragraphs 14.02.C and 14.07.C.

8.05 *Lands and Easements; Reports and Tests*

A. OWNER's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in paragraphs 4.01 and 4.05. Paragraph 4.02 refers to OWNER's identifying and making available to CONTRACTOR copies of reports of explorations

and tests of subsurface conditions and drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site that have been utilized by ENGINEER in preparing the Contract Documents.

8.06 Insurance

A. OWNER's responsibilities, if any, in respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

8.07 Change Orders

A. OWNER is obligated to execute Change Orders as indicated in paragraph 10.03.

8.08 Inspections, Tests, and Approvals

A. OWNER's responsibility in respect to certain inspections, tests, and approvals is set forth in paragraph 13.03.B.

8.09 Limitations on OWNER's Responsibilities

A. The OWNER shall not supervise, direct, or have control or authority over, nor be responsible for, CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work. OWNER will not be responsible for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

8.10 Undisclosed Hazardous Environmental Condition

A. OWNER's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in paragraph 4.06.

8.11 Evidence of Financial Arrangements

A. If and to the extent OWNER has agreed to furnish CONTRACTOR reasonable evidence that financial arrangements have been made to satisfy OWNER's obligations under the Contract Documents, OWNER's responsibility in respect thereof will be as set forth in the Supplementary Conditions.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

9.01 OWNER'S Representative

A. ENGINEER will be OWNER's representative during the construction period. The duties and responsibilities and the limitations of authority of ENGINEER as OWNER's representative during construction are set forth in the Contract Documents and will not be changed without written consent of OWNER and ENGINEER.

9.02 Visits to Site

A. ENGINEER will make visits to the Site at intervals appropriate to the various stages of construction as ENGINEER deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of CONTRACTOR's executed Work. Based on information obtained during such visits and observations, ENGINEER, for the benefit of OWNER, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. ENGINEER will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. ENGINEER's efforts will be directed toward providing for OWNER a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, ENGINEER will keep OWNER informed of the progress of the Work and will endeavor to guard OWNER against defective Work.

B. ENGINEER's visits and observations are subject to all the limitations on ENGINEER's authority and responsibility set forth in paragraph 9.10, and particularly, but without limitation, during or as a result of ENGINEER's visits or observations of CONTRACTOR's Work ENGINEER will not supervise, direct, control, or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work.

9.03 Project Representative

A. If OWNER and ENGINEER agree, ENGINEER will furnish a Resident Project Representative to assist ENGINEER in providing more extensive observation of the Work. The responsibilities and authority and limitations, thereon of any such Resident Project Representative and assistants will be as provided in paragraph 9.10 and in the Supplementary Conditions. If OWNER designates another

representative or agent to represent OWNER at the Site who is not ENGINEER's Consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

9.04 Clarifications and Interpretations

A. ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents as ENGINEER may determine necessary, which shall be consistent with the intent of and reasonably inferable from the Contract Documents. Such written clarifications and interpretations will be binding on OWNER and CONTRACTOR. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a written clarification or interpretation, a Claim may be made therefor as provided in paragraph 10.05.

9.05 Authorized Variations in Work

A. ENGINEER may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on OWNER and also on CONTRACTOR, who shall perform the Work involved promptly. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of a Field Order, a Claim may be made therefor as provided in paragraph 10.05.

9.06 Rejecting Defective Work

A. ENGINEER will have authority to disapprove or reject Work which ENGINEER believes to be defective, or that ENGINEER believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. ENGINEER will also have authority to require special inspection or testing of the Work as provided in paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

9.07 Shop Drawings, Change Orders and Payments

A. In connection with ENGINEER's authority as to Shop Drawings and Samples, see paragraph 6.17.

B. In connection with ENGINEER's authority as to Change Orders, see Articles 10, 11, and 12.

C. In connection with ENGINEER's authority as to Applications for Payment, see Article 14.

9.08 Determinations for Unit Price Work

A. ENGINEER will determine the actual quantities and classifications of Unit Price Work performed by CONTRACTOR. ENGINEER will review with CONTRACTOR the ENGINEER's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). ENGINEER's written decision thereon will be final and binding (except as modified by ENGINEER to reflect changed factual conditions or more accurate data) upon OWNER and CONTRACTOR, subject to the provisions of paragraph 10.05.

9.09 Decisions on Requirements of Contract Documents and Acceptability of Work

A. ENGINEER will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes and other matters relating to the acceptability of the Work, the quantities and classifications of Unit Price Work, the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, and Claims seeking changes in the Contract Price or Contract Times will be referred initially to ENGINEER in writing, in accordance with the provisions of paragraph 10.05, with a request for a formal decision.

B. When functioning as interpreter and judge under this paragraph 9.09, ENGINEER will not show partiality to OWNER or CONTRACTOR and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by ENGINEER pursuant to this paragraph 9.09 with respect to any such Claim, dispute, or other matter (except any which have been waived by the making or acceptance of final payment as provided in paragraph 14.07) will be a condition precedent to any exercise by OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such Claim, dispute, or other matter.

9.10 Limitations on ENGINEER's Authority and Responsibilities

A. Neither ENGINEER's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by ENGINEER in good faith either to exercise or not exercise such authority

or responsibility or the undertaking, exercise, or performance of any authority or responsibility by ENGINEER shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by ENGINEER to CONTRACTOR, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. ENGINEER will not supervise, direct, control, or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work. ENGINEER will not be responsible for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

C. ENGINEER will not be responsible for the acts or omissions of CONTRACTOR or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. ENGINEER's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.

E. The limitations upon authority and responsibility set forth in this paragraph 9.10 shall also apply to ENGINEER's Consultants, Resident Project Representative, and assistants.

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

A. Without invalidating the Agreement and without notice to any surety, OWNER may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Written Amendment, a Change Order, or a Work Change Directive. Upon receipt of any such document, CONTRACTOR shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

B. If OWNER and CONTRACTOR are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change

Directive, a Claim may be made therefor as provided in paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

A. CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in paragraph 3.04, except in the case of an emergency as provided in paragraph 6.16 or in the case of uncovering Work as provided in paragraph 13.04.B.

10.03 *Execution of Change Orders*

A. OWNER and CONTRACTOR shall execute appropriate Change Orders recommended by ENGINEER (or Written Amendments) covering:

1. changes in the Work which are: (i) ordered by OWNER pursuant to paragraph 10.01.A, (ii) required because of acceptance of defective Work under paragraph 13.08.A or OWNER's correction of defective Work under paragraph 13.09, or (iii) agreed to by the parties;

2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and

3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by ENGINEER pursuant to paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, CONTRACTOR shall carry on the Work and adhere to the progress schedule as provided in paragraph 6.18.A.

10.04 *Notification to Surety*

A. If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times) is required by the provisions of any Bond to be given to a surety, the giving of any such notice will be CONTRACTOR's responsibility. The amount of each applicable Bond will be adjusted to reflect the effect of any such change.

10.05 *Claims and Disputes*

A. *Notice:* Written notice stating the general nature of each Claim, dispute, or other matter shall be delivered by the claimant to ENGINEER and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. Notice of the amount or extent of the Claim, dispute, or other matter with supporting data shall be delivered to the ENGINEER and the other party to the Contract within 60 days after the start of such event (unless ENGINEER allows additional time for claimant to submit additional or more accurate data in support of such Claim, dispute, or other matter). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of paragraph 12.01.B. A Claim for an adjustment in Contract Time shall be prepared in accordance with the provisions of paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to ENGINEER and the claimant within 30 days after receipt of the claimant's last submittal (unless ENGINEER allows additional time).

B. *ENGINEER's Decision:* ENGINEER will render a formal decision in writing within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any. ENGINEER's written decision on such Claim, dispute, or other matter will be final and binding upon OWNER and CONTRACTOR unless:

1. an appeal from ENGINEER's decision is taken within the time limits and in accordance with the dispute resolution procedures set forth in Article 16; or

2. if no such dispute resolution procedures have been set forth in Article 16, a written notice of intention to appeal from ENGINEER's written decision is delivered by OWNER or CONTRACTOR to the other and to ENGINEER within 30 days after the date of such decision, and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction within 60 days after the date of such decision or within 60 days after Substantial Completion, whichever is later (unless otherwise agreed in writing by OWNER and CONTRACTOR), to exercise such rights or remedies as the appealing party may have with respect to such Claim, dispute, or other matter in accordance with applicable Laws and Regulations.

C. If ENGINEER does not render a formal decision in writing within the time stated in paragraph 10.05.B, a decision denying the Claim in its entirety shall be deemed to have been issued 31 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any.

D. No Claim for an adjustment in Contract Price or Contract Times (or Milestones) will be valid if not submitted in accordance with this paragraph 10.05.

ARTICLE 11 - COST OF THE WORK; CASH ALLOWANCES; UNIT PRICE WORK

11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to CONTRACTOR will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by OWNER, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items, and shall not include any of the costs itemized in paragraph 11.01.B.

1. Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the Work under schedules of job classifications agreed upon by OWNER and CONTRACTOR. Such employees shall include without limitation superintendents, foremen, and other personnel employed full time at the Site. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by OWNER.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to CONTRACTOR unless OWNER deposits funds with CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to OWNER. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to OWNER, and CONTRACTOR shall make provisions so that they may be obtained.

3. Payments made by CONTRACTOR to Subcontractors for Work performed by Subcontractors. If required by OWNER, CONTRACTOR shall obtain competitive bids from subcontractors acceptable to OWNER and CONTRACTOR and shall deliver such bids to OWNER, who will then determine, with the advice of ENGINEER, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as CONTRACTOR's Cost of the Work and fee as provided in this paragraph 11.01.

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:

a. The proportion of necessary transportation, travel, and subsistence expenses of CONTRACTOR's employees incurred in discharge of duties connected with the Work.

b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of CONTRACTOR.

c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by OWNER with the advice of ENGINEER, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

d. Sales, consumer, use, and other similar taxes related to the Work, and for which CONTRACTOR is liable, imposed by Laws and Regulations.

e. Deposits lost for causes other than negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable,

and royalty payments and fees for permits and licenses.

f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by CONTRACTOR in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of OWNER. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining CONTRACTOR's fee.

g. The cost of utilities, fuel, and sanitary facilities at the Site.

h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, expressage, and similar petty cash items in connection with the Work.

i. When the Cost of the Work is used to determine the value of a Change Order or of a Claim, the cost of premiums for additional Bonds and insurance required because of the changes in the Work or caused by the event giving rise to the Claim.

j. When all the Work is performed on the basis of cost-plus, the costs of premiums for all Bonds and insurance CONTRACTOR is required by the Contract Documents to purchase and maintain.

B. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

1. Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnerships and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by CONTRACTOR, whether at the Site or in CONTRACTOR's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in paragraph 11.01.A.1 or specifically covered by paragraph 11.01.A.4, all of which are to be

considered administrative costs covered by the CONTRACTOR's fee.

2. Expenses of CONTRACTOR's principal and branch offices other than CONTRACTOR's office at the Site.

3. Any part of CONTRACTOR's capital expenses, including interest on CONTRACTOR's capital employed for the Work and charges against CONTRACTOR for delinquent payments.

4. Costs due to the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraphs 11.01.A and 11.01.B.

C. *CONTRACTOR's Fee:* When all the Work is performed on the basis of cost-plus, CONTRACTOR's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, CONTRACTOR's fee shall be determined as set forth in paragraph 12.01.C.

D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to paragraphs 11.01.A and 11.01.B, CONTRACTOR will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to ENGINEER an itemized cost breakdown together with supporting data.

11.02 Cash Allowances

A. It is understood that CONTRACTOR has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums as may be acceptable to OWNER and ENGINEER. CONTRACTOR agrees that:

1. the allowances include the cost to CONTRACTOR (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

2. CONTRACTOR's costs for unloading and handling on the Site, labor, installation costs, overhead, profit, and other expenses contemplated for the allow-

ances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

B. Prior to final payment, an appropriate Change Order will be issued as recommended by ENGINEER to reflect actual amounts due CONTRACTOR on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 Unit Price Work

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by CONTRACTOR will be made by ENGINEER subject to the provisions of paragraph 9.08.

B. Each unit price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover CONTRACTOR's overhead and profit for each separately identified item.

C. OWNER or CONTRACTOR may make a Claim for an adjustment in the Contract Price in accordance with paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by CONTRACTOR differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

2. there is no corresponding adjustment with respect any other item of Work; and

3. if CONTRACTOR believes that CONTRACTOR is entitled to an increase in Contract Price as a result of having incurred additional expense or OWNER believes that OWNER is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12 - CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order or by a Written Amendment. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the ENGINEER and the other party to the Contract in accordance with the provisions of paragraph 10.05.

B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of paragraph 11.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with paragraph 12.01.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in paragraph 11.01) plus a CONTRACTOR's fee for overhead and profit (determined as provided in paragraph 12.01.C).

C. **CONTRACTOR's Fee:** The CONTRACTOR's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

a. for costs incurred under paragraphs 11.01.A.1 and 11.01.A.2, the CONTRACTOR's fee shall be 15 percent;

b. for costs incurred under paragraph 11.01.A.3, the CONTRACTOR's fee shall be five percent;

c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no

fixed fee is agreed upon, the intent of paragraph 12.01.C.2.a is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and CONTRACTOR will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

d. no fee shall be payable on the basis of costs itemized under paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

e. the amount of credit to be allowed by CONTRACTOR to OWNER for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in CONTRACTOR's fee by an amount equal to five percent of such net decrease; and

f. when both additions and credits are involved in any one change, the adjustment in CONTRACTOR's fee shall be computed on the basis of the net change in accordance with paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

A. The Contract Times (or Milestones) may only be changed by a Change Order or by a Written Amendment. Any Claim for an adjustment in the Contract Times (or Milestones) shall be based on written notice submitted by the party making the claim to the ENGINEER and the other party to the Contract in accordance with the provisions of paragraph 10.05.

B. Any adjustment of the Contract Times (or Milestones) covered by a Change Order or of any Claim for an adjustment in the Contract Times (or Milestones) will be determined in accordance with the provisions of this Article 12.

12.03 *Delays Beyond CONTRACTOR's Control*

A. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of CONTRACTOR, the Contract Times (or Milestones) will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in paragraph 12.02.A. Delays beyond the control of CONTRACTOR shall include, but not be limited to, acts or neglect by OWNER, acts or neglect of utility owners or other contractors performing other work as contemplated by

Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

12.04 *Delays Within CONTRACTOR's Control*

A. The Contract Times (or Milestones) will not be extended due to delays within the control of CONTRACTOR. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of CONTRACTOR.

12.05 *Delays Beyond OWNER's and CONTRACTOR's Control*

A. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of both OWNER and CONTRACTOR, an extension of the Contract Times (or Milestones) in an amount equal to the time lost due to such delay shall be CONTRACTOR's sole and exclusive remedy for such delay.

12.06 *Delay Damages*

A. In no event shall OWNER or ENGINEER be liable to CONTRACTOR, any Subcontractor, any Supplier, or any other person or organization, or to any surety for or employee or agent of any of them, for damages arising out of or resulting from:

1. delays caused by or within the control of CONTRACTOR; or

2. delays beyond the control of both OWNER and CONTRACTOR including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God, or acts or neglect by utility owners or other contractors performing other work as contemplated by Article 7.

B. Nothing in this paragraph 12.06 bars a change in Contract Price pursuant to this Article 12 to compensate CONTRACTOR due to delay, interference, or disruption directly attributable to actions or inactions of OWNER or anyone for whom OWNER is responsible.

ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.01 *Notice of Defects*

A. Prompt notice of all defective Work of which OWNER or ENGINEER has actual knowledge will be given

to CONTRACTOR. All defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 *Access to Work*

A. OWNER, ENGINEER, ENGINEER's Consultants, other representatives and personnel of OWNER, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at reasonable times for their observation, inspecting, and testing. CONTRACTOR shall provide them proper and safe conditions for such access and advise them of CONTRACTOR's Site safety procedures and programs so that they may comply therewith as applicable.

13.03 *Tests and Inspections*

A. CONTRACTOR shall give ENGINEER timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

B. OWNER shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by paragraphs 13.03.C and 13.03.D below;

2. that costs incurred in connection with tests or inspections conducted pursuant to paragraph 13.04.B shall be paid as provided in said paragraph 13.04.B; and

3. as otherwise specifically provided in the Contract Documents.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, CONTRACTOR shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish ENGINEER the required certificates of inspection or approval.

D. CONTRACTOR shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for OWNER's and ENGINEER's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to CONTRACTOR's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to OWNER and ENGINEER.

E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by CONTRACTOR without written concurrence of ENGINEER, it must, if requested by ENGINEER, be uncovered for observation.

F. Uncovering Work as provided in paragraph 13.03.E shall be at CONTRACTOR's expense unless CONTRACTOR has given ENGINEER timely notice of CONTRACTOR's intention to cover the same and ENGINEER has not acted with reasonable promptness in response to such notice.

13.04 Uncovering Work

A. If any Work is covered contrary to the written request of ENGINEER, it must, if requested by ENGINEER, be uncovered for ENGINEER's observation and replaced at CONTRACTOR's expense.

B. If ENGINEER considers it necessary or advisable that covered Work be observed by ENGINEER or inspected or tested by others, CONTRACTOR, at ENGINEER's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as ENGINEER may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment. If it is found that such Work is defective, CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and OWNER shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, OWNER may make a Claim therefor as provided in paragraph 10.05. If, however, such Work is not found to be defective, CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Times (or Milestones), or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

13.05 OWNER May Stop the Work

A. If the Work is defective, or CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, OWNER may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of OWNER to stop

the Work shall not give rise to any duty on the part of OWNER to exercise this right for the benefit of CONTRACTOR, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

13.06 Correction or Removal of Defective Work

A. CONTRACTOR shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by ENGINEER, remove it from the Project and replace it with Work that is not defective. CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

13.07 Correction Period

A. If within one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for CONTRACTOR's use by OWNER or permitted by Laws and Regulations as contemplated in paragraph 6.11.A is found to be defective, CONTRACTOR shall promptly, without cost to OWNER and in accordance with OWNER's written instructions: (i) repair such defective land or areas, or (ii) correct such defective Work or, if the defective Work has been rejected by OWNER, remove it from the Project and replace it with Work that is not defective, and (iii) satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, OWNER may have the defective Work corrected or repaired or may have the rejected Work removed and replaced, and all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by CONTRACTOR.

B. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that

item may start to run from an earlier date if so provided in the Specifications or by Written Amendment.

C. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

D. CONTRACTOR's obligations under this paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this paragraph 13.07 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, OWNER (and, prior to ENGINEER's recommendation of final payment, ENGINEER) prefers to accept it, OWNER may do so. CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to OWNER's evaluation of and determination to accept such defective Work (such costs to be approved by ENGINEER as to reasonableness) and the diminished value of the Work to the extent not otherwise paid by CONTRACTOR pursuant to this sentence. If any such acceptance occurs prior to ENGINEER's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and OWNER shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, OWNER may make a Claim therefor as provided in paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by CONTRACTOR to OWNER.

13.09 *OWNER May Correct Defective Work*

A. If CONTRACTOR fails within a reasonable time after written notice from ENGINEER to correct defective Work or to remove and replace rejected Work as required by ENGINEER in accordance with paragraph 13.06.A, or if CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if CONTRACTOR fails to comply with any other provision of the Contract Documents, OWNER may, after seven days written notice to CONTRACTOR, correct and remedy any such deficiency.

B. In exercising the rights and remedies under this paragraph, OWNER shall proceed expeditiously. In

connection with such corrective and remedial action, OWNER may exclude CONTRACTOR from all or part of the Site, take possession of all or part of the Work and suspend CONTRACTOR's services related thereto, take possession of CONTRACTOR's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which OWNER has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow OWNER, OWNER's representatives, agents and employees, OWNER's other contractors, and ENGINEER and ENGINEER's Consultants access to the Site to enable OWNER to exercise the rights and remedies under this paragraph.

C. All Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by OWNER in exercising the rights and remedies under this paragraph 13.09 will be charged against CONTRACTOR, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, OWNER may make a Claim therefor as provided in paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of CONTRACTOR's defective Work.

D. CONTRACTOR shall not be allowed an extension of the Contract Times (or Milestones) because of any delay in the performance of the Work attributable to the exercise by OWNER of OWNER's rights and remedies under this paragraph 13.09.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

A. The schedule of values established as provided in paragraph 2.07.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to ENGINEER. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 Progress Payments

A. Applications for Payments

1. At least 20 days before the date established for each progress payment (but not more often than once a month), CONTRACTOR shall submit to ENGINEER for review an Application for Payment filled out and signed by CONTRACTOR covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that OWNER has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect OWNER's interest therein, all of which must be satisfactory to OWNER.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of CONTRACTOR stating that all previous progress payments received on account of the Work have been applied on account to discharge CONTRACTOR's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

B. Review of Applications

1. ENGINEER will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to OWNER or return the Application to CONTRACTOR indicating in writing ENGINEER's reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application.

2. ENGINEER's recommendation of any payment requested in an Application for Payment will constitute a representation by ENGINEER to OWNER, based on ENGINEER's observations on the Site of the executed Work as an experienced and qualified design professional and on ENGINEER's review of the Application for Payment and the accompanying data and schedules, that to the best of ENGINEER's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under paragraph 9.08, and to any other qualifications stated in the recommendation); and

c. the conditions precedent to CONTRACTOR's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe the Work.

3. By recommending any such payment ENGINEER will not thereby be deemed to have represented that: (i) inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in the Contract Documents; or (ii) that there may not be other matters or issues between the parties that might entitle CONTRACTOR to be paid additionally by OWNER or entitle OWNER to withhold payment to CONTRACTOR.

4. Neither ENGINEER's review of CONTRACTOR's Work for the purposes of recommending payments nor ENGINEER's recommendation of any payment, including final payment, will impose responsibility on ENGINEER to supervise, direct, or control the Work or for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for CONTRACTOR's failure to comply with Laws and Regulations applicable to CONTRACTOR's performance of the Work. Additionally, said review or recommendation will not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes CONTRACTOR has used the moneys paid on account of the Contract Price, or to determine that title to any of the Work, materials, or equipment has passed to OWNER free and clear of any Liens.

5. ENGINEER may refuse to recommend the whole or any part of any payment if, in ENGINEER's opinion, it would be incorrect to make the representations to OWNER referred to in paragraph 14.02.B.2. ENGINEER may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests,

revise or revoke any such payment recommendation previously made, to such extent as may be necessary in ENGINEER's opinion to protect OWNER from loss because:

- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
- b. the Contract Price has been reduced by Written Amendment or Change Orders;
- c. OWNER has been required to correct defective Work or complete Work in accordance with paragraph 13.09; or
- d. ENGINEER has actual knowledge of the occurrence of any of the events enumerated in paragraph 15.02.A.

C. Payment Becomes Due

1. Ten days after presentation of the Application for Payment to OWNER with ENGINEER's recommendation, the amount recommended will (subject to the provisions of paragraph 14.02.D) become due, and when due will be paid by OWNER to CONTRACTOR.

D. Reduction in Payment

1. OWNER may refuse to make payment of the full amount recommended by ENGINEER because:
 - a. claims have been made against OWNER on account of CONTRACTOR's performance or furnishing of the Work;
 - b. Liens have been filed in connection with the Work, except where CONTRACTOR has delivered a specific Bond satisfactory to OWNER to secure the satisfaction and discharge of such Liens;
 - c. there are other items entitling OWNER to a set-off against the amount recommended; or
 - d. OWNER has actual knowledge of the occurrence of any of the events enumerated in paragraphs 14.02.B.5.a through 14.02.B.5.c or paragraph 15.02.A.
2. If OWNER refuses to make payment of the full amount recommended by ENGINEER, OWNER must give CONTRACTOR immediate written notice (with a copy to ENGINEER) stating the reasons for such action and promptly pay CONTRACTOR any amount remaining after deduction of the amount so withheld.

OWNER shall promptly pay CONTRACTOR the amount so withheld, or any adjustment thereto agreed to by OWNER and CONTRACTOR, when CONTRACTOR corrects to OWNER's satisfaction the reasons for such action.

3. If it is subsequently determined that OWNER's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by paragraph 14.02.C.1.

14.03 CONTRACTOR's Warranty of Title

A. CONTRACTOR warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to OWNER no later than the time of payment free and clear of all Liens.

14.04 Substantial Completion

A. When CONTRACTOR considers the entire Work ready for its intended use CONTRACTOR shall notify OWNER and ENGINEER in writing that the entire Work is substantially complete (except for items specifically listed by CONTRACTOR as incomplete) and request that ENGINEER issue a certificate of Substantial Completion. Promptly thereafter, OWNER, CONTRACTOR, and ENGINEER shall make an inspection of the Work to determine the status of completion. If ENGINEER does not consider the Work substantially complete, ENGINEER will notify CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers the Work substantially complete, ENGINEER will prepare and deliver to OWNER a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. OWNER shall have seven days after receipt of the tentative certificate during which to make written objection to ENGINEER as to any provisions of the certificate or attached list. If, after considering such objections, ENGINEER concludes that the Work is not substantially complete, ENGINEER will within 14 days after submission of the tentative certificate to OWNER notify CONTRACTOR in writing, stating the reasons therefor. If, after consideration of OWNER's objections, ENGINEER considers the Work substantially complete, ENGINEER will within said 14 days execute and deliver to OWNER and CONTRACTOR a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as ENGINEER believes justified after consideration of any objections from OWNER. At the time of delivery of the tentative certificate of Substantial Completion ENGINEER will deliver to OWNER and CONTRACTOR a written recommendation as to division of responsibility.

ties pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless OWNER and CONTRACTOR agree otherwise in writing and so inform ENGINEER in writing prior to ENGINEER's issuing the definitive certificate of Substantial Completion, ENGINEER's aforesaid recommendation will be binding on OWNER and CONTRACTOR until final payment.

B. OWNER shall have the right to exclude CONTRACTOR from the Site after the date of Substantial Completion, but OWNER shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

14.05 Partial Utilization

A. Use by OWNER at OWNER's option of any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which OWNER, ENGINEER, and CONTRACTOR agree constitutes a separately functioning and usable part of the Work that can be used by OWNER for its intended purpose without significant interference with CONTRACTOR's performance of the remainder of the Work, may be accomplished prior to Substantial Completion of all the Work subject to the following conditions.

1. OWNER at any time may request CONTRACTOR in writing to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees that such part of the Work is substantially complete, CONTRACTOR will certify to OWNER and ENGINEER that such part of the Work is substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. CONTRACTOR at any time may notify OWNER and ENGINEER in writing that CONTRACTOR considers any such part of the Work ready for its intended use and substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time after either such request, OWNER, CONTRACTOR, and ENGINEER shall make an inspection of that part of the Work to determine its status of completion. If ENGINEER does not consider that part of the Work to be substantially complete, ENGINEER will notify OWNER and CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers that part of the Work to be substantially complete, the provisions of paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

2. No occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of paragraph 5.10 regarding property insurance.

14.06 Final Inspection

A. Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, ENGINEER will promptly make a final inspection with OWNER and CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 Final Payment

A. Application for Payment

1. After CONTRACTOR has, in the opinion of ENGINEER, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance certificates of inspection, marked-up record documents (as provided in paragraph 6.12), and other documents, CONTRACTOR may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (except as previously delivered) by: (i) all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by subparagraph 5.04.B.7; (ii) consent of the surety, if any, to final payment; and (iii) complete and legally effective releases or waivers (satisfactory to OWNER) of all Lien rights arising out of or Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in paragraph 14.07.A.2 and as approved by OWNER, CONTRACTOR may furnish receipts or releases in full and an affidavit of CONTRACTOR that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which OWNER or OWNER's property might in any way be responsible have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, CONTRACTOR may furnish a Bond or other collateral satisfactory to OWNER to indemnify OWNER against any Lien.

B. Review of Application and Acceptance

1. If, on the basis of ENGINEER's observation of the Work during construction and final inspection, and ENGINEER's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, ENGINEER is satisfied that the Work has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled, ENGINEER will, within ten days after receipt of the final Application for Payment, indicate in writing ENGINEER's recommendation of payment and present the Application for Payment to OWNER for payment. At the same time ENGINEER will also give written notice to OWNER and CONTRACTOR that the Work is acceptable subject to the provisions of paragraph 14.09. Otherwise, ENGINEER will return the Application for Payment to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application for Payment.

C. Payment Becomes Due

1. Thirty days after the presentation to OWNER of the Application for Payment and accompanying documentation, the amount recommended by ENGINEER will become due and, when due, will be paid by OWNER to CONTRACTOR.

14.08 Final Completion Delayed

A. If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed, and if ENGINEER so confirms, OWNER shall, upon receipt of CONTRACTOR's final Application for Payment and recommendation of ENGINEER, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by OWNER for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if Bonds have been furnished as required in paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by CONTRACTOR to ENGINEER with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 Waiver of Claims

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by OWNER against CONTRACTOR, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from CONTRACTOR's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by CONTRACTOR against OWNER other than those previously made in writing which are still unsettled.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 OWNER May Suspend Work

A. At any time and without cause, OWNER may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to CONTRACTOR and ENGINEER which will fix the date on which Work will be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR shall be allowed an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if CONTRACTOR makes a Claim therefor as provided in paragraph 10.05.

15.02 OWNER May Terminate for Cause

A. The occurrence of any one or more of the following events will justify termination for cause:

1. CONTRACTOR's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under paragraph 2.07 as adjusted from time to time pursuant to paragraph 6.04);

2. CONTRACTOR's disregard of Laws or Regulations of any public body having jurisdiction;

3. CONTRACTOR's disregard of the authority of ENGINEER; or

4. CONTRACTOR's violation in any substantial way of any provisions of the Contract Documents.

B. If one or more of the events identified in paragraph 15.02.A occur, OWNER may, after giving CONTRACTOR (and the surety, if any) seven days written notice, terminate

the services of CONTRACTOR, exclude CONTRACTOR from the Site, and take possession of the Work and of all CONTRACTOR's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the Site or for which OWNER has paid CONTRACTOR but which are stored elsewhere, and finish the Work as OWNER may deem expedient. In such case, CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by OWNER arising out of or relating to completing the Work, such excess will be paid to CONTRACTOR. If such claims, costs, losses, and damages exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such claims, costs, losses, and damages incurred by OWNER will be reviewed by ENGINEER as to their reasonableness and, when so approved by ENGINEER, incorporated in a Change Order. When exercising any rights or remedies under this paragraph OWNER shall not be required to obtain the lowest price for the Work performed.

C. Where CONTRACTOR's services have been so terminated by OWNER, the termination will not affect any rights or remedies of OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due CONTRACTOR by OWNER will not release CONTRACTOR from liability.

15.03 OWNER May Terminate For Convenience

A. Upon seven days written notice to CONTRACTOR and ENGINEER, OWNER may, without cause and without prejudice to any other right or remedy of OWNER, elect to terminate the Contract. In such case, CONTRACTOR shall be paid (without duplication of any items):

1. for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;

3. for all claims, costs, losses, and damages (including but not limited to all fees and charges of

engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. for reasonable expenses directly attributable to termination.

B. CONTRACTOR shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 CONTRACTOR May Stop Work or Terminate

A. If, through no act or fault of CONTRACTOR, the Work is suspended for more than 90 consecutive days by OWNER or under an order of court or other public authority, or ENGINEER fails to act on any Application for Payment within 30 days after it is submitted, or OWNER fails for 30 days to pay CONTRACTOR any sum finally determined to be due, then CONTRACTOR may, upon seven days written notice to OWNER and ENGINEER, and provided OWNER or ENGINEER do not remedy such suspension or failure within that time, terminate the Contract and recover from OWNER payment on the same terms as provided in paragraph 15.03. In lieu of terminating the Contract and without prejudice to any other right or remedy, if ENGINEER has failed to act on an Application for Payment within 30 days after it is submitted, or OWNER has failed for 30 days to pay CONTRACTOR any sum finally determined to be due, CONTRACTOR may, seven days after written notice to OWNER and ENGINEER, stop the Work until payment is made of all such amounts due CONTRACTOR, including interest thereon. The provisions of this paragraph 15.04 are not intended to preclude CONTRACTOR from making a Claim under paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to CONTRACTOR's stopping the Work as permitted by this paragraph.

ARTICLE 16 - DISPUTE RESOLUTION

16.01 Methods and Procedures

A. Dispute resolution methods and procedures, if any, shall be as set forth in the Supplementary Conditions. If no method and procedure has been set forth, and subject to the provisions of paragraphs 9.09 and 10.05, OWNER and CONTRACTOR may exercise such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any dispute.

ARTICLE 17 - MISCELLANEOUS

17.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Agreement.

17.05 *Controlling Law*

A. This Contract is to be governed by the law of the state in which the Project is located.

ARTICLE 5 - BONDS AND INSURANCE - Page 15

SC-5.01

Amend paragraph 5.01.C by adding the following language at the end of the paragraph:

Any additional costs shall be borne by the Contractor.

SC-5.04

Add the new paragraphs immediately after paragraph 5.04 of the General Conditions.

The limits of liability for the insurance required by paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by law:

5.04.A.1 and 5.04.A.2 Workers' Compensation, etc. under paragraphs 5.04.A.1 and 5.04.A.2 of the General Conditions:

1. Comprehensive General Liability:
 - (a) Coverage to include Premise/Operations, Broad Form Property Damage, Contractual and Personal Injury, and XCU (where applicable).
2. Limits:

(a)	General Aggregate	\$1,000,000
(b)	Each Occurrence	\$1,000,000
(c)	Personal Injury	\$1,000,000
3. Coverage is to be written on an "occurrence" basis.
4. Owners and Contractors Protection:

(a)	Bodily Injury:	
	Annual Aggregate	\$2,000,000
	Each Occurrence	\$1,000,000
(b)	Property Damage:	
	Annual Aggregate	\$2,000,000

Each Occurrence

\$1,000,000

5. Worker's Compensation shall be in accordance with the provisions of the laws of the State of Florida.

5.04.A.6 Comprehensive Automobile Liability:

- (a) Coverage to include all owned, hired, non-owned vehicles, and/or trailers and other equipment required to be licensed.

- (b) Limits:

Combined Single Limit \$2,000,000

5.04.B.1 Umbrella:

- (a) Limits:

Aggregate \$1, 000,000

- (b) Cover all claims arising out of the contractor's operations or premises, anyone directly or indirectly employed by the Contractor or Subcontractor, and the Contractor's obligations under indemnification under this Contract.

5.04.B.8 The Town of Bay Harbor Islands, shall be included as a named insured party under the Contractors Liability Insurance. The following paragraph is required to appear unaltered on the Certificate of Insurance.

"The Town of Bay Harbor Islands, Florida is hereby named Additional Insured under the terms of this policy."

5.04.B.9 A thirty (30) day Notice of Cancellation is required and must be stated on the Certificate of Insurance.

5.04.B10 The Certificate of Insurance shall be issued to the Town of Bay Harbor Islands, Florida at the following address:

Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES - INDEMNIFICATION - Page 18

SC-6.01

Add the new paragraphs immediately after paragraph 6.01.B of the General Conditions.

The Contractor shall perform all work in compliance with all applicable safety codes. A competent English-speaking superintendent will be on the job at all times during working hours, and will be subject to call during off-duty hours for emergency situations. The superintendent shall have overall charge of the work with complete authority regarding the Contractor's workmen, equipment and material purchases. The superintendent shall have complete authority to act on behalf of the Contractor. This person must be sufficiently qualified and have read and understood the Drawings, Specifications and all Contract Documents.

SC-6.02

Modify paragraph 6.02.B to allow work on Saturday per the following new paragraph added immediately after paragraph 6.02.B of the General Conditions.

The Project sites being located in a single and multi family residential areas, there shall be no undue noise created, whether by workers arriving at the sites or by actual construction work, before 9:00 a.m. or after 5:00 p.m. Monday through Friday. No work shall be performed on Sunday or legal holidays as defined by the Town. There are no public sanitary facilities nearby the work sites, and the Contractor must therefore make arrangements for portable sanitary facilities as authorized by the Town.

SC-6.06

Amend paragraph 6.06.A by replacing the last sentence of the paragraph with the following sentence:

CONTRACTOR shall not be required to employ any Subcontractor, supplier, or other individual or entity to furnish or perform any of the Work against whom CONTRACTOR has reasonable objection, except as required by 6.06.B and the Instruction to Bidders.

Amend paragraph 6.06.B by adding the words "Instructions to Bidders" before Supplementary Conditions where ever it appears.

Amend paragraph 6.06.B by deleting the following sentence from the paragraph:

CONTRACTOR shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued or Written Amendment signed.

Amend paragraph 6.06.B by adding the following language at the end of the last sentence of the paragraph:

nor does such acceptance create a contractual relationship between the OWNER and any subcontractor, supplier, individual or entity.

SC-6.09

Amend paragraph 6.09.C by replacing the first sentence of the paragraph with the following sentence:

Changes in Laws or Regulations which become effective after the time of opening of Bids (or, on the Effective Date of the Contract if there were no Bids) having an effect on the cost or time of performance of the Work may be the subject of an adjustment in Contract Price or Contract Times.

Add the new paragraphs immediately after paragraph 6.09.C. of the General Conditions:

All vehicles used in connection with the Contractor's operations will be required to pay regular tolls to use the Broad Causeway, and to have identification signs.

SC-6.11

Add the new paragraphs immediately after paragraph 6.11.B. of the General Conditions:

Adjacent residents must have access to their driveways at all times. All barricades and warning signs for any traffic lane closures will be provided and maintained by the Contractor. Cost of all barricades and signs shall be the responsibility of the Contractor. Any off-duty officers as may be required in the maintenance of traffic shall be provided by the Contractor at the Contractor's expense.

SC-6.12

Amend paragraph 6.12.A by replacing the first sentence of the paragraph with the following sentence:

CONTRACTOR shall maintain in a safe place at the Project one record copy of all Drawings, Project Specifications, Addenda, Written Amendments, Change Orders, Work Change Directives, Field Orders, As-Builts, and written interpretations and clarifications in good order and annotated to show changes made during construction.

SC-6.13

Amend paragraph 6.13.A.3 by replacing it with the following paragraph:

other property at the Project or adjacent thereto, including, but not limited, to trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and underground facilities not designated for removal, relocation, or replacement in course of construction.

SC-6.20

Amend the paragraphs 6.20.A.1 and 6.20.A.2 by replacing them with the following paragraph.

To the fullest extent permitted by Laws and Regulations, the Parties agree that in consideration of the first \$10.00 dollars to be paid by TOWN to Contractor hereunder —and other specific consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor shall indemnify, defend and hold harmless the TOWN and their consultants, agents, officers and employees, and the elected officials of the Owner, from and against all claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to fees and charges of engineers, architects, attorneys and other professional and court and arbitration costs) arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder or arises by or is implied by Law and Regulations regardless of the negligence of any such

party.

Amend paragraphs 6.20.B by replacing it with the following paragraph:

In any and all claims against TOWN or any of their consultants, agents or employees by any CONTRACTOR, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph 6.20 shall not be limited in any way, by any limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR or any such Subcontractor or other person or organization under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 8 - OWNER'S RESPONSIBILITIES - Page 26

Throughout this Article, OWNER is interchangeable with TOWN.

SC – 8.01

Amend paragraph 8.01 A by replacing it with the following paragraph:

Except as otherwise provided in these General Conditions, TOWN shall issue all communications to CONTRACTOR through TOWN MANAGER, or TOWN ENGINEER.

SC-8.02

Delete paragraph 8.02 A.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION - Page 27

The use of "Engineer" throughout this Article shall mean the Town's "Town Engineer".

SC-9.03

Delete paragraph 9.03A.

SC-9.05

Amend paragraph 9.05.A by deleting the following sentence from the end of the paragraph:

If TOWN and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract

Times, or both, as a result of a Field Order, a Claim may be made therefore as provided in paragraph 10.05.

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS - Page 29

SC-10.01

Amend paragraph 10.01.A by replacing the first sentence of the paragraph with the following sentence:

Without invalidating the Contract and without notice to any Surety, TOWN may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Written Amendment, a Change Order, a Work Change Directive, or a Field Directive.

Amend paragraph 10.05.D by adding the following sentence at the end of the paragraph:

Adherence to the terms of paragraph 10.05 is a condition precedent to bringing any further action in litigation, arbitration or any other dispute resolution forum.

ARTICLE 11 - COST OF THE WORK; CASH ALLOWANCE; UNIT PRICE WORK - Page 30

SC-11.01

Amend paragraph 11.01.A.1 by deleting the word Saturday from the last sentence of the paragraph.

ARTICLE 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES –

SC-12.06.B

Amend paragraph 12.06.B by replacing the entire paragraph with the following paragraph:

Contractor will not be entitled to any adjustment in the Contract Price for delays extended general conditions, extended overhead, loss of productivity,

acceleration or any damages or other compensation whatsoever in the event of any delays in the progress of the Work on account of hindrances or delays from any cause whatsoever. Such causes of delay include but are not limited to differing site conditions, difficulty in acquiring building permits, limited access to the Project, failure to approve plans and shop drawings on time, delays caused by governmental action, inaction or regulation, subsurface conditions, material shortages or delay in delivery of materials. It is the specific intent hereunder that an extension of time will be the sole and exclusive remedy for delay of any type, description or category. However, if occasioned by an act of God, or by any act or omission on the part of the TOWN such act, hindrance or delay may entitle the CONTRACTOR to an extension of time in which to complete the Work which shall be determined by the TOWN ENGINEER, employed by the TOWN, provided that the CONTRACTOR will give notice as provided herein. The foregoing limitations on adjustments to Contract Price also apply to any causes of delay which affect any subcontractor, material-man, supplier or laborer on the Project. In no event, if any such events of delay occur, shall any subcontractor, material-man, supplier or laborer be entitled to additional compensation for delays including claims for extended general conditions, extended overhead and the like against the TOWN.

ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK - Page 34

SC-13.04

Amend paragraph 13.04.A by replacing it with the following paragraph:

If any Work is covered contrary to the Technical Specifications, Drawings or Contract Documents, it must, if requested by the TOWN, be uncovered for his observation and replaced at CONTRACTOR's expense.

Amend paragraph 13.04.B by adding the following language at the end of the second sentence:

,or direct payment if remaining Contract funds are not sufficient.

SC-13.09

Amend paragraph 13.09.C by adding the following language at the end of the first sentence:

, or direct payment if remaining Contract funds are not sufficient.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION - Page 36

SC-14.02.A.2

Amend paragraph 14.02.A.2 by deleting the existing paragraph and replacing it with the following paragraph:

With each Application for Payment, the CONTRACTOR shall include a Partial Waiver Upon Progress Payment or Statutory Waiver and Final Release, as appropriate from each and every material-man, supplier and or laborer ("Potential Lienor") who has provided labor, services or materials for the Project. Contractor shall submit its own Statutory Waiver and Partial Release of Lien or Statutory Waiver and Final Release of Lien, as appropriate, with each Application for Payment. Moreover, CONTRACTOR shall ensure that no construction liens, or any encumbrances in the nature thereof or any other encumbrances whatsoever (including equitable lien claims), shall be filed or maintained by the CONTRACTOR or by any Potential Lienor in connection with any Work for which OWNER has made payment or for which payment is not yet due. As a condition precedent to the receipt of each progress payment from the TOWN, CONTRACTOR must furnish the Partial Waiver Upon Progress Payment Statutory Waiver and Final Release from each Potential Lienor, in the form prescribed by TOWN, together with a Contractor's Affidavit and Partial Release, in the form prescribed by the TOWN. Further, as a condition precedent to the receipt of the final payment, the CONTRACTOR shall provide TOWN with a Statutory Waiver and Final Release from each Potential Lienor in the form prescribed by TOWN, together with a Contractor's Affidavit and Final Release. Each Release given to the TOWN shall waive and release any lien a right of the Potential Lienor to the extent payment is made with respect to any Work performed through the date of the Release. For any Potential Lienor who has served a Notice to Owner and/or Notice to Contractor, but who has not provided labor, services or materials during the period of time covered by an Application for Payment, the CONTRACTOR shall provide a Zero Dollar Release in the form prescribed by TOWN. CONTRACTOR shall comply with all requirements of Florida Statutes, Chapter 713. CONTRACTOR agrees to indemnify, defend and hold the OWNER harmless from and against any and all liens or other claims whatsoever filed against the TOWN or the TOWN'S property by any Potential Lienor for worked performed or materials or services furnished in connection with the Work for which CONTRACTOR has been paid or for which payment is not yet due at the time the Lien is

recorded. In the event a Claim of Lien is recorded against the OWNER'S property, the CONTRACTOR shall cause the same to be satisfied within ten (10-) days following the date of recordation of the Claim of Lien, or in the alternative, shall cause the Claim of Lien to be transferred to a Bond. In the event any Liens are not cleared of record within ten (10) days of recordation, TOWN shall have the right to settle, satisfy, or transfer such Lien to a Bond at CONTRACTOR'S sole cost and expense and TOWN may offset any such cost against the next payment due to CONTRACTOR, or CONTRACTOR shall make a direct payment if remaining Contract funds are not sufficient. TOWN shall not be limited to and is entitled to all other remedies available at law or in equity. The provisions of this paragraph shall be deemed an independent covenant of the CONTRACTOR and shall be effective with respect to all Work performed and materials and services furnished under the Contract Documents, Change Orders or any other agreement for work with respect to the Project.

SC-14.02.D.1.b

Amend paragraph 14.02.D.1.b by deleting the existing paragraph and replacing it with the following:

Liens have been recorded in connection with the Work or the Project.

SC-14.07

Amend paragraph 14.07.A.1 by replacing it with the following paragraph:

After CONTRACTOR has, in the opinion of TOWN, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operation instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as provided in paragraph 6.12), final releases, final affidavits, Asbuilts, and other documents, CONTRACTOR may make application for final payment following the procedure for progress payments.

Amend paragraph 14.07.A.2 by adding the following language at the end of the first sentence:

or claims made against the Bonds provided by CONTRACTOR under the Contract Documents.

Delete paragraph 14.07.A.3 in its entirety.

SC-14.09

Amend paragraph 14.09.A.1 by replacing it with the following paragraph:

a waiver of all Claims by TOWN against CONTRACTOR, except Claims arising from unsettled Liens or Claims against the Bonds, from defective Work appearing after final inspection pursuant to paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from CONTRACTOR's continuing obligations under the Contract Documents; and

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION - Page 40

SC-15.03

Delete paragraph 15.03.A.3 in its entirety.

Delete paragraph 15.03.A.4 in its entirety.

SC-15.04

Amend paragraph 15.04.A. by deleting the last sentence of the paragraph.

**TECHNICAL SPECIFICATIONS
LINING OF SEWER MAINS
MH 80-83 & MH 91-91A**

1.01 SCOPE OF WORK

It is the intent of this specification to provide for the rehabilitation of sewers by the installation of a resin-impregnated flexible felt tube into the existing pipe, or other approved Cured-in-place pipe method of equal or greater quality. The sewer main to be lined are located south of Kane Concourse on the West Island.

The Purpose of the lining is to eliminate infiltration and structurally upgrade the sewer line section. The liner shall resist long term deformation due to site specific loading and shall not reduce the capacity of the sewers. Moreover, the liner material, once installed must meet or exceed the standard of direct-burial sewer pipe and must not depend on the structural integrity of the host pipe.

2.01 CORROSION RESISTANCE REQUIREMENTS

The finished pipe in place shall be fabricated from materials which when cured will be chemically resistant to withstand internal exposure to domestic sewage and salt water.

3.01 INFORMATION FURNISHED BY THE TOWN

The as-built drawings for the Town's sewerage collection system in the project area are included in the contract documents. These drawings illustrate the sewer size and material, and the approximate location of laterals. The Contractor is required to field check all measurements shown on these drawings, and bring discrepancies to the attention of the Town.

4.01 PREPARATION FOR LINING

Prior to any rehabilitation work, the sewer shall be thoroughly cleaned to produce a clean interior free of all coating, concrete, sand, rock, bricks, broken pipes, mineral deposits, roots, grease, sludge or other deleterious materials.

During all cleaning and preparation operations all necessary precautions shall be taken to protect the sewer from damage. During these operations, precautions shall also be taken to ensure that no damage is caused to public or private property adjacent to or served by the sewer or its branches.

Any damage caused to public or private property as a result of the Contractor's operations shall be the Contractor's sole responsibility

Branch lines shall be protected from blockage by debris dislodged by the cleaning/surface preparation.

All sludge, dirt, sand, rock, grease, roots and other solid or semisolid materials resulting from cleaning/surface preparation operation shall be removed at the downstream manhole of the section being cleaned or prepared. No material shall be passed from section to section. When hydraulic equipment is used a suitable dam or weir shall be placed in the downstream manhole to trap all solid materials.

All waste materials and debris resulting from these operations shall be removed daily and conveyed to a site selected by the Contractor and approved by the State. All cost for such removal and disposal, including tipping fees, shall be included in the bid prices and no other compensation will be provided. Under no circumstances shall sludge or other debris removed during these operations be dumped or spilled into the streets, ditches, storm drains or other sanitary sewers.

The Contractor shall keep his haul route and work areas neat and clean and reasonably free of odor, and shall bear all responsibility for the clean-up of any spill which occurs during the transport of cleaning/surface preparation by-products and the clean-up of any such material which is authorized by or pursuant to this Contract and in accord with applicable laws and regulation. The Contractor shall immediately clean-up any such spill, or waste. If the Contractor fails to clean-up or arrange for its clean-up and shall charge to the Contractor all costs, including administrative costs and overhead, incurred by the Town in connection with such clean-up. The Town may also charge to the Contractor any cost incurred or penalties imposed on the Town as a result of the spill or discard. Under no circumstances is this material is to be discharged into the waterway or any place other than where authorized to do so by the appropriate authority. The term "Contractor" as used in this section shall include the Contractor's subcontractors and other Contractors.

5.01 BYPASS PUMPING

The Contractor shall be prepared to bypass pump the sewage effluent as a part of his operations. He shall submit complete, detailed plans for this aspect of the work to the Town for approval at the "Preconstruction Conference". The Contractor shall provide all pumps, piping, and other equipment to accomplish this task; perform all construction; obtain all permits; pay all costs; and perform complete restoration of all existing facilities to equal or better condition and to the satisfaction of the Town.

All costs of accomplishing the bypass pumping task, at whatever volume, and all associated work, such as restoration, shall be considered as incidental to the work covered by pay items in the Proposal and no extra compensation will be allowed. At no time will sewage be allowed to spill onto any surface. Any leaks in temporary piping, hoses, connectors or equipment shall be sealed immediately, the spill thoroughly cleaned and the area disinfected.

5.01.1 PUMPING DOWN ISOLATED SEWER SECTIONS

The contractor shall be prepared to isolate and pump down the segments of sanitary sewer that will be rehabilitated. This item will be applicable only in Locations where the system is surcharged and must be approved by the Town prior to commencement of the pumping down activities. The Contractor shall provide all pumps, plugs, piping, and other materials and equipment to accomplish this task, perform all construction, obtain all permits, pay all costs, and perform complete restoration of all existing facilities to equal or better condition and to the satisfaction of the Town. All cost associated with this activity shall be considered as incidental to the work covered by pay items in the Proposal and no extra compensation will be allowed.

6.01 MATERIAL

Products shall have a minimum of 500,000 LF of documented acceptable wastewater installations in the United States.

- A. The material shall be fabricated to a size that when installed will neatly fit the interior of the host pipe. Allowance shall be made for circumferential stretching during installation.
- B. The minimum tube length shall be that deemed necessary by the Contractor to effectively span the distance between the access points.
- C. Unless otherwise specified, the Contractor will use a resin and catalyst system compatible with the process and having the following physical properties for the cured pipe:

1. Polyester Resin

Flexural Stress	Modified ASTM D-790	4,500 psi
Flexural Modules Of Elasticity	Modified ASTM D-790	25,000 psi

2. Epoxy Vinyl Ester Resin or Epoxy Resin

Flexural Stress	Modified ASTM D-790	5,000 psi
Flexural Modules Of Elasticity	Modified ASTM D-790	300,000 psi
Tensile Stress	ASTM D-638	3,000 psi

- 3. Flow Control: The Contractor shall provide for the bypassing of sewage entering or passing through the pipe to be rehabilitated.

7.01 INSTALLATION PROCEDURES

- A. The Contractor shall designate a location where the tube will be vacuum impregnated prior to installation. The Contractor shall allow the Town to inspect the materials and the "wet-out" procedure.
- B. A scaffold or elevated platform shall be erected at the upstream access point. The tube shall be inverted using an "inversion elbow" at the bottom of the manhole or an "inversion ring" above ground. The tube shall be inverted (turned inside-out) with water pressure.
- C. After the inversion is complete, the Contractor shall supply a suitable heat source and water recirculation equipment. The equipment shall be capable of uniformly raising the water temperature to a level required to effectively cure the resin.
- D. The heat source shall be fitted with suitable monitors to gauge the temperature of the incoming and outgoing water supply. Another such gage shall be placed between the tube and the host pipe in the downstream manhole at or near the bottom to determine the temperature during cure. Water temperature in the pipe during the cure period shall be as recommended by the resin manufacturer.
- E. Initial cure shall be deemed completed when inspection of the exposed portions of the tube appear too be hard and sound and the temperature sensor indicates that the temperature is of the magnitude to realize an exotherm. The cure period shall be of duration recommended by the resin manufacturer and may required continuous recirculation of the water to maintain the temperature.
- F. Cooldown: The Contractor shall cool the hardened pipe to a temperature below 100 F before relieving the hydrostatic head. Cooldown may be accomplished by the introduction of cool water into the inversion standpipe to replace water being pumped out of the manhole.
- G. Finish: The new pipe shall be cut off in the manhole at a suitable location. The finished product shall be continuous over the length of pipe reconstructed and be free from dry spots, delimitation and lifts and free from visual infiltration. During the warranty period, any defects which will affect the integrity or strength of the products shall be repaired at the Contractor's expense, in a manner mutually agreed upon by the Owner and the Contractor.
- H. After the pipe has been cured in place, the Contractor shall reconnect the existing service connections. This shall be done from the interior of the pipeline without excavation using a robotic cutter. The lateral shall be free of burrs and obstructions. Coupons and large debris shall be removed from the sewer. Each lateral connection shall be pressure grouted with a packer device to prevent infiltration from entering the connection. No infiltration shall be allowed.

The installed liner shall be molded to the interior surface of the host pipe. The liner shall have a snug fit especially at service connections and manhole terminations.

8.01 TESTING

The contractor shall at, his own expense, employ the services of an independent laboratory (as approved by the Town) to perform tests on the liner (in accordance with applicable ASTM Standard) to verify that the liner meets or exceeds the requirements of these specifications, and any products data that has been incorporated herewith. The Town will request these test if there is reason to believe that the materials or workmanship is deficient.

9.01 END SEALS AND LATERAL CONNECTIONS

The beginning and end of the new liner and all lateral connections shall be sealed with grout to the host pipeline. The sealing grout shall be compatible with the liner and host pipe and shall provide a watertight seal. The Contractor shall wait seven days after liner installation before sealing. Grout shall conform to Section 02763 of these specifications, except AV-100 shall have 5 gallons of AV-257 per 30 gallon batch of grout.

- 9.02** In lieu of utilizing grout to seal the annular space between the host pipe and the liner at the ends of the sewer main, bid item 2(A) requires the use of Insignia™ hydrophilic seals, or approved equal.

10.1 TELEVISION INSPECTION & FINAL ACCEPTANCE

The Contractor shall televise the newly lined system in the presence of a Town representative when conducting service laterals reconnection. The dual purpose of this televising exercise is to inspect the pipe to identify defects in the liner that may allow infiltration and to reconnect the service laterals.

The television camera used for the inspection shall be one specifically designed and constructed for such inspection and lateral reconnection. Lighting for the camera shall be suitable to allow a clear picture of the entire periphery of the pipe. The camera shall be operative in 100% humidity conditions. The camera shall be moved through the liner in either direction at a moderate rate, stopping when necessary to allow proper documentation of the sewer's condition. In no case shall the television camera travel at a speed greater than 30 feet per minute.

Measurement for location of defects shall be above ground by means of a meter device. Printed location records shall be kept by the contractor and shall clearly show locations relative to manholes. A copy of such records shall be supplied to the Town.

A video tape recording of each television inspection shall be supplied to the Town. The videotape shall be capable of being played back at the same time speed that it was recorded.

Any defective sections of liner shall be repaired or completely replaced at the

discretion of the Town. Any gaps between liner and manhole wall shall be filled with epoxy resin and polyester fiber felt to provide a smooth leak free transition. There shall be no visible infiltration through the liner or from behind the liner at service connection or manholes for final acceptance.

11.01 WATER USED IN CONSTRUCTION

The water, which under the terms of this agreement, is supplied by the Town for a fee, will be utilized by the Contractor solely for the purpose of successfully completing the contract requirement.

Failure of the Contractor to meter the water or if the Contractor provide others with water, could result in a citation being issued against him in accordance with the rules and regulations of the Town.

The Contractor can obtain the temporary meter through proper application and payment of deposit of \$500.00 with the Town's Building Department. The deposit fee will be refunded to the Contractor upon return of the meter in a sound satisfactory condition. Water usage will be billed at \$4.53 per 1,000 gallons with minimum charge of \$25.00, plus fees imposed by the County.

Water for cleaning and/or volume flushing of the mains shall be furnishing by the Contractor, with the exception that if a jet-type pressure cleaner is utilized, the Contractor's tank truck may be filled at a meter connection to a designated Town fire hydrant.

All temporary piping, valves, back flow preventers, hoses, equipment and other items required for handling water shall be furnished by the Contractor. Under no circumstances shall the Contractor utilize a water source until such source has been approved for use by the Town.

Care shall be exercised in the use of water and provisions shall be made to protect the water supply from contamination and from indiscriminate use by unauthorized persons. Backflow prevention devices or approved methods shall be used at times when water is used from hydrants.

12.01 TRAFFIC CONTROL

The Contractor shall abide by all applicable laws, regulations, and codes thereof pertaining to maintenance of public streets, detour of traffic, traffic control and other provisions as may be required for the Work. If at any time the inspector, Town, or Town personal observe inadequacies in the traffic control, the Contractor shall utilize his forces to correct the traffic control inadequacies are corrected.

The Contractor shall be fully responsible for the maintenance of public streets, detour of traffic (including furnishing and maintaining regulatory and informative signs along the detour route), traffic control, and other provisions throughout the

Project as required by the Town. Traffic shall be maintained according to corresponding typical traffic control details as outlined in the FDOT Roadway and Traffic Standards. No Street shall be completely blocked or blocked more than one-half at any time, keeping the other one-half open for traffic, without specific written approval. The Contractor shall be required to receive specific written approval from the Town to exceed the hours of work. Prior to any construction activities, the Contractor must submit the proposed traffic control plan to the Town for approval. The Contractor is responsible for obtaining all permits associated with this project.

If required by the Town, the Contractor shall make arrangement for the employment of uniformed off-duty policeman to maintain and regulate the flow of traffic through the construction area. The number of men required and the number of hours on duty necessary for the maintenance and regulation of the traffic flow shall be subject to their approval. The cost of such off-duty policemen shall be paid from the Proposal item established for this purpose.

The Contractor shall provide all barricades and/or flashing warning lights necessary to warn motorists of the construction throughout the project. Adequate barricades shall be erected and maintained by the Contractor to detour traffic from above the sewer during construction.

Excavated or other material stored adjacent to or partially upon a roadway pavement shall be adequately marked for traffic safety at all times. The Contractor shall provide necessary access to all adjacent property during construction.

The Contractor shall be responsible for the provision, installation and maintenance of all traffic control and safety devices, in accordance with specifications outlined in the FDOT Roadway and Traffic Standards.

13.01 CLEAN UP

After the liner installation has been completed and accepted, the Contractor shall clean up the entire project area. All excess material and debris not incorporated into the permanent installation shall be disposed by the Contractor in accordance with local laws and regulations.

14.01 WARRANTY

The Contractor shall warrant the liner installation for a period of five years. During the warranty period, any defects which affect the integrity or strength of the pipe shall be repaired at the Contractor's expense in a manner approval by the owner. At 11 months after final acceptance, the Contractor shall provide a warranty TV inspection of random sections of the rehabilitated mains. Any visible infiltration or unacceptable condition shall be corrected as part of the warranty.

The warranty does not alleviate the Contractor of any implied or other written warranties for the long term quality of the product. Lateral connections and liner ends shall be warranted for five years.

15.01 MEASUREMENT AND PAYMENT

Measurement and payment shall be made by the linear foot of cured-in-place lining as measured in the field. Reconnections of laterals, including grouting of connections will be included in the unit bid price for cleaning and lining. No separate payment shall be made grout used to seal ends or connections. Only lining that is free from defects and leaks shall be accepted. The Contractor must correct defective work before payment.

There shall be no separate payment for flow control. Bypass pumping will be included in the price bid per linear foot of cured-in-place lining as measured in the field.

**SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(a),
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

**THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY
PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.**

1. This sworn statement is submitted to _____
[print name of the public entity]
- by _____
[print individual's name and title]
- for _____
[print name of entity submitting sworn statement]

whose business address is

and (if applicable) its Federal Employer Identification Number (FEIN) is

(If the entity has no FEIN, include the Social Security Number of the individual signing

this sworn statement:

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), **Florida Statutes**, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), **Florida Statutes**, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or non lo contendere.

4. I understand that an "affiliate" as defined in Paragraph 287.133(1) (a), Florida Statutes, means:
1. A predecessor or successor of a person convicted of a public entity crime: or
 2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
5. I understand that a "person" as defined in Paragraph 287.133(1) (e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. **[Indicate which statement applies.]**
- ___ Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity, has been charged with and convicted of a public entity crime subsequent to July 1, 1989.
- ___ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.
- ___ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity or an affiliate of the entity has been

charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in public interest to place the entity submitting this sworn statement on the convicted vendor list. [attach a copy of the final order]

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED, I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

[signature]

Sworn to and subscribed before me this _____ day of _____, 2018.

Personally known _____

OR Produced identification _____ Notary Public - State of

My commission expires:

(Type of identification)

(Printed typed or stamped commissioned
name notary public)

TOWN OF BAY HARBOR ISLANDS

BID CLOSING

Friday, December 8th, 2017 @ 3:00 PM

BHI-188- the Lining of Sewer Mains

1.		Bid Bond	Bid Amount \$
Company Name Contractor Name Address/ Phone #	Enviro Waste Services	✓	\$39,593.75
	18001 Old Cutler Road #554		
	Miami, Fl. 33157		
	877-637-9665		
2.			
Company Name Contractor Name Address/ Phone #	Michael Cannon	✓	\$34,837.50
	Layne Inliner, LLC		
	2531 Jewett, LLC		
	Sanford, Fl. 32771		
3.			
Company Name Contractor Name Address/ Phone #	Miller Pipe Line Corp	✓	\$29,337.50
	8850 Crawfordsville Rd.		
	Indianapolis, IN 46234		
4.			
Company Name Contractor Name Address/ Phone #	Benny Cristip	✓	\$220,250.00
	VAC Vision Environmental		
	10200 US Hwy 19-92E		
	Tampa, Fl. 33610		

CONFIDENTIAL - SECURITY INFORMATION

Friday, December 8th, 2017 @ 3:00 PM

Bid # 188 - Sewer Main

Bid Count Bid Amount

✓	Enrico Waste Services 18001 Old Cutler Road #224 Miami, FL 33157 833-837-4662	Company Name Contractor Name Address Phone #
	\$31,598.00	

✓	Michael Cannon Layne Talmier, LLC 3731 Southwest, LLC Sanford, FL 32811	Company Name Contractor Name Address Phone #
	\$3,881.00	

✓	Miller Pipe Line Corp 8820 Crown Forestville Rd Indianapolis, IN 46231	Company Name Contractor Name Address Phone #
	\$29,300.00	

✓	Brown Creek Vacations Environmental 10200 E Hwy 19 SE	Company Name Contractor Name Address Phone #
	\$500,000.00	

12/8/2017

5.		Bid Bond	Bid Amount \$
Company Name Contractor Name Address/ Phone #	Marcy Horowitz - Cabanas	✓	36,200.00
	Hinterland Group, Inc		
	992 W. 15 Street		
	Riviera Beach, Fl 33404		

6.			
Company Name Contractor Name Address/ Phone #	Jennings Engineering	No	\$29,500.00
	+ Construction		
	1611 West McNab Rd.		
	Pompano Beach, Fl. 33069		

7.			
Company Name Contractor Name Address/ Phone #			

8.			
Company Name Contractor Name Address/ Phone #			

9.			
Company Name Contractor Name Address/ Phone #			

36,500.00

Miner Horowitz - Cabaret

Hinterland Corp, Inc

992 W 12 Street

Brice in Beach, Ft. Lauderdale

\$1,245.00

36

Tennant's Engineering

+ Construction

1211 West Michigan Rd.

Pompano Beach, Ft. Lauderdale

Town of Bay Harbor Islands
BID CLOSING – SIGN IN SHEET

Friday, December 8th, 2017 @ 3:00PM

Contract No. BHI 188 the Lining of Sewer Mains

NAME/COMPANY	MAILING ADDRESS	PHONE NUMBER AND FAX NUMBER	EMAIL
Marlene Siegel Town Clerk	9665 Bay Harbor Terrace, BHI, FL	305-866-6241	Msiegel@bayharborislands-fl.gov
<i>Yusnielkys Ruiz Admin Asst.</i>	<i>same -</i>	<i>3-866-6241 x-130.</i>	

AGENDA ITEM REPORT

January 8, 2018

ITEM NUMBER: 13.

ITEM: Discussion regarding an amendment to the Town Code to establish additional lighting requirements for new multi-family developments.

DESCRIPTION:

This came up as a discussion of the complaints from residents about the Sereno project and the amount of lighting the open corridors give out. Staff informed the Town Council that there are no regulations for roof lighting or other lighting other than the ground floor.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Marlene Siegel, Town Clerk

ATTACHMENTS

1.	Staff Report and back up	BHI TC Staff Report Backup Exterior Lighting Dec 2017.pdf
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**TOWN OF BAY HARBOR ISLANDS
COMMUNITY DEVELOPMENT
MEMORANDUM**

To: Mayor and Town Councilmembers
Town of Bay Harbor Islands

From: Michael J. Miller, AICP *MJM*
Consultant Town Planner

Date: December 14th, 2017

Subject: Town of Bay Harbor Islands
Outdoor Lighting / Design Guidelines
Multi-family Areas / Other
MMPA Acct. No. 01-0702-0500

ISSUE:

The Town's Zoning & Planning Code has scarce regulations for outdoor lighting. Recently a new multi-family redevelopment project was completed that has open walkways facing a main roadway that provides the route to the front entries of the dwelling units. These walkways are lit with unusually bright lighting, and the Town has received several complaints. The existing Town Code includes requirements for minimum "safe seeing" lighting standards for only the multi-family residential areas on the East Island (no standards for the single-family / business). The current Town Code provisions were adopted in 1956 as part of a Housing Code. Although the recently completed multi-family development has caused some annoyance to citizens due to excessive lighting, the project has not received a final Certificate of Occupancy (CO) and Town staff have been working with the developer to solve the lighting issue and several other items (rooftop landscaping / generator noise). Lighting modifications / retrofits will be done. MMPA believes that this situation will be corrected soon. To avoid future nuisances regarding excessive lighting MMPA believes some Code provisions should be studied / amended to stipulate the ideal lighting for the exterior of the buildings, parking lots, and other areas.

BACKGROUND

The Town has recently received several complaints about the Sereno East multi-family building exterior lighting on the open pedestrian corridors facing East Bay Harbor Drive. The Town has notified the developer that it will only provide a final CO if the lighting and other outstanding issues are resolved. The situation has called attention for the fact that the Code is not properly regulating the lighting intensity for land development correctly, and some change to the Code may be necessary to avoid future problems such as this one.

ANALYSIS

MMPA / Town staff believes the existing Code provisions regulating outdoor lighting are outdated and were written at a time when the initial development of the Town occurred. Modern development designs and lighting technology (LED) has changed significantly. Despite the limitation of Town Code provisions, the Town staff has administratively enforced a 1-footcandle limit at all property lines for multi-family developments – a common standard in many local government Codes. This level has been proven to provide sufficient lighting for safety while protecting neighboring sites from excessive light pollution. In some of the multifamily developments (old / new) several of the developments have outside corridors for access to the dwelling units. Included below are the current Town lighting standards we could locate. MMPA / Town staff feels the Town Council should consider Code modifications for all land developments, as the Code provides for a number of other uses / structures.

Section 10-1. & 2 currently states as follows:

Sec. 10-1. - Lighting of outside areas of multiple dwelling buildings on East Island—Required.

All entrances, exits, hallways, balconies, stairways, outside walkways between street property lines and stairways, and patio areas that are contiguous to such walkways or are a part of such walkways of all multiple dwelling buildings on the East Island of the Town of Bay Harbor Islands shall be provided by the owner and manager of such buildings with electric lights so situated and arranged as to produce an approximately uniform light of proper intensity for safe seeing. Such lights shall be caused by the owner and manager of such building to burn continuously during such times as the building is in use or occupied and natural light sufficient for safe seeing is unavailable. Lights installed for outside entrances and exits of individual apartments may at the option of the owner and manager be controlled by a light switch within that particular individual apartment. If the lights installed for outside entrances and exits of individual apartments are controlled by a light switch within that particular individual apartment, the owner and manager of that building are exempt from the requirement of this section that the lights for outside entrances and exits of individual apartments be caused to burn continuously, but in all other respects such lights are subject to the provisions of this section. Owners and managers of the buildings referred to in this section are jointly and severally subject to the provisions of this chapter.

Sec. 10-2. - Same—Test of sufficiency.

The test of light sufficient for safe seeing shall be a minimum value of 15 foot-candles in service values measured at the floor level.

While the existing Code provisions provide basic requirements for multifamily developments, the recent redevelopment projects often include rooftop recreational amenities. Also, in 1956 few of the complexes had parking lots or garages. Minimum safe lighting standards for parking lots should be considered.

SUMMARY / RECOMMENDATION

MMPA recommends the Town consider the issues / analysis presented herein and, if found acceptable, authorize staff to further study and create appropriate Code modification to:

- Create broader / separate land development regulations for exterior lighting;
- Set more specific / modern foot-candle minimums / maximums for multifamily development and commercial development;
- Set foot-candle minimums / maximums for the Town's public lands (Town Hall / Community Center / Parks / Roadways) so safe lighting levels exist;
- Address rooftop activity areas that could be a distraction to neighbors;
- Address parking lot areas (minimum safe lighting level);
- Address decorative "up lighting" for buildings / landscaping that showcase the item;
- Provide a mechanism to address older existing developments and possibly require a timeframe to require retrofitting to meet newer standards;
- Possibly revise the PZB responsibilities to remove or adjust the requirement for them to review exterior lighting at the time of site plan reviews. This does not occur.

TOWN OF BAY HARBOR ISLANDS EXISTING LIGHTING REGULATIONS

Sec. 10-1. - Lighting of outside areas of multiple dwelling buildings on East Island—Required.

All entrances, exits, hallways, balconies, stairways, outside walkways between street property lines and stairways, and patio areas that are contiguous to such walkways or are a part of such walkways of all multiple dwelling buildings on the East Island of the Town of Bay Harbor Islands shall be provided by the owner and manager of such buildings with electric lights so situated and arranged as to produce an approximately uniform light of proper intensity for safe seeing. Such lights shall be caused by the owner and manager of such building to burn continuously during such times as the building is in use or occupied and natural light sufficient for safe seeing is unavailable. Lights installed for outside entrances and exits of individual apartments may at the option of the owner and manager be controlled by a light switch within that particular individual apartment. If the lights installed for outside entrances and exits of individual apartments are controlled by a light switch within that particular individual apartment, the owner and manager of that building are exempt from the requirement of this section that the lights for outside entrances and exits of individual apartments be caused to burn continuously, but in all other respects such lights are subject to the provisions of this section. Owners and managers of the buildings referred to in this section are jointly and severally subject to the provisions of this chapter.

(Ord. No. 94, § 1, 9-10-56)

Sec. 10-2. - Same—Test of sufficiency.

The test of light sufficient for safe seeing shall be a minimum value of 15 foot-candles in service values measured at the floor level.

(Ord. No. 94, § 2, 9-10-56)

COMMENTS: The regulations are quite basic. Excessive lighting can be a nuisance, especially in residential areas. MMPA recommends that the Town Council consider adopting modern lighting regulations that will require all properties to eventually comply with. Compliance can be achieved through the amortization of existing lighting, and requiring compliance with a change of use, additions or alterations, and resumption of use after abandonment. A more common maximum lighting limit is 1-2 foot-candles at a property line – 15 foot-candles is quite high. There are no provisions for minimum light levels for the items listed or parking lots. With all the new multi-family / hotel rooftop recreational uses there are no standards for lighting these areas.

Sec. 5-23.1. - Architectural and aesthetic review of plans; failure to comply with plans as agreed.

(a) The planning and zoning board shall examine, approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction after consideration of whether the following criteria are complied with:

- (1) The plan for the proposed structure or project is in conformity with good taste, good design and in general, contributes to the image of the town as a place of beauty, spaciousness, harmony, taste, fitness, broad vistas and high quality.

(2) The proposed structure or project is not, in its exterior design and appearance, of inferior qualities such as to cause the nature of the local environment or evolving environment to materially depreciate in appearance and value.

(3) The proposed structure is in conformity with standards of this Code and other applicable ordinances insofar as the location and appearance of the buildings and structures are involved.

(4) The proposed structure or project is in harmony with other actual and proposed developments in the general area, considering the following additional criteria:

a. Site layout, orientation, location of structures and relationship to one another and to open spaces in topography.

b. Harmonious relationship with existing and proposed adjoining developments, avoiding both excessive variety and monotonous repetition, but allowing similarity of style, if warranted.

c. Maximum height, area, setbacks and overall masks as well as parts of any structure (buildings, walls, screens, towers or signs) and effective concealment of all mechanical equipment.

d. Building design, materials, and colors to be sympathetic with surroundings.

e. Harmony of materials, colors, and composition of low sides of a structure which are visible simultaneously.

f. Consistency of composition and treatment.

g. Location and type of planting with due regard for climatic conditions, preservation of specimen and landmark plantings upon a site, and proper irrigation to insure maintenance of all plant materials.

h. Design and appropriateness of signs, as well as interior and exterior lighting.

i. Graphics, as understood in architectural design.

COMMENTS: While these criteria are helpful in ensuring quality compatible development in the Town, the lack of specifics for lighting levels can be troublesome. To be more easily enforceable specific standards should to be adopted. It is uncommon for the PZB to discuss or review lighting details at the early stage of review they perform – this is more common at the time of building permits.

Sample

ARTICLE IV. - LIGHTING STANDARDS

Sec. 20-100. - General requirements.

- (a) All parking facilities and exterior site areas developed or redeveloped subsequent to the enactment of this article, exclusive of single family residences, duplexes, triplexes and mobile home parks, shall be illuminated according to the standards contained herein.
- (b) Exterior parking facilities shall mean the parking surface of open parking lots and entry and exit accessways thereto, and parking areas and other unenclosed areas at grade level for which parking facilities are a requirement. Garage parking facilities shall mean underground, multilevel parking garages, and enclosed grade level parking facilities.

(Ord. No. 00-04-03, § 1, 4-12-00)

Sec. 20-101. - Intensity of illumination.

- (a) For exterior parking facilities, the intensity of illumination shall provide an average maintained illumination of not less than one (1) footcandle equal to one (1) lumen per square foot, and shall be well distributed in the pavement areas; however, at no point shall illumination be less than one-half (0.5) footcandle of light measured at grade level. The maximum to minimum footcandle level shall not exceed a twelve to one (12:1) ratio and the average to minimum footcandle level shall not exceed a four to one (4:1) ratio.
- (b) Garage parking facilities shall provide an average intensity of illumination of not less than fifty (50) footcandles at the entrance, ten (10) footcandles in traffic lanes and five (5) footcandles in storage areas.
- (c) Along public and private roadways serving new development or redevelopment projects or where inadequate or no lighting exists, developers shall be required to install street lights with a maintained minimum of one-half (0.5) footcandle of light measured at grade level. The maximum to minimum footcandle level shall not exceed a twelve to one (12:1) ratio and the average to minimum footcandle level shall not exceed a four to one (4:1) ratio.
- (d) The current edition of the "IES Lighting Handbook", published by the Illumination Engineers Society, 345 East 47 Street, New York, NY 10017, is the standard to be used by the architect or engineer as a guide for the design and testing of parking facility or public or private roadway lighting. The standards contained therein shall apply unless standards developed and adopted in this section or subsequent amendments are more restrictive, in which case the more restrictive standards shall apply.

(Ord. No. 00-04-03, § 2, 4-12-00)

Sec. 20-102. - Photometric lighting plan required.

All site development plans for buildings or structures to be erected or altered subsequent to the effective date of this section must be accompanied by a parking facility or public or private roadway photometric lighting plan. The photometric lighting plan shall be certified by a registered architect or engineer as providing illumination in accordance with the applicable minimum standards set forth in section 20-101 above. Subsequent construction must comply with said photometric lighting plan.

(Ord. No. 00-04-03, § 3, 4-12-00)

Sec. 20-103. - Automatic lighting devices.

- (a) For business uses with exterior or garage parking facilities, the required illumination shall be provided from thirty (30) minutes prior to sunset until at least thirty (30) minutes after the closing of any establishment served by the parking facility.
- (b) Any parking facility that serves a residential use must maintain the minimum levels of illumination established by this section through the use of natural or artificial light twenty-four (24) hours per day.

(Ord. No. 00-04-03, § 4, 4-12-00)

Sec. 20-104. - Limitation on spillover illumination.

In order to minimize offensiveness to persons on neighboring property and to eliminate distractions to and temporary blinding of drivers of vehicles passing illuminated property, all artificial parking lot or site area lighting shall either be shaded or screened in a manner that will limit spillover illumination onto adjacent property and public or private rights-of-way. Spillover illumination shall be measured at the property line and shall not exceed one (1) footcandle vertical or horizontal illumination onto adjacent properties, said light being measured at grade level.

(Ord. No. 00-04-03, § 5, 4-12-00)

Sec. 20-105. - Street lighting.

- (a) A street lighting system shall be provided as part of the improvements in any new land development or redevelopment project. Installation of all underground facilities must be completed before the streets are paved.

- (b) All street lighting as required by this article shall conform to the following standards of design and construction:
- (1) All designs for lighting shall be approved by the Town Building Official, who will follow, as a minimum, the latest edition of the Illumination Engineers Society (IES) "Standard Practice for Street and Highway Lighting", for Type III Distribution.
 - (2) Wiring for street lighting shall be underground except in areas where primary distribution conductors are overhead. Subject to the approval of the Town Building Official, the primary poles may be used for street lighting and associated wiring.
- (c) No building permit shall be issued for any new land development or redevelopment project unless the engineering drawings contain adequate provisions for street lighting to include but not be limited to a photometric lighting plan prepared in accordance with the requirements of this section.
- (d) No certificate of occupancy shall be issued to any structure until the street lighting is completed and operable or a commitment acceptable to the Town has been provided to ensure the timely completion of the street lighting.

(Ord. No. 00-04-03, § 6, 4-12-00)

Currently Recommended Illuminance Categories & Illuminance Values For Lighting Design—Target Maintained Levels

The tabulation that follows is a consolidated listing of current illuminance recommendations. This listing is intended to guide the lighting designer in selecting an appropriate illuminance for design and evaluation of lighting systems.

Guidance is provided in two forms: (1), in Parts I, II, and III as an Illuminance Category, representing a range of illuminances and (2), in parts IV, V and VI as an Illuminance Value. Illuminance Categories are represented by letter designations A through I. Illuminance Values are given in lux with an approximate equivalence in footcandles and as such are intended as target (nominal) values with deviations expected. These target values also represent maintained values.

This table has been divided into the six parts for ease of use. Part I provides a listing of both Illuminance Categories and Illuminance Values for generic types of interior activities and normally is to be used when Illuminance Categories for a specific Area/Activity cannot be found in Parts II and III. Parts IV, V and VI provide target maintained Illuminance Values for outdoor facilities, sports and recreational areas, and transportation vehicles where special considerations apply.

In all cases, the recommendations in this table are based on the assumption that the lighting will be properly designed to take into account the visual characteristics of the task.

I. Illuminance Categories and Illuminance Values for Generic Types of Activities in Interiors

TYPE OF ACTIVITY	CATEGORY	RANGES OF ILLUMINANCES		REFERENCE WORK-PLANE
		LUX	FOOTCANDLES	
Public spaces with dark surroundings	A	20-30-50	2-3-5	General lighting throughout spaces
Simple orientation for short temporary visits	B	50-75-100	5-7.5-10	
Working spaces where visual tasks are only occasionally performed	C	100-150-200	10-15-20	
Performance of visual tasks of high contrast or large size	D	200-300-500	20-30-50	
Performance of visual tasks of medium contrast or small size	E	500-750-1000	50-75-100	Illuminance on task
Performance of visual tasks of low contrast or very small size	F	1000-1500-2000	100-150-200	
Performance of visual tasks of low contrast and very small size over a prolonged period	G	2000-3000-5000	200-300-500	Illuminance on task, obtained by a combination of general and local (supplementary lighting)
Performance of very prolonged and exacting visual tasks	H	5000-7500-10000	500-750-1000	
Performance of very special visual tasks of extremely low contrast and small size	I	10000-15000-20000	1000-1500-2000	

II. Commercial, Institutional, Residential and Public Assembly Interiors

Area/Activity	Illuminance Category	Area/Activity	Illuminance Category	Area/Activity	Illuminance Category	Area/Activity	Illuminance Category
Air terminals (see Transportation terminals)		Food service facilities		Examination and treatment rooms ¹⁷		Post-anesthetic recovery room ¹⁷	
ArmoriesC'		Dining areas		GeneralD		General ¹⁸E	
Auditoriums		CashierD		LocalE		LocalH	
AssemblyC'		CleaningC		Eye surgery ¹⁷F		Pulmonary function laboratories ¹⁷E	
Social activityB		DiningB'		Fracture room ¹⁷		Radiology suite ¹⁷	
Banks (also see Reading)		Food displays (see Merchandising spaces)		GeneralE		Diagnostic section	
Lobby		KitchenE		LocalF		General ¹⁸A	
GeneralC		Gasoline stations (see Service Stations)		Inhalation therapyD		Waiting areaA	
Writing areaD		Graphic design and material		Laboratories ¹⁷		Radiographic/fluoroscopic roomA	
Tellers stationsE'		Color selectionF"		Specimen collectingE		Film sortingF	
Barber shops and beauty parlorsE		Charting and mappingF		Tissue laboratoriesF		Barium kitchenE	
Conference rooms		GraphsE		Gross specimen reviewF		Radiation therapy section	
ConferringD		KeyliningF		Chemistry roomsE		General ¹⁸B	
Critical seeing (refer to individual task)		Layout and artworkF		Bacteriology rooms		Waiting areaB	
Depots, terminals and stations (see Transportation terminals)		Photographs, moderate detailE"		GeneralE		Isotope kitchen, generalE	
Drafting		Health care facilities		Reading culture platesF		Isotope kitchen, benchesE	
Mylar		Ambulance (local)E		HematologyE		Computerized radiotomography section	
High contrast media; india ink, plastic leads, soft graphite leadsE'		AnesthetizingE		Linens		Scanning roomB	
Low contrast media: hard graphite leadsF'		Autopsy and morgue ^{17,18}		Sorting soiled linenD		Equipment maintenance roomE	
Vellum		Autopsy, generalE		Central (clean) linen roomD		Solarium	
High contrastE'		Autopsy tableG		Sewing room, generalD		GeneralC	
Low contrastF'		Morgue, generalD		Sewing room, work areaE		Local for readingD	
Tracing paper		MuseumE		Linen closetB		StairwaysC	
High contrastE'		Cardiac function labE		LobbyC		Surgical suite ¹⁷	
Low contrastF'		Central sterile supply		Locker roomsC		Operating room, general ¹⁸F	
Overlays ²		Inspection, generalE		Medical illustration studio ^{17,18}F		Scrub room ¹⁸E	
Light tableC		InspectionF		Medical recordsE		Instruments and sterile supply roomD	
Prints		At sinksE		Nurseries ¹⁷		Clean up room, instrumentsE	
Blue lineE		Work areas, generalD		General ¹⁸C		Anesthesia storageC	
BlueprintsE		Processed storageD		Observation and treatmentE		Substerilizing roomC	
Sepia printsF		Corridors ¹⁷		Nursing stations ¹⁷		Surgical induction room ^{17,18}E	
Educational facilities		Nursing areas — dayC		GeneralD		Surgical holding area ^{17,18}E	
Classrooms		Nursing areas — nightB		DeskE		ToiletsC	
General (see Reading)		Operating areas, delivery, recovery, and laboratory suites and serviceE		Corridors dayC		Utility roomD	
Drafting (see Drafting)		Critical care areas ¹⁷		Corridors nightA		Waiting areas ¹⁷	
Home economics		GeneralC		Medication stationE		GeneralC	
Science laboratoriesE		ExaminationE		Obstetric delivery suite ¹⁷		Local for readingD	
Lecture rooms		Surgical task lightingH		Labor rooms		Hospitals (see Health care facilities)	
Audience (see Reading)		HandwashingF		LocalE		Kitchens (see Food service facilities)	
DemonstrationF		Cystoscopy room ^{17,18}E		Birthing roomF'			
Music rooms (see Reading)		Dental suite ¹⁷		Delivery area			
Shops (see Part III, Industrial Group)		GeneralD		Scrub, generalG			
Sight saving roomsF		Instrument trayE		GeneralG			
Study halls (see Reading)		Oral cavityH		ResuscitationG			
Typing (see Reading)		Prosthetic laboratory, generalD		Post-delivery recovery areaE			
Sports facilities (see Part V, Sports and Recreational Areas)		Prosthetic laboratory, work benchE		Substerilizing roomB			
Cafeterias (see Food Service facilities)		Prosthetic laboratory, localF		Occupational therapy ¹⁷			
Dormitories (see Residences)		Recovery room, generalC		Work area, generalD			
Elevators, freight and passengerC		Recovery room, emergency examinationE		Work tables or benchesE			
Exhibition hallsC'		Dialysis unit, medical ¹⁷F		Patients rooms ¹⁷			
Fire halls (see Municipal buildings)		ElevatorsC		General ¹⁷B			
		EKG and specimen room ¹⁷		ObservationA			
		GeneralB		Critical examinationE			
		On equipmentC		ReadingD			
		Emergency outpatient ¹⁷		ToiletsD			
		GeneralE		Pharmacy ¹⁷			
		LocalF		GeneralE			
		Endoscopy rooms ^{17,18}		Alcohol vaultD			
		GeneralE		Laminar flow benchF			
		PeritoneoscopyD		Night lightA			
		CuldoscopyD		Parenteral solution roomD			
				Physical therapy departments			
				GymnasiumsD			
				Tank roomsD			
				Treatment cubiclesD			

Area/Activity	Illuminance Category	Area/Activity	Illuminance Category	Area/Activity	Illuminance Category	Area/Activity	Illuminance Category
Libraries		Handwritten carbon copiesE		Cutting, punching, stitching . .E		steamingE	
Reading areas (see Reading)		Non-photographically reproducible colors . . .F		Embossing and inspectionF		Inspection and spotting.G	
Book stacks (vertical 760 millimeters [30 inches] above floor)		ChalkboardsE ¹				PresidingF	
Active stacksD		Printed tasks		Breweries		Repair and alterationF	
Inactive stacksB		6 point typeE ¹		Brew houseD		Cloth products	
Book repair and binding . . .D		8 and 10 point typeD ¹		Boiling and keg washingD		Cloth inspectionI	
CatalogingD ¹		Glossy magazinesD ¹¹		Filling (bottles, cans, kegs) . .D		CuttingG	
Card filesE		MapsE				SewingG	
Carrels, individual study areas (see Reading)		NewsprintD				PressingF	
Circulation desksD		Typed originalsD		Building construction (see Part IV, Outdoor Facilities)			
Map, picture and print rooms (see Graphic design and material)		Typed 2nd carbon and laterE				Clothing manufacture (men's)	
Audiovisual areasD		Telephone booksE		Building exteriors (see Part IV, Outdoor Facilities)		Receiving, opening, storing, shippingD	
Audio listening areasD						Examining (perching)I	
Microform areas (see Reading)						Sponging, decating, winding, measuringD	
Locker roomsC		Safety		Candy making		Piling up and markingE	
				Box departmentD		CuttingG	
Municipal buildings—		Schools (see Educational facilities)		Chocolate department		Pattern making, preparation of trimming, piping, canvas and shoulder pads.E	
fire and police				Husking, winnowing, fat extraction, crushing and refining, feedingD		Fitting bundling shading, stitchingD	
Police		Service spaces (see also Storage rooms)		Bean cleaning, sorting, dipping, packing, wrappingD		ShopsF	
Identification recordsF		Stairways, corridorsC		MillingE		InspectionG	
Jail cells and interrogation rooms . . .D		Elevators, freight and passengerC		Cream making		PressingF	
		Toilets and wash roomsC		Mixing, cooking, molding . .D		SewingG	
Fire hallD				Gum drops and jellied formsD			
		Service stations		Hand decoratingD		Control rooms (see Electric generating stations — interior)	
Offices		Service bays (see Part III, Industrial Group)		Hard candy			
Accounting (see Reading)		Sales room (see Merchandising spaces)		Mixing, cooking, molding . .D		Corridors (see Service spaces)	
Conference areas (see Conference rooms)				Die cutting and sorting . . .E			
Drafting (see Drafting)		Stairways (see Service spaces)		Kiss making and wrapping . .E		Cotton gin industry	
General and private offices (see Reading)						Overhead equipment — separators, dryers, grid cleaners stick machines, conveyers, feeders and catwalksD	
Libraries (see Libraries)		Storage rooms (see Part III, Industrial Group)		Canning and preserving		Gin standD	
Lobbies, lounges and reception areasC				Initial grading raw material samplesD		Control consoleD	
Mail sortingE		Stores (see Merchandising spaces and Show windows)		TomatoesE		Lint cleanerD	
Off-set printing and duplicating areaD				Color grading and cuffing roomsF		Bale pressD	
		Toilets and washroomsC		Preparation			
Reading				Preliminary sorting		Dairy farms (see Farms)	
Copied tasks		Transportation terminals		Apricots and peaches . . .D			
Ditto copyE ¹		Waiting room and lounge . . .C		TomatoesE		Dairy products	
Micro-fiche readerB ^{12,13}		Ticket countersE		OlivesF		Fluid milk industry	
MimeographD		Baggage checkingD		Cutting and pittingE		Boiler roomD	
Photographs, moderate detailE ¹¹		Rest roomsC		Final sortingE		Bottle storageD	
Thermal copy, poor copy . .F ¹		ConcourseB		Canning		Bottle sortingE	
XerographD		Boarding areaC		Continuous-belt canning . .E		Bottle washersE ²¹	
Xerography, 3rd generation and greaterE				Sink canningE		Can washersD	
Electronic data processing tasks		III. INDUSTRIAL GROUP		Hand packingD		Cooling equipment.D	
CRT screensB ^{12,13}				OlivesE		Filling inspectionE	
Impact printer		Assembly		Examination of canned samplesF		Gauges (on face)E	
good ribbonD		SimpleD		Container handling		LaboratoriesE	
poor ribbonE		Moderately difficultE		InspectionF		Meter panels (on face) . . .E	
2nd carbon and greaterE		DifficultF		Can unscramblersE		PasteurizersD	
Ink jet printerD		Very difficultG		Labeling and cartooning . .D		SeparatorsD	
Keyboard readingD		ExactingH				Storage refrigeratorD	
Machine rooms		Bakeries		Casting (see Foundries)		Tanks, vats	
Active operationsD		Mixing roomD				Light interiorsC	
Tape storageD		Face of shelvesD		Central stations (see Electric generating stations)		Dark interiorsE	
Machine areaC		Inside of mixing bowlD				Thermometer (on face) . . .E	
Equipment serviceE ¹¹		Fermentation roomD		Chemical plants (see Petroleum and chemical plants)		Weighing roomD	
Thermal printE		Make up room				ScalesE	
Handwritten tasks		BreadD		Clay and concrete products		Dispatch boards (see Electric generating stations — interior)	
#3 pencil and softer leadsE ¹		Sweet yeast-raised productsD		Grinding, filter presses, kiln roomsC			
#4 pencil and harder leadsF ¹		Proofing roomD		Molding, pressing, cleaning, trimmingD		Dredging (see Part IV, Outdoor Facilities)	
Ball-point penD ¹		Oven roomD		EnamelingE			
Felt-tip penD		Fillings and other ingredientsD		Color and glazing — rough workE		Electrical equipment manufacturing	
		Decorating and icing		Color and glazing — fine workF		ImpregnatingD	
		MechanicalD				Insulating: coil windingE	
		HandE		Cleaning and pressing industry			
		Scales and thermometersD		Checking and sortingE			
		WrappingD		Dry and wet cleaning and			
		Book binding					
		Folding, assembling pasting. .D					

Area/Activity	Illuminance Category	Area/Activity	Illuminance Category	Area/Activity	Illuminance Category	Area/Activity	Illuminance Category
Electric generating stations — interior (see also Nuclear power plants)		Feed storage area — storage		Fine grinding, beveling, polishing	E	Materials handling	
Air-conditioning equipment, air pre-heater and fan floor, ash sluicing	B	Haymow	A	Inspection, etching and decorating	F	Wrapping, packing, labeling	D
Auxiliaries, pumps, tanks, compressors, gauge area	C	Hay inspection area	C			Picking stock, classifying	D
Battery rooms	D	Ladders and stairs	C	Glove manufacturing		Loading, inside truck bodies and freight cars	C
Boiler platforms	B	Silo	A	Pressing	G	Meat packing	
Burner platforms	C	Silo room	C	Knitting	F	Slaughtering	D
Cable room	B	Feed storage area — grain and concentrate		Sorting	F	Cleaning, cutting, cooking, grinding, canning, packing	D
Coal handling systems	B	Grain bin	A	Cuffing	G		
Coal pulverizer	C	Concentrate storage area	B	Sewing and inspection	G		
Condensers, deaerator floor, evaporator floor, heater floors	B	Feed processing area	B				
Control rooms		Livestock housing area (community, maternity, individual calf pens, and loose housing holding and resting areas)	B	Hangars (see Aircraft manufacturing)			
Main control boards	D ^a	Machine storage area (garage and machine shed)	B			Nuclear power plants (see also Electric Generating Stations)	
Auxiliary control panels	D ^a	Farm shop area		Hat manufacturing		Auxiliary building, uncontrolled access areas	C
Operator's station	E ^a	Active storage area	B	Dyeing, stiffening, braiding, cleaning, refining	E	Controlled access areas	
Maintenance and wiring areas	D	General shop area (machinery repair rough sawing)	D	Forming, sizing, pouncing, flanging, finishing, ironing	F	Count room	E ^a
Emergency operating lighting	C			Sewing	G	Laboratory	E
Gauge reading	D	Rough bench and machine work (painting, fine storage, ordinary sheet metal work, welding, medium benchwork)	D			Health physics office	F
Hydrogen and carbon dioxide manifold area	C	Medium bench and machine work (fine woodworking, drill press, metal lathe, grinder)	E	Inspection		Medical aid room	F
Laboratory	E	Miscellaneous areas		Simple	D	Hot laundry	D
Precipitators	B	Farm office (see Reading)		Moderately difficult	E	Storage room	C
Screen house	C	Restrooms (see Service spaces)		Difficult	F	Engineered safety features equipment	D
Soot or slag blower platform	C	Pumphouse	C	Very difficult	G	Diesel generator building	D
Steam headers and throttles	B			Exacting	H	Fuel handling building	
Switchgear and motor control centers	D	Farms — poultry (see Poultry Industry)				Operating floor	D
Telephone and communication equipment rooms	D			Jewelry and watch manufacturing	G	Below operating floor	C
Tunnels or galleries, piping and electrical	B	Flour mills				Oil gas building	C
Turbine building		Rolling, sifting, purifying	E	Laundries		Radwaste building	D
Operating floor	D	Packing	D	Washing	D	Reactor building	
Below operating floor	C	Product control	F	Flat work ironing, weighing, listing, marking	D	Operating floor	D
Visitors gallery	C	Cleaning, screens, man lifts, aisleways and walkways, bin checking	D	Machine and press finishing, sorting	E	Below operating floor	C
Water treating area	D			Fine hand ironing	E		
Electric generating stations — exterior (see Part IV, Outdoor Facilities)		Forge shops	E	Leather manufacturing		Packing and boxing (see Materials handling)	
Elevators (see Service spaces)				Cleaning tanning and stretching, vats	D		
Explosives manufacturing		Foundries		Cutting, fleshing and stuffing	D	Paint manufacturing	
Hand furnaces, boiling tanks, stationary dryers, stationary and gravity crystallizers	D	Annealing (furnaces)	D	Finishing and scarfing	E	Processing	D
Mechanical furnace, generators and stills, mechanical dryers, evaporators, filtration, mechanical crystallizers	D	Cleaning	D			Mix comparison	F
Tanks for cooking, extractors, percolators, nitrators	D	Core making		Leather working		Paint shops	
Farms — dairy		Fine	F	Pressing, winding, glazing	F	Dipping, simple spraying, firing	D
Milking operation area (milking parlor and stall barn)		Medium	E	Grading, matching, cuffing, scarfing, sewing	G	Rubbing, ordinary hand painting and finishing art, stencil and special spraying	D
General	C	Grinding and chipping	F			Fine hand painting and finishing	E
Cow's udder	D	Inspection		Loading and unloading platforms (see Part IV, Outdoor Facilities)		Extra-fine hand painting and finishing	G
Milk handling equipment and storage area (milk house or milk room)		Fine	G			Paper-box manufacturing	E
General	C	Medium	F	Locker rooms	C		
Washing area	E	Molding				Paper manufacturing	
Bulk tank interior	E	Medium	F	Logging (see Part IV, Outdoor Facilities)		Beaters, grinding, calendering	D
Loading platform	C	Large	E			Finishing, cuffing, trimming, papermaking machines	E
Feeding area (stall barn feed alley, pens, loose housing feed area)	C	Pouring	E	Lumber yards (see Part IV, Outdoor Facilities)		Hand counting, wet end of paper machine	E
		Sorting	E			Paper machine reel, paper inspection, and laboratories	F
		Cupola	C	Machine shops		Rewinder	F
		Shakeout	D	Rough bench or machine work	D	Plating	D
				Medium bench or machine work, ordinary automatic machines, rough grinding, medium buffing and polishing	E	Polishing and burnishing (see Machine shops)	
		Garages — service		Fine bench or machine work, fine automatic machines, medium grinding, fine buffing and polishing	G	Power plants (see Electric generating stations)	
		Repairs	E	Extra-fine bench or machine work, grinding, fine work	H		
		Active traffic areas	C				
		Write-up	D				
		Glass works					
		Mix and furnace rooms, pressing and lehr, glass-blowing machines	C				
		Grinding, cutting, silvering	D				

Area/Activity	Illuminance Category	Area/Activity	Illuminance Category	Area/Activity	Illuminance Category	Area/Activity	Foot Lux Candles
Poultry industry (see also Farm — dairy)		Safety (see Fig. 44)		Active		IV. OUTDOOR FACILITIES	
Brooding, production, and laying houses		Sawmills		Rough, bulky itemsC		Building, (construction)	
Feeding, inspection, cleaningC		Secondary log deckB		Small itemsD		General	
Charts and recordsD		Head saw (cutting area viewed by sawyer)E		Storage yards (see Part IV, Outdoor Facilities)		construction100	10
Thermometers, thermostats, time clocksD		Head saw outfeedB		Structural steel fabricationE		Excavation work20	2
Hatcheries		Machine in-feeds (bull edger, resaws, edgers, trim, hula saws, planers)B		Sugar refining		Building exteriors	
General area and loading platformC		Main mill floor (base lighting)A		GradingE		Entrances	
Inside incubatorsD		Sorting tablesD		Color inspectionF		Active (pedestrian and/or conveyance)50	5
Dubbing stationF		Rough lumber gradingD		Testing		Inactive (normally locked infrequently used)10	1
SexingH		Finished lumber gradingF		GeneralD		Vital locations or structures50	5
Egg handling, packing and shipping		Dry lumber warehouse (planer)C		Exacting tests, extra-fine instruments, scales, etc.F		Building surrounds10	1
General cleanlinessE		Dry kiln coiling shedB		Textile mills		Buildings and monuments, floodlighted	
Egg quality inspectionE		Chipper infeedB		Staple fiber preparation		Bright surroundings	
Loading platform, egg storage area, etcC		Basement areas		Stock dyeing, tintingD		Light surfaces150	15
Egg processing		ActiveA		Sorting and grading (wool and cotton)E*		Medium light surfaces200	20
General lightingE		InactiveA		Yarn manufacturing		Medium dark surfaces300	30
Fowl processing plant		Filing room (work areas)E		Opening and picking (chute feed)D		Dark surfaces500	50
General (excluding killing and unloading area)E		Service spaces (see also Storage rooms)		Carding (nonwoven web formation)D*		Dark surroundings	
Government inspection station and grading stationsE		Stairways, corridorsB		Drawing (gilling, pin drafting)D		Light surfaces50	5
Unloading and killing areaC		Elevators, freight and passengerB		CombingsD*		Medium light surfaces100	10
Feed storage		Toilets and wash roomsC		Roving (clubbing, fly frame)E		Medium dark surfaces150	15
Grain, feed rationsC		Sheet metal works		Spinning (cap spinning, twisting, texturing)E		Dark surfaces200	20
ProcessingC		Miscellaneous machines		Yarn preparation		Bulletin and poster boards	
Charts and recordsD		ordinary bench workE		Winding, quilling, twistingE		Bright surroundings	
Machine storage area (garage and machine shed)B		Presses, shears, stamps, spinning, medium bench workE		Warping (beaming, sizing)F*		Light surfaces500	50
Printing Industries		PunchesE		Warp tie-in or drawing-in (automatic)E		Dark surfaces1000	100
Type foundries		Tin plate inspection, galvanizedF		Fabric production		Dark surroundings	
Matrix making, dressing typeE		ScribingF		Weaving, knitting, tuftingF		Light surfaces200	20
Font assembly—sortingD		Shoe manufacturing — leather		InspectionG*		Dark surfaces500	50
CastingE		Cutting and stitching		Finishing		Central station (see Electric generating stations—exterior)	
Printing plants		Cutting tablesG		Fabric preparation (desizing, scouring, bleaching, singeing, and mercerization)D		Coal yards (protective)2	0.2
Color inspection and appraisalF		Marking, buttonholing		Fabric dyeing (printing)D		Dredging20	2
Machine compositionE		skiving, sorting, vamping, countingG		Fabric finishing (calendaring, sanforizing, sueding, chemical treatment)E*		Electric generating stations — exterior	
Composing roomE		Stitching dark materialsG		InspectionG**		Boiler areas	
PressesE		Making and finishing, nailers, sole layers, welt beaters and scarfers, trimmers, welters, lasters, edge setters sluggers, randers, wheelers, bears, cleaning, spraying, buffing, polishing, embossingF		Tobacco products		Catwalks, general areas20	2
ProofreadingF		Shoe manufacturing—rubber		Drying, strippingD		Stairs and platforms50	5
Electrotyping		Washing, coating, mill run compoundingD		Grading and sortingF		Ground level areas including precipitators, FD and ID fans, bottom ash hoppers50	5
Molding, routing, finishing leveling molds, trimmingE		Varnishing, vulcanizing, calendaring, upper and sole cuttingD		Toilets and wash rooms (see Service spaces)		Cooling towers	
Blocking, tinningD		Sole rolling, lining, making and finishing processesE		UpholsteringF		Fan deck, platforms, stairs, valve areas50	5
Electroplating, washing, backingD		Soap manufacturing		Warehouse (see Storage rooms)		Pump areas20	2
Photoengraving		Kettle houses, cutting, soap chip and powderD		Welding		Fuel handling	
Etching, staging, blockingD		Stamping, wrapping and packing, filling and packing soap powderD		OrientationD		Barge unloading, car dumper, unloading hoppers, truck unloading, pumps, gas metering50	5
Routing, finishing, proofingE		Stairways (see Service spaces)		Precision manual arc weldingH		Conveyors20	2
Tint laying, maskingE		Steel (see Iron and Steel)		Woodworking		Storage tanks10	1
Receiving and shipping (see Materials handling)		Storage battery manufacturingD		Rough sawing and bench workD		Coal storage piles, ash dumps2	0.2
Railroad yards (see Part IV, Outdoor Facilities)		Storage rooms or warehouses		Sizing, planing, rough sanding, medium quality machine and bench work, gluing, veneering, cooperageD			
Rubber goods — mechanical (see Fig. 50)*		InactiveB		Fine bench and machine work, fine sanding and finishingE			
Rubber tire manufacturing (see Fig 50)*				Central station (see Electric generating stations — exterior)			

GUTH
LIGHTING FOR
DEMANDING

Area/Activity	Foot Lux Candles	Area/Activity	Foot Lux Candles	Area/Activity	Foot Lux Candles	Area/Activity	Foot Lux Candles
Hydroelectric Powerhouse roof, stairs, platform and intake decks50	5	Piers Freight200	20	Landscape highlights50	5	Step well and adjacent ground area100	10
Inlet and discharge water area2	0.2	Passenger200	20	Ship yards General50	5	Fare box150	15
Intake structures Deck and laydown area50	5	Active shipping area surrounds. .50	5	Ways100	10	General lighting (for seat selection and movement)	
Value pits20	2	Prison yards50	5	Fabrication areas300	30	City and intercity buses at city stop ...100	10
Inlet water area ...2	0.2	Quarries50	5	Smokestacks with advertising messages (see Bulletin and poster boards)		Inter-city bus at country stop. .20	2
Parking areas Main plant parking20	2	Railroad yards Retarder classification yards Receiving yard Switch points .20	2	Storage yards Active200	20	School bus while moving150	15
Secondary parking10	1	Body of yard .10	1	Inactive10	1	School bus at stops300	30
Substation Horizontal general area ...20	2	Hump area (vertical)200	20	Water tanks with advertising messages (see Bulletin and poster boards)		Advertising cards. .300	30
Vertical tasks50	5	Control tower and retarder area (vertical)100	10	V. TRANSPORTATION VEHICLES		Back-lighted advertising cards (see Rail conveyances)	
Transformer yards Horizontal general area ...20	2	Head end.50	5	Aircraft Passenger compartment General50	5	Reading300*	30*
Vertical tasks50	5	Body10	1	Reading (at seat). .200	20	Emergency exit (school bus)50	5
Turbine areas Building surrounds20	2	Pull-out end20	2	Airports Hangar apron10	1	Ships Living Areas Staterooms and Cabins General lighting100	10
Turbine and heater decks, unloading bays50	5	Dispatch or forwarding yard10	1	Terminal building apron Parking area.5	0.5	Reading and writing ...300**	30**
Entrances, stairs and platforms50*	5*	Hump and car rider classification yard Receiving yard Switch points .20	2	Loading area ...20"	2"	Prolonged seeing ...700**	70**
Flags, floodlighted (see Bulletin and poster boards)		Body of yard .10	1	Rail conveyances Boarding or exiting100	10	Baths (general lighting) ...100	10
Gardens*		Hump area50	5	Apron Terminal building apron Parking area.5	0.5	Mirrors (personal grooming ...500	50
General lighting5	0.5	Flat switching yards Side of cars (vertical).50	5	Boarding area ...20"	2"	Barber shop and beauty parlor500	50
Path, steps, away from house10	1	Switch points. .20	2	Trailer-on-flatcars Horizontal surface of flatcar50	5	On Subject. 1000	100
Backgrounds— fences, walls, trees, shrubbery .20	2	Trailer-on-flatcars Hold down points (vertical)50	5	Flatcar50	5	Day rooms General lighting ...200"	20"
Flower beds, rock gardens50	5	Container-on flatcars30	3	Sawmills (see also Logging) Cut off saw100	10	Desks500**	50**
Trees, shrubbery, when emphasized50	5	Logging Log haul20	2	Hold down points (vertical)50	5	Dining rooms and messrooms. .200	20
Focal points, large100	10	Log hoist (side lift) .20	2	Container-on flatcars30	3	Enclosed promenades General lighting100	10
Focal points, small200	20	Primary log deck. .100	10	Trailer-on-flatcars Horizontal surface of flatcar50	5	Entrances and passageways General100	10
Gasoline station (see Service stations in Part II)		Barker in-feed ...300	30	Flatcar50	5	Daytime embar- cation300	30
Loading and unloading platforms200	20	Green chain300*	30*	Trailer-on-flatcars Hold down points (vertical)50	5	Gymnasiums General lighting ...300	30
Freight car interiors100	10	Lumber strapping200*	20*	Container-on flatcars30	3	Hospital Dispensary (general lighting). .300*	30*
Logging (see also Sawmills) Yarding30	3	Lumber handling areas20	2	Trailer-on-flatcars Horizontal surface of flatcar50	5	Operating room General lighting ...500*	50*
Log loading and unloading50	5	Lumber loading areas50	5	Flatcar50	5	Doctor's office. ...300*	30*
Log stowing (water)5	0.5	Wood chip storage piles5	05	Sawmills (see also Logging) Cut off saw100	10	Operating table ...20000	2000
Active log storage area (land)5	0.5	Service station (at grade) Dark surrounding Approach15	15	Hold down points (vertical)50	5	Wards General lighting100	10
Log booming area (water) — foot traffic10	1	Driveway15	15	Container-on flatcars30	3	Reading300	30
Active log handling area (water)20	2	Pump island area200	20	Trailer-on-flatcars Horizontal surface of flatcar50	5	Toilets200	20
Log grading — water or land ...50	5	Building faces (exclusive of glass)100"	10"	Flatcar50	5	Libraries and lounges General lighting ...200	20
Log bins (land)20	2	Service areas ...30	3	Sawmills (see also Logging) Cut off saw100	10		
Lumber yards10	1	Landscape highlights. ...20	2	Hold down points (vertical)50	5		
		Light surrounding Approach30	3	Container-on flatcars30	3		
		Driveway50	5	Trailer-on-flatcars Horizontal surface of flatcar50	5		
		Pump island area300	30	Flatcar50	5		
		Building faces (exclusive of glass)300"	30"	Sawmills (see also Logging) Cut off saw100	10		
		Service areas70	7	Hold down points (vertical)50	5		

Area/Activity	Foot Lux Candles	Area/Activity	Foot Lux Candles	
Prolonged seeing700 ^{1,2} 70 ^{1,2}		stores)50 5		¹ Include provisions for higher levels for exhibitions.
Purser's office ..200 ¹ 20 ¹		Laundries		² Specific limits are provided to minimize deterioration effects.
Shopping areas..200 20		General200 ¹ 20 ¹		³ Task subject to veiling reflections. Illuminance listed is not an ESI value. Currently, insufficient experience in the use of ESI target values precludes the direct use of Equivalent Sphere Illumination in the present consensus approach to recommend illuminance values. Equivalent Sphere Illumination may be used as a tool in determining the effectiveness of controlling veiling reflections and as a part of the evaluation of lighting systems.
Smoking rooms ..150 .15		Machine and press finishing, sorting500 50		⁴ Illuminance values are listed based on experience and consensus. Values relate to needs during various religious ceremonies.
Stairs and foyers..200 20		Lockers50 5		⁵ Degradation factors: Overlays — add 1 weighting factor for each overlay; Used material — estimate additional factors.
Recreation areas		Offices		⁶ Provide higher level over food service or selection areas.
Ball rooms150 ¹ 15 ¹		General200 20		⁷ Supplying illumination as in delivery room must be available.
Cocktail lounges150 ¹ 15 ¹		Reading500 ^{1,3} 50 ^{1,3}		⁸ Illuminance values developed for various degrees of store area activity.
Swimming pools		Passenger counter50 ^{1,3} 50 ^{1,3}		⁹ Or not less than 1/3 the level in the adjacent areas.
General150 ¹ 15 ¹		Storerooms50 5		¹⁰ Only when actual equipment service is in process. May be achieved by a general lighting system or portable equipment.
Underwater		Telephone exchange200 20		¹¹ For color matching, the spectral quality of the color of the light source is important.
Outdoors — 600 (60) lamp lumens/square meter (foot) of surface area		Operating Areas		¹² Veiling reflections may be produced on glass surfaces. It may be necessary to treat plus weighting factors as minus in order to obtain proper illuminance.
Indoors —1000 (100) lamp lumens/square meter (foot) of surface area		Access and casing100 10		¹³ Especially subject to veiling reflections. It may be necessary to shield the task or to re-orient it.
Theatre		Battery room100 10		¹⁴ Vertical.
Auditorium		Boiler rooms200 ¹ 200 ¹		¹⁵ Illuminance values may vary widely, depending upon the effect desired, the decorative scheme, and the use made of the room.
General100 ¹ 10 ¹		Cargo handling		¹⁶ Supplementary lighting should be provided in this space to produce the higher levels required for specific seeing tasks involved.
During picture .1 0.1		Control stations (except navigating areas)		¹⁷ Good to high color rendering capability should be considered in these areas. As lamps of higher luminous efficacy and higher color rendering capability become available and economically feasible they should be applied in all areas of health care facilities.
Navigating Areas		General Control consoles.200 20		¹⁸ Variable (dimming or switching).
Chart room		Gauge and control boards300 30		¹⁹ Values based on a 25 per cent reflectance which is average for vegetation and typical outdoor surfaces. These figures must be adjusted to specific reflectances of materials lighted for equivalent brightnesses. Levels give satisfactory brightness patterns when viewed from dimly lighted terraces or interiors. When viewed from dark areas they may be reduced by at least 1/2, or they may be doubled when a high key is desired.
General100 10		Switchboards ..300 30		²⁰ General lighting should not be less than 1/3 of visual task illuminance nor less than 200 lux (20 footcandles).
On chart table500 ^{1,3} 50 ^{1,3}		Engine rooms200 ¹ 20 ¹		²¹ Industry representatives have established a table of single illuminance values which in their opinion can be used in preference to employing reference 6. Illuminance values for specific operations can also be determined using illuminance categories of similar tasks and activities found in this table and the application of the appropriate weighting factors in Fig. 56.
Gyro room200 20		Generator and switchboard rooms200 ¹ 20 ¹		²² Special lighting such that (1) the luminous area is large enough to cover the surface which is being inspected and (2) the luminance is within the limits necessary to obtain comfortable contrast conditions. This involves the use of sources of large area and relatively low luminance in which the source luminance is the principal factor rather than the illuminance produced at a given point.
Radar room200 20		Fan rooms (ventilation & air conditioning) ...100 10		²³ Maximum levels — controlled system.
Radio room100 ¹ 10 ¹		Motor rooms200 20		²⁴ Additional lighting needs to be provided for maintenance only.
Radio room, passenger foyer100 10		Motor generator rooms (cargo handling)100 10		²⁵ Color temperature of the light source is important for color matching.
Ship's offices		Pump room100 10		²⁶ Select upper level for high speed conveyor systems. For grading redwood lumber 3000 lux (300 footcandles) is required.
General200 ¹ 20 ¹		Shaft alley100 10		
On desks and work tables500 ^{1,3} 50 ^{1,3}		Shaft alley escape30 3		
Wheelhouse ..100 10		Steering gear room200 20		
Service Areas		Windlass rooms ...100 10		
Food preparation		Workshops		
General200 ¹ 20 ¹		General300 ¹ 30 ¹		
Butcher shop ..200 ¹ 20 ¹		On top of work bench50 ¹ 50 ¹		
Gallery300 ¹ 300 ¹		Tailor shop500 ¹ 50 ¹		
Pantry200 ¹ 20 ¹		Cargo holds		
Thaw room.200 ¹ 20 ¹		Permanent luminaires ...30 ¹ 3 ¹		
Sculleries.200 ¹ 20 ¹		Passageways and trunks ...100 10		
Food storage (non- refrigerated) ...100 10				
Refrigerated spaces (ship's				

1120 98th Street



BH Club



Harbour Park



Ivory



Kai



O-Residences



Riva



Sereno



Sereno



AGENDA ITEM REPORT

January 8, 2018

ITEM NUMBER: 14.

ITEM: Discussion requested by Council Member Reid regarding parking regulations that allow underground parking garages.

DESCRIPTION:

Council Member Reid requested that this item be put on an agenda for discussion after the recent rain events that flooded one of the underground parking structures.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Marlene Siegel, Town Clerk

ATTACHMENTS