

NOTE: There is a three-minute time limit on all comments from the public, regardless of the subject matter. A request form is available from the Deputy Town Clerk; please fill it in and return it to her prior to the start of the meeting if you would like to speak during public comment. When you speak, you must come to the podium in the front and clearly state your name and address for the record. Please turn off or mute your cell phone or pager at the start of the meeting. Thank you.

TOWN OF BAY HARBOR ISLANDS

October 13, 2014

AGENDA

CALL TO ORDER: 7:00 p.m.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

REPORTS:

1. Planning and Zoning Board Approvals

COUNCIL REPORTS:

GOOD AND WELFARE:

CONSENT AGENDA: Set for approximately 7:35 p.m. (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.)

2. Approval of the following Meeting Minutes:
 - A. July 22, 2014 - Council Workshop
 - B. June 9, 2014 - Public Hearing
 - C. June 9, 2014 - Regular Council Meeting
3. Consideration and approval of a renewal of a Mutual Aid Agreement with the Miami-Dade Schools Police Department and the Town of Bay Harbor Islands Police Department.

UNFINISHED BUSINESS: Approximately 7:50 p.m.

4. **Approval** of an ordinance on **second reading** amending the Town Code Section 23-11(C)(16)(f)(4) to require monthly pressure washing of the sidewalks as part of the manly maintenance required for sidewalk cafes. This ordinance was requested by the Town Manager.

**CONSIDERATION AND POSSIBLE VOTE ON AN AN
ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER
23 OF THE TOWN'S ADOPTED CODE OF ORDINANCES
ENTITLED ZONING AND PLANNING; AND**

SPECIFICALLY AMENDING SECTION 23-11(C)(16)(f)(4) ENTITLED SIDEWALK CAFES/ OUTDOOR SEATING FOR RESTAURANTS, DEVELOPMENT STANDARDS AND REQUIREMENTS, TO INCLUDE PRESSURE WASHING OF THE SIDEWALKS NOT LESS THAN ONCE A MONTH AS A PART THE REQUIRED MAINTENANCE.

STAFF RECOMMENDATION: Council Discretion

POLL VOTE

5. **Approval** of an ordinance on **second reading** amending Section 18-23 of the Town Code to require property owners to install infrastructure necessary to connect to underground installation of utilities in the event that during construction, a utility provider is unwilling to underground overhead wiring. This ordinance was requested by the Town Manager.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 18 OF THE TOWN'S ADOPTED CODE OF ORDINANCES ENTITLED UNDERGROUND UTILITIES; AND SPECIFICALLY AMENDING SECTION 18-22 ENTITLED NEW CONSTRUCTION AND REHABILITATED STRUCTURES, TO REQUIRE PROPERTY OWNERS TO INSTALL INFRASTRUCTURE NECESSARY TO CONNECT TO UNDERGROUND INSTALLATION OF UTILITIES IN THE EVENT THAT DURING CONSTRUCTION, A UTILITY PROVIDER IS UNWILLING TO UNDERGROUND OVERHEAD WIRING; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council Discretion

POLL VOTE

6. **Approval** of an ordinance on **second reading** amending Section 20-9 of the Town Code increasing the monthly base and flow charges for sewer service. Enclosed is a copy of the proposed ordinance.

AN ORDINANCE OF THE TOWN OF BAY HARBOR ISLANDS AMENDING SECTION 20-9 OF THE TOWN CODE INCREASING THE MONTHLY BASE AND FLOW CHARGES FOR SEWER SERVICE; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council Discretion

POLL VOTE

7. **Approval** of an Ordinance on **second reading** amending Section 20-5 and 20-6 of the Town Code increasing the monthly water service charge and the minimum monthly service charger per meter.. Enclosed is a copy of the proposed ordinance.

AN ORDINANCE OF THE TOWN OF BAY HARBOR ISLANDS AMENDING SECTIONS 20-5 AND 20-6 OF THE CODE OF BAY HARBOR ISLANDS TO INCREASE THE MONTHLY CHARGE FOR WATER SERVICE TO \$4.28 PER ONE THOUSAND GALLONS AND TO INCREASE THE MINIMUM MONTHLY SERVICE CHARGES FOR EACH WATER METER TO \$19.93; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council Discretion

POLL VOTE

8. **Approval** of an ordinance on **first reading** amending the RM-3 Multiple-Family District to change the definition to delete balconies from being calculated as part of the building coverage. The ordinance also updates code references to the RBA Zoning District to reflect the name change to RM-3. Attached is 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 MODIFY CERTAIN CODE PROVISIONS RELATED TO THE RM-3 MULTIPLE-FAMILY DISTRICT; AMENDING ARTICLE I, SECTION 23-1 ENTITLED DEFINITIONS TO MODIFY THE DEFINITION OF BUILDING COVERAGE TO DELETE EXTERIOR BALCONIES FROM BEING CALCULATED; AMENDING ARTICLE I, SECTION 23-2 ENTITLED DISTRICTS TO UPDATE CODE REFERENCES TO THE RM-3 DISTRICT (FORMERLY KNOWN AS THE RBA TRACT DISTRICT) AND THE LEGAL DESCRIPTIONS FOR VARIOUS ZONING DISTRICTS; AMENDING ARTICLE I, SECTION 23-12(13) ENTITLED GENERAL PROVISIONS TO UPDATE REFERENCES TO CURRENT ZONING DISTRICT NAMES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Approval

POLL VOTE

9. **Approval** of a resolution authorizing the Town Manager to execute an agreement with the Florida Department of Transportation for the rehabilitation of the bridges. Attached is the proposed resolution.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS APPROVING THE TOWN MANAGER'S EXECUTION OF THE ECONOMIC DEVELOPMENT TRANSPORTATION PROJECT FUND AGREEMENT.

STAFF RECOMMENDATION: Approval

10. **Approval** of a five year maintenance agreement with TransCore for a total contract not to exceed \$318,262.34. Transcore will perform daily monitoring of all operational systems, computer and Florida Turnpike connectivity and will correct issues as they occur.

STAFF RECOMMENDATION: Approval

POLL VOTE

NEW BUSINESS: Approximately 8:20 p.m.

11. **Request** for an **extension** to an escrow agreement for the Rex Gardens Condominium Association located at 1085-1125 99 Street. The current escrow agreement expires in December and the association is asking for a six (6) month extension to allow them to wait for a nearby construction to be concluded so they can paint their building.

STAFF RECOMMENDATION: Approved

12. **Request for approval** of a six month extension to close on a TDR contract between the Town and Bay Harbor Islands 1, LLC. The contract was entered into October 15, 2013 for the purchase of 13 TDRs to be transferred to the receiving property located at 1100, 1120 - 100 Street. Enclosed is information provided by Ackerman, LLP, who represents the owners.

STAFF RECOMMENDATION: Council Discretion

13. **Approval** of a change of date for the elections in 2015. Due to the fact that there is a religious holiday on the first Tuesday in April next year, Town Clerk Marante request approval to officially change the date of the Elections to Tuesday, April 21st.

STAFF RECOMMENDATION: Approval

14. **Approval of Change Order** numbers 2 and 3 in favor of Halley Engineering Contractors, Inc. in the amounts of \$75,073.05 and \$56,518.31 respectively. These change orders are for the demolition of the Toll Plaza building and the roadwork associated with the SunPass conversion.

STAFF RECOMMENDATION: Approval

POLL VOTE

ADJOURNMENT: Approximately 8:45 p.m.

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

October 13, 2014

ITEM NUMBER: 1.

ITEM: Planning and Zoning Board Approvals

DESCRIPTION:

Planning and Zoning Board Approval Activity for July/August.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

None

BUDGET IMPACT:

Submitted By: Marlene Marante, Town Clerk

ATTACHMENTS

1.	Report	Planning and Zoning Board Meetings Report - Sept - Oct 2014.docx
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Planning and Zoning Board Meetings Report

September/October 2014

Meeting - September 16, 2014

The following Items were approved by the Board:

- Revisions for single family home located at 9500 W. Broadview Drive
- Approval of a new single family home located at 1311 – 100 Street
- Approval of a new single family home located at 1261 – 101 Street

Meeting - October 21, 2014

The following Items are scheduled:

- Approval of a proposed townhouse project to be located at 9201 W. Bay Harbor Drive

AGENDA ITEM REPORT

October 13, 2014

ITEM NUMBER: 2.

ITEM:

Approval of the following Meeting Minutes:

- A. July 22, 2014 - Council Workshop
- B. June 9, 2014 - Public Hearing
- C. June 9, 2014 - Regular Council Meeting

DESCRIPTION:

RECOMMENDED ACTION:

Approve

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba Chang, Recording Secretary

ATTACHMENTS

1.	7-22-14 Wrksp. Minutes	7-22-14 Wrk DRAFT.docx
2.	6-9-14 Public Hearing Minutes	6-9-14 PH DRAFT.docx
3.	6-9-14 Regular Meeting Minutes	6-9-14 DRAFT reg.docx

MINUTES OF A BUDGET WORKSHOP MEETING
TOWN OF BAY HARBOR ISLANDS

A Budget Workshop meeting was held on Wednesday, July 22, 2014 at 5:30 p.m. in the Council Chambers. The meeting was opened with the Pledge of Allegiance. Upon roll call, the following Council Members responded:

Mayor Robert Yaffe

Vice Mayor Jordan Leonard

Council Member Stephanie Bruder

Council Member Kelly Reid

Council Member Solange Rousselot

Council Member Issac Salver

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

Town Manager Wasson gave the Council a brief overview of the budget process. He stated that there had been the biggest property increase since he had been at Bay Harbor Islands. The Town had new developments, a lot of repairs had been done, there were improvements to Kane Concourse, the sewer lines cleaned, there were enhancements in progress at the 98th Street park. He continued reporting that the estimate for the water main repair on 95th Street came in at 165K, the bridge repairs were done for 480K, the community center cost had moved up to 1.5 million dollars. Both the bridge and community center projects had been awarded a grant. He also informed the Council that MDWS would increase by 4.3% and the Town was proposing to increase the water rates by 2%. All the directors had submitted their department needs and those requests had been addressed. Manager Wasson informed the Council of some upcoming events and repairs. The tot lot padding needed replacement, the fence on the ICW bridge, sodding of the 95th Street park. The events would include the picnic, movies, bus service, storytelling, 5K/10K run, 8 trips for seniors on the go, pee wee trips, senior computer classes and addition of a Halloween parade.

Town Manager Wasson continued reporting on the capital and department items in the budget. They put funding in to the budget for travel to Tallahassee, added a police vehicle, rehabilitation of a lift station, 30k for repairs on 101 Street, 60K for valley gutter repairs, retired old pick-up trucks, 36K for 2 new trucks, renovation of the Town Hall bathrooms for 20K, sewer lateral lining for 20K, purchase of a message board, milling and resurfacing of the road for 108K, purchase of a potable sewer pump for 25K, 1.5M for the community center with 500K coming from a grant, funds for landscaping at the north and

south passive parks for plant replacements and a 3% raise for general employees for a cost of living adjustments.

Finance Officer Short came forward to address the Council. He stated that he needed to make a couple of corrections to the numbers in the budget. On page 6 of the memo, he needed to add under Capital Outlay \$46,200 for bathroom renovations and elevator door repairs. Also, on page 9 under Streets and Parkways, for Public Transportation the correct amount was \$256,500.

PUBLIC COMMENT

Frances Neuhut, 1060 Kane Concourse, came forward to address the Council. She stated that she felt the Town had given the developers the right of way. She questioned if the dedication of the 11 feet that the Town was giving back was taxable. Mrs. Neuhut questioned the process of undergrounding of the utilities in front of projects. Town Manager Wasson stated that the developer pays and pulls permits and when FPL decides, the work is finished and the developer repairs the street.

Paul Ruthfield, came forward to address the Council. He commented on the 20K a year for election expense was too much money and he felt that if they changed the cycle or held them every two years the Town would save money. On page 10, he commented that it was too much money for aftercare. On page 13 he questioned where the parking revenues were so they could see if it was paying for itself. He questioned what was meant by inter-governmental revenue. Mr. Ruthfield wanted clarification why the retirement cost was taken down by 1/3%.

Town Manager Wasson stated that those participating in the aftercare program pay for it, but it had to be budgeted, just as the recreation fees and the picnic which are also paid for. Finance Officer Short explained that he only budgets for the entire parking system, not the garage separately. He also answered that the inter-governmental revenue this year is mostly grants, but also included are gas taxes and other revenues received from other government agencies. He also explained that, since the market had done well last year and the investments made were better, the amount the Town puts in went down.

Paul Basile, 9240 W. Bay Harbor Drive came forward to address the Council. He questioned if they were still getting new lights. Town Manager Wasson stated that, yes, they were. He was waiting on the LED lights. Council Member Fuller would like to have the LED lights budgeted for next year on the West Island. Mr. Basile stated that he would like to see more trees and he did not feel that they got more

landscaping, just the same was replaced. He wanted to know if there was a master plan for the East Island. Town Manager Town Manager Wasson stated that he disagreed with him because over \$100,000 had been spent on landscaping. Unless we can take away parking, there is no place to put more landscaping. This had been studied at length. Council Member Reid wanted an assessment of all the bulb out areas. Council Member Fuller also agreed, but understood that some of the trees don't grow good in this area.

Victor Maya, 1155-103 Street, came forward to address the Council. He questioned if the employee paid or contributed for their health insurance and was there an increase recommended. He also questioned the Collective Bargaining Agreement with an increase of 5% on top of the 3%. Why paying for Wall Street Journal, supplemental accounting, no pay based on merit, list of comparison from last year's budget regarding what was spent last year, and he did a public records request and did not see anything from FPL.

Town Manager Wasson stated that the Town pays for the employee, but for family members the Town pays for 65% and the employee pays 35%. He also stated that health care is budgeted at 10% more because it always goes up, but they are still in negotiation. There are adjustments made every year and sometimes it is necessary to change companies to avoid extremely higher costs. The employee's pay increases for general employees are in steps and they tap out at 7 steps. The employee must have a good evaluation to get an increase, but if they tap out there are no more increases. He stated that the Police Department is different because they can only get 7 years of increased rates and they can get a maximum increase of 8%. He was still in negotiations with the PBA. Finance Officer Short stated that they get the Wall Street Journal to find out how the market is doing. He also stated that he could provide a list of expenses. Finance Officer Short explained the breakdown of expenses, But Vice Mayor Leonard stated that this budget is done same as it always had been done.

CLOSED PUBLIC COMMENT

Item 2: Discuss and review of the proposed budget.

On page three, there was a discussion regarding if there was a need for an intern and the 10K expense. Vice Mayor Leonard felt there should be an intern only if there was a need and staff asked for it. Vice Mayor Leonard and Council Members Fuller and Rousselot wanted to take that expense taken out.

Mayor Yaffe asked to look at this expense at the end of the discussion, after it was determined if the money was needed elsewhere.

On page six, Council Member Fuller questioned what the bathroom expense was for. Town Manager Wasson explained that it was for downstairs and the elevator doors that closed on people. He stated that there was no money for upstairs renovations, but it would be put back to women only.

On page seven, Council Member Rousselot questioned the Police monthly meeting at a cost of 5K. Town Manager Wasson stated it is a meeting the Chief needs to attend.

On page ten, there was discussion regarding the language program. Council Member Fuller worked with Assistant Manager Jimenez on this new program and stated that \$4,000 would not be enough money. He gave the Council information on how the program would work. The school was currently working on getting the program back in the school. He felt it would be helpful to students in the Town. He also wanted to offer English for Spanish speakers in the after school program in two age groups. He stated that overall the maximum cost the Town for 4 classes would be around 21K, if filled the class with all residents, offering them the class at half the cost. This year they wanted to start in September. Finance Officer Short stated that, if implemented this year, they would have to appropriate funds from reserves with a provision to program for next year from the general funds. Consensus was to provide some money this year to try the program. Discussion was held regarding how to budget for the program, how much of the cost to cover and how to come up with the money. Council Member Reid questioned if the funding for the nurse issue was on the same page. Town Manager Wason stated that it was part of a donation and he thought it was down to \$1,200. Finance Officer Short stated that he would have to look into that. Council Member Reid stated that she talked to Dr. Karp and if there were funds available, the school could use help in the computer lab. Discussion continued regarding the funding of the different programs, classes, picnic and run.

On page 13, Vice Mayor Leonard brought up the fact that there are two parking lots that don't have meters and residents can only park there with a pass from Town Hall. He felt there should be at least one meter for visitors of the residents. He thought the \$20,000 could come out of the parking Fund. Finance Officer Short stated that the parking fund is struggling a bit and there was not really enough money there. The fees have not increased the parking rate since the building of the garage. Discussion continued regarding the system of collecting the parking fees. Town Manager Wasson stated he would look into doing it because he wanted to upgrade on parking lot a year.

Mayor Yaffe brought up the issue regarding the pressure cleaning of the sidewalks, especially outside the restaurants. Town Manager Wasson stated that he would be bringing an item to the next meeting regarding this issue. Council Member Rousselot felt the rent from the gas station was way too low for the prime location. She would like to increase the rent. There was discussion regarding that prime property and what should be at that location. Also, there was discussion regarding the amount of the money in personal services and what it was for.

On page 14 there was discussion regarding decorative lighting for the causeway. Town Manager Wasson explained that there was an issue of shorting out of a transformer. Council Member Salver felt that maybe it was time to give up on those types of lights. It only looks good when they are all working.

Council Member Salver questioned where there was a list in the budget to show the amount of money collected for TDR's. Town Clerk Marante stated that they had collected \$856. There are two projects coming up for review that will come in with \$752K and there are a few others. Expect to have that money in 3 – 4 months. Finance Officer Short stated that those funds were not in the budget. He reminded them that most of those monies are there to fund the 1 Million Dollar expense for the community center. Discussion was held regarding the expected amounts and when they would come in. Due to what is coming in, Council Member Salver stated that he would be willing to go to the roll back rate. Discussion was held regarding how the TDR monies could be used and how to fund the language program. Finance Officer Short stated that he understood to work out a way to work it into the program.

Council Member Reid stated that she wanted to see the website upgraded and asked for funding. Town Clerk Marante stated that there is a company that managed that, but if they wanted to re-design the website it would have to be contracted out. There was a brief discussion regarding the design of the website. Mayor Yaffe felt that they could discuss what the Council wanted to do with the website and discuss it at another meeting.

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

There was a brief discussion regarding the proposed rate, dropping down to the roll back rate and the effect of using the proposed rate of 4.9%. Finance Officer Short would go back and re-evaluate what would be coming in from the TDR sales.

ACTION: Vice Mayor Leonard made a motion to approve the millage rate of 4.9%. Council Member Rousselot seconded the motion and it passed unanimously.

Item 4: Discussion regarding additional workshops (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 p.m. on September 8th, immediately preceding the Regular Council meeting. The second Hearing could be scheduled any time after 5:00 p.m. during the weeks beginning September 15th and 22nd, with the exception of Thursday, September 18th, because Miami-Dade County has a budget Hearing on the date.

Finance Officer Short announced the date of the First Budget Hearing to be at 7:00 p.m. on September 8th and the Second Budget Hearing to be held at 7:00 p.m. on September 22nd.

ACTION: Council Member Reid made a motion to approve the proposed dates. Council Member Salver seconded the motion and it passed unanimously.

There being no further business the meeting was adjourned at ____ p.m.

MAYOR

ATTEST:

TOWN CLERK

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

A Public Hearing Meeting of the Town Council was held on June 9, 2014 at 7:00 p.m. in the Council Chambers. The meeting was opened with the pledge of allegiance. Upon roll call, the following Council Members responded:

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

QUASI-JUDICIAL PUBLIC HEARING

PRESENTATION: Student of the Year - Jessica Burnstein - Miami Beach Sr. High School, Gabriela Rivera - Ruth K. Broad Bay Harbor Elementary K-8 Center and Helena Epstein - Nautilus Middle School

Mayor Yaffe introduced Gabriela Rivera, the recipient of the Student of the year award at the Ruth K. Broad K-8 Center; Helena Epkins, from Nautilus Middle School and Jessica Bernstein also a recipient of the Student of the year award for Miami Beach Senior High. He congratulated all of the students for their outstanding work and dedication to their education. He also presented a check in the amount of \$1,000 to Jessica Bernstein who was a Bay Harbor Islands resident.

Town Manager Wasson also recognized David Dobler who has been involved with the clean-up efforts for the Causeway.

Item 1. Public hearing for the purpose of hearing any public comment with respect to an application for variances for the property located at 9405 East Broadview Drive, lots E 1/2 of lot 92 and all of Lot 93, Block 23, Bay Harbor Islands, Florida. This application for variances is requested by property owners John Bussel and Laura Alonso-Gallo.

Town Attorney Sherman swore in the public speakers.

Contractor Robert Rossi, came forward to address the Council. He was representing the applicants John Bussel and Laura Alonso-Gallo. He explained that the variance request was to extend a dock and boat lift beyond the existing Code requirements, due to Miami-Dade County DERM's requirements regarding water depth. He stated the total projection of the dock and boat lift would be 38'6" which is what DERM was recommending. He respectfully asked the Council to approve the variance.

Town Planner Miller came forward to address the Council. He stated that this was the reason why there were provisions in the Code for these variances. For this case, DERM was requiring additional depth. He reminded the Town Council that the same was done for the Riva property. He explained that there were areas in Town where there was only 3 feet in depth and it was suggested to raise the cap because of the climate changes. He stated that the current Code stated that we mandate 6 feet of elevation.

There was a brief discussion from the Town Council regarding whether the Ordinance needed to be changed to raise the seawall elevation, a suggestion to have an aerial view of the proposed site and the depth of the water.

OPEN PUBLIC COMMENT

Victor Maya, 1135 103 St., came forward to address the Council. He felt that the meeting did not have proper notice. He explained that notices were not displayed on the property and that the meeting was short notice.

CLOSED PUBLIC COMMENT

Item 2. Approval or denial of the above variance request: As required by Sec. 2-22 of the Town Code, at this public hearing the Town Council shall determine whether to grant or deny the application for variance. An affirmative vote of five Council members is necessary in order to grant the request. The decision of the Town Council is final. If the request is granted, the decision of the Town Council shall be recorded in a resolution to be prepared by the Town Attorney.

ACTION: Vice Mayor Leonard made a motion to approve the proposed variance. Council Member Bruder seconded the motion and it passed unanimously by poll vote.

There being no further business meeting was adjourned at 7:31 p.m.

MAYOR

ATTEST:

TOWN CLERK

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

A regular Council meeting was held on Monday, June 9, 2014 at 7:35 p.m. in the Council Chambers. The meeting was opened with the Pledge of Allegiance. Upon roll call, the following Council Members responded:

Mayor Robert Yaffe	Vice Mayor Jordan Leonard
Council Member Stephanie Bruder	Council Member Joshua Fuller
Council Member Kelly Reid	Council Member Solange Rousselot
Council Member Issac Salver	

REPORTS:

Item 1. Town Manager

Town Manager Wasson stated that the Sunpass would be coming to Bay Harbor Islands soon and that testing would begin next week. He also stated the Town was the recipient of a \$500,000 grant for the future Community Center from a group effort with help from Lobbyist Caserta. He also explained that the Police Department was taking a proactive approach and working with the Code Compliance Department to help monitor early and after hours violations. He stated that working together would benefit the residents and add security.

Item 2. Planning and Zoning Board Approvals - Provided in writing

Item 3. Public Relations status report - None

COUNCIL REPORTS:

Council Member Reid stated that she attended the City of Miami Beach Health Care Task for the nurses; she also attended the FIU MPA internship Program and suggested to have an intern for the staff to educate. She also reported that the Town's website was not operative. Town Clerk Marante stated that the host was down and the IT Department was trying to resolve the problem.

Council Member Salver reported he attended the Children's Trust Board meeting and stated that like the Town they too were in the early stages of budgeting and, if there were any extra funds, they would go towards the programming.

Council Member Fuller reported he attended the Police Benevolent Association Dinner. He was also working on creating a language center for the Town to offer English, Spanish and Mandarin. He added that he would look into bringing back Comedy Improve Dinner for everyone to enjoy sometime in September.

Council Member Bruder reported that school was out of session and stated that summer camp was beginning. She added that the kid's first field trip would be to the Miami Seaquarium on Friday.

Vice Mayor Leonard reported he attended the Annual Dinner with the PBA and also completed a 2 hour course on ethics.

Mayor Yaffe reported that he contacted AT&T with regards to the polls in Town and they advised they would be finishing 96 Street and 97 Street soon. He also thanked Town Clerk Marante for updating the TDR bank list and stated that, if all the TDR transactions closed, there would be an estimated \$5.3 Million dollars collected by the Town.

GOOD AND WELFARE:

Paul Ruthfield, 1231 95 Street, came forward to address the Council. He felt disappointed that the suggestions he made at the last Council meeting had not been answered.

Rita Schwartz, 7100 SW 133 Ave., came forward to address the Council. She stated that she was the co-founder for the Pet Trust. She explained that the taxpayers were faced with paying an average of \$300 for each adoptable animal that had been killed last year. She explained that the Pet Trust had provided a solution to relieve the taxpayers by providing spay and neutering for animals at a low cost. She added that this created national attention to start the program and she respectfully asked the Council to add this item to next month's agenda.

Michael Rosenberg, West Kendall, came forward to inform the Council that he had been touring Miami-Dade County to get support for the program. He was a business owner that wanted to protect the animals. He informed the Council that Miami-Dade County was killing approximately 65 animals daily. They had raised 60k to fund the campaign. He asked the Town to support the animals and requested the item to be on the next agenda in August.

Aireen Socada also came forward in support of the program and asked the Council for support.

Council Member Fuller questioned if they could have a special meeting. Town Clerk Marante stated that they could schedule a meeting when they wanted.

Vice Mayor Leonard stated that he had withdrawn the item because he had been concerned with the resolution regarding the funding. He stated that he was waiting to speak to the County Commissioner to get some answers before feeling comfortable sponsoring the program.

Frances Neuhut, 9920 W. Broadview Drive, came forward to address the Council. She had complaints regarding the Planning & Zoning Board and the type of members taking over. She questioned why the Board was needed. She questioned who was over-looking all the stuff that was not up to Code. She also complained about the Council re-appointing the same members year after year.

Council Member Bruder left the dias.

Victor Maya, 1155 103 Street, came forward to address the Council. He stated that there was a lot of discussion on the community center at the past meetings. He felt there was a disconnection on what the

public wanted and what the Town was providing. He felt that the Town should provide a great community center and suggested to hold on to the vacant lot to build on.

Town Manager Wasson stated that they had explored the possibility of building a free standing community center on that property and it would cost around 6.7 million.

Council Member Bruder returned to the dias

CONSENT AGENDA:

Item 4. Approval of Inland Marine Insurance Policy for the year beginning July 15, 2014 and ending July 15, 2015 from Westchester Surplus Lines Insurance Company for a premium of \$116,622.

ACTION: Council Member Salver made a motion to approve the consent agenda as presented. Vice Mayor Leonard seconded the motion and it passed unanimously.

Mayor Yaffe requested to take Item 17 out of order at this time.

Item 17. Award of a three (3) year contract for Tennis Professional services to Edwins Jean. A bid tabulation sheet is attached detailing the bids received.

Assistant Manager Jimenez explained the bid process and tabulation. He stated that he was recommending Edwin because there were never any complaints regarding the company. There were two other companies that bid this year. He explained the limitations of the Town's tennis facility such as the issue that there are no restrooms, office or store. He informed the Council that the Town had a long term lease from the School Board and they have not addressed the issues. They could not have summer camp because of the lack of restrooms.

PUBLIC COMMENT:

Jack Carson, 9550 Broadview Terrace, came forward to address the Council. He wanted to recommend Pedro for the contract. He felt the fact that there were no comments of good intention from Edwin was bad because he felt there should be lots of good things going on even if there were no bathrooms. He stated that Pedro was well respected in the community, well centered and he would like to partner with the local gym to create a future. His classes might be more expensive, but they would be worth it.

Johanna Tesler, 1171 - 101 Street, came forward to address the Council. She wanted to recommend Pedro be awarded the contract for the tennis courts. She felt would be an asset to the Town, great with adults and children. She stated that she knew him for over 10 plus years.

Arleen Carson, 9550 Broadview Terrace, came forward to address the Council. She suggested that the Council read Pedro proposal thoroughly because she felt that he would be a great asset to the Town. From past experience she felt he would bring a lot more revenue to the Town. She knew him to be one of a kind, have and teach mental and physical discipline, be compassionate and work hard.

Michelle Loyd, 10161 E. Broadview Drive, came forward to address the Council. She recommended Pedro for the tennis courts and stated that he currently taught tennis lessons to their family. She also stated that he had excellent work ethics, is very hard working and could reach many different ages, from young to seniors.

Dennis Kendrick, 9500 West Bay Harbor Drive, came forward to address the Council. He stated that he was a 22 year resident of Bay Harbor Islands. He felt that he always saw Edwin at the courts and that he has a great ability to teach and he would recommend him.

Greta Logan, 9141 Dickins Avenue, came forward to address the Council. She stated that her children both participated in Edwin's tennis lessons and love working with him. She recommended that he would be awarded the contract. He managed many different children and they love the program.

Zachary Zayas, 9165 Harding Avenue, came forward to address the Council. He was new in the community, but always saw him there early in the morning. He felt that Edwin was consistent and great with the children. He recommended Edwin for the tennis courts contract.

Pedro Canisa came forward to address the Council. He informed them that he worked in San Souci many years and had played professionally many years. He stated that he was certified and would like to offer the Town 20 percent of all the income. Council Member Reid asked if he could accommodate all of the people that had recommended him. Pedro stated, yes, he could and that he had made a schedule.

Edwin and Aaron came forward to address the Council. They stated that they handled the courts well and would like to cater to the local kids. He stated that they were just trying to make a living. He felt they had done a great job and were a great asset to the Town. Edwin stated he would like to continue the program with the Town.

Vice Mayor Leonard, after looking over the tab sheet, he felt that staff recommendation was based on price. He was concerned about the quality of service and that the kids are not left behind and he felt Edwin out bid everyone because of the lower price. Vice Mayor Leonard would like to consider a negotiation with Mr. Canisa to make sure all kids could participate. There was discussion regarding the cost and how there would be a discount by buying a package or a scholarship being given. Council Member Bruder also stated concerns regarding consideration for residents, special needs kids, teenagers, seniors and having a broader program.

Town Attorney Sherman informed the Council that in the bids process they did not have to take the staff recommendation. They could refuse the bid or decide to refuse all bids and bid again, but any oral modification after the bid process would void the process. Discussion continued regarding the bid process, use of the school bathroom, the proposals, possibility of a partnership and when the present contract would expire.

ACTION: Vice Mayor Leonard made a motion to award the contract to Pedro Canisa. Council Member Bruder seconded the motion and it passed by 5 -2 poll vote with Council Members Salver and Reid opposed.

UNFINISHED BUSINESS:

- Item 5. Approval on second reading of an ordinance amending Section 17-20 of the Town Code allowing for the Planning and Zoning Board to approve signs that do not meet the Code's criteria based on physical location and design.**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES AS RELATED TO BUSINESS SIGNS; AMENDING SECTION 17-20 TO MODIFY CERTAIN CODE PROVISIONS FOR EXTERIOR SIGNS IN THE B-1 BUSINESS DISTRICT; TO ALLOW THE PLANNING AND ZONING BOARD TO VARY FROM THE ESTABLISHED REGULATIONS BASED ON THE PROPOSED SIGN DESIGN, SIGN LOCATION, BUILDING HEIGHT, ARCHITECTURAL FEATURES OR OTHER UNIQUE CIRCUMSTANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

PUBLIC COMMENT

Frances Neuhut, 1060 Kane Concourse, came forward to oppose the ordinance. She felt that it would hurt her business and others also. She felt this ordinance was a waste of time. She stated that the Planning & Zoning Board was more qualified to decide if a sign was not up to Code, like the pre-school one. She felt this ordinance would cause a problem. She also stated that the Business District had been discriminated against.

Council Member Rousselot left the dias.

Council Member Bruder felt that it should go to the Board to look at for quality of the signage. Town Clerk Marante stated that the Board had not approved primary signs in over 5 years. She stated that this ordinance had nothing to do with primary signs. The problem with the sign that Mrs. Neuhut brought up was that they met Code and would have been approved by the Board, but they just did not put up what was on the plans that were approved.

Council Member Bruder stated that they already spent a lot of time on this matter. Town Clerk Marante stated that this ordinance had nothing to do with what Mrs. Neuhut was talking about, primary signs. Mayor Yaffe stated that this ordinance was for the business that would not have space to put in the letters or signs.

Council Member Rousselot returned to the dias.

ACTION: Vice Mayor Leonard made a motion to approve the ordinance as presented. Council Member Bruder seconded the motion and it passed unanimously by poll vote.

- Item 13. Discussion requested by Mayor Robert Yaffe regarding the approval process for primary identification signs.**

There was a brief discussion regarding having the Planning and Zoning Board approve the primary signs. Council Member Bruder felt that a higher quality of signs was important and that they needed to be reviewed by the Board. She stated that she could arrange another meeting with the Business District in August to talk about the issue. She also wanted to table this item until she had time for the meeting.

PUBLIC COMMENT

Frances Neuhut, 1060 Kane Concourse, came forward to address the Council. She stated that she felt that staff had different rules and they were not getting anywhere. She questioned why they were getting a hard time having signs approved.

CLOSED PUBLIC COMMENT

ACTION: Consensus was that a workshop meeting would be held in August.

Item 14. Discussion requested by Mayor Yaffe and Council Member Reid regarding possible environmental testing of soil.

Town Manager Wasson stated that concerns regarding beach sand came to his attention by the Council and Mayor. It was thought that there could be contamination in the 98th Street park. There was a soil test performed and the results were in. It was expected to find arsenic. He stated that he would like to test all the parks for this substance.

Dr. Christopher Teeth, Director of Toxicology, from Tallahassee came forward to address the Council. He has had over 35 years of experience working with cities. He reported on his findings from the soil testing performed in Bay Harbor Islands. He stated the lead level was 2.1 to 9.4, which was low, and that the arsenic level was 1.5 in the 98th Street Park, which was what they expected and not uncommon in Florida. Also, PIH's were discovered, but less than .4, which are associated with cigarette smoke and car exhaust. These are common in this area and he concluded that the parks meet the normal criteria for this area.

Vice Mayor Leonard questioned if they should be concerned and if there was any other substance of high levels. He also asked if they needed to do additional testing. Mr. Teeth answered no need for concern or any additional testing. There was continued discussion regarding leaching of chemicals into the water, concern for children playing in the park, safety of growing fruit trees, and health hazards. There were no concerns from Director Teeth.

ACTION: Vice Mayor Leonard made a motion to extend the meeting past 10 p.m. Council Member Bruder seconded the motion and it passed unanimously.

Council Member Bruder left the dais.

Council Member Reid left the dais.

PUBLIC COMMENT

Susan Luck, 10180 West Bay Harbor Drive, came forward to address the Council. She stated that she dealt with human life and not numbers. She had provided them with an article on arsenic, children, pregnant women and the effect. She voiced her concern with the effect of chemicals on them.

Council Member Reid returned to the dias.

Mrs. Luck felt that as a community they should think about what is used in the parks and that there are precautions taken. She thought there should be concern about the people in the community because they don't know what levels are safe for the children. She questioned how often is the park sprayed or fertilized. She also felt that one sample in a big park was not enough to get good information. Her last point was, when old buildings are taken down, the soil should have to be tested.

Council Member Bruder returned to the dias.

Council Member Bruder questioned Mrs. Luck regarding the treated materials for parks. Mrs. Luck stated that they should use non-arsenic treated wood. Assistant Manager Jimenez stated that they were not using any wood. Town Manager Wasson also stated that, if there were projects bringing in soil, they could ask developers to show that the soil is certified during the permit process. He stated that he would bring back information regarding how that would be handled.

Mayor Yaffe left the dias.

Paul Ruthfield, 1239-95 Street, came forward to address the Council. He questioned who is correct, the State of Florida or others. He wondered why they could not bring in clean earth for the play grounds like they do when they are planting landscape on these new constructions.

Victor Maya, 1155 – 103 Street, came forward to address the Council. He pointed out a sentence in the report that said "does not represent a significant human risk". He questioned what did that mean. He asked what type of risk was there.

Mayor Yaffe returned to the dias.

Item 6. Approval of an amendment to Resolution #2007 to set Toll Rates for Bay Harbor slands Broad Causeway. The proposed resolution changes the fee as follows: All two axle vehicles will be charged \$1 dollar. Each additional axle will be charged an additional \$1.50 per axle.

RESOLUTION OF THE TOWN OF BAY HARBOR ISLANDS REVISING THE SCHEDULE OF TOLLS AND METHOD OF COLLECTION USE OF THE BROAD CAUSEWAY SYSTEM.

ACTION: Council Member Salver made a motion to approve the resolution as proposed. Council Member Bruder seconded the motion and it passed unanimously.

Item 7. Discussion and possible action requested by Council Member Reid regarding the development of a fee schedule for the use of town's right-of-way by developers/contractors.

Council Member Reid felt that having a fence on the right of way for a project would be an impact on the residents. She felt that it will be an imposition during the construction. She wanted to see if there was a way to impose a fee for a certain number of days. She felt there would be a big problem on the perimeter road when all the projects get started.

There was a discussion regarding the different projects in process of construction and the fact that the cranes can't be put on the property you are working on. Assistant Town Attorney Simone stated that this is not something that is needed. Most communities ask for police services in exchange. Also, cities require in the permitting process that the street be repaired once the project is finished. The Town already has these things in effect. Discussion continued regarding the conditions on the West Island after construction was finished. Assistant Town Attorney Simone stated that there is a bond held and it is a matter that the roads are checked before the funds are released. The Council also discussed the need to re-surface the roads sooner than had been planned. Town Manager Wasson stated that they look at them on a case by case basis and try to keep traffic flowing smoothly.

Item 8. Review of Citizen Committee Assignments and appointments or re-appointment of Committee member as applicable.

There was discussion regarding appointment to committees, service on the committee, attendance to the meetings, staff time spent, commitment to the committee, quality work, and selection of the members by Council. There was a suggestion to get on a committee a person should have the vote of four of the members. Also, there was discussion regarding the Council giving better direction to the committees regarding what they wanted them to work on.

There was a detailed discussion on how the committee members were chosen, number of votes, or appointed by default if they applied if there are seats, mission statement for each committee, committees reporting to the Council on a timely basis and a process to remove a member.

Town Clerk Marante stated that, if the committee wants to work on something, perhaps they would have to ask the Council before beginning the work. She informed the Council that there was over \$100,000 spent to revise the Charter and Code recently and it took 65 years to do that. She felt there would not be a lot of work done that had not already been done, thus it would be a waste of time. She also felt that on committees that need technical information, like the Charter and Ordinance Committee, should have requirements and require members to have experience in the field. She suggested not appointing a Charter and Ordinance Committee until a couple of years before the next review in 10 years.

There was continued discussion regarding the structure of the committees and bringing back information regarding how to regulate the committees. Assistant Town Attorney Simone stated that they would still address issues as they came up.

ACTION: Consensus was to have staff come back with detailed information regarding qualifications.

Discussion was also held regarding which committees were still meeting and working on items and the fact that the Disaster Preparedness Committee's need to meet due to the time of the year.

NEW BUSINESS:

Item 9. Approval of Resolution No. ____ requested by Vice Mayor Leonard to encourage the Mayor and County Commission to create the funding mechanisms to support the Pets' Trust.

A RESOLUTION OF THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, RECOGNIZING THAT AN OVERWHELMINGLY MAJORITY OF THE MIAMI-DADE COUNTY ELECTORATE VOTED TO SUPPORT THE INITIATIVES PRESENTED BY PETS' TRUST; URGING THE MIAMI-DADE COUNTY COMMISSION TO IMPLEMENT THE WILL OF THE PEOPLE IN THIS CURRENT BUDGET SESSION BY ESTABLISHING THE FUNDING MECHANISMS FOR SAID INITIATIVES; ENCOURAGING OTHER MIAMI-DADE COUNTY MUNICIPALITIES TO JOIN THE TOWN OF BAY HARBOR ISLANDS IN THEIR SUPPORT FOR THE PETS' TRUST; AND PROVIDING FOR AN EFFECTIVE DATE.

ACTION: Item Withdrawn

Item 10. Approval of Resolution No. ____ requested by Council Member Reid in support of the library system and asking the Mayor and County Commission to fully fund the libraries.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, SUPPORTING FULL FUNDING OF THE MIAMI-DADE COUNTY LIBRARY SYSTEM; PROVIDING FOR DISTRIBUTION OF RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

There was a brief discussion regarding which resolution to approve. Council Member Salver stated that he would approve the one from the League of Cities. Vice Mayor Leonard had a concern regarding the resolution because he stated that it sounds great to have a fully funded library, but the Town did not pay their fair share into that system. He did not feel the need to approve another resolution, since they had already approved one in the past. He asked to table this item.

PUBLIC COMMENT

Victor Maya, 1155 – 103 Street, came forward to address the Council. He felt that he paid taxes for the library and he suggested fully supporting the library system. He asked the Council to pass the resolution. Mayor Yaffe informed him that they did not pay taxes into the library system, but they just purchased a card and it was not the same.

ACTION: Council Member Salver made a motion to approve the resolution in support of the League. Council Member Bruder seconded the motion and it passed 5 – 1 with Vice Mayor Leonard opposed.

Item 11. Consideration and approval of a private TDR transaction of the transfer of one (1) dwelling unit from Bay Harbor Investment Properties (9901 East Bay Harbor Drive) to Bay Harbor Loft, LLC (1120-24 - 98 Street).

Town Clerk Marante informed the Council of the reasons for this transaction.

PUBLIC COMMENT

Victor Maya, 1155 – 103 Street, came forward to address the Council. He stated that he was confused on the process. The Town sold the TDR to a developer and that developer is now selling to another developer. He questioned if that TDR should have come back to the Town to sell at a higher price.

Assistant Town Attorney Simone stated that it is a property right. Also, he stated that, if the money was not paid or the project was not approved, the TDR would be returned and the money would be lost, if it was never built.

Mr. Maya asked if there was another way to do this process so the TDR could come back to the Town. Assistant Town Attorney Simone stated, no, there was already a process in place.

ACTION: Council Member Salver made a motion to approve the transfer. Council Member Bruder seconded the motion and it passed unanimously.

Item 12. Appointment of Council Member as a representative to the ILA Elected Officials Group. This group meets once a year in March with the School Board Superintendent for an update on school projects, future growth, etc.

Town Manager Wasson stated that this group met once a month and the last meeting was in March.

ACTION: Vice Mayor Leonard nominated Council Member Bruder as the representative and Town Planner Miller as the alternate. Council Member Fuller seconded the motion and it passed unanimously.

Item 15. Discussion requested by Council Member Reid regarding the Town's Noise Ordinance.

Council Member Reid stated that this issue had been brought up by a current member of the Planning & Zoning Board and she would like the Council to consider amending the noise ordinance by changing the decibels.

Town Clerk Marante stated that she would like to spend more money on the equipment being used to read the decibels. She stated that the issue was an exhaust fan that makes noise, but she had only heard the fan. Town Clerk Marante asked to table the item to allow time to purchase new equipment and see if it was the equipment that was faulty. There was a brief discussion regarding the issue.

Victor Maya, 1155 – 103 Street, came forward to address the Council. He stated that there was a project approved with the air conditioning equipment on the 4th and 5th floors. He felt there were no

rules and that all of the underground garages will have these fans that make noise. He felt it was a major issue.

ACTION: Consensus was to purchase a new meter.

Council Member Bruder left the dias.

Item 16. Approval of RFP for Cleaning Services at Town Hall (Administrative Office, Building Department, Police Department, Annex) and it includes the potential to add other town facilities such as the Community Center and Officer Scott Winter's Park facilities.

Vice Mayor Leonard stated that he would like to do background checks on anyone working there.

Council Member Bruder returned to the dias.

ACTION: Council Member Salver made a motion to approve the RFP for Cleaning Services at Town Hall. Vice Mayor Leonard seconded the motion and it passed unanimously.

Item 18. Consideration and approval of a proposal from Stantec Consulting Services, Inc. in the amount of \$227,000 for the final design, construction documents and construction administration of the community center project. Since this item is not in the current budget, an appropriation from General Fund Reserves is required.

There was discussion regarding the previous process regarding the design of the project and the scheduled workshop. Also, there was discussion that possibly there would be changes after the workshop and they might need to negotiate the dollar amount of the design cost.

ACTION: Consensus was to table this item until after the workshop where the design will be discussed and to have Stantec Consulting Services attend the workshop.

There being no further business the meeting was adjourned at 11:55 p.m.

MAYOR

ATTEST:

TOWN CLERK

AGENDA ITEM REPORT

October 13, 2014

ITEM NUMBER: 3.

ITEM: Consideration and approval of a renewal of a Mutual Aid Agreement with the Miami-Dade Schools Police Department and the Town of Bay Harbor Islands Police Department.

DESCRIPTION:

Consideration and approval of a renewal of a Mutual Aid Agreement with the Miami-Dade Schools Police Department and the Town of Bay Harbor Islands Police Department.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Curtis Johnson, Lieutenant
 Sean Hemingway, Chief of Police

ATTACHMENTS

1.	Mutual Aid Agreement	MA Agreement for School Board Police.docx
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A LAW ENFORCEMENT MUTUAL AID AGREEMENT FOR VOLUNTARY
COOPERATION AND OPERATIONAL ASSISTANCE BETWEEN
THE TOWN OF BAY HARBOR ISLANDS POLICE DEPARTMENT
AND THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA MIAMI-DADE
SCHOOLS POLICE DEPARTMENT

This Mutual Aid Agreement is entered into by and between The Town of Bay Harbor Islands Police Department on behalf of The Town of Bay Harbor Islands Police Department and The School Board of Miami-Dade County, Florida by and through The School Police, a political subdivision of the State of Florida hereinafter referred to as the Miami-Dade Schools Police Department.

WHEREAS, the jurisdictions of The Town of Bay Harbor Islands Police Department and the Miami-Dade County School are so located in relation to each other that it is to the advantage of each to receive and extend mutual aid in the form of law enforcement services and resources to adequately respond to: (1) intensive situations including but not limited to emergencies as defined under Section 252.34(3), F.S., and (2) continuing, multi-jurisdictional law enforcement problems of a routine law enforcement nature, so as to protect the public peace and safety, and preserve the lives and property of the people; and

WHEREAS The Town of Bay Harbor Islands Police Department and the Miami-Dade Schools Police Department have the authority under Part I of Chapter 23, F.S., the Florida Mutual Aid Act, to: (1) enter into a requested operational assistance Agreement for the purpose of requesting and rendering of assistance in law enforcement intensive situations and emergencies, and (2) enter into a voluntary cooperation Agreement of a routine law enforcement nature that crosses jurisdictional lines;

WHEREAS The Town of Bay Harbor Islands Police Department and the Miami-Dade Schools Police Department intend this Agreement to be the underlying and governing Agreement in all future Memorandum of Understanding's entered into by both parties;

NOW, THEREFORE, the parties agree as follows:

I. PROVISIONS FOR OPERATIONAL ASSISTANCE

The aforesaid law enforcement agencies hereby approve and enter into this Agreement whereby each of the agencies may request and render law enforcement assistance to the other to include but not necessarily be limited to dealing with civil disturbances, large protest demonstrations, aircraft disasters, fires, natural or manmade disasters, sporting events, concerts, parades, escapes from detention facilities, and incidents requiring utilization of specialized units. A deputy sheriff or police officer of either of the participating law enforcement agencies shall be considered to be operating under the provision of this Agreement when participating in law enforcement activities

that are preplanned and approved by each respective agency head, or appropriately dispatched in response to a request for assistance from the other law enforcement agency. However the only time an officer will work outside of their jurisdiction is if mutual aid is preplanned or invoked and the officer is working and being compensated by the department. All off duty events outside of our jurisdiction will have mutual aid invoked and reimbursed by the requesting agency..

The agency heads of the participating law enforcement agencies, or their designees, shall establish procedures for giving control of the mission definition to the requesting agency, and for giving tactical control over accomplishing any such assigned mission and supervisory control over all personnel or equipment provided pursuant to this Agreement to the providing agency.

II. PROVISIONS FOR VOLUNTARY COOPERATION

In addition, each of the aforesaid law enforcement agencies hereby approves and enters into this Agreement whereby each may request and render law enforcement assistance to the other in dealing with any violation of Florida Statutes to include, but not limited to, investigating sexual misconduct, robberies, assaults, burglaries, larcenies, gambling, motor vehicle thefts, drug violations pursuant to Chapter 893, F.S., accidents involving motor vehicles, and violations of the Florida Uniform Traffic Control Law, providing backup services during patrol activities, and participating in inter-agency task forces and/or joint investigations.

III. POLICY AND PROCEDURE

- A. If a party to this Agreement needs assistance as set forth above, it shall notify the agency head or designee of the agency from which such assistance is required. The agency head or designee shall evaluate the situation and the agency's available resources, consult with his or her supervisors if necessary and respond in a manner deemed appropriate. The agency head's or designee's decision in this regard shall be final.
- B. Immediate Response for Assistance – In the event of a 315 (Emergency-Assist Other Officer) Dispatch call, officers may respond to assist and provide necessary law enforcement actions unless a supervisor from the responding agency cancels the response.
- C. Specific reporting instructions for personnel rendering mutual aid will be included in the request for mutual aid. In the absence of such reporting instructions, personnel will report to the ranking on-duty supervisor at the scene.
- D. Communications instructions will be included in each request for mutual aid and each agency's communications centers will maintain radio contact with each other until the mutual aid situation has ended.
- E. Incidents requiring mass processing of arrestees, transporting prisoners, and operating temporary detention facilities will be handled per established procedures

of the requesting agency or the Chief of Police that is involved.

IV. COMMAND AND SUPERVISORY RESPONSIBILITY

- A. The resources or facilities that are assigned by the assisting agency shall be under the immediate command of a supervising officer designated by the assisting agency head or designee. Such supervising officer shall be under the direct supervision and command of the agency head or designee of the agency requesting assistance.
- B. Whenever an officer is rendering assistance pursuant to this Agreement, the officer shall abide by and be subject to the rules and regulations, personnel policies, general orders, and standard operating procedures of his or her own employer.
- C. Whenever there is cause to believe that a complaint has arisen as a result of a cooperative effort as it may pertain to this Agreement, the Chief of Police or his or her designee of the agency employing the officer who is subject to the complaint shall be responsible for the investigation of the complaint. The Chief of Police or designee of the requesting agency should ascertain as a minimum: 1) the identity of the complainant; 2) an address where the complaining party can be contacted; 3) the specific allegations; and 4) the identity of the employees accused without regard as to the agency affiliation. If it is determined during the investigation of a complaint that the accused is an employee of the assisting agency, the above information with all pertinent documentation gathered during the receipt and processing of the complaint shall be forwarded without delay to the agency for administrative review. The requesting agency may conduct a review of the complaint to determine if any factual basis for the complaint exists and/or whether any of the employees of the requesting agency violated any of their agency's policies or procedures.

V. AUTHORITY, PRIVILEGES, IMMUNITIES, AND COSTS

- A. Authority of law enforcement officers operating pursuant to this Agreement:
 - 1 Members of The Town of Bay Harbor Islands Police Department actually engaging in mutual cooperation and assistance outside of the jurisdictional limits of their agency under the terms of this Agreement, shall, pursuant to the provisions of Section 23.127, F.S. have the same powers, duties, rights, responsibilities, privileges and immunities as if they were performing their duties in the jurisdiction in which they are normally employed.
 - 2 Members of the Miami-Dade Schools Police Department actually engaging in mutual cooperation and assistance outside of the jurisdictional limits of their agency under the terms of this Agreement, shall, pursuant to the provisions of Section 23.127, F.S. have the same powers, duties, rights, responsibilities, privileges and immunities as if they were performing their duties in the jurisdiction in which they are normally employed.

- 3 If a violation of Florida Statutes occurs in the presence of said officers representing their respective agencies in furtherance of this Agreement, they shall be empowered to take appropriate enforcement action including, but not limited to, arrest or citation of the suspect(s).
 - 4 If a felony, misdemeanor, criminal traffic, or other violations of law occurs in the presence of an officer of The Town of Bay Harbor Islands Police Department, and within the jurisdiction of the Miami-Dade County School, said officer shall be empowered to take appropriate enforcement action including, but not limited to, arrest or citation of the suspect(s).
 - 5 If a felony, misdemeanor, or criminal traffic violation occurs in the presence of an officer of the Miami-Dade County School, while outside his or her jurisdiction but within The Town of Bay Harbor Islands Police Department jurisdiction, said officer shall be empowered to take appropriate action including, but not limited to, arrest or citation of a suspect, if the officer is engaged in a close and continuous pursuit or has been contemporaneously requested to render aid or assistance by an officer of The Town of Bay Harbor Islands Police Department.
 - 6 If an officer of the Miami-Dade Schools Police Department is investigating a felony which has occurred within his or her jurisdiction and has probable cause to arrest a suspect for a felony and the suspect is now located outside the officer's jurisdiction, but within The Town of Bay Harbor Islands Police Department's jurisdiction, the officer shall request a Town of Bay Harbor Islands Police Department officer for assistance.
 - 7 If a Town of Bay Harbor Islands Police Department officer is investigating a felony which has occurred within his or her jurisdiction and has probable cause to arrest a suspect for a felony and the suspect is now located outside the officer's jurisdiction, but within the jurisdiction of the Miami-Dade County School, the officer shall request a Miami-Dade County School Police officer for assistance.
 - 8 Nothing shall prevent an officer of The Town of Bay Harbor Islands Police Department from stopping and detaining a person who commits an observed motor vehicle violation or misdemeanor on The Town of Bay Harbor Islands Police Department property for the purpose of issuing a citation or summons if the suspect is stopped immediately upon exiting the campus. If a custodial arrest off campus grounds is required and is within the Miami-Dade County School, the Miami-Dade Schools Police Department shall be contacted as soon as possible for assistance.
- B. Each party agrees to furnish necessary equipment, resources and facilities, and to render services to the other as set forth above; however, no party shall be required to deplete unreasonably its own equipment, resources, facilities, and services in furnishing mutual aid.

- C. The agency furnishing any equipment pursuant to this Agreement shall bear the loss or damage to such equipment and shall pay any expenses incurred in the operation and maintenance thereof.
- D. The agency furnishing aid pursuant to this Agreement shall compensate its employees during the time such aid is rendered and shall defray the actual travel maintenance expenses of such employees while they are rendering such aid, including any amounts paid or due for compensation due to personal injury or death while such employees are engaged in rendering such aid. The requesting agency may reimburse the assisting agency during the time of the rendering of such aid and may defray the actual travel and maintenance expenses of such employees while they are rendering such aid, including any amounts paid or due for compensation as a result of personal injury or death while such employees are rendering such aid as pertains to Section I of this Agreement.
- E. All provision and immunities from liability, exemption from laws, ordinances and rules, and all pension, insurance, relief, disability, workers' compensation, salary, death, and other benefits which apply to the activity of such officers, agents, or employees or any such agency when performing their respective functions within the territorial limits of their respective public agency shall apply to them to the same degree, manner, and extent while engaged in the performance of any of their functions and duties extra-territorially under the provisions of this mutual aid Agreement. The provisions of this section shall apply with equal effect to paid, volunteer, and reserve employees.

VI. INDEMNIFICATION

To the fullest extent permitted by the law, each party engaging in any mutual cooperation and assistance pursuant to this Agreement, shall indemnify and hold harmless the other participating party, and its appointees or employees ("Indemnitees") from and against all claims, liabilities, damages, losses, and costs including, but not limited to, reasonable costs at the pre-trial, trial and appellate levels, arising out of, resulting from or incidental to the other participating party's performance under this Agreement or to the extent caused by negligence, recklessness, or intentional wrongful conduct of the participating party or other persons employed or utilized by the participating party in the performance of this Agreement. Subject to the provisions set forth in Florida Statute Section 768.28, as amended and revised, neither party shall be liable to pay a claim or judgment by any one person which exceeds the sum of \$200,000, or any claim or judgments or portions thereof, which when totaled with all other claims or judgments paid by the state or its agencies or subdivisions arising out of the same incident or occurrence, exceeds the sum of \$300,000. The remedy provided to the Indemnitees by this indemnification shall be in addition to and not in lieu of any other remedy available under the Agreement or otherwise. This indemnification obligation shall not be diminished or limited in any way to any insurance maintained pursuant to the Agreement otherwise available to the other participating party. The remedy provided to the Indemnitees by this indemnification shall survive this Agreement. The provisions of this Section shall specifically survive the termination of

this Agreement. The provisions of this Section are intended to require both parties to furnish the greatest amount of indemnification allowed under Florida law. To the extent any indemnification requirement contained in this Agreement is deemed to be in violation of any law, that provision shall be deemed modified so that both parties shall be required to furnish the greatest level of indemnification to the Indemnitees as was intended by the parties hereto.

VII. FORFEITURES

It is recognized that, during the course of the operation of this Agreement, property subject to forfeiture under Sections 932.701-932.707, Florida Statutes (the Florida Contraband Forfeiture Act) may be seized. The property shall be seized, forfeited, and equitably distributed among the participating agencies in proportion to the amount of investigation and participation performed by each agency pursuant to the Florida Contraband Forfeiture Act less the costs associated with the forfeiture action. The participating agencies must request sharing, in writing, before the entry of a Final Order of Forfeiture, or they will be barred from claiming any portion of the property forfeited. The agency pursuing the forfeiture action shall have the exclusive right to control and the responsibility to maintain the property, including, but not limited to, the complete discretion to bring the action, or to dismiss the action, or settlement. This shall occur pursuant to the Florida Contraband Forfeiture Act.

VIII. SCHOOL CRITICAL INCIDENT RESPONSE PLAN

It is recognized that, during the course of the operation of this Agreement, should a critical incident arise, the parties shall adopt the Miami-Dade County School Critical Incident Response Plan, Joint Roundtable on Youth Safety, dated August 13, 2013. This plan promotes cooperation, consistency and a cohesive unified response by law enforcement and emergency service personnel within Miami-Dade County with an intended purpose to successfully resolve a school crisis and prevent injury or loss of life.

IX. INSURANCE

Each party shall maintain insurance coverage or maintain an ongoing self-insurance program in sufficient amounts for the performance of this Agreement including public liability, automobile liability, police professional liability and workers' compensation. If requested, each party shall provide satisfactory proof of the required insurance or ongoing self-insurance program.

X. CONCURRENT JURISDICTION

Should a sworn law enforcement officer be in another subscribed agency's jurisdiction for matters of a routine nature, such as traveling through the area on routine business, attending a meeting or going to or from work, and a violation of Florida statutes occurs in the presence of said party, representing his/her respective agency,

he/she shall be empowered to render enforcement assistance and act in accordance with law. Should enforcement action be taken, said party shall notify the agency having normal jurisdiction and upon the latter's arrival, turn the situation over to them and offer any assistance requested including but not limited to a follow-up written report documenting the event and the actions taken. This provision so prescribed in this paragraph is not intended to grant general authority to conduct investigations, serve warrants, and/or subpoenas or to respond without request to emergencies already being addressed by the agency of normal jurisdiction, but is intended to address critical life-threatening or public safety situations, prevent bodily injury to citizens, or secure apprehension of criminals whom the law enforcement officer may encounter.

XI. EFFECTIVE DATE

This Agreement shall take effect upon execution and approval by the hereinafter named officials and shall continue in full force and effect until five (5) years from the effective date of this Agreement unless terminated prior thereto by any or all of the parties herein. Under no circumstances may this Agreement be renewed, amended, or extended except in writing and executed by both parties.

XII. CANCELLATION

This Agreement may be canceled by either party upon delivery or written notice to the other party and such Agreement shall be terminated thirty (30) days after receipt of this notice. Any notice required or permitted under this Agreement, including any notice of cancellation or termination, shall be effective when personally delivered or sent by first-class mail, return receipt requested as follows:

For The Town of Bay Harbor Islands Police Department:

Town of Bay Harbor Islands Police Department
Attn: Sean Hemingway, Chief of Police
9665 Bay Harbor Terrace
Bay Harbor Islands, FL. 33154

AS TO THE SCHOOL BOARD:

The School Board of Miami-Dade County, Florida
Attn: Alberto M. Carvalho, Superintendent
1450 N.E. Second Avenue, Suite 912
Miami, Florida 33132

With a copy to:

The Miami Dade County School Police Department
Attn: Chief Ian Moffett
Address: 6100 NW 2nd Avenue
Miami, FL 33127

And a copy to:

The School Board of Miami-Dade County, Florida

Attn: Walter J. Harvey, School Board Attorney

1450 N.E. Second Avenue, Suite 430

Miami, Florida 33132

Miami-Dade Schools Police Department

TOWN OF BAY HARBOR ISLANDS

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
(as to the Town of Bay Harbor Islands):

SEAN HEMINGWAY
POLICE CHIEF

DATE: _____

RONALD J. WASSON
TOWN MANAGER

DATE: _____

MAYOR ROBERT YAFFE

DATE: _____

TOWN ATTORNEY

DATE: _____

MARLENE MARANTE TOWN CLERK

DATE: _____

AGENDA ITEM REPORT

October 13, 2014

ITEM NUMBER: 4.

ITEM: Approval of an ordinance on **second reading** amending the Town Code Section 23-11(C)(16)(f)(4) to require monthly pressure washing of the sidewalks as part of the manly maintenance required for sidewalk cafes. This ordinance was requested by the Town Manager.

DESCRIPTION:

This ordinance would require restaurants that are utilizing the right of way for a sidewalk cafe to pressure wash the sidewalks on a monthly basis as part of the maintenance requirements for sidewalk cafes. This ordinance was requested by the Town Manager.

This ordinance was discussed at last month's meeting where the Council requested that it be amended; however, the town manager would like to bring the same ordinance to the Council for approval.

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

NONE TO THE TOWN.

BUDGET IMPACT:

Submitted By: Alba Chang, Recording Secretary
Ronald Wasson, Town Manager

ATTACHMENTS

1.	sidewalk ordinance	2014.07.28 Sidewalk Cafes- Pressure Washing.docx
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ORDINANCE NO. ____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 23 OF THE TOWN'S ADOPTED CODE OF ORDINANCES ENTITLED ZONING AND PLANNING; AND SPECIFICALLY AMENDING SECTION 23-11(C)(16)(f)(4) ENTITLED SIDEWALK CAFES/ OUTDOOR SEATING FOR RESTAURANTS, DEVELOPMENT STANDARDS AND REQUIREMENTS, TO INCLUDE PRESSURE WASHING OF THE SIDEWALKS NOT LESS THAN ONCE A MONTH AS A PART THE REQUIRED MAINTENANCE; 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 Council has observed the condition of the sidewalks where sidewalk cafes are permitted to operate; and

WHEREAS, the Town Council, based upon the foregoing, wishes to require the restaurant owners/operators to pressure wash the sidewalk not less than once a month, as a part of the required maintenance for the sidewalk cafés;

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)(16)(f)(4) entitled Development standards and criteria, 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 _____ 2014.

PASSED AND ADOPTED on Second Reading this _____ day of _____ 2014.

Robert Yaffe
Mayor

ATTEST:

MARLENE MARANTE
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

CRAIG SHERMAN, ESQ.
Town Attorney

EXHIBIT A

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

CHAPTER 23

ZONING AND PLANNING

Article I. Zoning Regulations.

Sec. 23-11. Land Development Regulations.

...

(C) B-1 Business District

...

(16) *Sidewalk cafes/outdoor seating for restaurants.*

(a) *Purpose.* To establish conditions and requirements under which a sidewalk cafe permit will be issued for sidewalk cafes.

(b) *Definitions.*

1. *Accessory use* is a use that (a) is located on the same lot as the principal use; (b) contributes to the comfort, convenience or necessity of the principal use; and, (c) does not exceed 30 percent of the gross floor area (the areas within the perimeter of the inside walls of the building/bay with no deductions for corridors, stairs, closets, thickness of wall, columns or other features, but excluding utility rooms).

2. *Sidewalk cafe* is a portion of a restaurant or eating establishment located outside of the principal building (unenclosed, without a permanent structural roof covering) on a private or public sidewalk that provides a sit-down area for food and/or beverage consumption purposes.

3. *Sidewalk cafe permit* is a permit issued after approval has been granted by the Town based on the criteria outlined below.

(c) *Uses permitted/permit application.* Sidewalk cafes are permitted as an accessory use to a restaurant or eating establishment. Application for a sidewalk cafe permit shall be made to the town manager, or his/her designee. If approved, a permit for a sidewalk cafe will be issued for one year and shall be automatically renewed by the town if the use remains in compliance with all conditions stated herein. Such permit will not be transferable in any manner.

(d) *Permit types.* Sidewalk cafes greater than 400 square feet in area shall be approved by the town council. Fees for sidewalk cafes greater than 400 square feet in area shall be paid in accordance to the fee schedule established by the town.

(e) *Submittal requirements.* All site plans (including architectural plans) for sidewalk cafes shall include a sketch; existing interior floor plans; exterior floor plans; building elevations; setbacks; types of landscaping/ground covering; signs; lighting; location of tables, chairs and other furniture; pedestrian ingress and egress (clear path) and other information that is deemed necessary for review. In addition, photographs, drawings, or manufacturers' brochures describing the appearance of the proposed tables, chairs, umbrellas or other objects related to the sidewalk cafe shall be provided.

(f) *Development standards and criteria.* In order to protect the public health, safety, convenience and general welfare of the surrounding uses, sidewalk cafes shall be subject to the following criteria:

1. The operations of such sidewalk cafe seating area shall be conducted in such a way as to not interfere with the circulation of pedestrian or vehicular traffic on the adjoining streets or sidewalks. There shall be a minimum of five feet of clear distance for through pedestrian movements. The minimum five-foot requirement will be measured and maintained when chairs and tables are occupied and any umbrellas are open;

2. All permanent kitchen equipment and refuse containers used to service the sidewalk cafes shall be located inside the primary restaurant; provided however, a portable service area for dishes, silverware, glassware, beverage service facilities and refuse may be permitted provided it is moved into the main building each night. Service counters or pass through windows are not permitted;

3. Required parking for sidewalk cafes shall be calculated and provided in accordance with the provisions found in chapter 23, article II of the Town Code entitled Off-Street Parking;

4. The restaurant owner/operator shall be responsible for maintaining the sidewalk cafe in a clean, neat, orderly and safe condition. All debris and litter shall be removed daily. The sidewalk shall be pressure washed not less than one (1) time a month and more often when required. Private trash containers in the sidewalk cafe dining area are prohibited. Public sidewalk trash containers shall not be used as a means of disposing of table waste generated by restaurant consumers;

5. Sidewalk cafe furniture must be kept in a clean, orderly and safe condition. Sidewalk cafe furniture must be moved into the main building each night. White plastic furniture is not permitted in sidewalk cafe areas. All white plastic furniture currently in place shall be removed within one year from the date of adoption of this subsection. Plastic furniture other than the color white is permitted, as well as metal or wood. The use of other furniture materials not listed above shall be first submitted to the design review committee for a recommendation to the planning and zoning board. The town is not obligated to approve alternative materials;

6. Restaurants may serve alcoholic beverages in the sidewalk cafe dining area provided the restaurant complies with state law and applicable Town Code provisions;

7. Audio/visual devices (televisions) are permitted in the sidewalk cafe dining area provided the devices are located under a permanent roof, are not visible from the public right-of-way and are not audible across property boundaries or through partitions common to two or more parties within a building. Loud speakers or public address systems in the sidewalk cafe dining area are prohibited for those sidewalk cafes where the sound may affect residential uses. Loud speakers or public address systems located in adjoining sidewalk cafe dining areas shall limit the volume to patrons within the boundaries of the establishment only;

8. One menu board or sandwich sign is allowed per restaurant and shall be limited to six square feet in area. There shall be no signage or logos displayed on umbrellas that can be seen from the public right-of-way, other than the name of the business establishment;

9. The hours of operation for the sidewalk cafe shall be no greater than that of the principal restaurant and may be less as determined in the review process; and

10. Upon the issuance of a hurricane warning, all outdoor furniture shall be removed from the sidewalk cafe dining area.

...

AGENDA ITEM REPORT

October 13, 2014

ITEM NUMBER: 5.

ITEM: Approval of an ordinance on **second reading** amending Section 18-23 of the Town Code to require property owners to install infrastructure necessary to connect to underground installation of utilities in the event that during construction, a utility provider is unwilling to underground overhead wiring. This ordinance was requested by the Town Manager.

DESCRIPTION:

This ordinance will address the issue of FPL refusing to underground one or two lots for new construction (75-150 ft in most cases) and requiring at least 1000 feet before they underground. It would make the developers responsible for installing the infrastructure necessary to connect to underground installation of utilities later on.

This ordinance was considered at last month's meeting. The Town Manager is requesting that this ordinance be reconsidered.

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba Chang, Recording Secretary
Ronald Wasson, Town Manager

ATTACHMENTS

1.	Underground Ordinance	2014.07.28 Underground Ordinance V2.docx
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ORDINANCE NO. ____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 18 OF THE TOWN'S ADOPTED CODE OF ORDINANCES ENTITLED UNDERGROUND UTILITIES; AND SPECIFICALLY AMENDING SECTION 18-22 ENTITLED NEW CONSTRUCTION AND REHABILITATED STRUCTURES, TO REQUIRE PROPERTY OWNERS TO INSTALL INFRASTRUCTURE NECESSARY TO CONNECT TO UNDERGROUND INSTALLATION OF UTILITIES IN THE EVENT THAT DURING CONSTRUCTION, A UTILITY PROVIDER IS UNWILLING TO UNDERGROUND OVERHEAD WIRING; 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 understands that certain utility providers, including Florida Power & Light, may be unwilling to underground its wire if the length of the wire to be undergrounded is deemed inadequate for undergrounding by Florida Power & Light;

WHEREAS, the Town Council wishes to amend its Code of Ordinances in order to allow property owners to comply with Article II of Chapter 18 of the Town's Code of Ordinances in instances in which the utility provider is unwilling to underground its facilities, including its wire.

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 _____ 2014.

PASSED AND ADOPTED on Second Reading this _____ day of _____ 2014.

Robert Yaffe
Mayor

ATTEST:

MARLENE MARANTE
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

CRAIG SHERMAN, ESQ.
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.

(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.

(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.

Sec. 18-23. Conversion of overhead to underground facilities.

(a) Whenever overhead utility distribution facilities have been converted to underground facilities, the property owners in the area to be served by the new facilities shall be required to arrange for the conversion of their existing service facilities in accordance with all applicable ordinances, codes, statutes and utility company specifications. For electric service facilities such conversion shall include but shall not be limited to rearranging existing electric service entrance facilities to accommodate an underground service lateral. The property owner shall be responsible for all costs associated with the modification of service facilities for the affected property to accommodate underground utility service.

(b) The town shall notify each property owner when conversion from overhead to underground utility distribution service is complete. The notice shall be served by certified mail, addressed to the owner or owners of the property described as they are known to the town manager or as their names and addresses are shown upon the records of the county tax assessor, or other public records of the Town of Bay Harbor Islands or of Dade County, Florida, and shall be deemed complete and sufficient when so addressed and deposited in the United States mail with proper postage paid. All necessary modifications and arrangements for use of underground facilities shall be completed within 90 days of receipt of such notification.

Sec. 18-24. Notice of property owner's failure to convert facilities.

(a) If the town manager determines that a building has not completed conversion to underground utility service facilities as required Sections 18-22 or 18-23 ~~by subsections (b), (c) or (d)~~ above, the manager shall notify the owner of that building in writing and demand that the owner cause the conversion to be made within 60 days of the date of service of the notice. The notice shall be by certified mail and in the manner set forth in subsection (d) herein. In the event that such notice is returned by postal authorities, the manager shall cause a copy of the notice to be served by a law enforcement officer upon the occupant of the land or upon any agent of the owner thereof.

(b) In the event that personal service upon the occupant of the land or upon any agent of the owner thereof cannot be performed after reasonable search by a law enforcement officer, the notice shall be served by physical posting on the said property, and by publication in a newspaper of general circulation at least twice, seven days between publications, and 30 days before the date the conversion is required. The notice shall be in substantially the following form:

"NOTICE REQUIRING CONVERSION OF UTILITY SERVICE FACILITIES"

Name of Owner _____

Address of Owner _____

Our records indicate that you are the owner(s) of the following land in Dade County, Florida: (describe property)

An inspection of this land discloses, and I have found and determined that a building is located thereon which has not converted its (state type of utility) service facilities from overhead to underground service.

You are hereby notified that unless this building converts its (state type of utility) service facility from overhead to underground service within 30 days of personal service upon you of this notice, or of the second publication thereof, the town will proceed to cause the conversion of these facilities and the cost of the work, including advertising costs and all other expenses necessary to complete the conversion will be imposed as a lien on the land if not otherwise paid within 90 days after the conversion has been completed and the cost thereof ascertained by the Town of Bay Harbor Islands.

Town of Bay Harbor Islands, Florida

By: _____

Town Manager"

Sec. 18-25. Conversion of facilities by town; lien; recording; redemption.

(a) If within 60 days after service of the said notice or by physical posting of the notice on the property, or within 30 days of notice by publication in a newspaper, as set forth in the preceding subparagraph the required conversion of service facility has not been effected, the town manager shall cause the conversion to be made by the Town of Bay Harbor Islands at the expense of the property owner. The cost of the conversion shall constitute a lien upon the real estate served thereby. Upon ordering a conversion of service facilities to be made by the town, the town manager shall cause to be recorded in the public records a notice of utility service conversion lien pending, which shall include a description of the property and a statement that a conversion has been ordered, the cost of which shall under this section constitute a lien. The notice of pending lien shall, eight months after the date thereof, be null and void and constitute no record notice of a pending lien.

(b) After causing the conversion of service facilities to be done the town manager shall certify to the finance officer the expenses as may have been approved by the appropriate town department, incurred in effecting the conversion and shall include a copy of the notice above described, whereupon such expense shall become payable within 90

days, after which a special assessment lien and charge will be made upon the property which shall be payable in ten equal installments together with costs of recordation of all documents required to be recorded hereby and with interest at the rate of eight percent per annum on the unpaid balance from the date of such certification until paid; provided, however, that the lien may be satisfied at any time by the payment of the entire sum due plus accrued interest, recordation costs, and such expenses and penalties as may result from the advertisement and sale of certificates for delinquent liens as hereinafter set out. The town clerk shall file for record a notice of such lien in the office of the clerk of the circuit court, and shall keep complete records relating to the amount payable thereon. One-tenth of the amount of liens accruing during any year ending on June first, shall be billed and mailed in the fall of the same year to the owners of land subject to such liens at the same time as tax statements for ad valorem taxes are mailed, and if the said amount shall not be paid on or before April first of the following year, the entire lien and all annual installments thereof shall be delinquent, overdue, and in default.

(c) The entire amount of the lien may be foreclosed by the town, or in the alternative may be collected by any other legal means including the advertisement and sale of certificates. Upon full payments of liens provided hereby or through foreclosure on tax sale certificates, the town clerk shall, by appropriate means, evidence the satisfaction and cancellation of such lien upon the public records. The cost of recordation of the notice of lien pending, the notice of lien, and the satisfaction of lien shall be secured by the lien hereby provided.

Sec. 18-26. Underground facilities to remain underground.

Wherever utility service facilities are located underground, such facilities must remain underground and may not thereafter be converted to overhead facilities.

AGENDA ITEM REPORT

October 13, 2014

ITEM NUMBER: 6.

ITEM: Approval of an ordinance on **second reading** amending Section 20-9 of the Town Code increasing the monthly base and flow charges for sewer service. Enclosed is a copy of the proposed ordinance.

DESCRIPTION:

Miami-Dade County is increasing its wholesale water and sewer rates by 3.93% and 4.39% respectively. We buy water directly from the County and our sewage is pumped by Miami Beach to the County's system. Miami Beach will be "passing through" the County sewage increase to us.

We propose raising our rates for both water and sewer by 2% in order to pass through our increased costs. The percentage increase in our rates need not be as high as the County because our payments for wholesale water and sewer are only a portion of our costs and we do not expect our other costs to increase significantly.

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba Chang, Recording Secretary
 Alan Short, Finance Director
 Ronald Wasson, Town Manager

ATTACHMENTS

1.	Sewer Increase Ordinance	Sewer Rate Increase Ordinance 2014.docx
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ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF BAY HARBOR ISLANDS
AMENDING SECTION 20-9 OF THE TOWN CODE INCREASING THE
MONTHLY BASE AND FLOW CHARGES FOR SEWER SERVICE;
PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY;
PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE
DATE.

WHEREAS, the Town Council of the Town of Bay Harbor Islands is charged with protecting and preserving the public health, safety and welfare of the residents and those coming into the Town of Bay Harbor Islands; and

WHEREAS, the Town of Bay Harbor Islands purchases its sewer services from the City of Miami Beach, which in turn pays Miami-Dade County; and

WHEREAS, Miami-Dade County has indicated an increase of 4.39% for sewer services in its preliminary budget; and

WHEREAS, the Town of Bay Harbor Islands does not currently have an alternative source to purchase sewer services and in order to maintain proper fiscal discipline must pass-through the County=s increase; and

WHEREAS, the Town of Bay Harbor Islands wishes to increase the rates for sewer service charges in order to fund increased costs for sewage disposal;

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

Section 1. Section 20-9 is hereby amended to read as follows:

Sec. 20-9. Sewer service- Rates.

The schedule of rates for service supplied by the sewer system, which schedule shall be subject to such increase, decrease or revision from time to time as may be necessary to carry out the provisions of this section, shall be as follows:

Residential Users:

Sewage charges shall be based upon water usage (excluding water usage through meters used exclusively for irrigation) at a rate of ~~\$5.99~~ \$6.11 per thousand gallons. In addition, there shall be a monthly base charge of ~~\$15.76~~ \$16.08 per living unit regardless of usage.

Non-residential users:

Sewage charges shall be based upon water usage (excluding water usage through meters used exclusively for irrigation) at a rate of ~~\$5.99~~ \$6.11 per thousand gallons. In addition, there shall be a monthly base charge regardless of usage depending upon the size of the water meter as follows:

Water Meter Size	Monthly Base Charge	Monthly Base Charge
1@	\$65.62	\$66.94
1.5@	\$131.23	\$133.86
2@	\$210.00	\$214.20
3@	\$393.68	\$401.56

An initial deposit of \$50.00 per water closet to ensure payment of the sewer charge.

A tapping charge of \$250.00 for each service connection made to any single-family dwelling unit and \$650.00 for each service connection made to any multiple-family dwelling or commercial establishment. To the charges set forth above shall be added that percent of such charges as determined from time to time by Miami-Dade County to compensate for the Miami-Dade County Water and Sewer utility services charge to finance the environmental resources management department's water protection and utility regulation program.

Section 2. **Penalties**

Violation of this Ordinance shall be subject to the imposition of penalties as provided by Miami-Dade County, Florida, and under Section 1-8 and any other penalty section(s) of the Code of the Town of Bay Harbor Islands.

Section 3. **Severability**

The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. **Inclusion in the Code**

It is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Town of Bay Harbor Islands; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" may be changed to "Section" or any other appropriate word.

Section 5. **Effective Date**

This Ordinance shall be effective for all billings rendered after November 1, 2014.

PASSED this 8th day of September 2014 on first reading.

PASSED AND ADOPTED this 13th day of October, 2014 on second reading.

MAYOR

ATTEST:

TOWN CLERK

AGENDA ITEM REPORT

October 13, 2014

ITEM NUMBER: 7.

ITEM: Approval of an Ordinance on **second reading** amending Section 20-5 and 20-6 of the Town Code increasing the monthly water service charge and the minimum monthly service charger per meter.. Enclosed is a copy of the proposed ordinance.

DESCRIPTION:

Miami-Dade County is increasing its wholesale water and sewer rates by 3.93% and 4.39% respectively. We buy water directly from the County and our sewage is pumped by Miami Beach to the County's system. Miami Beach will be "passing through" the County sewage increase to us.

We propose raising our rates for both water and sewer by 2% in order to pass through our increased costs. The percentage increase in our rates need not be as high as the County because our payments for wholesale water and sewer are only a portion of our costs and we do not expect our other costs to increase significantly.

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba Chang, Recording Secretary
Alan Short, Finance Director
Ronald Wasson, Town Manager

ATTACHMENTS

1.	Water Rate Increase Ordinance	Water Rate Increase Ordinance 2014.docx
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ORDINANCE NO. ____

AN ORDINANCE OF THE TOWN OF BAY HARBOR ISLANDS AMENDING SECTIONS 20-5 AND 20-6 OF THE CODE OF BAY HARBOR ISLANDS TO INCREASE THE MONTHLY CHARGE FOR WATER SERVICE TO \$4.28 PER ONE THOUSAND GALLONS AND TO INCREASE THE MINIMUM MONTHLY SERVICE CHARGES FOR EACH WATER METER TO \$19.93; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Bay Harbor Islands is charged with protecting and preserving the public health, safety and welfare of the residents and those coming into the Town of Bay Harbor Islands; and

WHEREAS, the Town of Bay Harbor Islands purchases its water from Miami-Dade County; and

WHEREAS, Miami-Dade County has indicated an increase of 3.93% for water services in its preliminary budget; and

WHEREAS, the Town of Bay Harbor Islands does not currently have an alternative source to purchase water and in order to maintain proper fiscal discipline must pass-through the County's increase; and

WHEREAS, it is necessary for the Town of Bay Harbor Islands to increase the rates which it charges for water services because of higher operating costs;

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

Section 1. Section 20-5 of the Code of the Town of Bay Harbor Islands is hereby amended as follows:

The charges for water service in the Town shall be at the rate of ~~four dollars and nineteen cents (\$4.19)~~ four dollars and twenty-eight cents (\$4.28) per one thousand (1,000) gallons plus that percent of such charges as determined from time to time by Miami-Dade County to compensate for the Miami-Dade County Water and Sewer utility charges to finance the Environmental Resources Management Department's water protection and utility regulation program.

Section 2. Section 20-6 of the Code of the Town of Bay Harbor Islands is hereby amended as follows:

There shall be a minimum water service charge for each water meter in the amount of ~~\$19.54~~ \$19.93.

Section 3. **Severability**

The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. **Inclusion in the Code**

It is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Town of Bay Harbor Islands; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" may be changed to "Section" or any other appropriate word.

Section 5. **Effective Date**

This Ordinance shall be effective for all billings rendered after November 1, 2014.

PASSED this 8h day of September, 2014 on first reading.

PASSED AND ADOPTED this 13th day of October, 2014 on second reading.

MAYOR

ATTEST:

TOWN CLERK

WORDS WITH A LINE THROUGH THEM ARE DELETED
UNDERScoreD WORDS ARE ADDITIONS

AGENDA ITEM REPORT

October 13, 2014

ITEM NUMBER: 8.

ITEM: Approval of an ordinance on **first reading** amending the RM-3 Multiple-Family District to change the definition to delete balconies from being calculated as part of the building coverage. The ordinance also updates code references to the RBA Zoning District to reflect the name change to RM-3. Attached is the proposed ordinance.

DESCRIPTION:

At a Workshop meeting held October 7th, the Town Council requested that the proposed ordinance be included for the October Council meeting. The proposed ordinance excludes balconies from being counted in the calculations for building coverage in the RM-3, Multiple Family District. It also includes some cleanup language deleting references to the RBA Tract District, which was the previous name of the RM-3, Multiple Family District.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Marlene Marante, Town Clerk

ATTACHMENTS

1.	RM 3 Proposed Ord	BHI Draft Ord RM-3 Lot Cov Oct 8 2014.doc
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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 MODIFY CERTAIN CODE PROVISIONS RELATED TO THE RM-3 MULTIPLE-FAMILY DISTRICT; AMENDING ARTICLE I, SECTION 23-1 ENTITLED DEFINITIONS TO MODIFY THE DEFINITION OF BUILDING COVERAGE TO DELETE EXTERIOR BALCONIES FROM BEING CALCULATED; AMENDING ARTICLE I, SECTION 23-2 ENTITLED DISTRICTS TO UPDATE CODE REFERENCES TO THE RM-3 DISTRICT (FORMERLY KNOWN AS THE RBA TRACT DISTRICT) AND THE LEGAL DESCRIPTIONS FOR VARIOUS ZONING DISTRICTS; AMENDING ARTICLE I, SECTION 23-12(13) ENTITLED GENERAL PROVISIONS TO UPDATE REFERENCES TO CURRENT ZONING DISTRICT NAMES; 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 trends and issues, and considers strategies and design guidelines to encourage the proper re-development of lands within the Town, and amends the Zoning and Planning Code accordingly; and

WHEREAS, the Town has retained the services of urban planning professionals to study land development activities and land development regulations and to recommend strategies and/or Code modifications to address identified problems; and

WHEREAS, one of the land development issues recently studied is related to what portions of buildings are to be calculated as part of the maximum allowable building coverage for RM-3 zoned properties, as the current Code definition includes balconies attached to the exterior of buildings, and

WHEREAS, after studying of the issue and receiving public input, the Town Council finds that a need exists to modify the existing Code provisions to delete

balconies attached to the exterior of buildings from being calculated as part of the allowable building coverage, now only required in the RM-3 Multiple-Family District, and

WHEREAS, the Town Council desires to amend the Town's Zoning and Planning Code to modify various outdated Code references to current Zoning Districts and to modify the existing Code provisions to delete balconies attached to the exterior of buildings from being calculated as part of the allowable building coverage, and

WHEREAS, a public meeting was held before the Local Planning Agency (LPA) for the Town which is charged with reviewing proposed modifications to the Town's Zoning and Planning Code; and

WHEREAS, the Town Council held duly advertised public hearings 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 modify Article I, Sections 23-1 entitled "Definitions" to modify the definition of building coverage to delete exterior balconies from being calculated; amending Article I, Section 23-2 entitled "Districts" to update various Code references to the RM-3 multiple-Family district (formerly the RBA Tract District) and the legal descriptions for various zoning districts; amending Article I, Section 23-12(13) entitled "General Provisions" to update references to current zoning district names; as more fully set forth in the attached Exhibit "A", and by reference are 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, 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 _____, 2014.

PASSED on Second Reading this ____ day of _____, 2014.

ROBERT H. YAFFE
Mayor

ATTEST:

MARLENE MARANTE
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

ARTICLE I. ZONING REGULATIONS

Sec. 23-1. Definitions.

For the purposes of this article, certain terms and words are herein defined. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the words "used for" include the meaning "designed for"; the word "structure" includes the word "building"; the word "shall" is mandatory and not discretionary; the word "lot" includes the words "plot" and tract."

Accessory building: A subordinate building, or portion of the main building which is located on the same lot as the main building or on an adjacent lot, the use of which building is clearly incidental to the use of the main building.

Adult congregate living facility: An "adult congregate living facility" shall comprise any dwelling unit, building or buildings, section of a building, or distinct part of a building, residence, private home, boarding home, home for the aged, or other place, whether operated for profit or not, which undertakes through its ownership or management to provide, for a period exceeding twenty-four hours, housing, food service, and one or more personal services for 15 or more adults, not related to the owner or administrator by blood or marriage, who require such services; or to provide extended congregate care, limited nursing services, or limited mental health services.

Apartment building: A multiple dwelling designed for occupancy otherwise than as a one-family dwelling, or a two-family dwelling. The term "multiple dwelling" shall be understood to include apartment houses, bungalow courts, and all other family dwellings of similar character, but not to include hotels or apartment hotels.

Apartment hotel: An apartment building, under resident supervision, which furnishes hotel service to tenants or guests.

Balcony: A platform projecting from the exterior walls of an upper story of a building enclosed by a low wall or railing. A balcony is an accessory structure that may extend into a minimum setback area pursuant to the applicable district or supplemental regulations.

Building: Anything constructed or erected, the use of which demands a permanent location on the land; or anything attached to something having a permanent location on the land.

Building coverage: That area of a building plot within the perimeter or perimeters of the main building and accessory building or buildings exclusive of: swimming pools, planting bins, balconies, and roof overhangs. The perimeter shall be measured around the maximum plan area inclusive of all floors ~~including balconies~~ and stairways, covered or uncovered.

Bungalow courts (house courts):

Editing Note: Balance of Code definitions not included due to volume.

Sec. 23-2. Districts.

In order to regulate and restrict the erection, construction, reconstruction, alteration, location and use of buildings, structures, land and water, for trade, business, residence or other purposes, and the location thereof, and to regulate the size of buildings and other structures hereafter erected or altered, to regulate and determine the size and dimensions of yards, courts and other open spaces and to regulate and limit the percentage of lot that may be occupied and the density of population, the town is hereby divided into use and area districts as follows:

Use districts:

- (1) RD—Single Family district
- (2) RM-1—Multiple-Family district (waterfront lots)
- (3) RM-2—Multiple-Family district (non waterfront lots)
- (4) B-1—Business district
- (5) ~~RBA—Tract district~~ RM-3 - Multiple-Family district
- (6) CA—Causeway district.
- (7) PUD district.
- (8) G—Gateway district.

Area districts: Area districts are as hereinafter set forth:

The town is hereby divided into area districts for specified uses, and the boundaries of such districts are as follows, to wit:

All of the lots and tracts appearing on the West Island, except Lots 68, 69, 70 and 71 in Block 23 thereof, are hereby designated as "use district RD"; Lots 3 through 25 in Block 1, Lots 2 through 29 in Block 2, Lots 1 through 31 in Block 3 and Lots 1 through 36 in Block 4 are hereby designated as "use district RM-1"; Lots 1 through 15 in Block 5, Lots 1 through 20 in Block 6, Lots 1 through 20 in Block 7, Lots 1 through 21 in Block 8, Lots 1 through 25 in Block 9, Lots 1 through 12 in Block 10, Lots 1 through 18 in Block 13, Lots 1 through 18 in Block 14, Lots 1 through 18 in Block 15, Lots 1 through 13 in Block 16, Lots 1 through 10 in Block 17, Lots 1 through 16 in Block 18, Lots 1 through 16 in Block 19, and Lots 1 through 16 in Block 22 are hereby designated as "use district RM-2"; all of the lots appearing Blocks 11, 12, 20 and 21, of the East Island are hereby designated as "use district B-1"; Tracts A, B, C, D, E and F, appearing on the plat of the East Island, are hereby designated as "~~tract district RBA~~"; "~~use district RM-3~~"; all lots and tracts located on that portion of the Broad Causeway which comprises Lots 68, 69, 70 and 71 in Block 23 on the West Island, and the land and causeway extending westerly therefrom across Biscayne Bay to the west shore of Biscayne Bay are hereby designated as "use district CA"; Lots 1, 2 and 3 in Block 2 and Lots 35, 36 and 37 in Block 4 are hereby designated as "use district PUD"; and Lots 1 and 2 in Block 1, Lot 1 in Block 2, Lot 32 in Block 3 and Lot 37 in Block 4 are hereby designated as "use district gateway (G)".

No building shall be erected, constructed, reconstructed or structurally altered, nor shall any building or land be used for any purpose other than the use permitted in the use district in which such building or land is located.

No lot area shall be so reduced or diminished that the yards or other spaces shall be smaller than as prescribed by this article, nor shall the density of population be increased in any manner except in conformity with the area regulations established in this article.

Every building hereafter erected, constructed, reconstructed or structurally altered shall be located on a lot as herein defined, and in no case shall there be more than one building on one lot, except as hereinafter provided for.

Sec. 23-12. General provisions.

- (13) The area of any lot, improved or unimproved, shall not be reduced or diminished so that the area of the lot is less than originally platted or as follows:
- (a) In the ~~"RE"-Multiple Family district~~ "RM-1" and "RM-2" Multiple-Family districts, the area of no lot shall be reduced to less than 11,250 square feet.
 - (b) In the "RD"-Single Family district, the area of no lot shall be reduced to less than 10,000 square feet, except the area of Lots 1 to 28, inclusive, and Lots 96 to 104, inclusive, which shall not be reduced to less than 11,250 square feet, and Lots 29 to 95, inclusive which shall not be reduced to less than 13,125 square feet.
 - (c) In the ~~"RBA"-Tract~~ RM-3 Multiple-Family district, ~~Lots~~ Tracts A, B, C, D, E, or F shall not be subdivided without prior approval by the town council of a subdivision plat. In any event, all lots in such subdivision shall contain a minimum of 11,250 square feet.
- (14) No kitchen or cooking facilities may be contained in any accessory building, but may only be contained in the main building on any building site.
- (15) Projections into setback areas:
- (a) Notwithstanding anything to the contrary set forth in this subsection, the following are permitted:
 - i. On the West Island in waterfront homes, balconies having accessibility from within the building may project into the front yard setback areas not more than four feet; provided there shall be not less than eight feet clear headroom under such projection and providing that such balconies shall not be screened, shuttered or enclosed in any fashion.
 - ii. On the West Island in waterfront homes which have a second story with an area of over 1,500 square feet, an exit staircase may project from the second story into the front yard setback area not more than four feet.

- iii. On homes on the West Island which are on interior lots, which have a second story with an area of over 1,500 square feet, an exit staircase may project from the second story into the rear yard setback area not to exceed four feet.
- iv. None of the foregoing subsections i., ii. or iii. shall permit any portion of the balconies or staircases to project into any side yard setback.
- v. On the East Island for RM-1 (waterfront) lots, balconies extending from the exterior walls of the main building shall be permitted to encroach into the front, side and rear yard areas as follows:

Front (street) yards. Balconies may project into the minimum front yard area not more than four feet. However, if a building is set back on a lot more than the minimum setback requirement, a balcony may be deeper, provided no portion of any balcony shall encroach closer than four feet into the minimum front setback. Notwithstanding the above, no balcony adjoining a front lot line shall exceed six feet in depth, unless otherwise approved by the town as part of a site development plan.

Side yards. Balconies may project into the minimum side yard area not more than two feet. However, if a building is set back on a lot more than the minimum setback requirement, a balcony may be deeper, provided no portion of the balcony shall encroach closer than two feet to into a minimum side setback. Notwithstanding the above, no balcony adjoining a side lot line shall exceed eight feet in depth, unless otherwise approved by the town as part of a site development plan.

Rear yards. Balconies may project into the minimum rear yard area not more than six feet. However, if a building is set back on a lot more than the minimum setback requirement, a balcony may be deeper, provided no portion of the balcony shall encroach closer than six feet into the minimum rear setback. Notwithstanding the above, no balcony adjoining a rear lot line shall exceed eight feet in depth, unless otherwise approved by the town as part of a site development plan.

- vi. On the East Island for RM-2 (non-waterfront) lots, balconies extending from the exterior walls of the main building shall be permitted to encroach into the front, side and rear yard areas as follows:

Front (street) yards. Balconies may project into the minimum front yard area not more than four feet. However, if a building is set back on a lot more than the minimum setback requirement, a balcony may be deeper, provided no portion of any balcony shall encroach closer than four feet into the minimum front setback. Notwithstanding the above, no balcony adjoining a front lot line shall exceed six feet in depth, unless otherwise approved by the town as part of a site development plan.

Side yards. Balconies may project into the minimum side yard area not more than two feet. However, if a building is set back on a lot more than the minimum setback requirement, a balcony may be deeper, provided no portion of the balcony shall encroach closer than two feet into a minimum side setback. Notwithstanding the above, no balcony adjoining a side lot line shall exceed eight feet in depth, unless otherwise approved by the town as part of a site development plan.

Rear yards. Balconies may project into the minimum rear yard area not more than four feet. However, if a building is set back on a lot more than the minimum setback requirement, a balcony may be deeper, provided no portion of the balcony shall encroach closer than four feet into the minimum rear setback. Notwithstanding the above, no balcony adjoining a rear lot line shall exceed six feet in depth, unless otherwise approved by the town as part of a site development plan.

Editing Note: Balance of Code section not included due to volume.

AGENDA ITEM REPORT

October 13, 2014

ITEM NUMBER: 9.

ITEM: Approval of a resolution authorizing the Town Manager to execute an agreement with the Florida Department of Transportation for the rehabilitation of the bridges. Attached is the proposed resolution.

DESCRIPTION:

On May 12, 2014, the Town Council approved a contract for the rehabilitation of the Town owned bridges; and the Town secured a grant from the Florida Department of Transportation (“FDOT”) in the amount of one million dollars (\$1,000,000.00) for this purpose. The FDOT provided the Town, in connection with the Grant, an Economic Development Transportation Fund Agreement which requires that an official resolution is adopted by the Town Council authorizing the Town Manager to execute the agreement.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: System Admin

ATTACHMENTS

1.	2014 10 08 FDOT Resolution	2014 10 08 FDOT Resolution.docx
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RESOLUTION NO. _____

**A RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF BAY HARBOR ISLANDS
APPROVING THE TOWN MANAGER'S
EXECUTION OF THE ECONOMIC
DEVELOPMENT TRANSPORTATION PROJECT
FUND AGREEMENT.**

WHEREAS, on May 12, 2014, the Town Council of the Town of Bay Harbor Islands (the "Town") approved a contract for the rehabilitation of the Town owned bridges; and

WHEREAS, the Town secured a grant from the Florida Department of Transportation ("FDOT") in the amount of one million dollars (\$1,000,000.00) for the rehabilitation of the Town owned bridges (the "Grant"); and

WHEREAS, the FDOT provided the Town, in connection with the Grant, an Economic Development Transportation Fund Agreement (the "Agreement"); and

WHEREAS, the Town Manager's execution of the Agreement is a condition of the Grant.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Bay Harbor Islands that:

1. The Town Manager is authorized to execute the Agreement.

PASSED AND ADOPTED this _____ day of October, 2014.

TOWN OF BAY HARBOR ISLANDS

By: _____
Robert Yaffe, Mayor

ATTEST:

Marlene Marante, Town Clerk

APPROVED AS TO FORM:

Craig B. Sherman, Esq., Town Attorney

AGENDA ITEM REPORT

October 13, 2014

ITEM NUMBER: 10.

ITEM: Approval of a five year maintenance agreement with TransCore for a total contract not to exceed \$318,262.34. Transcore will perform daily monitoring of all operational systems, computer and Florida Turnpike connectivity and will correct issues as they occur.

DESCRIPTION:

Manager requests Council approval to enter into a 5 year maintenance agreement with TransCore to perform daily monitoring of all operational systems, computer and Florida Turnpike connectivity and to correct issues as they occur. They will respond when BHI staff can not make equipment updates. The contract will run for a period of 5 years and could be extended with the recommendation of the manager and Council approval. The total amount of the contract is not to exceed to \$318,262.34 for the five year period. Note: The approximate cost the Town on an annual basis will be sixty thousand dollars. Due to fact the Infinity Toll system was designed and installed by the TransCore Corporation and staff, they are the best qualified to perform the services described.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

Contract not to exceed to \$318,262.34 for the five year period, approximate annual cost to the town is \$60,000.

BUDGET IMPACT:

Submitted By: Ronald Wasson, Town Manager
Ronald Wasson, Town Manager

ATTACHMENTS

1.	Maintenance Agreement	2014 09 30 Toll System Maintenance Agreement.docx
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TOLL SYSTEM MAINTENANCE AGREEMENT

This Toll System Maintenance Agreement (this “Agreement”) is entered into on _____ 2014 (the “Effective Date”) by and between the Town of Bay Harbor, FL, (the “Authority”), and TransCore, LP, a Delaware Limited Partnership (the “Contractor”).

RECITALS

WHEREAS, the Town of Bay Harbor, FL issued a Request for Qualifications (the “RFQ”) on February 29, 2012, which contained requirements for the design, procurement, installation, and service for a turnkey All-Electronic Toll (“AET”) collection system, including equipment, software, testing and training on Florida's SR 922 a.k.a. the Broad Causeway (collectively, the “AET Collection System”); and

WHEREAS, the Contractor reviewed the available designs and documentation on the Broad Causeway and submitted its proposal on May 16, 2012, in response to the RFQ to provide for the design, procurement, implementation, system testing and a one (1) year warranty of a toll collection system, and a back office solution, meeting the specifics required by the Authority. This proposal included an optional maintenance solution for the AET Collection System; and

WHEREAS, the Parties entered into that certain Toll System Implementation Agreement, on May 16, 2013 (the “Implementation Agreement”), to provide for the design, procurement, implementation, system testing and a one (1) year warranty of a toll collection system, and a back office solution meeting the specifics required by the Authority. The Implementation Agreement did not include the maintenance of the Toll System within the scope of work; and

WHEREAS, the maintenance of the AET Collection System poses some unique challenges from traditional toll system maintenance, since the tolling zone is void of buildings and the system is isolated from local staff. Therefore, other means of providing information related to the health of the system are necessary to ensure the systems operate as designed;

WHEREAS, after considering several avenues of action, the Authority has determined it is in the Authority’s best interests to engage a professional service provider for the maintenance of the AET Collection System and the Contractor desires to provide said maintenance services to the AET Collection System, as stated in its proposal of May 16, 2012; and

WHEREAS, the Parties have read and understood the terms and provisions set forth in this Agreement and have been afforded a reasonable opportunity to review this Agreement with their respective legal counsel; and

NOW, THEREFORE, in consideration of the premises, mutual promises, covenants, obligations and benefits herein contained, the Authority and Contractor agree as follows:

I. SERVICES

Section 1.01. Scope of Work.

(a) Contractor shall perform the scope of work described in **Exhibit A** (the “Services”).

(b) Contractor agrees to furnish efficient business administration and superintendence and to use its best reasonable efforts to furnish at all times an adequate supply of workmen, materials and equipment and to perform the Services in the most expeditious and economical manner. Contractor agrees to exercise reasonable diligence in performing the Services, using the degree of care and skill that a prudent person in the same or similar profession would use.

(c) Contractor has been retained by the Authority for the sole purpose and to the extent set forth in this Agreement. It is understood and agreed that all work so done by Contractor shall meet with Authority approval, but that the detailed manner and method of performing the Services shall be under the control of Contractor. Contractor’s relationship to the Authority during the term of this Agreement is that of an independent contractor.

Section 1.02. Additional Services.

(a) During the term of this Agreement, Contractor or Authority may recommend certain additions or changes to the Services. In such case, the additions or changes shall be submitted to the Authority for approval in the form of an amendment to this Agreement. Approval of Additional Services shall be evidenced by a written proposal or service order, which shall include the service to be performed, the location and the fees.

The Contractor may, at any time by written notice to the Authority’s Manager, request a change order to the Services. Upon receipt of such notice from the Contractor, the Authority will consider an equitable adjustment in the price, Delivery Schedule or both. If Contractor and the Authority agree in writing as to the price to be paid to Contractor for the work changes, this Agreement shall be deemed amended in accordance therewith. If no amendment is agreed to, this Agreement shall continue to govern.

Section 1.03. Approval of Minor Changes.

(a) Notwithstanding Section 1.02.(a) above, the Authority may, at any time by written notice and without notice to sureties or assignees, make minor changes within the Services, including in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipping or packing; (iii) place of inspection, acceptance, or point of delivery; (iv) Delivery Schedule, (v) or other changes as may be agreed to by both parties in writing. If no amendment is agreed to, this Agreement shall continue to govern.

(b) Should any such change increase or decrease the cost and/or the time required for performance of this Agreement, the Contractor must notify the Authority within five (5) days of receiving notice of the change from the Authority. Upon receipt of such notice from the

Contractor, the Authority will negotiate an equitable adjustment in the price, Delivery Schedule or both. If no amendment is agreed to, this Agreement shall continue to govern.

(c) Any claim for cost associated with a change in the Services shall be negotiated between Contractor and the Authority. Adjustments to price shall be computed by agreement of a fixed price. The Authority may request that Contractor submit a written proposal indicating the price at which Contractor would be willing to perform certain changes in the work as described by the Authority. Upon receipt of such a request, Contractor shall prepare and submit such proposal promptly, but no later than thirty (30) business days. If Contractor and the Authority agree in writing as to the price to be paid to Contractor for the work changes, this Agreement shall be deemed amended in accordance therewith. If no amendment is agreed to, this Agreement shall continue to govern.

II. COMPENSATION

Section 2.01. Agreement. The Contractor shall perform the Scope of Work in **Exhibit A** pursuant to the terms and conditions of this Agreement and within the “Maintenance Fees” shown in **Exhibit B**.

Section 2.02. Compensation for Scope of Work. The total value for the Scope of Work under this Agreement is \$318,262.34. (the “Maximum Compensation”). The amount paid under this agreement may not exceed the Maximum Compensation without an approved written supplement, change order, or amendment to this Agreement executed by the Parties.

For spare part replenishment, Contractor will procure and provide additional materials and equipment for spare part replenishment. Such materials and equipment will be provided at an approved cost at the time of purchase, given that such purchases shall not exceed a 15% markup beyond Contractor’s actual cost.

Section 2.03. Invoicing. Contractor shall submit quarterly detailed invoices in a form approved by the Authority’s Manager to:

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

Invoices will be submitted at the beginning of each quarter and will be in the amount of one-fourth of the annual compensation set in Exhibit B, plus any costs associated with spare parts replenishment. The Authority’s Manager will review and recommend payment within ten (10) days of receipt of completed application. Payment shall be made within thirty (30) days of the approval of Contractor’s invoice by the Authority.

III. WARRANTIES, INDEMNITY, LIMITS OF LIABILITY AND INSURANCE,

Section 3.01. Warranty Claims on Toll Equipment/Software. Contractor is obligated to pursue on behalf of the Authority all warranty claims against any vendors of the AET Collection

System pursuant to this Agreement or the Implementation Agreement. In addition to other common law and statutory warranties, whether implied or express, Contractor's warranty applies to materials, parts, labor and workmanship for one year from the date of completion of the Services. Contractor shall transfer all manufacturers' warranties to the Authority.

Section 3.02. Disclaimer of Implied Warranties. The express warranties contained in Section 1.01(b) and elsewhere in this Agreement, if any, are the sole and exclusive warranties provided by the Contractor. The Contractor specifically disclaims any other warranties, express or implied, including but not limited to warranties of merchantability, as well as any warranties alleged to have arisen from custom, usage, or past dealings between the parties.

Section 3.03. Indemnification.

AS PART OF THE CONSIDERATION FOR THIS AGREEMENT, THE CONTRACTOR, FOR ITSELF AND ITS SUCCESSORS AND ASSIGNS, AGREES TO INDEMNIFY AND HOLD HARMLESS THE AUTHORITY AND ITS OFFICERS, DIRECTORS, REPRESENTATIVES, AND AGENTS, FROM LOSS, DAMAGE, INJURY, COST, EXPENSE, CLAIM, JUDGMENT, OR LIABILITY, INCURRED IN CONNECTION THEREWITH, INCLUDING REASONABLE ATTORNEY'S FEES AND COURT COSTS, WHETHER IN CONTRACT, TORT, OR OTHERWISE, BROUGHT BY ANY OF CONTRACTOR'S EMPLOYEES OR REPRESENTATIVES, OR BY ANY OTHER THIRD PARTY, BASED UPON, IN CONNECTION WITH, RESULTING FROM OR ARISING OUT OF CONTRACTOR'S WILLFUL, INTENTIONAL, RECKLESS, OR NEGLIGENT (WHETHER ACTIVE, PASSIVE, OR GROSS) ACTS OR OMISSIONS RELATED TO OR ARISING FROM THIS AGREEMENT, THE AET COLLECTION SYSTEM, AND THE IMPLEMENTATION AGREEMENT. THIS INDEMNITY AND HOLD HARMLESS PROVISION WILL APPLY WHETHER SUCH ACTS OR OMISSIONS ARE CONDUCTED BY THE CONTRACTOR OR ANY SUBCONTRACTOR OR AGENT OF THE CONTRACTOR.

Section 3.04. Intentionally Deleted.

Section 3.05. Insurance. Before commencing any work hereunder, Contractor shall furnish certificates of its commercial general liability insurance in an amount not less than one million dollars (\$1,000,000.00) per occurrence and copies of endorsements to the Authority evidencing insurance coverage and naming the Authority as an additional insured. Copies of each policy shall be furnished to the Authority upon the Authority's request. Contractor shall not violate or knowingly permit to be violated any condition of the insurance policies required by this Agreement. Contractor shall advise Authority of any change or cancellation to its required insurance.

IV. TERM AND TERMINATION; DEFAULT

Section 4.01. Term. It is understood and agreed that the period of performance under this Agreement shall begin with the Effective Date until June 30, 2019. This Agreement can be extended for an additional five (5) year Term, if agreed by the Parties upon a prior written notice within ninety (90) days before the end of the Term.

Section 4.02. Termination Without Cause. Either party may terminate this Agreement without cause upon ninety (90) days written notice to the other party.

Contractor shall not be entitled to any payment or further payment other than for Services furnished prior to such termination, and reasonable costs associated with the cancellation of the Agreement and the transition to the Authority's new service provider in a total amount not to exceed one thousand dollars (\$1,000.00).

Section 4.02. Termination for Cause. If either party is in default of this Agreement, the non-defaulting party will give written notice of such default, specifically describing the nature of the default. The alleged defaulting party shall have thirty (30) days to cure such default. If the default is not cured within said thirty (30) days and the curing period is not further extended by mutual agreement, then the Agreement would be deemed terminated at the end of the thirty (30) day curing period.

If the Agreement is terminated due to the Authority's default, Contractor shall be entitled to any and all payments due for Services furnished prior to such termination, and reasonable costs associated with the cancellation of the Agreement, and any and all costs incurred by Contractor for the transition to the Authority's new service provider, if applicable, in a total amount not to exceed one thousand dollars (\$1,000.00). All payments due shall be made by the Authority within thirty (30) days of the date of termination of the Agreement.

If the Agreement is terminated due to the Contractor's default, Contractor shall only be entitled to any payment due for Services furnished prior to such termination.

V. GENERAL CONDITIONS

Section 5.01. Agreement Controls. To the extent that there is any inconsistency between the provisions of this Agreement and any attachments or exhibits hereto, the terms of this Agreement shall control.

Section 5.02. Regulatory Requirements. All work will be done in strict compliance with all applicable city, county, state and federal rules, regulations and laws and any codes which may apply to the Services being provided. Contractor will obtain all its permits and licenses required to perform the Services and will be responsible for securing inspections and approvals of its work from any authority having jurisdiction over Contractor's Services.

Section 5.03. Safety and Health Standards. Contractor shall observe and comply with all applicable federal, state and local health and safety laws and regulations.

Section 5.04. Inspection. The Authority and its duly authorized representatives shall have the right to inspect all Services being performed hereunder at any time. Contractor agrees to maintain adequate books, payrolls and records satisfactory to the Authority in connection with any and all Services performed hereunder and to maintain such books, payrolls and records for at

least four years. The Authority and its duly authorized representatives shall have the right to audit such books, payrolls and records at any reasonable time or times.

Section 5.05. Assignability. Contractor shall not assign its rights or obligations or any sum that may accrue to it hereunder without the written consent of the Authority, which shall not be unreasonable withheld.

Section 5.06. Modifications. This Agreement shall be subject to amendment, change or modification only with the prior mutual written consent of the Authority and Contractor.

Section 5.07. Force Majeure. In the event either party to this Agreement is rendered unable, wholly or in part, by force majeure including an act of God; strikes; lockouts, or other industrial disturbances; acts of the public enemy; orders of any kind of government of the United States or the State of Florida or any civil or military authority (other than a party to this Agreement); insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; storms; floods; droughts; arrests; civil disturbances; explosions; or other inability similar to those enumerated including those by third parties that neither the Contractor or the Authority has control over; to carry out its obligations under this Agreement, it is agreed that party shall give written notice of such act to the other party as soon as possible after the occurrence of the cause relied on and shall, thereafter, be relieved of its obligations, so far as they are affected by such act, during the continuance of any inability so caused, but for no longer.

Section 5.08. Agreement Subject to Applicable Law. This Agreement and the obligations of the parties hereunder are subject to all rules, regulations and laws which may be applicable by the United States, the State of Florida or any other regulatory agency having jurisdiction.

Section 5.09. Governing Law. This Agreement is governed in accordance with the laws of the State of Florida and Miami-Dade County shall be the exclusive venue for disputes arising out of this Agreement. Any controversy, claim or dispute arising out of, or related to this Agreement or any breach thereof may be settled amicably by the parties through good faith negotiations to reach a mutually agreeable resolution of such dispute within a reasonable period of time. If the good faith negotiations do not result in an acceptable settlement of the controversy, claim or dispute, then the matter may be resolved in a court of competent jurisdiction in the State of Florida

Section 5.10. Waiver. No waiver or waivers of any breach or default by a party hereto of any term, covenant or condition or liability hereunder of performance by the other party of any duty or obligation hereunder will be deemed a waiver thereof in the future, nor will any such waiver or waivers be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, character or description, under any circumstances.

Section 5.11. Intended Beneficiaries. This Agreement is for the sole and exclusive benefit of the Authority and Contractor and will not be construed to confer any benefit upon any other party. Further, it is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof, a third party Beneficiary hereunder, or to authorize anyone not a party to

this Agreement to maintain a suit for personal injuries or property damage or other cause of action pursuant to the terms or provisions of this Agreement.

Section 5.12. Severability. The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person or circumstance is ever held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons or circumstances will not be affected hereby.

Section 5.13. Survival. Sections 3.01, 3.02, 3.03, and 3.04 shall survive the termination of this Agreement.

Section 5.14. Agreement Documents. This Agreement includes **Exhibits A and B**, the Proposal of May 16, 2012, and all amendments thereto, all of which are incorporated herein by reference and are made a part hereof (together such documents, are referred to herein as the "Agreement Documents"). Any changes and/or additions made to the Agreement Documents as a result of negotiations with the Authority shall be included as part of this Agreement and attached hereto as an Exhibit. In the event of a conflict within the Agreement Documents, the order of prevailing precedence shall be as follows:

1. The Agreement, as amended;
2. Exhibits to the Agreement, Change Orders and amendments and all exhibits and attachments thereto;
3. Contractor proposal dated July 12, 2012;

Notwithstanding the order of precedence set forth above, in the event of a conflict within documents of the same priority (for instance, between **Exhibits A and B**), the Authority's Manager shall have the right, in its sole discretion, to determine which provision applies. If Contractor disagrees with the Authority's Manager's determination, the Contractor will provide the Authority's Manager with written notice of its protest, proceed with the steps necessary to comply with that determination under protest, and preserve any rights to seek additional compensation.

Section 5.15. Notice Provisions. Notices under this Agreement and the Agreement Documents shall be in writing and (a) delivered personally, (b) sent by certified mail, return receipt requested, or (c) sent by a recognized overnight mail or courier service, with delivery receipt requested, to those individuals designated by Contractor and the Authority from time to time in writing:

To Authority: Mr. Ronald J. Wasson
Town Manager, Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

In addition, copies of all notices to proceed and suspension, termination and default notices forwarded by either Party shall be delivered to the following Persons:

To TransCore: Mr. Scott Hooton
Associate Vice President, TransCore, LP
3901 Commerce Parkway
Miramar, FL 33025

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiple copies, each of equal dignity, as of the date set forth on the first page hereof.

TOWN OF BAY HARBOR ISLANDS

By: _____
Ronald J. Wasson, Town Manager

TRANSCORE, LP

By: _____
Name: _____
Title: _____

EXHIBIT A

Scope of Work

TransCore will perform maintenance of the AET Collection System in accordance with the following:

► **Warranty Coverage Costs** – TransCore will coordinate the repair and/or replacement of all hardware provided as part of the AET Collection System. Costs associated with equipment repair other than TransCore-provided hardware will be on an RMA basis per each manufacturer's warranties.

► **Baseline Monitoring**– TransCore will perform a baseline of maintenance monitoring that includes:

- 24/7 helpdesk support (phone and email)
- 24/7 MOMS system monitoring
- One round of monitoring per shift (3 shifts per day).

► For any issues that require the Dispatch of onsite technicians to resolve any issue that becomes known through monitoring, the following shall occur shall:

- TransCore shall coordinate for the dispatch of onsite Bay Harbor Islands technicians and provide them with support as required to perform onsite repairs
- In the event that Bay Harbor Islands' technicians are unable to resolve such issues, TransCore shall dispatch its own technicians to perform onsite repairs.

EXHIBIT B

Maintenance Fees

Year 1 : \$ 59,350.00

Year 2 : \$ 61,427.25

Year 3 : \$ 63,577.20

Year 4 : \$ 65,802.40

Year 5 : \$ 68,105.49

If optional 5-year maintenance period is exercised, the maintenance fee will be negotiated.

AGENDA ITEM REPORT

October 13, 2014

ITEM NUMBER: 11.

ITEM: Request for an **extension** to an escrow agreement for the Rex Gardens Condominium Association located at 1085-1125 99 Street. The current escrow agreement expires in December and the association is asking for a six (6) month extension to allow them to wait for a nearby construction to be concluded so they can paint their building.

DESCRIPTION:

The Rex Garden Condo Association property manager approached staff to inquire about the possibility of extending the escrow agreement for the property so they can paint the building once the exterior work on the nearby construction site (9901 WBHD) is finished. They have addressed or will address all items that have been identified in the report by December, but would like to get an extension on the painting of the building. Staff is not currently authorized to extend the escrow agreement so we are bringing it for Council Consideration.

Staff recommends that the extension is granted and that if the Council chooses to approve it, the Town Attorney draft an amendment granting the additional six (6) months to have the building painted. The escrow amount to remain the same (\$70,000).

RECOMMENDED ACTION:

Approved

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Marlene Marante, Town Clerk

ATTACHMENTS

1.	Request for extension	Rex Garden Request for extension.pdf
2.	Rex Garden escrow agreement	Rex Garden escrow agreement.pdf

Marlene Marante

From: vnowell@clearskymanagement.com
Sent: Monday, October 06, 2014 9:59 AM
To: Marlene Marante
Subject: RE: FW: Rex Gardens Condominium Association

Good Morning Marlene

I will be in attendance for the Monday, October 13th meeting and yes we are only requesting an extension for the painting. All other items will be completed by the initial deadline date. Thank you again for your assistance in this regard.

Veronica Nowell
Licensed CAM Property Manager
Vice President, Management Operations
Clear Sky Property Management, Inc.

Leading Community Associations through the Storms

direct (305) 356-7414, ext. 3
fax (800) 786-3170
2929 SW 3rd Avenue, Suite #330
Miami, Florida 33129

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----- Original Message -----

Subject: FW: Rex Gardens Condominium Association
From: Marlene Marante <mmarante@bayharborislands.net>
Date: Mon, October 06, 2014 9:52 am
To: "vnowell@clearskymanagement.com" <vnowell@clearskymanagement.com>

Marlene Marante
Town Clerk/Director of Code Compliance
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154
Tel.: 305-866-6241
Fax: 305-866-4863
Email: mmarante@bayharborislands.net
Web: www.bayharborislands.org

From: Marlene Marante
Sent: Wednesday, October 01, 2014 5:14 PM
To: 'vnowell@clearskymanagement.com'
Subject: RE: Rex Gardens Condominium Association

Veronica, I'm going to put your request on the next agenda for Council consideration. The meeting will take place Monday, October 13th at 7:00 PM and a representative from the condominium should be present in case there are any questions. Please confirm that a six (6) month extension is the time frame that you are

seeking. Also, please confirm that all other items will be addressed prior to the expiration of the current agreement and you are only asking for the extension for the painting of the building.

Thank you.

Marlene Marante
Town Clerk/Director of Code Compliance
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154
Tel.: 305-866-6241
Fax: 305-866-4863
Email: mmarante@bayharborislands.net
Web: www.bayharborislands.org

From: vnowell@clearskymanagement.com [<mailto:vnowell@clearskymanagement.com>]

Sent: Monday, September 15, 2014 2:18 PM

To: Marlene Marante

Subject: Rex Gardens Condominium Association

Good Afternoon Marlene

I met you on last week regarding the Transfer of Development Rights repairs requested by the City for Rex Gardens Condominium Association located at 1085-1125 99 Street. (see attached During our brief meeting, I explained to you that the board is requesting to delay the painting of the building, until the beginning of next year, due to the demolition work currently in progress in the property adjacent to the eastside of Rex Gardens.

Everyday, there is a lot of dirt and debris being blown on to the property and it would be quite difficult for the painters to paint the building properly under these conditions. If you would kindly consider our request, we would really appreciate it. We look forward to a favorable response and thank you in advance for you attention and consideration of our request.

Veronica Nowell
Licensed CAM Property Manager
Vice President, Management Operations
Clear Sky Property Management, Inc.

Leading Community Associations through the Storms

direct (305) 356-7414, ext. 3
fax (800) 786-3170
2929 SW 3rd Avenue, Suite #330
Miami, Florida 33129

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August 5, 2013

Marlene Marante, Town Clerk
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154

Town Council

Robert H. Yaffe
Mayor

Jordan W. Leonard
Vice-Mayor

Stephanie Bruder
Council Member

Kelly Reic
Council Member

Solange M. Rousselot
Council Member

Isaac Salvor
Council Member

Francisco J. Temprano
Council Member

Town Officials

Ronald J. Wesson
Town Manager

Marlene Marante
Town Clerk

Craig B. Sherman
Town Attorney

RE: PROPOSED NEW PROJECT ~ 1120-24 98 STREET ?
Transfer of Development Rights
1085 - 1125 99 Street
Folio #13-2227-049-000

Dear Ms. Marante:

As per your request, below please find a list of repairs needed as required for the Transfer of Development Rights for the above-mentioned property.

BUILDING REPAIRS

- ② 1. Exterior paint (repair, stucco and paint)
Pressure clean stone work
2. Landscaping (Needs conditioning)
3. Windows (awning and jalousie)
4. Pool Area / Recreation Facilities - (good condition)
5. Fence/Gates are to code (good condition)
- ② 6. Doors (repair and replace meter closet, storage and laundry doors)
7. Elevator (no elevators)
8. Steps and railings (need paint)
9. Parking area (dedicated parking only)
10. Roof (1160 bldg - NEW / 1150 bldg - good condition)
11. Needs splash blocks and downspouts 1125, middle building
12. Surge vents required all openings

① **ELECTRICAL REPAIRS - See below**

1. Emergency Lights - not required (all exterior doors)
- 2. Electrical main disconnects are rusted corrected poor condition
3. Electrical cabinets are collapsing. Need to be replaced or removed and Main switch to be NEMA 3R
4. East water bond has been removed at main
- ? 5. No Fire exiting on exterior sides of building (Only 2 in Center)
6. Laundry room door removed. Electric exposed to weather.
7. Exterior lighting seems inappropriate

MAYOR JOSEPH J. GARLINER GOVERNMENT CENTER

8. Pool pump not bonded
9. Pool room receptacles not to code GFI
10. Unprotected extension cord thru pool vent within 5' of pool (Not GFI protected)

MECHANICAL REPAIRS - NONE

PLUMBING REPAIRS - Pending Plumbing Report

This building was build in 1952. No record on the property file for a 40 year re-certification.

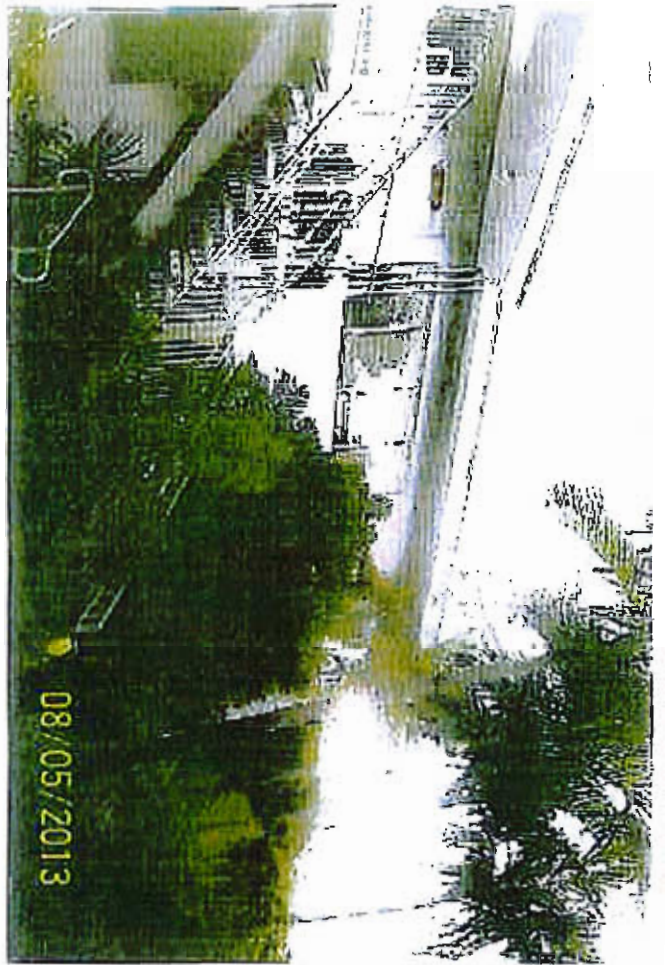
For your information attached are pictures pertaining to each repair required.

If you have any further question or comments please feel free to contact me.

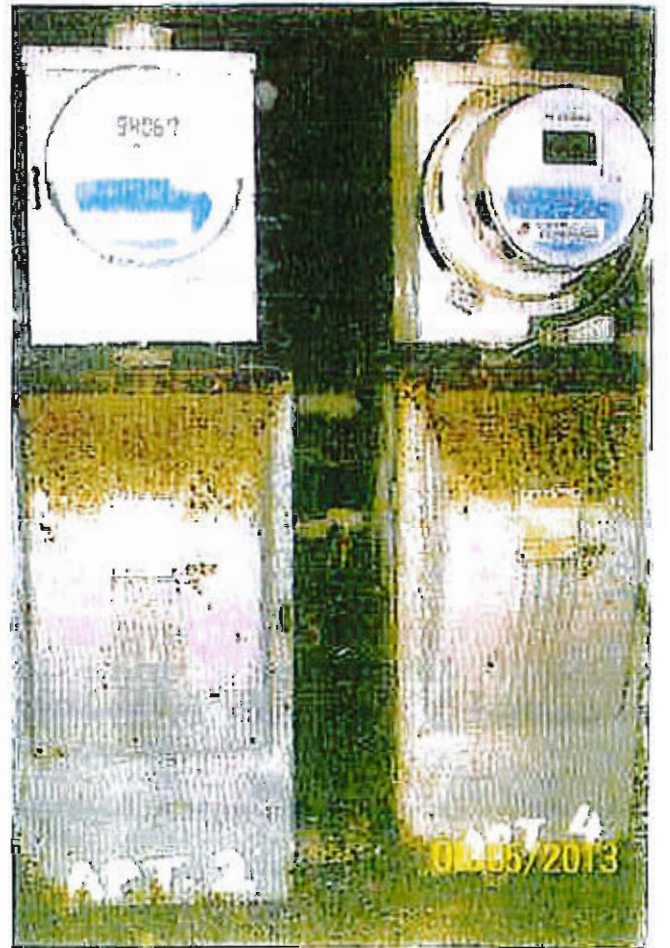
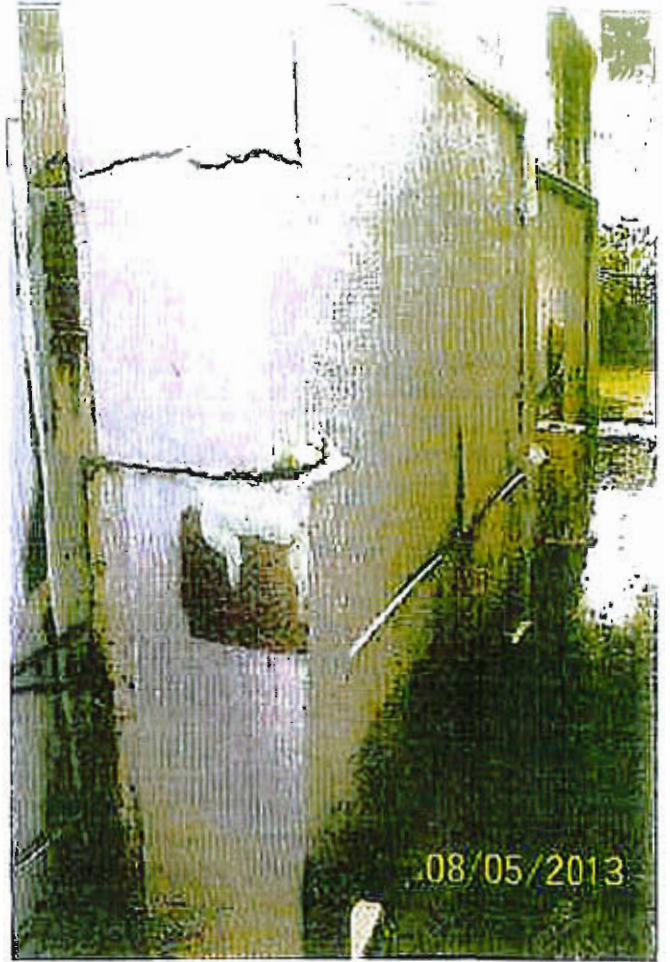
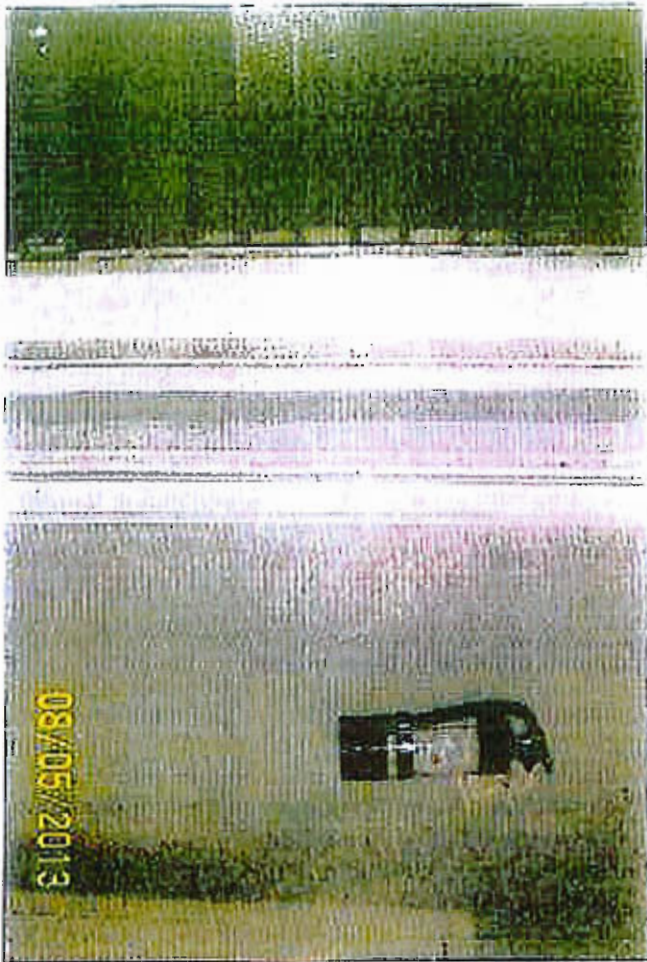
Sincerely,

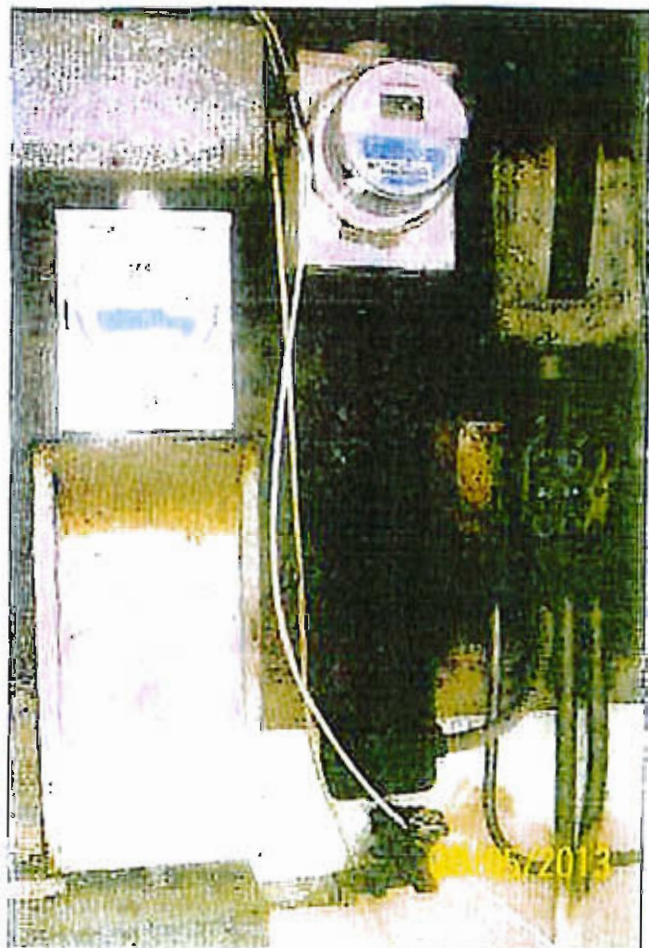
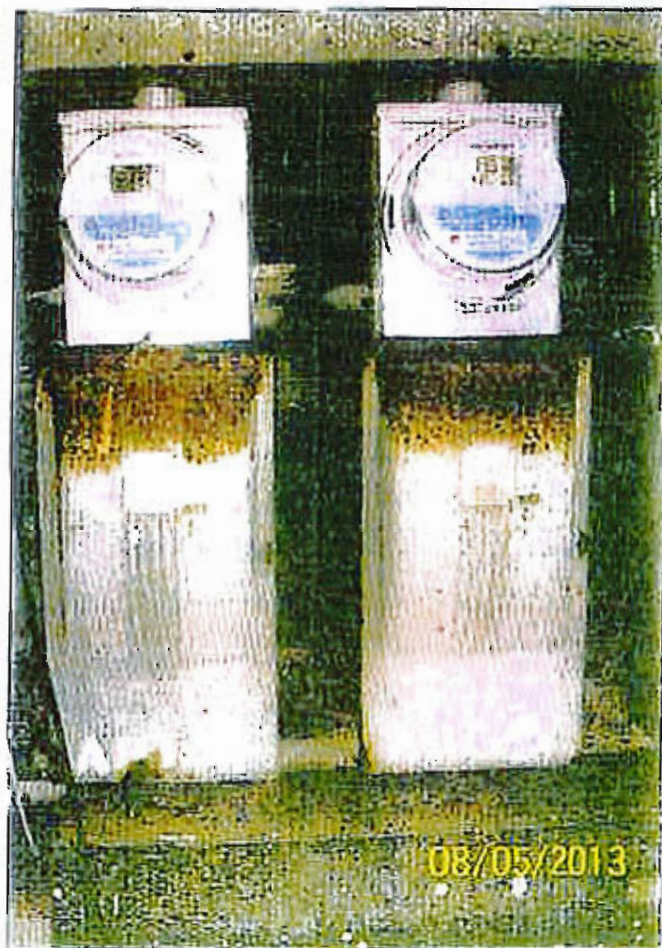


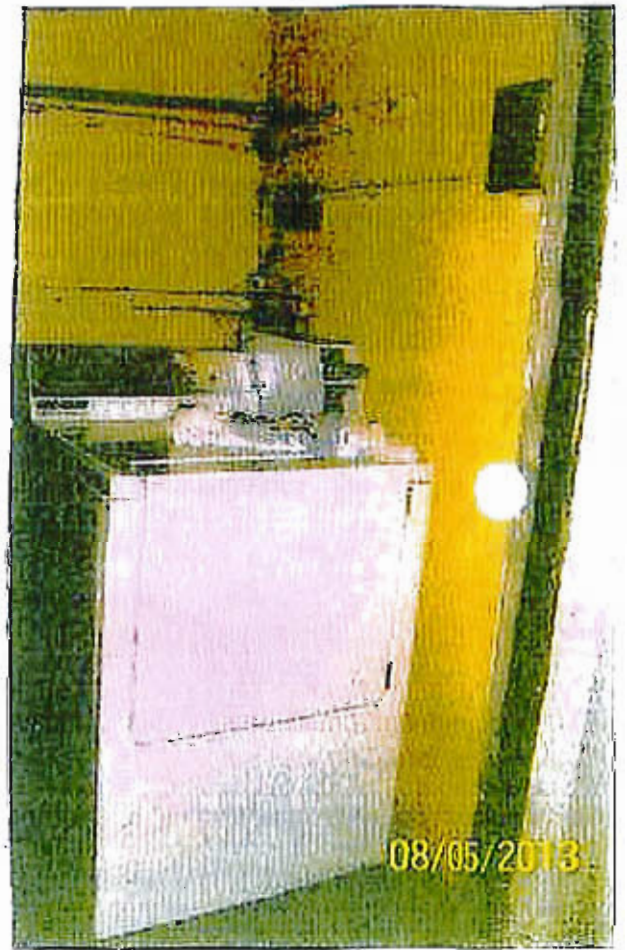
Dale E. Lee, CBO
Chief Building Official
DEL/am

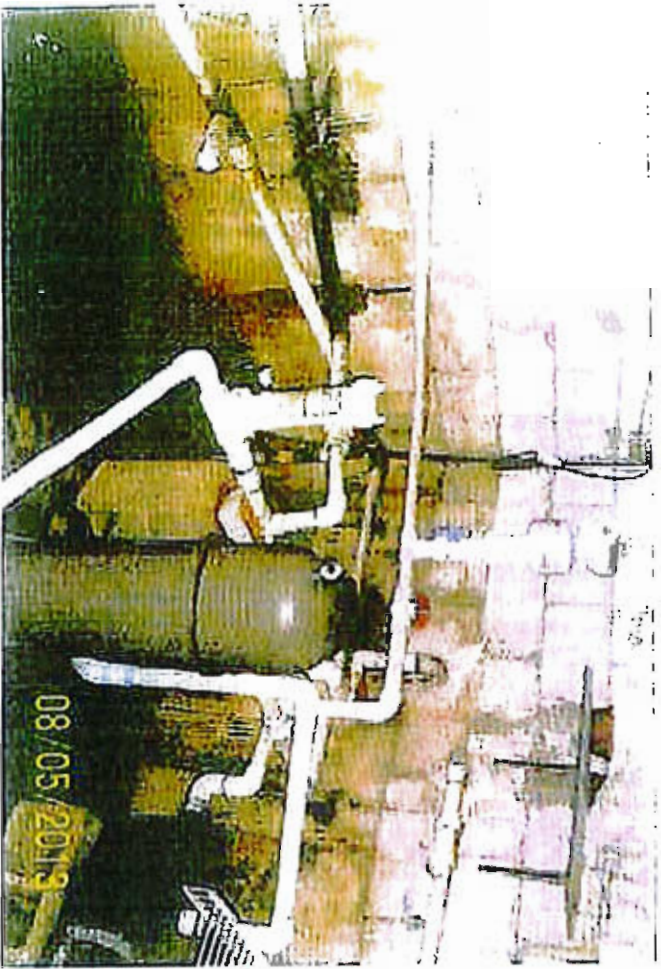












**ESCROW AGREEMENT FOR THE PURCHASE AND SALE OF
TRANSFERABLE DEVELOPMENT RIGHTS**

THIS ESCROW AGREEMENT FOR THE PURCHASE AND SALE OF TRANSFERABLE DEVELOPMENT RIGHTS (the "Agreement") is made and entered into as of the 17TH day of December, 2013 (the "Effective Date") by and between the TOWN OF BAY HARBOR ISLANDS (the "Town"), REX GARDENS CONDOMINIUM ASSOCIATION, INC., a not-for-profit Florida corporation (the "Seller"), BAY VILLAGE CONDOS, LLC, a Florida limited liability company (the "Buyer") and Law Offices of Jennifer Snyder, P.A. (the "Escrow Agent"). Town, Buyer, Seller, and Escrow Agent are referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS:

A. Seller is the owner of that certain real property located in Miami-Dade County, Florida more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Property") and seeks to Sell 7 transferable development rights (collectively, the "TDRs") to Buyer for and in connection with the development and construction of the Project (defined below).

B. Buyer submitted a Site Development Plan to the Town for the approval of a Project known as Monarch to be developed on the Property (the "Project").

C. The Site Development Plan was approved by the Town's Planning and Zoning Board by Resolution Number 1173 (the "Resolution").

D. The Resolution contains certain conditions for approval including, but not limited to, the number of TDRs required for the Project.

E. Seller has agreed to sell 7 TDRs to Buyer, and Buyer has agreed to purchase 7 TDRs from Seller, upon the terms and conditions contained in that certain purchase and sale agreement dated June 20, 2013 (the "Purchase and Sale Agreement").

F. In connection with the Purchase and Sale Agreement, the Town's Code of Ordinances (the "Code") requires Seller to repair its Property in order to update and cause the Property to become compliant with the Code. To this end, the Town has identified specific items on and about the Property that require updating and repair, together with the estimated cost to update and repair the Property (the "Repairs").

H. Seller is required to escrow certain proceeds from the sale of its TDRs to Buyer (the "Escrowed Funds") and use the Escrowed Funds to make the Repairs.

I. Escrow Agent has agreed to hold the Escrowed Funds and to distribute the Escrowed Funds only with the written approval of the Town.



NOW, THEREFORE, for good and valuable consideration, the receipt, sufficiency and adequacy of which is hereby acknowledged, the Parties, intending to be legally bound, do hereby agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by reference.

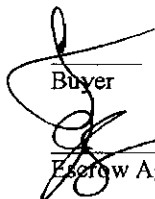
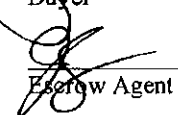
2. Escrowed Funds. Seller hereby agrees to have the Escrow Agent hold \$70,000 of Seller's proceeds from its sale of the TDRs to Buyer as the Escrowed Funds.

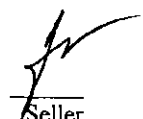
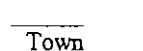
3. Repairs. Seller agrees to preform the Repairs that are attached hereto and incorporated herein as Exhibit "B". All Repairs shall be fully and completely performed in a timely manner not to exceed 365 days from the Effective Date of this Agreement. In the event that all Repairs are not completely and timely performed, the Town may cite the Seller for all of its Code violations, impose fines for non-compliance, initiate Code enforcement proceedings against the Seller for its Code violations and/or institute an action in a court of competent jurisdiction to enforce the terms of this agreement.

4. Release of Escrowed Funds. Seller shall submit proof of the Repairs to the Town. Upon the Town's satisfaction of Seller's full completion of the Repairs or Seller's need for certain Escrowed Funds to commence certain Repairs, the Town shall inform the Escrow Agent in writing of the amount of Escrowed Funds that may be distributed from Escrow and the name of the party to whom the Escrowed Funds shall be made payable. The Escrow Agent understands and agrees that she/he/it shall only distribute the Escrowed Funds upon receipt of written confirmation from the Town authorizing distribution of the Escrowed Funds.

5. Representations, Warranties, Covenants and Agreements of Seller. Seller hereby represents, warrants, covenants, agrees and states to the Town as follows:

- (a) Seller has the full right, power, and authority to enter into and perform under this Agreement and to consummate the Repairs contemplated herein. All required corporate acts have been fully complied with.
- (b) The person executing this Agreement on behalf of Seller is duly authorized to execute and bind Seller to this Agreement and all other agreements, documents and instruments executed and to be executed in connection with the transaction contemplated herein, and upon such execution and delivery, this Agreement shall be valid, binding and enforceable against Seller.


Buyer

Escrow Agent


Seller

Town

All of the representations, warranties, covenants, agreements and statements of Seller set forth in this Section shall be true and correct at all times from the Effective Date through and including the closing date of the Purchase and Sale Agreement.

6. Documents to be Delivered at Closing of the Purchase and Sale Agreement. At the closing of the Purchase and Sale Agreement: a) the Escrow Agent shall deliver to the Town proof that she/he/it is holding the Escrowed Funds; and b) Escrow Agent or Seller shall deliver to the Town a copy of the deed that conveys the TDRs to the Buyer.

7. Notices. All notices to be given under this Agreement shall be in writing and sent to the Parties at the addresses set forth below, by hand delivery; by email with any attachment thereto in PDF format, provided that the Party receiving such email confirms receipt thereof by return email and the Party sending such email notice also delivers a second form of notice by hand delivery or overnight mail that is received the following day; or by a nationally recognized overnight courier service. Any such notice shall be deemed received upon the earlier of receipt or refusal by the addressee.

Notices to Buyer shall be sent to Bay Village Condos, LLC Attn: A. Daniel Avakian Phone No. 305-692-2232. email address: Daniel@bricko.net; together with a copy to email address: Jennifer@jsnyderlegal.com.

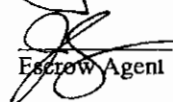
Notices to Seller shall be sent to Bay Gardens Condo Assoc. Attn: Carlos Guerrero, Clear Sky Phone No. 305-356-7414, email address cguerrero@clearskymanagement.com together with a copy to email address: Frank-Varona@yahoo.com.

Notices to Town shall be sent to 9665 Bay Harbor Terrace, Bay Harbor Islands, Florida 33154, Attn: Ronald Wasson, Phone No. (305) 866-6241, email address rwasson@bayharborislands.net with a copy to frank@franksimone.com

Notices to Escrow Agent shall be sent to Law Offices of Jennifer Snyder, P.A. Attn: Jennifer Snyder, P.A. Phone No. 786-899-2880, email address Jennifer@jsnyderlegal.com; together with a copy to email address: _____.

The place to which any Party, or person designated to receive any notice on behalf of any Party, is entitled to receive any notice may be changed by such Party by giving notice thereof in accordance with the foregoing provisions. The attorneys for the Parties are authorized to send and receive notices and demands for and on behalf of their respective clients under this Agreement.

8. Escrow Agent. The Escrow Agent shall hold in and disburse from escrow any monies and documents delivered to it by the Parties in accordance with the terms and provisions of this Agreement. The Escrow Agent is authorized and directed to place the Escrowed Funds in


Buyer

Escrow Agent


Seller

Town

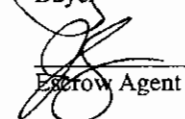
a non-interest bearing escrow account with any financial institution having branches in Miami-Dade County, Broward County and/or Palm Beach County. Seller agrees to indemnify and hold the Escrow Agent harmless from and against any and all claims, demands, losses, liabilities, damages, fees, costs and expenses (including reasonable attorneys' fees and costs through all trial, appellate and post-judgment levels and proceedings) which the Escrow Agent may incur in its capacity as escrow agent under this Agreement, except for any such claim, demand, loss, liability, damage, fee, cost and/or expense incurred as a result of the Escrow Agent's negligence or willful misconduct. If there is any dispute as to the disposition of any monies or documents held by the Escrow Agent, then the Escrow Agent is hereby authorized to interplead such monies and/or documents into any court of competent jurisdiction and thereby be released from all obligations and liabilities hereunder.

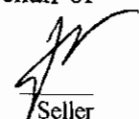
9. Miscellaneous.

(a) This Agreement shall be governed by, enforced and construed under the laws of the State of Florida. Venue for all actions, litigation and/or other proceedings arising out of this Agreement shall be exclusively in Miami-Dade County, Florida. The Parties hereby knowingly and voluntarily waive the right to a trial by jury of any claim, controversy or disputed matter between them. The prevailing Party in any action, litigation or other proceeding that is based on any claim, controversy or other disputed matter arising under, out of or in connection with this Agreement (or any agreement, document or instrument executed or contemplated to be executed in conjunction herewith) shall recover from the non-prevailing Party all fees, costs and expenses (including, without limitation, reasonable attorneys' fees and costs through all trial, appellate and post-judgment levels and proceedings) incurred by the prevailing Party in such action, litigation or other proceeding. This Section shall survive termination of this Agreement.

(b) The Parties hereby acknowledge and agree that each has had an opportunity to be represented by or consult with independent legal counsel and that any rule of construction which provides that ambiguities are to be construed against the drafter shall not apply in the interpretation or construction of this Agreement. If any term, provision or portion of this Agreement is for any reason held to be invalid, illegal or unenforceable by a court of competent jurisdiction, then such term, provision or portion of this Agreement shall be given it nearest valid, legal and enforceable meaning, or construed as deleted, whichever such court may determine, and the same shall not invalidate the remaining terms, provisions and/or portions of this Agreement, which remaining terms, provisions and portions of this Agreement will remain in full force and effect.

(c) This Agreement includes all exhibits and amendments that are executed in connection herewith, whether executed simultaneously with or subsequent to the execution of this Agreement. This Agreement, together with all such now or hereafter existing exhibits and amendments, contains the entire agreement and understanding between the Parties relating to the subject matter of this Agreement, and all prior or contemporaneous terms, covenants, conditions, representations, warranties, statements, agreements and understandings made by or on behalf of


Buyer

Escrow Agent


Seller

Town

the Parties, whether oral or written, are merged herein. This Agreement may not be amended or modified except by a written instrument executed by the Party against whom enforcement of such amendment or modification is sought. This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns.

(d) No default, term, covenant, condition or other provision of this Agreement may be waived by a Party, except by a written instrument executed by the Party against whom enforcement of such waiver is sought.

(e) Time is of the essence with respect to each and every term, covenant and condition of this Agreement and the Parties' performance of the same.

(f) Wherever appropriate in this Agreement, the singular shall be deemed to refer to the plural and the plural to the singular, and pronouns of each gender shall be deemed to comprehend either or both of the other genders. The Section and paragraph headings in this Agreement are for convenience only and shall not affect the meaning, interpretation or scope of the terms or provisions set forth therein.

(g) This Agreement may be executed in multiple counterparts, each of which individually shall be deemed an original, but when taken together shall be deemed to be one and the same Agreement. The signature of any Party on copies of this Agreement (or any exhibit or amendment hereto) may be signed by electronic signature, such as facsimile transmission or electronic mail by PDF format, and any such electronic signature shall be deemed to be an original for all purposes.

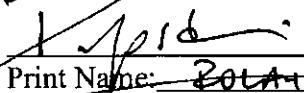
IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals as of the date first set forth above.

Signed, sealed and delivered
in the present of:

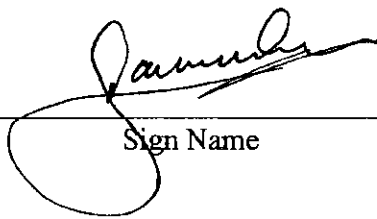
BUYER: Bay Village Condos, LLC



Print Name: Jennifer Snyder

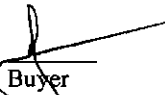


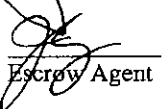
Print Name: ROLANDO EPSTEIN

By: 

Sign Name

Print Name



Buyer


Escrow Agent



Seller

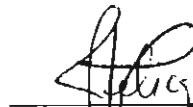
Town

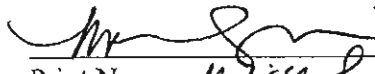

Print Name: Jennifer Snyder


Print Name: ROLANDO EPSTEIN

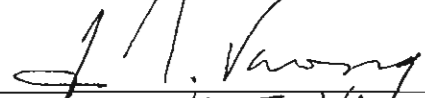

Print Name: J.C. Jimenez


Print Name: MARLENE MARANTE


Print Name: Jennifer Cardenas Telas

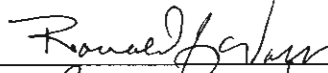

Print Name: Melissa Frisman

SELLER: Key Gardens Condominium
Association, Inc.

By: 
Name: FRANK J. VAZONA
Title: V. PRESIDENT

Date: Dec. 17, 2013

TOWN OF BAY HARBOR ISLANDS

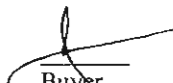
By: 
Name: RONALD T. WASSON
Title: TOWN MANAGER

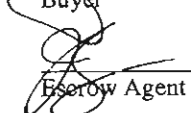
Date: Dec. 17, 2013

ESCROW AGENT: Law Offices of Jennifer Snyder, P.A.

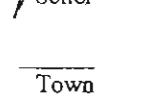
By: 
Name: Jennifer Snyder
Title: President

Date: 12/17/13


Buyer


Escrow Agent


Seller


Town

AGENDA ITEM REPORT

October 13, 2014

ITEM NUMBER: 12.

ITEM: Request for approval of a six month extension to close on a TDR contract between the Town and Bay Harbor Islands 1, LLC. The contract was entered into October 15, 2013 for the purchase of 13 TDRs to be transferred to the receiving property located at 1100, 1120 - 100 Street. Enclosed is information provided by Ackerman, LLP, who represents the owners.

DESCRIPTION:

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Marlene Marante, Town Clerk

ATTACHMENTS

1.	Letter of Request	Letter of Intent.pdf
2.	Amendment	Amendment.pdf
3.	Deed	Deed.pdf



Marissa Amual

Akerman LLP
One Southeast Third Avenue
Suite 2500
Miami, FL 33131-1714
Tel: 305.374.5600
Fax: 305.374.5095

Dir: 305.982.5614
marissa.amual@akerman.com

September 30, 2014

VIA E-MAIL (rwasson@bayharborislands.net) AND U.S. MAIL

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

Re: Bay Harbor Island I, LLC Request for 6-Month Extension to Close on
Agreement for Purchase and Sale of Transferable Development Rights

Dear Mr. Wasson:

Our firm represents Bay Harbor Island I, LLC (hereinafter, "Owner"), the owner of the property located at 1100-1120 100th Street (the "Property"), in the Town of Bay Harbor Islands, Florida (the "Town"), and successor in interest to that Agreement for Purchase and Sale of Transferable Development Rights (the "Agreement"). The Agreement was approved by the Town Council and entered into on October 15, 2013 in connection with the purchase and sale of thirteen (13) transferable development rights for the Bay Harbor 1 Project, which was approved by the Planning and Zoning Board on September 3, 2013 under Resolution No. 1176.

Section 10 of the Agreement requires the closing to occur within one (1) year from the effective date of the Agreement. However, Section 8(ii) of the Agreement requires the building permit to be issued for the Project prior to closing. The Owner has applied for the building permit and the Project is moving forward in a positive direction, but the Owner unfortunately is still several months away from obtaining a building permit. As you know, the building permit approval process involves approvals not only from the Town, but from various Miami-Dade County agencies, including the Fire Department and the Environmental Resources Management (DERM). Owner respectfully requests a six-month extension to allow sufficient time for the Owner to respond to agency comments, fine-tune the Project, and obtain the building permit to close on the TDRs.

Within two days after the Agreement was signed, Buyer deposited 25% of the Purchase Price into escrow as required by the Agreement. The remaining 75% is due at Closing. Owner is ready, willing and able to close immediately upon issuance of the building permit, and has shown its commitment by depositing the remaining 75% of the purchase price (\$341,250.00) into escrow at this time.

akerman.com

The Owner remains excited about and committed to the development of this Project. Owner is not requesting additional TDRs, but rather is only requesting additional time to obtain the building permit for the project.

We respectfully request favorable review by the Town Council of an Amendment to the Agreement to grant a six-month extension to allow the Owner sufficient time to obtain the building permit for the Project.

Enclosed herein is a copy of the Amendment and a copy of documentation verifying ownership of the Property.

Sincerely,



Marissa R. Amual

Enclosures

cc: Steven J. Wernick, Esq.
Michel Leibovich
Frank Simone
Marlene Marante

AMENDMENT TO AGREEMENT FOR PURCHASE AND
SALE OF TRANSFERABLE DEVELOPMENT RIGHTS

THIS AMENDMENT TO AGREEMENT FOR PURCHASE AND SALE OF TRANSFERABLE DEVELOPMENT RIGHTS (this "Amendment") is made and entered into this ____ day of October, 2014 by and between TOWN OF BAY HARBOR ISLANDS (the "Town" or "Seller"), and Bay Harbor Island I. LLC (the "Buyer"). Seller and Buyer are referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS:

WHEREAS, the Buyer is the successor in interest to the Agreement for Purchase and Sale of Transferable Development Rights entered into and made effective October 15, 2013 between Townlofts 100, LLC and the Town (the "Agreement"), for the purchase of thirteen (13) transferable development rights ("TDRs") in connection with the Project known as Bay Harbor 1 to be developed on that certain real property located at 1100-1120 100th Street, Bay, Harbor Islands, FL 33154, more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Property").

WHEREAS, the Buyer has made known that it intends and desires to close on the Agreement and has posted the remaining amount owed in connection with the purchase of the TDRs into an escrow account.

WHEREAS, the Buyer has requested an extension to the Closing Date set forth in Section 10 of the Agreement for satisfaction of the conditions precedent set forth in Section 8(ii) of the Agreement, specifically to obtain the building permit for the Project.

WHEREAS, the Seller and Buyer now desire to amend the terms and conditions of the Agreement as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises, the mutual promises contained herein, \$10.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.
2. Closing Date. The Closing Date, as set forth in Section 10 of the Agreement, is hereby extended to April 15, 2015. The closing date may be extended by the Seller, through the Town Manager, for an additional thirty (30) calendar days if the Town Manager determines that the Buyer is pursuing the required permit in good faith and is in compliance with all other terms of the Agreement.
3. Existing Terms of Agreement. All other terms in the Agreement remain unchanged.
4. Counterparts. This Amendment may be executed in several counterparts, each of which shall be deemed an original. The signature of any Party on copies of this Agreement (or any exhibit or amendment hereto) may be signed by electronic signature, such as facsimile

transmission or electronic mail by PDF format, and any such electronic signature shall be deemed to be an original for all purposes.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals as of the date first set forth above.

Signed, sealed and delivered
in the present of:

BUYER: **Bay Harbor Island I, LLC**, a Florida limited

Print Name:

By:



Sign Name

Print Name:

Michel Leibovich, Manager

Print Name

Michel Leibovich

SELLER:

TOWN OF BAY HARBOR ISLANDS

Print Name:

By:

Name:

Title:

Print Name:

Date:

EXHIBIT "A"

The Legal Description of the Property

**Lot 3 and 4, Block 8, of "Bay Harbor Islands", According to the Plat
Thereof, as Recorded in Plat Book 46, Page 5, of the Public Records of
Miami-Dade County, Florida.**

CP

Prepared By:
Thomas G. Sherman, P.A.
90 Almeria Avenue
Coral Gables, Florida 33134

Record and Return to:
Fowler White Burnett, P.A.
1395 Brickell Avenue
14th Floor
Miami, FL 33131

**Property Appraisers Parcel
Identification (Folio) Number:**
13-2227-001-1660
13-2227-001-1650

CFN 2014R0216387
OR Bk 29082 Pgs 0652 - 6541 (3pgs)
RECORDED 03/25/2014 15:58:03
DEED DOC TAX 0.60
SURTAX 0.45
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

SPACE ABOVE THIS LINE FOR RECORDING DATA

CORRECTIVE WARRANTY DEED

Made this 11 day of March, 2014 A.D. by TOWNLOFTS 100, LLC A DELAWARE LIMITED LIABILITY COMPANY whose post office address is: 1329 Alton Road, Miami Beach, FL 33139, (hereinafter called the "Grantor"), to: Bay Harbor Island I, LLC, a Florida Limited Liability Company whose post address is: 1395 Brickell Avenue, 14th Floor-FAP, Miami, FL 33131, (hereinafter called the "Grantee"):

(Whenever used herein the term "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH, that the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to Grantor in hand paid by Grantee, the receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys, and confirms unto the said Grantee and Grantee's heirs, successors and assigns forever, all of that certain land, situate, lying and being in the County of MIAMI-DADE, State of Florida to wit:

All of Lots 3 and 4, in Block 8 of BAY HARBOR ISLAND, according to the Plat thereof, as recorded in Plat Book 46, at Page 5 of the Public Records of Miami-Dade County, Florida.,

****NOTE TO CLERK: THIS CORRECTIVE WARRANTY DEED IS BEING RECORDED OF RECORD IN ORDER TO CORRECT THE LEGAL DESCRIPTION ON THE DEED DATED NOVEMBER 6, 2013 AND RECORDED ON NOVEMBER 08, 2013 IN OFFICIAL RECORDS BOOK 28904, AT PAGE 4734-4736, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.**

This conveyance is made subject to the following:

1. Easements, rights of way, limitations, reservations, covenants and restrictions of records, if any, which are not hereby being re-imposed; and,
2. Zoning or other regulatory laws and ordinances affecting the land, if any.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

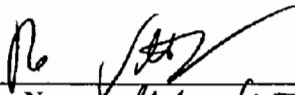
To have and to hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except real estate taxes accruing subsequent to December 31, 2013.

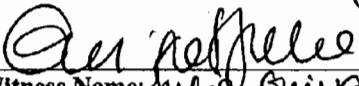
IN WITNESS WHEREOF, the said grantor has signed and sealed these presents the day and year first above written.

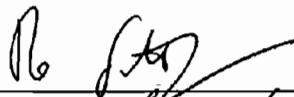
Signed, sealed and delivered in our presence:

TOWNLOFTS 100, LLC
A DELAWARE LIMITED LIABILITY
COMPANY

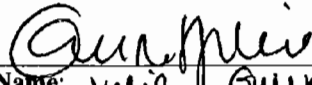

Witness Name: Eric Harari

By: 
Eric Harari, as Member and Managing Member


Witness Name: Julie Guinet


Witness Name: Eric Harari

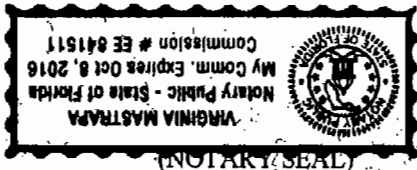
By: 
Yarden Bayles, as Member and Managing Member


Witness Name: Julie Guinet

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

BEFORE ME, a Notary Public duly authorized to administer oaths and take acknowledgments in the County and State set forth above, personally appeared **Eric Harari, as Member and Managing Member of Townlofts 100, LLC, a Delaware Limited Liability Company** who is personally known to me or who has produced personally known as identification, and he acknowledged before me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, in the state and county aforesaid, this 17th day of March, 2014.

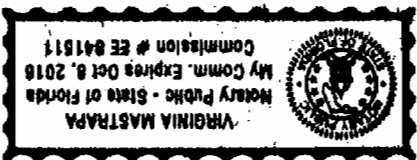


[Signature]
NOTARY PUBLIC, STATE OF FLORIDA
Print Name: Virginia Mastropa
Commission Number: EE 841511
My Commission Expires: OCT. 8th, 2016

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

BEFORE ME, a Notary Public duly authorized to administer oaths and take acknowledgments in the County and State set forth above, personally appeared **Yarden Bayles, as Member and Managing Member of Townlofts 100, LLC, a Delaware Limited Liability Company** who is personally known to me or who has produced personally known as identification, and she acknowledged before me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, in the state and county aforesaid, this 17th day of March, 2014.



[Signature]
NOTARY PUBLIC, STATE OF FLORIDA
Print Name: Virginia Mastropa
Commission Number: EE 841511
My Commission Expires: OCT. 8th, 2016

AGENDA ITEM REPORT

October 13, 2014

ITEM NUMBER: 13.

ITEM: Approval of a change of date for the elections in 2015. Due to the fact that there is a religious holiday on the first Tuesday in April next year, Town Clerk Marante request approval to officially change the date of the Elections to Tuesday, April 21st.

DESCRIPTION:

The Town's Charter provides that if a schedule election falls on a religious holiday, the Town Council can change it. See Section 6.01 Elections below:

Section 6.01. - Elections.

(a)Regular Election Dates. Elections shall be held on the first Tuesday in April each year. In the event the first Tuesday of April falls on a religious holiday or the occurrence of a disaster of some kind, the Council may, by majority vote, direct that the election in that particular year be held on another date in April.

(b)Qualification of electors. Any person who is a resident of the Town, has qualified as an elector of the State, and registers to vote in the manner prescribed by law as elector of the Town shall be a qualified elector of the Town

Since the Elections Department requires that the dates are provided to them more than a year in advance, I have already given them the tentative date of Tuesday, April 21st, 2015 as our next regularly scheduled election. The qualifying dates would be from March 12, 2015 through March 20, 2015

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Marlene Marante, Town Clerk

ATTACHMENTS

AGENDA ITEM REPORT

October 13, 2014

ITEM NUMBER: 14.

ITEM: Approval of Change Order numbers 2 and 3 in favor of Halley Engineering Contractors, Inc. in the amounts of \$75,073.05 and \$56,518.31 respectively. These change orders are for the demolition of the Toll Plaza building and the roadwork associated with the SunPass conversion.

DESCRIPTION:

The Contract to convert the Toll Plaza to All Electronic or Open Road Tolling, was awarded to Halley Engineering Contractors, Inc. (Halley). in the amount of \$1,127,512.83. The original bid amount of the low bidder was \$1,248,116.43 and contract amount was reduced by \$120,603.60.

Change Order # 1 was previously approved in the amount of \$16,479.38 to paint the gantry in Black Satin, rather than leave a galvanized finish.

Change order # 2 is associated with the realigned travel lanes through the Toll Plaza. The plans originally required that the asphalt left over after the lane realignment would be milled, resurfaced and cross hatched. In an attempt to improve the aesthetics this Change Order would require the Contractor to remove the asphalt and replace with sod. This CO also includes new curbs to define the new road alignment.

At the time of bid, demolition activities related to the project were restricted to the overhead canopies in the travel lanes and contractors were not required to bid on demolishing the Toll Plaza. Upon request, Halley Engineering supplied a price to demolish the Toll Plaza building in the amount of \$56,518.31 (Change order # 3) . This proposal was reviewed by Atkins and they discovered that the price was substantially less than what was typically paid for similar work on FDOT contracts. They concluded that Halley's price is reasonable.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

Approve Change Order # 2 in the amount of \$75,073.05.

Approve Change Order # 3 in the amount of \$56,518.31

BUDGET IMPACT:

Submitted By: Randy Daniel, Town Engineer

ATTACHMENTS

1.	Change Order # 2	Change Order #02 Pavement Removal.pdf
2.	Change Order # 2	Change Order #02.pdf
3.	Change Order # 3	HEC Broad Causeway Demolition Breakdown.pdf
4.	Change Order # 3	Change Order #03.pdf

SUMMARY OF CHANGE ORDER #02

Contract # BC139

Town of Bay Harbor Islands

HEC # 1305



HALLEY ENGINEERING CONTRACTORS, INC.

DATE: Thursday, September 18, 2014

DESCRIPTION: Pavement Removal

ITEM Number	Description	Unit	Quantity	New Qty's	Quantity	Unit Price	Cost
101-1	Mobilization	CY	1.00	1.00	1.00	\$ 5,560.97	\$ 5,560.97
102-1	Maintenance of Traffic	CY	1.00	1.00	1.00	\$25,000.00	\$ 25,000.00
110-11	Clearing and Grubbing	CY	1.00	1.00	1.00	\$32,000.00	\$ 32,000.00
	Removal of Existing Asphalt Pavement	LS	1.00	1.00	4,629.00	\$ 7.00	\$ 32,403.00
120-7	Embankment	CY	1.00	273.00	272.00	\$ 10.00	\$ 2,720.00
160-4	Type 8 Stabilization	SY	665.00	1,693.00	1,028.00	\$ 5.70	\$ 5,859.60
285-711	Optional Base (Base Group 11)(4" granular sub-base and 5" Type B-12.5)	SY	1,824.00	1,049.00	(775.00)	\$ 60.00	\$ (46,500.00)
327-70-1	Mill Existing Asphalt Pavement 1" Average Depth	SY	6,523.00	4,227.00	(2,296.00)	\$ 3.50	\$ (8,036.00)
334-1-22	Superpave Asphaltic Concrete (Traffic B)(1")	TN	90.50	55.20	(35.30)	\$ 160.00	\$ (5,648.00)
337-7-40	Asphalt Concrete Friction Course, Traffic B, FC-9.5, PG 76-22 (1")	TN	455.80	308.50	(147.30)	\$ 200.00	\$ (29,460.00)
425-4	Adjust Inlets	EA	2.00	-	(2.00)	\$ 1,500.00	\$ (3,000.00)
425-152-5	Inlets, DT Bottom, Type C, Partial	EA		2.00	2.00	\$ 2,500.00	\$ 5,000.00
425-191-0	Inlets, Closed Flume	EA		2.00	2.00	\$ 3,000.00	\$ 6,000.00
570-1-2	Performance Turf, Sod	SY	100.00	-	(100.00)	\$ 5.00	\$ (500.00)
520-1-10	Concrete Curb & Gutter, Type F	LF		2,023.00	2,023.00	\$ 25.00	\$ 50,575.00
536-73	Guardrail Removal	LF		1,160.00	1,160.00	\$ 7.00	\$ 8,120.00
700-20-60	Single Post Sign (Remove)	AS	13.00	15.00	2.00	\$ 22.00	\$ 44.00
705-11-1	Flexible Tubular Delineator	EA	13.00	-	(13.00)	\$ 75.00	\$ (975.00)
706-3	Retro-Reflective Pavement Markers	EA	50.00	70.00	20.00	\$ 4.00	\$ 80.00
711-11-111	ThermoQlastic (STD) (White) (Solid) (6")	NM	0.35	0.36	0.01	\$ 5,000.00	\$ 55.00
711-11-122	Thermoplastic (STD) (White) (Solid) (8")	LF	473.00	341.00	(132.00)	\$ 1.21	\$ (159.72)
711-11-124	Thermoplastic (STD) (White) (Solid) (18")	LF	1,298.00	70.00	(1,228.00)	\$ 2.50	\$ (3,070.00)
711-11-131	Thermoplastic (STD) (White) (Skip) (6"), 10-30 Skip	GM	0.356	0.359	0.003	\$ 1,500.00	\$ 4.50
711-11-151	Thermoplastic (STD) (White) (Dotted/Guideline/6-10 Gap Extensions, 6")	LF	134.00	192.00	58.00	\$ 0.90	\$ 52.20
711-11-211	Thermoplastic (STD) (Yellow) (Solid) (6")	NM	0.34	0.40	0.06	\$ 5,000.00	\$ 315.00
711-11-224	Thermoplastic (STD) (Yellow) (Solid) (18")	LF	547.00	-	(547.00)	\$ 2.50	\$ (1,367.50)

TOTAL COST

TOTAL Change Order AMOUNT

\$ 75,073.05

*Fine Grading/Topsoil/Sod is not included.

*All Trees are to remain unless they are in conflict with the work

CHANGE ORDER

Attachment F - AIA form G701

OWNER ☐
ARCHITECT ☐
CONTRACTOR ☐
FIELD ☐
OTHER ☐

AIA DOCUMENT G701

PROJECT: Broad Causeway All Electronic Toll

CHANGE ORDER NUMBER: 23 Ad.

DATE: 24-Sep-14

CONTRACT NO.: BC 139

TO CONTRACTOR: Halley Engineering Contractors, Inc.

The Contract is changed as follows:

Remove existing toll facility parking lot, remove excess roadway pavement, replace existing curb and gutter, and modify existing drainage as indicated in the revised plan sheets dated 8-13-14.

APPROVED:


Construction Management

Not valid until signed by the Owner, Architect and Contractor.

The original (Contract Sum) (Guaranteed maximum Price) was	\$1,127,512.83
Net change by previously authorized Change orders	\$16,479.38
The (Contract Sum) (Guaranteed maximum Price) prior to this Change order was	\$1,143,992.21
The (Contract Sum) (Guaranteed maximum price) will be (increased) (decreased) (unchanged) by this Change Order in the amount of	\$75,073.05
The new (Contract Sum) (Guaranteed maximum Price) including this Change order will be	\$1,219,065.26

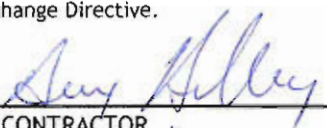
The Contract Time will be (increased) decreased) (unchanged) by	0 Days
The date of Substantial Completion as of the date of this Change Order therefore is	1/26/2015

NOTE: This summary does not reflect changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive.


ARCHITECT
1514 Broadway, Suite 203
Address
Ft Myers, FL 33901

BY Michael Ryan

DATE 24 Sep 14


CONTRACTOR
13901 NW 118th AVE
40750 NW 3 127th St
Address
MIAMI, FL 33178
Medley, FL 33178

BY ALEX HALLEY

DATE 25 SEP 14

OWNER
9665 Bay Harbor Terrace
Address
Bay Harbor Islands, FL 33154

BY Ron Wasson

DATE

SUMMARY OF WORK ORDER

Broad Causeway



DATE: Monday, September 8th

DESCRIPTION: Building Demolition
Maytin Engineering

LABOR BREAKDOWN

DESCRIPTION	U/M	RATE	QTY	EXTENSION	BURDEN	TOTAL COST
Project Manager	HR	\$75.00	15.00	\$ 1,125.00	46.30%	\$ 1,645.88
Foreman	HR	\$ 45.00	30.00	\$ 1,350.00	46.30%	\$ 1,975.05
Excavator Operator	HR	\$ 30.00	60.00	\$ 1,800.00	46.30%	\$ 2,633.40
Loader/Dozer Operator	HR	\$ 25.00	50.00	\$ 1,250.00	46.30%	\$ 1,828.75
Laborer	HR	\$ 10.00	75.00	\$ 750.00	46.30%	\$ 1,097.25
Laborer	HR	\$ 10.00	75.00	\$ 750.00	46.30%	\$ 1,097.25
Laborer	HR	\$ 10.00	75.00	\$ 750.00	46.30%	\$ 1,097.25
Low-boy Driver	HR	\$ 12.50	30.00	\$ 375.00	46.30%	\$ 548.63
				\$ -		\$ -

TOTAL LABOR: \$ 11,923.45

EQUIPMENT BREAKDOWN

DESCRIPTION	U/M	RATE	QTY	EXTENSION
Ford Pick-Up (PM)	HR	\$ 19.87	15.00	\$ 298.05
Ford Pick-Up (FM)	HR	\$ 19.87	30.00	\$ 596.10
Excavator	HR	\$ 125.59	60.00	\$ 7,535.40
Loader	HR	\$ 60.20	25.00	\$ 1,505.00
Water Tanker	HR	\$ 77.02	30.00	\$ 2,310.60
Dozer	HR	\$ 35.60	25.00	\$ 890.00

TOTAL EQUIPMENT: \$ 13,135.15

Hauling BREAKDOWN

DESCRIPTION	U/M	RATE	QTY	EXTENSION
Haul	HR	\$ 65.00	175.00	\$ 11,375.00
Dumping Fee	LD	\$ 500.00	25.00	\$ 12,500.00

TOTAL MATERIAL: \$ 23,875.00

SUBCONTRACT

SUBCONTRACTOR	U/M	RATE	QTY	EXTENSION
				\$ -
				\$ -

TOTAL SUBCONTRACT \$ -

INDIRECT COSTS

DESCRIPTION	U/M	RATE	QTY	EXTENSION
				\$ -

TOTAL LABOR: \$ -

TOTAL LABOR: \$ 11,923.45
TOTAL EQPT: \$ 13,135.15
TOTAL Haul: \$ 23,875.00
(+) 10% \$ 53,826.96

TOTAL SUBC: \$ 53,826.96
(+) 5% \$ 2,691.35
TOTAL: \$ 56,518.31

BOND Premium (0.8%) \$ -

TOTAL COST: \$ 56,518.31

Notes:
*Includes Asbestos Report. If Asbestos is found it will come at an additional cost to remove
*Does not include electrical disconnect, All electrical wiring shall be disconnected prior to starting the Demolition.
*Permit Fees not Included
*Maytin Engineering is a State Certified DBE
*No Temporary Fencing is included
*No Sodding is included
*All property left within the Exisiting Building becomes the property of Maytin Eng once the demolition begins.

**CHANGE
ORDER**

Attachment F - AIA form G701

AIA DOCUMENT G701

OWNER ☐
ARCHITECT ☐
CONTRACTOR ☐
FIELD ☐
OTHER ☐

PROJECT: Broad Causeway All Electronic Toll

CHANGE ORDER NUMBER: 3

DATE: 24-Sep-14

CONTRACT NO.: BC 139

TO CONTRACTOR: Halley Engineering Contractors, Inc.

The Contract is changed as follows:

Remove existing toll facility parking lot, remove excess roadway pavement, replace existing curb and gutter, and modify existing drainage as indicated in the revised plan sheets dated 8-13-14.

APPROVED: 

Construction Management

Not valid until signed by the Owner, Architect and Contractor.

The original (Contract Sum) (Guaranteed maximum Price) was

\$ 1,127,512.83

Net change by previously authorized Change orders

\$91,552.43

The (Contract Sum) (Guaranteed maximum Price) prior to this Change order was

\$ 1,219,065.26

The (Contract Sum) (Guaranteed maximum price) will be (Increased) (decreased)
(unchanged) by this Change Order in the amount of

\$56,518.31

The new (Contract Sum) (Guaranteed maximum Price) including this Change order will be

\$ 1,275,583.57

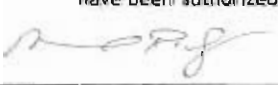
The Contract Time will be (increased) (decreased) (unchanged) by

0 Days

The date of Substantial Completion as of the date of this Change Order therefore is

1/26/2015

NOTE: This summary does not reflect changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive.


ARCHITECT

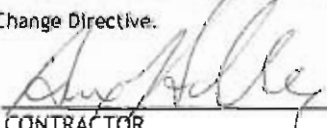
1514 Broadway, Suite 201

Address

Ft Myers, FL 33901

BY Michael Ryan

DATE 29 Sep 2014


CONTRACTOR

13901 NW 118th Ave

Address

Miami, FL 33178

BY Alex Halley

DATE 9/29/14

OWNER

9665 Bay Harbor Terrace

Address

Bay Harbor Islands, FL 33154

BY Ron Wasson

DATE