

TOWN OF BAY HARBOR ISLANDS

April 20, 2021

AGENDA

STATEMENT OF DECORUM

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

SPECIAL NOTICE – HYBRID / VIRTUAL MEETING

Pursuant to Ordinance No. 1054, A Regular Town Council Meeting will be held as a Hybrid Meeting where a quorum of the Town Council will be physically present in the Town Hall Council Chambers located at 9665 Bay Harbor Terrace, Bay Harbor Islands, FL 33154. The general public and other members of staff will be able to view and participate in the meeting (Virtually) by utilizing the Zoom video conferencing platform.

Zoom Link: <https://zoom.us/j/99177408161>

Meeting ID: 991 7740 8161

To request to speak during Public Comment, please utilize the “raise your hand” Zoom feature on your electronic device. You will be recognized at the direction of the Zoom Meeting Host.

In addition, any member of the public who does not wish, or is unable to participate through the Zoom video conferencing platform, but would still like to participate can do so by listening to the meeting as it happens by dialing the Toll-free number below:

US Toll Free Number: 877 853 5247 or 888 788 0099

US: 1 312 626 6799 or 1 646 558 8656 or 1 301 715 8592

Meeting ID: 991 7740 8161

Participant ID: Press the # key

To request to speak: Dial *9 on your telephone device to activate the “Raise your Hand” feature on the zoom platform.

Members of the Public can also submit their request to speak and/or comments via e-mail to the Office of the Town Clerk at achang@bayharborislands-fl.gov

CALL TO ORDER: 7:00 p.m.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

SPECIAL PRESENTATION:

Consideration and re-approval of the following Items:

(Due to technical errors related to public zoom participation experienced at the April 14th Council Meetings where the following items were considered and approved, they are being re-noticed for ratification to ensure full public participation.)

- * Acceptance of the Certification of Elections presented by the Town Clerk as Supervisor of Elections and Canvassing Board Member.
- * Selection of the Town Mayor - Mayor Joshua Fuller
- * Selection of the Town Vice Mayor - Vice Mayor Elizabeth Tricoche
- * Approval of a resolution appointing Alba L. Chang as the Town Clerk and Yvonne Hamilton as the Deputy Town Clerk.
- * Approval of a resolution appointing Joseph Geller, Esq, as the Town Attorney and James Rauh, Esq. as the Assistant Town Attorney.
- * Approval of a resolution designating a Brownfield Area for the property located 1000 Kane Concourse, Bay Harbor Islands, Florida 33154, pursuant to Section 376.80(2)(c), Florida Statutes.

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA; PROVIDING FINDINGS; DESIGNATING A BROWNFIELD AREA WITHIN THE TOWN FOR REAL PROPERTY LOCATED AT 1000 KANE CONCOURSE, BAY HARBOR ISLANDS, FLORIDA, AS DEPICTED ON EXHIBIT "A" AND LEGALLY DESCRIBED ON EXHIBIT "B", FOR THE PURPOSES OF ENVIRONMENTAL REHABILITATION, JOB CREATION, AND ECONOMIC DEVELOPMENT; AUTHORIZING THE TOWN MANAGER TO IMPLEMENT THIS RESOLUTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

REQUESTS FOR WITHDRAWALS, DEFERMENTS AND FUTURE AGENDA ITEMS:**TOWN MANAGER'S REPORT:**

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

PUBLIC COMMENT:

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

COMMITTEE REPORTS:

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

1. **Approval** of the following Meeting Minutes:
 - a. September 14, 2020 - Public Hearing
 - b. September 14, 2020 - Regular Council Meeting
 - c. October 13, 2020 - Regular Council Meeting
 - d. January 13, 2021 - Regular Council Meeting
 - e. January 25, 2021 - Special Council Meeting

2. **Consideration and Approval** of a resolution requested by Council Member Leonard recognizing and commending Hatzalah of Miami Dade County for providing outstanding public service within the Town and Miami Dade County via its volunteer response services. Enclosed is a copy of the proposed resolution.
3. **Consideration and approval** to piggyback off a rental contract with United Rentals through Sourcewell in the amount of \$27,000 to provide on-site back-up Emergency generator for Town Hall electrical system in preparation of the upcoming Hurricane Season, pursuant to Section 2-1.2(6) of the Town Code. Enclosed is a copy of the contract and other supporting documents.
4. **Consideration and Approval** to piggyback off the Miami Parking Authority contract with Pay-by-Phone for the wireless application and payment processing for all metered parking and other parking facilities owned by the Town, pursuant to Section 2-1.2(6) of the Town Code. Enclosed is a copy of the agreement with Miami Parking Authority and other supporting documents.
5. **Consideration and approval** to piggyback off a contract with Sourcewell for a five-year lease agreement with Enterprise Fleet Management in the amount of \$950.31 per month or \$11,403.72 per year, pursuant to Section 2-1.2(6) of the Town Code. Please find attached the Open-End (Equity) Lease Quote and the original executed contract agreement with Enterprise.
6. **Consideration and approval** to re-appropriate a \$258,000.00 carryforward from FY 2019-2020, to FY 2020-2021 to cover cost of CIPP T-Liner work performed in this fiscal year. Additional information attached.

STAFF RECOMMENDATION: Approval.

POLL VOTE

ORDINANCES ON SECOND READING:

7. ~~**Consideration and approval** of an ordinance on second reading amending Section 23-21(e) of the Town Code to modify the Kane Concourse setback requirements for ground level restaurants and certain weatherization. Enclosed is a copy of the proposed ordinance and staff report provided by Town Planner Michael Miller.~~

~~AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S ZONING AND PLANNING CODE TO MODIFY THE GATEWAY (G) ZONING DISTRICT, AMENDING SECTION 23-21(e) OF THE CODE OF ORDINANCES TO MODIFY THE KANE CONCOURSE SETBACK REQUIREMENTS FOR GROUND LEVEL RESTAURANTS AND CERTAIN WEATHERIZATION, PROVIDING FOR SEVERABILITY, PROVIDING FOR INCLUSION IN THE TOWN CODE, AND PROVIDING AN EFFECTIVE DATE.~~

STAFF RECOMMENDATION: Council Discretion

POLL VOTE

ORDINANCES ON FIRST READING:

8. **Consideration and Approval** of an ordinance on **first** reading amending Chapter 9 of the Town Code updating the solid waste schedule of fees. Enclosed is a copy of the proposed ordinance.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 9 OF THE TOWN'S ADOPTED CODE OF ORDINANCES ENTITLED SOLID WASTE COLLECTION, BY AMMENDING SECTION 9-38 ENTITLED SCHEDULE OF FEES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Approval

POLL VOTE

DEFERRED ITEMS:

9. **Consideration and Approval** of the 2020-2023 Collective Bargaining Agreement between the Town and the Dade County Police Benevolent Association, Inc. (PBA). Enclosed is a copy of the Collective Bargaining Agreement.

STAFF RECOMMENDATION: Approval

POLL VOTE

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

10. **Consideration and Approval** of a request by Miami Dade County League of Cities to designate a Director and an alternate Director to serve on the Board of Directors for a period of one year. Enclosed is a copy of the request by Miami Dade County League of Cities.

STAFF RECOMMENDATION: Council Discretion

11. **Consideration and appointment** of one (1) Council Member to the Board of Trustees/ Retirement Board.

STAFF RECOMMENDATION: Council Discretion

12. **Consideration and Approval** of the Town's Fiscal Year 2021-2022 Strategic Plan. Enclosed is a copy of the proposed Strategic Plan.

STAFF RECOMMENDATION: Approval

13. **Consideration and Approval** to piggyback off a General Services Administration contract, pursuant to Section 2-1.2(6) of the Town Code, with Samsara. The Samsara Automatic Vehicle Locating Service (AVL) purchase is in the amount of \$24,414.50 for the first year and beginning year two an annual payment of \$24,043.50 for a total of sixty (60) months. The AVL system will service fifty (50) Town owned vehicles. Enclosed is a Memorandum provided by Chief Raul Diaz and other supporting documents.

STAFF RECOMMENDATION: Approval

POLL VOTE

14. **Consideration and Approval** of a public Transfer of Development Rights (TDR) transaction for fifteen (15) dwelling units from the Town to Island Club Towers, LLC (9161 & 9201 East Bay Harbor Drive). Enclosed find a copy of the application, contract, site plans, and supporting documents.

STAFF RECOMMENDATION: Approval

DISCUSSION ITEMS:

15. **Discussion** requested by Council Member Bruder regarding the preliminary changes to the flood elevation requirements provided by the Federal Emergency Management Agency (FEMA). Enclosed are the proposed flood maps and other supporting documents.
16. **Discussion and possible action** requested by Council Member Bruder regarding the 2021 Meetings Calendar and deadlines. Enclosed are the Meeting Dates and Deadlines for 2021.
17. **Discussion** requested by Council Member Leonard on the feasibility of converting the overhead electrical distribution system within the Town to an underground system. Enclosed is a copy of the preliminary estimate provided by Florida Power & Light (FP&L).
18. **Discussion** requested by Council Member Yaffe regarding the hours of operation for the Town parks. Enclosed is a copy of the Ordinance No. 1048 as it relates to the park hours.
19. **Discussion and possible action** concerning Block 11, including but not limited to parking leases, private parking and possible easement to traverse the alley. Enclosed is a detailed map of the Block 11 parking area and other supporting documents.
- A **Discussion and possible action** of a request from Bay Harbor Executives Office, Inc. regarding the Smart Park, LLC Business Tax Receipt revocation for management of the parking spaces, specifically located behind the property at 1025-1045 Kane Concourse.
- B **Discussion and possible action** of a request from Smart Park, LLC for a Business Tax Receipt to administer commercial parking operation in the B-1 Business District, more specifically located in Block 11. The applicant specifically requests approval to manage fifteen (15) parking spaces for Hippo Land, Inc. for the property located at 1067-1085 Kane Concourse. Enclosed is a copy of the Business Tax Receipt Application and other documents.

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

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

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER:

ITEM:

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A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA; PROVIDING FINDINGS; DESIGNATING A BROWNFIELD AREA WITHIN THE TOWN FOR REAL PROPERTY LOCATED AT 1000 KANE CONCOURSE, BAY HARBOR ISLANDS, FLORIDA, AS DEPICTED ON EXHIBIT "A" AND LEGALLY DESCRIBED ON EXHIBIT "B", FOR THE PURPOSES OF ENVIRONMENTAL REHABILITATION, JOB CREATION, AND ECONOMIC DEVELOPMENT; AUTHORIZING THE TOWN MANAGER TO IMPLEMENT THIS RESOLUTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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- * Selection of the Town Mayor - Mayor Joshua Fuller
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- * Approval of a resolution designating a Brownfield Area for the property located 1000 Kane Concourse, Bay Harbor Islands, Florida 33154, pursuant to Section 376.80(2)(c), Florida Statutes.

Enclosed is a copy of the resolutions and other supporting documents.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk

ATTACHMENTS

1. MEMO election 2021 - Certification of Elections- 2 pages
2. Resolutions Org. MTG.
3. Redline Resolution Appointing Town Attorney
4. 1000KC_Request Brownfield Area



TO: The Honorable Mayor, Vice Mayor and Members of the Town Council
Canvassing Board Members:
Maria Lasday, Town Manager
Christina White, Miami Dade County Supervisor of Elections

FROM: Alba L. Chang, CMC Town Clerk / Supervisor of Elections

DATE: April 5, 2021

SUBJECT: Certification of Election Results
General Elections - April 6th, 2021

This is to certify that incumbent Stephanie Bruder and resident Molly Diallo have been elected to the office of Council Member unopposed. Due to the withdrawal of one of the three candidates and in accordance with FL AGO Opinion 073-137, which dictates that municipality that does not have any controlling Charter Act provision and has adopted the General Election Law is not required to hold a municipal election, when one candidate has qualified for each vacant municipal office and the time for candidates to qualify has expired.

Enclosure: FL AGO Opinion 073-137

real estate for homestead tax exemption purposes; however, the term "condominium" is not defined in the constitution. The legislature may by statute define "condominium" for one or several purposes. *Ammerman v. Markham*, 222 So.2d 423 (Fla. 1969).

As stated above, the ninety-eight year limitation applies only to cooperative apartments, and the proposed Senate bill, adding the same amendatory language to §196.041, F. S. 1971, would merely define this concept for homestead tax exemption purposes.

Your third question is answered in the negative.

Section 196.041, *supra*, describes a condominium for the purpose of homestead tax exemption only, and since it is your desire to retain the ninety-eight year lease requirement prospectively, it is not necessary to amend §711.08, F. S.

073-137—April 26, 1973

ELECTIONS

MUNICIPAL ELECTION NOT REQUIRED TO BE HELD—NO OPPOSING OR WRITE-IN CANDIDATES

To: William J. Rish, City Attorney, Port St. Joe

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

QUESTION:

When a municipality's charter act contains no provision for write-in candidates and adopts the general law of this state relating to elections not inconsistent with its charter act, must the municipality hold an election when only one candidate has qualified for each vacant municipal office and the time for qualifying as a write-in candidate under general law has expired?

SUMMARY:

In the absence of any controlling charter act provisions, a municipality which has adopted the general election law is not required to hold a municipal election when only one candidate has qualified for each vacant municipal office and the time for write-in candidates to qualify under §99.023, F. S., has expired.

Your question is answered in the negative.

Section 101.151(5)(b), F. S., provides that

The names of unopposed candidates shall not appear on the general election ballot unless a write-in candidate has qualified under §99.023. Each unopposed candidate shall be deemed to have voted for himself.

And under §99.023, F. S., in order to have write-in votes cast for him counted, a write-in candidate must qualify for the office he seeks not less than forty-five days prior to the general election. Thus, under general law, if the forty-five days had expired, the names of unopposed candidates would not be placed on the general election ballot; and, by the same token, the names of the unopposed candidates for municipal office would not be placed on the municipal ballot in this situation, when the municipality is operating under the general law in this respect. It necessarily follows that, in the circumstances here present, no municipal election is required to be held as it would serve no useful purpose.

AGENDA ITEM REPORT

April 14, 2021

ITEM NUMBER: 7.

ITEM: Consideration and Approval of a Resolution re-appointing the Town Clerk and appointing a Deputy Town Clerk. Enclosed is a copy of the proposed resolution.

DESCRIPTION:

In accordance to Section 3.02(a) of the Town Charter it is the Town Council authority to appoint Town Clerk. Although the Charter does not specifically state the appointment of the Deputy Town Clerk, it is recommended that Ms. Hamilton be appointed as Deputy Town Clerk to take over the duties in the absence of Mrs. Chang.

The proposed resolution reflects the reappointment of Alba L. Chang as the Town Clerk and the request for appointment of Yvonne Hamilton as the Deputy Town Clerk.

Enclosed is a copy of the proposed resolution.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk

ATTACHMENTS

1. rev appointing town clerk -deputy 2021

RESOLUTION NO. _____

**A RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF BAY HARBOR ISLANDS,
FLORIDA, APPOINTING A TOWN CLERK AND A
DEPUTY TOWN CLERK; PROVIDING FOR
INCORPORATION OF RECITALS; PROVIDING
FOR AN EFFECTIVE DATE.**

WHEREAS, it is incumbent upon the Town Council to appoint a Town Clerk and a Deputy Town Clerk; and

WHEREAS, it is the authority of the Town council of the Town of Bay Harbor Islands to appoint a Town Clerk in accordance to Section 3.02(a) of the Town Charter; and

WHEREAS, pursuant to Section 3.02(b) of the Town Charter, Town Clerk to be shall give notice of Council meetings to its members and the public, shall maintain minutes of its proceedings, shall have the authority to administer oaths, shall have charge of the conduct of municipal elections in coordination with the County Supervisor of Elections and shall perform such other duties as the Council may prescribe from time to time; and

WHEREAS, Compensation for these officials has been approved by the Town Council and as provided for in the Operating Budget; and

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

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

Section 2. That the following be appointed as Town Clerk:

ALBA L. CHANG

Section 3. That the following be appointed as Deputy Town Clerk:

YVONNE HAMILTON

Section 4. This resolution shall take effect as of April 14th, 2021.

PASSED and ADOPTED this 14th day of April 2021.

MAYOR

ATTEST:

TOWN MANAGER

AGENDA ITEM REPORT

April 14, 2021

ITEM NUMBER: 8.

ITEM: Consideration and Approval of a Resolution appointing the Town Attorney and Assistant Town Attorneys. Enclosed is a copy of the proposed resolution.

DESCRIPTION:

In accordance to Section 3.03(a) of the Town Charter it is the Town Council authority to appoint the Town Attorney and/or Law Firm.

The proposed resolution reflects the newly selected Town Attorney Joseph Geller and Assistant Town Attorney James Rauh of Greenspoon Marder, LLP.

Enclosed is a copy of the proposed resolution and a copy of the Request for Proposal outlining the retainer.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk

ATTACHMENTS

1. Reso Appointing Town Attorney - 2021
2. Greenspoon Marder_RFP No BHI-207

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA APPOINTING A TOWN ATTORNEY AND ASSISTANT TOWN ATTORNEY; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Bay Harbor Islands has conducted a search and selection process for town attorneys; and

WHEREAS, on Monday, March 22, 2021, the Village Council met for the purposes of making a selection, and named Greenspoon Marder, LLP, as Town Attorneys, with Joseph S. Geller of the firm being principal town attorney and James Rauh as assistant town attorney; and

WHEREAS, terms of the appointment are to be those specified in the response to request for proposal furnished by Greenspoon Marder, LLP, a copy of which is attached as Exhibit A hereto.

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

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

Section 2. Greenspoon Marder, LLP are hereby named as Town Attorneys in accordance with the foregoing.

Section 3. This resolution shall take effect as of April 1, 2021 and shall continue in force until the Town Organizational Meeting in April 2022.

PASSED and ADOPTED by the Town Council of Town of Bay Harbor Islands Florida, this ____ day of April, 2021.

MAYOR

ATTEST:

TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

TOWN ATTORNEY

GreenspoonMarder^{LLP}

Serving Fortune
500
and Beyond

Am Law
200
Full-Service Firm

More Than
200
Attorneys

888.491.1120
www.gmlaw.com



Locally Grown, National Reach.

Prepared for Town of Bay Harbor Islands

RFP No. BHI-207 "Town Attorney – Professional Legal Services"
September 8, 2020

600 Brickell Avenue, Suite 3600, Miami, FL 33131
Joseph S. Geller, Esq. • joseph.geller@gmlaw.com • 954-491-1120

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**TAB 2:
COVER LETTER AND
EXECUTIVE SUMMARY**

COVER LETTER

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

RE: RFP No. BHI-207 Professional Legal Services

Dear Mayor, Councilmembers, and Town Manager:

On behalf of Greenspoon Marder, LLP, we are pleased to submit this proposal to provide professional legal services to the Town of Bay Harbor Islands.

Mr. Joseph S. Geller, Esq., would be the lead Town Attorney, with a team of attorneys from our Government and Government Relations Division and others to assist him in providing legal services to the Village. The designated secondary attorney would be James Rauh, a partner with the firm, or, in his absence, Olga Vieira, a partner with the firm, or Jason Silver, an associate with the firm. Also, a recent addition to our firm is Mayor Francis Suarez of the City of Miami, who has extensive experience in local government. Mr. Geller and his team propose to serve as contracted legal counsel and provide all legal services traditionally provided by the Town Attorney's Office. For any matter that requires specialized legal assistance, Mr. Geller will draw on specialists at Greenspoon Marder who practice in those areas of law, or, where desired or necessary, outside counsel. We positively affirm that Mr. Geller and his team can perform the work required in an efficient and timely manner, including all items mentioned in the Scope of Work in the RFP, including Labor and Employment services through our Labor and Employment Department, as detailed herein. The work of the Town will be considered a top priority by Greenspoon Marder.

Greenspoon Marder LLP has more than 200 attorneys practicing across 11 offices in Florida and 25 throughout the U.S. in numerous areas of practice. This size and diversity of our firm are our greatest strengths. With our diverse staff of attorneys offering varying perspectives, backgrounds and areas of expertise, we are able to effectively, efficiently and economically address our clients' legal needs. It is this diversity, along with the strong academic training, experience, and performance of our attorneys, that allows us to bring to our representation of the Town, a keen understanding of the political, economic, and environmental climate within which the Town must operate. Greenspoon Marder enjoys a solid reputation, ranked among the *American Lawyer's* Am Law 200; rated "AV Preeminent" by the prestigious Martindale Hubbell Law Directory; and "Best Law Firms" by *U.S. News & World Report*.

Our Firm prides itself on our excellent reputation locally and nationally. The predecessor firm to Greenspoon Marder LLP, which is a Florida Limited Liability Partnership which has been in existence for almost three (3) years, was known as Greenspoon Marder, PA, which dates back to the early 1980's. The principal location for service to the Town of Bay Harbor Islands will be the firm's Brickell office, approximately 10 miles from the Town Hall, which typically has 18 attorneys and 18 staff assigned, and supplemented by the Ft. Lauderdale office, and other offices as needed.

COVER LETTER

The Firm's extensive experience in municipal law and government law will benefit the Town, and give it strong, steady, and consistent legal representation. Mr. Geller, and our Firm, will provide high quality municipal law services.

Greenspoon Marder is pleased to be able to offer you an effective, efficient manner to organize your Town legal services. We believe that the Town would be best served by having its legal services contracted to our firm. We are prepared to demonstrate our compliance with your requested insurance coverage as a condition of our agreement with you. We are prepared to work with existing counsel to insure a smooth and rapid transition of all matters to our firm.

Our proposal is for Greenspoon Marder to provide Town Attorney Services on a flat fee monthly retainer basis plus approved applicable out-of-pocket costs, with hourly or negotiated charges for non-retainer work like litigation, Labor and Employment services, and bond counsel. The details of what is covered under the flat retainer are consistent with the usual day-to-day responsibilities of a Town Attorney as they are currently being performed and as outlined in the current retainer agreement and Resolution approving that. The monthly retainer would be in the same amount currently being paid to the Town Attorney, which I understand to be \$10,000 per month. General litigation would also be at the current rate, which I understand to be \$225 per hour. Except for unforeseen circumstances, or where the Town prefers, we would provide all of these services in-house, as our multidisciplinary capabilities should be ample to assist with whatever is needed. If the Town prefers a different arrangement, we would be happy to discuss the matter with you to come to a mutually satisfactory agreement.

Joseph S. Geller has practiced law for over 40 years, including over 25 years providing service as a municipal attorney to Florida municipalities. He has been the principal attorney for five (5) different municipalities and has assisted many others. His service in elected office, his long career as an attorney with multiple concentrations, and his extensive municipal experience for many entities combine with his reputation for fairness, integrity and good judgment to enable him to help the Village of El Portal to achieve its goals. Mr. Geller is currently completing his third term serving in the Florida House of Representatives, representing District 100, having been elected in November 2014, and re-elected without opposition in November 2016, and again in November 2018, and most recently in 2020 to begin a fourth and final term. Perhaps more importantly, Mr. Geller served as Mayor of the City of North Bay Village, having been elected in November 2004, and re-elected without opposition in November 2006. This service as a municipal elected official gives Mr. Geller a unique insight into the functioning of municipal government. In addition, his legislative service has given him special insight and ability in legislative interpretation.

We are qualified to serve as the Town's Attorney because of the breadth and depth of our knowledge and experience in municipal law. Greenspoon Marder's government and government relations attorneys represent, and have represented, a broad cross-section of public sector clients, including: Florida counties, villages, cities, towns, and school districts; the Florida Department of Transportation; and other governmental boards and commissions. Our attorneys have also held or hold elective office at the Municipal and Legislative level, and we have represented clients at all levels of government, in front of Courts, and at the Municipal, County, Legislative, and State Agency level. We have also represented many individual municipal officials.

There are no ethics complaints against any Greenspoon Marder attorneys proposed in this solicitation within the last 10 years, nor are there any potential conflicts of interests or ethical considerations relating to the proposed representation. There have been no malpractice claims against any Greenspoon Marder attorneys proposed in this solicitation within the last 10 years. At present, Greenspoon Marder does not represent any municipalities as their General Counsel/ City Attorney, although Greenspoon Marder represents numerous municipalities for bonds or bond counsel purposes.

COVER LETTER

In closing, it gives us great pleasure to submit this proposal to the Town for your consideration. Mr. Geller and the Greenspoon Marder team are truly excited by the opportunity to serve the Town, with the full resources and expertise available to us. We look forward to discussing this matter further with you, and hopefully to your favorable consideration.

Sincerely,

Greenspoon Marder LLP

By: _____

Joseph S. Geller, Esq.

Partner

600 Brickell Avenue, Suite 3600, Miami, FL 33131

Joseph.Geller@gmlaw.com

954-491-1120

**TAB 3: PROJECT APPROACH
AND UNDERSTANDING**

OUR APPROACH

In providing legal services, it is important to recognize that a Town Attorney has many functions. The Town Council selects the Town Attorney, and the Town Attorney is primarily responsible to the Town Council and its members to assist them in properly performing their duties and responsibilities to the citizens. At the same time, on a day-to-day basis, the Town Attorney also represents the Town Administration, headed of course by the Town Manager. It is important that employees of the Town, from the Town Manager through to line service personnel, are provided with timely and accurate information as to their legal duties and responsibilities, so that those duties and Town can be performed in an efficient and effective manner. The Town Attorney must be available to all of the officials and staff of the Town to enable them to assist the citizens of the Town of Bay Harbor Islands in having government meet their needs. The Town Attorney and the Town Manager must have a collaborative relationship where both parties can rely upon each other to help the Town Council achieve their goals for the Town. Regular communication, consultation and trust are essential to this relationship.

It is important to remember that the role of the Town Attorney, both in relationship to the Manager and staff, and even more so in relationship to the Mayor and Town Council, is that of advisor and facilitator. While the Manager is a decision-maker, in matters of administration, and the Town Council are decision-makers, in deciding the policies which the Town will follow and the goals it will seek to achieve on behalf of the citizens, the Town Attorney is principally a counselor to the decision-makers, notwithstanding his direct responsibility in the areas of his own authority. It may be said that, while the decision-makers, the elected officials and Manager (within his authority), decide what is to be done, the role of the Town Attorney is to advise them how to do what they want to do, both as to the dictates of the law and as to practical methods of achieving their goals. It is not enough to identify potential problems; the Town Attorney must be a proactive problem solver, identifying not just challenges, but specific methods of overcoming those problems to achieve the results that will allow the Town to move forward.

The Town Attorney must always be mindful that it is the Town Council who have been selected by their neighbors to improve the quality of life of the citizens of the Town. It is the Town Council who have knocked on the doors and attended the citizen's forums and neighborhood meetings to learn what is on the minds of their fellow citizens. It is the Town Council who have been entrusted by their neighbors with the responsibility of making decisions on difficult and complex issues which are vital to the future of the Town of Bay Harbor Islands. As someone who has sat on both sides of the dais, as attorney and as Mayor, the proposed lead counsel, Joseph S. Geller, is keenly aware of this division of authority, and of the responsibility of the Town Attorney to assist the Town Council in keeping their commitments to their fellow citizens, and in achieving their goals to make the Town of Bay Harbor Islands an even greater place to live, work and play.

It is contemplated that Joseph S. Geller would attend all meetings of the Town Council, other meetings requested by the Mayor, Councilmembers and the Town Manager, and otherwise attend at such meetings and events as would normally be attended by a Town Attorney for the good of the Town, whenever possible. In addition, as set forth above, Mr. Geller would be available by mobile phone and email on a 24/7 basis in the event of an emergency, or if the need should arise. Other counsel from Greenspoon Marder would also be available as needed or in the event of a schedule conflict.

We specifically assure the Town that the firm is able to undertake all of those areas of work set forth in the Scope of Work section of the RFP. As set forth in detail in the material following this section, both in the abbreviated (Tab 4) and expanded (Tab 7) attorney biographies, and in the Practice Area Experience (Tab 4) and Greenspoon Marder Information (Tab 6) sections, we demonstrate the experience of the firm in all of the requested areas. We are happy to answer any specific questions which may be requested at any time.

OFFICE LOCATIONS

Main Locations

Boca Raton

2255 Glades Road
Suite 400-E
Boca Raton, FL 33431
Phone:(561) 994-2212

Las Vegas

3993 Howard Hughes Parkway
Suite 400
Las Vegas, NV 89169
Phone:(702) 978-4251

New York

590 Madison Avenue
Suite 1800
New York, NY 10022
Phone:(212) 524-5000

Tallahassee

215 South Monroe Street
Suite 530
Tallahassee, FL 32301
Phone:(888) 491-1120

Denver

1144 15th Street
Suite 2700
Denver, CO 80202
Phone:(303) 741-1111

Los Angeles

1875 Century Park East
Suite 1900
Los Angeles, CA 90067
Phone:(323) 880-4520

Orlando

201 East Pine Street
Suite 500
Orlando, FL 32801
Phone:(407) 425-6559

Tampa

401 East Jackson Street
Suite 3650
Tampa, FL 33602
Phone:(813) 769-7020

Edison

343 Thornall Street
6th Floor
Edison, NJ 08837
Phone:(732) 494-4800

Miami

600 Brickell Avenue
Suite 3600
Miami, FL 33131
Phone:(305) 789-2770

Portland

1211 SW 5th Avenue
Suite 2850
Portland, OR 97204
Phone:(503) 227-2805

West Palm Beach

525 Okeechobee Boulevard
Suite 900
West Palm Beach, FL 33401
Phone:(561) 227-2370

Fort Lauderdale

200 East Broward Boulevard
Suite 1800
Fort Lauderdale, FL 33301
Phone:(954) 491-1120

Naples

5133 Castello Drive
Suite 2
Naples, FL 34103
Phone:(239) 659-1100

Scottsdale

8585 East Hartford Drive
Suite 700
Scottsdale, AZ 85255
Phone:(480) 779-1401

Toll Free Number (888) 491-1120

Satellite Locations

Albuquerque, NM

500 Marquette Avenue NW
Suite 1286
Albuquerque, NM 87102
Phone:(888) 491-1120

Merrick Pointe, Miami, FL

3850 Bird Road
Suite 602
Miami, FL 33146
Phone:(305) 789-2784

Nevada City

116 Union Alley
Nevada City, CA 95959
Phone:(530) 470-8509

Washington, D.C.

700 Pennsylvania Avenue SE
Second Floor
Washington, D.C., 20003
Phone:(888) 491-1120

Cypress Creek, Fort Lauderdale, FL

100 West Cypress Creek Road
Suite 700
Fort Lauderdale, FL 33309
Phone:(954) 491-1120

Miami Beach

1601 Washington Avenue
Suite 300
Miami Beach, FL 33139
Phone:(305) 602-8245

Phoenix

2398 East Camelback Road
Suite 540
Phoenix, AZ 85016
Phone:(602) 553-1083

Hunt Valley, MD

201 International Circle
Suite 230
Hunt Valley, MD 21030
Phone:(410) 891-5870

Nashville

424 Church Street
Suite 2000
Nashville, TN 37219
Phone:(615) 651-7381

San Diego

401 West A Street
Suite 1150
San Diego, CA 92101
Phone:(619) 544-6400

**TAB 4:
QUALIFICATION
INFORMATION AND
ASSIGNED PERSONNEL**

ABBREVIATED BIOGRAPHIES



Joseph S. Geller
 Partner
 Fort Lauderdale
 Bar #292771
 Admitted 3/1980

Joseph S. Geller focuses his practice on civil litigation, administrative law, election law, government relations, municipal law and land use and zoning. He has extensive litigation experience in both the Florida and federal courts. Mr. Geller was elected to the State House of Representatives, District 100, representing parts of Northeast Dade and Southeast Broward, in November, 2014 and was reelected without opposition in November, 2016 and again in November, 2018. He was previously elected as Mayor of North Bay Village in 2004 and was reelected in 2006 serving until 2008. Mr. Geller is also the former long-time Chair of the Miami-Dade County Democratic Party. Additionally, Mr. Geller served as the Village Attorney for the Village of El Portal for many years. He also previously served as City Attorney for the City of Opa-Locka. He is the former Town Attorney for the Town of Miami Lakes and the Town of Golden Beach and former City Attorney for the City of North Bay Village. Mr. Geller is a member of the Attorneys' Title Insurance Fund. Mr. Geller has also served as the Southeast Regional President of the American Jewish Congress.



James E. Rauh
 Partner
 Miami
 Bar #686141
 Admitted 10/2003

James E. Rauh is a partner within the Hospitality, Alcohol and Leisure Industry Group at Greenspoon Marder. Mr. Rauh focuses his practice on the laws governing the nightlife, hospitality and alcohol industries, including diverse and multi-discipline areas of legal needs common to those industry clients. He has accumulated over 10 years of experience in those practice areas, including representing hotels, restaurants and nightclubs at all levels of municipal land use and zoning approvals, along with complete business licensing and permitting at the federal, state, and local levels. He is also a former Assistant City Attorney for the City of North Bay Village.

ABBREVIATED BIOGRAPHIES



Morris G. "Skip" Miller
Partner
West Palm Beach
Bar #279145
Admitted 9/1979

Morris G. "Skip" Miller focuses on public finance and representation of non-profit entities. He has extensive experience in municipal finance transactions of all types, including taxable bonds, bond issues for not-for-profit organizations, mini bonds, community redevelopment financing, special taxing districts and single- and multi-family housing revenue bonds. Mr. Miller's clientele in municipal finance transactions include issuers, underwriters, lenders, not-for-profit and for-profit borrowers and trustees.



Glenn N. Smith
Partner
Fort Lauderdale
Bar #165334
Admitted 10/1973

Glenn N. Smith is an experienced trial lawyer concentrating in complex commercial litigation in state and federal courts. Much of Mr. Smith's practice is focused on the representation of clients involved in or related to real estate development. Thus, he has prepared and tried numerous cases on matters such as Contract Disputes, Zoning and Land Use, Business Disputes and Business Torts, Professional Malpractice, Construction Defects and Bid Protests. In these matters, Mr. Smith has represented such clients as builders/developers, design professionals, contractors, subcontractors and lenders. He is also experienced in general commercial matters and administrative law. Prior to joining the firm, Mr. Smith was Assistant Attorney General with the Civil Division, Florida Department of Legal Affairs.

ABBREVIATED BIOGRAPHIES



Francis X. Suarez
Of Counsel
Miami
Bar #815551
Admitted 9/2004

Francis X. Suarez is of counsel in the Corporate and Business practice group at Greenspoon Marder. Mr. Suarez has more than 13 years of experience in real estate and corporate finance, covering the gamut of clients' real estate needs, from acquisitions and financing to sales and joint ventures. He also has served as outside general counsel to a variety of companies. Mr. Suarez serves as mayor of the City of Miami. He previously served as Commissioner for the City of Miami, District 4, working to raise the standards of the city in which he was born and raised. His civic accomplishments on behalf of the city are extensive. He is vice-chair of the Miami-Dade Transportation Planning Organization and immediate past president of the Miami-Dade County League of Cities, to name a few. He is dedicated to elevating the quality of life of the residents he serves by focusing on transportation and connectivity issues within the city and beyond, nurturing the growth of a tech-based economy in the area and, by extension, job creation and international opportunities with Latin America. Mr. Suarez was recognized as the 2017 Elected Official of the Year by the Latin Builder's Association.



Mark Lynn
Partner
Fort Lauderdale
Bar #85741
Admitted 9/1996

Mark Lynn has developed a comprehensive practice in real estate transactional law, with an emphasis on representation of developers in the acquisition, financing and development of commercial properties. Mr. Lynn has developed several sub-specialties within this commercial real estate practice including the acquisition and sale of apartment complexes, office buildings, industrial developments and medical centers, lender representation, negotiation of construction contracts with contractors and architects, and the representation of landlords and tenants in office building, shopping center and warehouse leasing. Mr. Lynn also represents developers in obtaining zoning and land use approvals for large planned unit developments and commercial projects. As a complement to Mr. Lynn's transactional practice, he also has a substantial background in the representation of both lenders and owners in real estate litigation and resolution of title defects, bank foreclosures and loan workouts. A native Floridian, Mr. Lynn has sought to help communities seek a balance between development and preservation of the environment, and has written several articles on this issue. He is an active member of 1000 Friends of Florida.

ABBREVIATED BIOGRAPHIES



Olga Vieira
Partner
Miami
Bar #29783
Admitted 09/2006

Olga Vieira is a partner in the Litigation practice group at Greenspoon Marder. Ms. Vieira has extensive experience in extended trials, including serving as first chair and working with other trial counsel on legal issues to avoid errors or preserve the record for appeal. Ms. Vieira's practice focuses on product liability, catastrophic injury, and commercial litigation. Ms. Vieira strives to resolve disputes in efficient, common-sense ways that achieve her clients' legal and business goals. Her deep Miami roots and community leadership roles benefit her clients as they navigate the litigation process or local business environment.



**Elizabeth Somerstein
Adler**
Senior Counsel
Fort Lauderdale
Bar #72853
Admitted 10/2009

Elizabeth Somerstein Adler is senior counsel in the Litigation practice group at Greenspoon Marder LLP. She concentrates her practice on civil litigation, including, but not limited to, commercial, construction, zoning, environmental, and land use. Ms. Adler is certified by the U.S. Green Building Council as a LEED Green Associate for her knowledge and understanding of environmentally sustainable land development practices.

ABBREVIATED BIOGRAPHIES



Jason Silver
Associate
Fort Lauderdale
Bar #92547
Admitted 9/2011

Jason D. Silver is an associate in the Financial Services practice group at Greenspoon Marder. Mr. Silver has practiced municipal and government law. He has presided as the Deputy Municipal Attorney at monthly municipal meetings at the Village of El Portal, Florida. He has assisted with the representation in election related disputes, municipal Zoning Board related disputes, a municipality's effort to implement a Form-Cased Code, and interned at the Office of the City Attorney at the City of Miami, Florida while in law school. He is a member of the Florida Municipal Attorneys Association (FMAA) and is a Florida Supreme Court Qualified Arbitrator.

Greenspoon Marder_{LLP}

PRACTICE AREA
EXPERIENCE

ADMINISTRATIVE



Administrative law governs the powers, procedures and acts of administrative agencies of government, which must act within Constitutional parameters. This area of law requires particular insight and experience, which is why Greenspoon Marder LLP has assembled a team of seasoned attorneys, including municipal, county and state legislators in order to form Greenspoon Marder's Administrative Law Practice Group.

Our team is experienced in a broad range of administrative matters at the local, state, and federal levels, including: the defense of challenged professionals in licensing and disciplinary matters; ethics and election matter disputes; special taxing districts; condominium and homeowner association issues; land use, zoning and environmental challenges; real property appraisals and disputes; agricultural classifications or exemptions; and contested administrative hearings.

Greenspoon Marder handles a vast array of matters in the area of administrative law, including but not limited to:

- Administrative Adjudications
- Administrative Agency Practice
- Administrative Hearings & Appeals
- Administrative Litigation
- Federal Administrative Law
- Judicial Review
- Professional Licensing and Defense
- Professional Licensing Regulation

For businesses considered to be highly regulated by state and federal laws, Greenspoon Marder's Administrative Law Practice Group and attorneys regularly represent clients before municipal, county, state and federal governing bodies, including the Internal Revenue Service (IRS), Federal Trade Commission (FTC), Department of Justice (DOJ), state attorneys' general, Department of Transportation (DOT), and the Occupational Safety and Health Administration (OSHA), among others

GOVERNMENT & GOVERNMENT RELATIONS



Greenspoon Marder LLP's Government & Government Relations Practice Group is comprised of a team led by a veteran of Florida's legislature, as well as former leaders of municipalities, counties, and state regulatory and enforcement agencies. We provide our clients with effective and efficient representation before myriad governmental agencies and administrative and regulatory bodies.

Greenspoon Marder has an active Public Finance Practice Group involving governmental and quasi-governmental bond issues on both the state and local levels. Our attorneys also serve as bond counsel, special counsel and counsel to issuers, underwriters, banks and developers in a broad range of tax-exempt and taxable financings.

Greenspoon Marder's governmental attorneys represent clients in territorial disputes before the Florida Public Service Commission; revocation of licensure proceedings before the Florida Department of Professional Regulation; Certificate of Need ("CON") proceedings before the Florida Department of Health and Rehabilitative Services; and a variety of matters before Florida's governor and cabinet.

On the local level, our attorneys represent community development districts, school districts, community redevelopment agencies and public arts and entertainment boards. Our attorneys have represented local governments of all types, including expressway authorities, sports authorities, port authorities, cities and counties. Our team also represents private sector clients before local governmental agencies, cities and counties.

Greenspoon Marder's Government & Government Relations Practice Group and attorneys offer comprehensive representation in an array of governmental relations matters, including:

- Administrative Law
- Development Agreements
- Elections
- Land Use & Zoning
- Legislative Consulting
- Licensing Agreements
- Lobbying
- Local & Municipal Representation
- Procurement & Government Contracts
- Proposal & Contract Counseling
- Public Finance
- State & Federal Representation
- Utilities & Energy

LABOR & EMPLOYMENT



Greenspoon Marder LLP's Labor and Employment Law Practice Group is focused on keeping our clients out of the courtroom. Our team proactively counsels our clients to help them understand, prepare for, and appropriately respond to the thousands of federal and state statutes, administrative regulations, and judicial decisions that govern the employer-employee relationship. Often a complicated area of law, Greenspoon Marder attorneys have the experience, in-depth knowledge and resources necessary to keep up with the ever-changing landscape of labor and employment issues.

Our labor and employment attorneys work with clients on pro-active compliance, liability mitigation, crisis management, and dispute resolution. We counsel our clients on the implementation of employment policies and practices that help protect against potential claims and/or violations; and, when necessary, we draw upon the extensive experience of our Litigation Practice Group to ensure the best possible outcome for our clients.

Greenspoon Marder's Labor and Employment Law Practice Group defends employers in all matters arising in state and federal courts and before local, state and federal agencies, such as: the Equal Employment Opportunity Commission (EEOC); the U.S. Department of Labor (DOL); the Florida Department of Labor and Employment Security; Occupational Safety and Health Administration (OSHA); the Florida Commission on Human Relations (FCHR); and other fair employment practice agencies.

Our team represents both public and private corporations, public bodies and partnerships in diverse fields such as retail sales, hospitality, banking, service providers, construction, the marine industry and more. Our attorneys are also approved panel counsel for several employment practices liability insurance carriers, and we work with our clients to maximize the benefits they receive from their insurance policies.

LABOR & EMPLOYMENT

Greenspoon Marder handles a wide-range of labor and employment law matters, including but not limited to:

- Age Discrimination in Employment Act
- Americans with Disabilities Act (ADA)
- Arbitration
- Background Investigations
- Civil Rights Litigation
- Class Action
- Consolidated Omnibus Budget Reconciliation Act (COBRA)
- Compensation
- Compliance with State and Federal Regulations
- Conflicts of Interest
- Discrimination and Harassment
- Disabilities
- Diversity in the Workplace
- Drugs and Alcohol in the Workplace
- Electronic Information and Data
- Employee Discipline and Discharge Issues
- Employee Leasing
- Employee Privacy Rights
- Employment Agreements/Contracts
- Employment Manuals, Policies and Procedures, and Codes of Conduct
- ERISA
- Equal Employment Opportunity
- Executive Compensation
- Fair Labor Standards Act
- Family and Medical Leave Act (FMLA)
- Florida Civil Rights Act of 1992
- Government Contractors
- Independent Contractor Issues
- Labor-Management Relations
- Legal Audits to Evaluate Workplace Compliance
- Lesbian, Gay, Bisexual and Transgender issues that arise in the workplace
- Litigation
- Litigation Avoidance
- Live Training Programs
- Management Training Seminars
- Mediation
- National Labor Relations Board
- Negotiations
- Non-Compete Agreements
- Occupational Safety and Health Law
- Personnel Policies
- Plant Closings and Reductions in Force
- Retaliation Claims
- Severance Agreements
- Temporary Employees and Employee Leasing
- Title VII of the Civil Rights Act of 1964
- Trade Secrets
- Training for Employees and Management
- Unemployment Compensation
- Unfair Competition and Non-Compete
- WARN Compliance
- Whistleblower Claims
- Workers' Compensation
- Workplace Violence Control Plans
- Wrongful Discharge

LAND USE & ZONING



For more than 39 years, Greenspoon Marder LLP's Land Use & Zoning Practice Group has represented real estate developers, property and land owners, lenders, national corporations, insurance companies and pension funds in all aspects of the regulatory process. Our team routinely represent clients before state and federal agencies, including the Florida Land and Water Adjudicatory Commission, Florida Regional Planning Council, Federal Emergency Management Agency (FEMA) and more. Our attorneys – several of whom are either veterans of the Florida legislature or general counsel for regional and state regulatory agencies – have helped shape the industry by working alongside government officials and assisting in the drafting of legislation and ordinances.

Our attorneys were actively involved in the adoption of both of Broward County's Comprehensive Land Use Plans, Miami-Dade County's Comprehensive Land Use Plan and the land use plans of many of the cities in the South Florida area. We have also successfully processed many amendments to these land use plans concurrently, with other approvals required for development, such as DRI development orders, zoning changes, platting, site planning and environmental permits.

Greenspoon Marder's land use & zoning attorneys have experience in green building and LEED certification and can assist clients with sustainable building needs, such as the negotiation of government incentives.

Greenspoon Marder's Land Use & Zoning Law Practice Group handles a wide range of matters at the local, state and federal levels, including but not limited to:

- Agricultural Classifications/Exemptions
- Building Code Compliance Issues
- Code Enforcement
- Community Redevelopment Agencies
- Comprehensive Amendments
- Concurrency Requirements
- Developments of Regional Impacts
- Due Diligence Reviews
- Environmental Issues
- Growth Management
- Historic Preservation Requirements
- Land Use Litigation
- Land Use Planning
- Planned Unit Development (PUD)
- Procurement Documents
- Site Plan Applications
- Tax Incentive Programs
- Variances
- Vested Rights Issues
- Zoning Approvals & Permits
- Zoning & Land Use Changes

LAND USE & ZONING

REPRESENTATIVE EXPERIENCE

- Representation in connection with development of a 385 unit single-family development; managing all governmental approvals for the project, including land use plan amendment, platting, and site plan; including representation at all meetings and hearings. Development was approved but challenged in litigation.
- Representation in connection with redevelopment of a former golf course to a single-family and townhome development; managed governmental approval process for the land use plan amendment, rezoning, plat-related matters, and site plan; including representation at all meetings and hearings.
- Representation in connection with multiple residential, industrial, retail, and mixed use projects in Miramar, including for the largest business park in Broward County.
- Representation in connection with new mixed-use development including hotels, office buildings, and residences; managed governmental approval process for site plan and plat-related matters.
- Representation in connection with the renovation and development of a commercial shopping center; managing governmental approval process for a variance, site plan, and re-platting application; including representation at all meetings and hearings.
- Representation in connection with a residential, high-rise, mixed-used development consisting of 204 residential units on a 4.65 acre property; managing governmental approval process for site plan; including representation at all meetings and hearings.
- Representation in connection with the commercial development of Costco Wholesale; managed governmental approval process for site plan, conditional uses, special exceptions, sign variance, traffic concurrency agreement, and landscape maintenance agreement; including representation at all meetings and hearings.
- Representation in connection with the city center, an 80-acre mixed-use village including industrial, residential, and office/hotel space.

LITIGATION



For more than 39 years, Greenspoon Marder LLP has provided skilled representation for a wide range of businesses and industries, including many financial institutions. The firm's Litigation Practice Group and trial attorneys have a proven track record in resolving all types of business disputes, representing clients as plaintiffs and defendants in civil, commercial, and complex commercial litigation matters, both in state and federal courts and at the trial and appellate levels.

Greenspoon Marder's Litigation Practice Group focuses on keeping clients out of the courtroom. We pro-actively counsel business clients on ways to resolve disputes without the necessity of litigation and how to avoid future business disputes. However, when trial proves necessary, our team of attorneys are aggressive, experienced, and skilled in the courtroom, whether facing judge or jury. At Greenspoon Marder we stand by our clients from start to finish, guiding them through all facets of the case. When necessary, this includes appeals as well.

Our experienced litigation team has argued cases before judges and juries in state and federal courts throughout the United States, in matters that are local, national and international in scope involving a broad spectrum of legal issues, including:

- Admiralty and Maritime
- Antitrust and Trade Regulation
- Appellate
- Bankruptcy
- Bad Faith Filings
- Business Disputes
- Civil Rights
- Contract Disputes
- Construction Disputes
- Consumer Finance
- Consumer Fraud and Deceptive Trade Practices
- Corporate and Partnership Dissolutions
- Contested Collections & Creditors' Rights
- Cyber Squatting
- Employment & Labor Law
- Enforcement & Collection of Judgments
- Environmental
- Family & Matrimonial
- Federal & State Regulatory Enforcement
- Fire and Explosion
- Foreclosure Services (Lenders)
- Government investigations
- Injunctions
- Intellectual Property & Trade Secrets
- Insurance
- Land Use
- Legal Malpractice Defense
- Mass disaster
- Negligence
- Non-Compete Agreements
- Partnership and Shareholder Disputes
- Personal Injury & Product Liability
- Probate
- Real Estate, Resort & Timeshare Litigation
- Regulatory Compliance & Defense
- Tax

PUBLIC FINANCE



Greenspoon Marder LLP's Public Finance Practice Group and attorneys have participated in more than 150 bond issues aggregating in excess of \$5 billion. Our attorneys also serve as bond, underwriter, disclosure, borrower, and issuer and/or lender counsel.

The team within Greenspoon Marder's Public Finance Practice Group has significant experience in almost every type and purpose of bond financing, including but not limited to:

- Biotechnology
- Community Redevelopment
- Disaster Recovery
- Education
- Environment
- Financing for -Profit s Non
- General Purpose Financing
- Health Care
- Housing
- Infrastructure Improvements
- Parking
- Re-funding, Current and Advance
- Special Districts
- Short-Term Working Capital Financings
- Transportation
- Utilities

PUBLIC FINANCE

Our team handles financings secured by diverse repayment sources, such as:

- Ad Valorem Taxes
- Covenants to Budget
- Franchise Fees
- Letters of Credit
- Municipal Bond Insurance
- Sales Taxes
- Special Assessments
- User Fees, Various Types
- Utility Taxes

Greenspoon Marder's attorneys work with a wide range of clients, including many who are infrequent issuers of bonds or issue only a small volume of bonds each year and, therefore, may be entitled to favorable treatment under federal tax law.

In addition, our firm offers experience in a wide variety of local and state government law matters, which often pertain to the public finance industry. Our attorneys focus on developing innovative financing techniques based on statutory mechanisms, including the use of special districts, special assessments, impact fees and lease-purchase arrangements.

The Public Finance Practice Group at Greenspoon Marder routinely attends legal education seminars conducted by the National Association of Bond Lawyers and other organizations; and, we are often called upon to serve as panelists and speakers on relevant public finance topics at seminars and conferences.

In addition to our experience in public finance, the seasoned attorneys in our Government and Government Relations Practice Group provide the particular knowledge and experience that is often needed to address issues which may arise in the issuance of tax-exempt bonds. These attorneys have represented many Florida cities, counties, school districts, special districts, authorities and state agencies in connection with a wide array of legal issues arising within their disciplines.

REAL ESTATE



Greenspoon Marder LLP was founded with a focus in real estate law. Over the last 38 years, our firm has assembled a talented team of residential and commercial law attorneys with centuries of experience between them. It is that investment in accomplished professionals with varied, yet complementary credentials that enables us to offer our clients a industry focused experience and broad base of knowledge.

Greenspoon Marder's Real Estate Practice Group handles a wide range of matters, from the straight-forward residential transaction to the largest, most complex commercial development, and everything in between. We also represent community associations and private country clubs, and are nationally known for our work in the resort and timeshare development industries. With a focus on client service, Greenspoon Marder created a real estate services division, which researches, identifies, and analyzes developing opportunities for investors interested in the distressed commercial and multi-family markets.

Regardless of size and scope, our attorneys have the experience and resources necessary to effectively represent buyers and sellers, lenders and borrowers, developers and builders, investors, and landlords and tenants in a variety of matters. Those include but are not limited to:

- Agricultural Classifications/Exemptions
- Community Associations
- Condominium Conversions
- Construction Matters
- Distressed Property Investment Services
- Environmental Issues
- Evictions
- Finance & Transactions
- Foreclosure Services, Commercial
- Foreclosure Services, Residential
- Foreclosure Services, Timeshares
- Land & Property Development
- Land Use, Zoning & Planning
- Landlord/Tenant Issues
- Leasing
- Lending
- Litigation
- Loan Workouts
- Mobile Home Parks
- Purchase & Sale
- Real Property Appraisal/Disputes
- Resort & Timeshare Development
- Tax Appeals
- Tax-Deferred Exchanges
- Title Examination/Insurance
- Title Claims

As an extended service to lending and mortgage-servicer clients, Greenspoon Marder provides a complete line of foreclosure services, including bankruptcy, eviction, foreclosure, loss mitigation, and REO/title work.

**TAB 5:
FIRM REFERENCES AND
SIMILAR WORK COMPLETED**

REFERENCES

Christia Alou, Village Manager

Village of El Portal
500 NE 87th Street
El Portal, FL 33138
T: (305) 795-7880

Email: villagemanager@villageofelportal.org

Represented the Village of El Portal from in connection to providing legal, labor and land use services. (Years of Service: 1995-1997, 2000- March 2018)

Cemil "Jamie" Akbas

OZ & BF, LLC
5414 Sunrise Blvd
Delray Beach, FL 33484
T: (786) 985-5952

Email: cemil72@hotmail.com

Represented OZ & BF, LLC in connection to assistance with municipal rezoning and site plan approval with the City of Miami. (Completed 2018)

John Brakey

AUDIT Elections USA
P.O. Box 26361
Tucson, AZ 85726
T: (520) 339-2696

Our legal team, of which I was a member with co-counsel, represented Audit USA, an entity dedicated to insuring fair and transparent elections in the United States, and a group of Plaintiffs, including three (3) sitting state legislators, in a suit against the Secretary of State and eight (8) county Elections Supervisors, of Florida's eight largest counties, demanding that digital ballot images, created when ballots are scanned by the new digital voting machines used in Florida, be retained for inspection as public records.

We recently reached a successful partial settlement, whereby all eight Supervisors agreed to retain the digital ballot images for use in any Presidential Election recount in Florida, available as public records, with the remaining issues in the lawsuit abated until after the November general election. Thirty two other Florida Supervisors already retain the images voluntarily. (Years of Service: 2020)

Additional References

Roberto Martell, Mayor

Town of Medley
7777 NW 72nd Ave
Medley, FL 33166
T: (305) 887-9541
Email: Rmartell@townofmedley.com

Alex Rey, Former Town Manager

Town of Miami Lakes
T: (305) 281-8346
Email: Arey@stpetebeach.org

Joanna Flores, City Clerk

City of Opa Locka
780 Fisherman St.
Opa Locka, FL 33054
T: (305) 953-2800 / C: (786) 877-4038
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**TAB 6:
GREENSPOON MARDER
INFORMATION**

FIRM OVERVIEW



Our mission is to build collaborative relationships with our clients and to craft creative solutions to their challenges.

WHO WE ARE

Greenspoon Marder is a national full-service business law firm with over 200 attorneys and offices across the United States. We are ranked among American Lawyer's Am Law 200, as one of the top law firms in the U.S. since 2015. Our firm was founded with the goal of providing the highest quality legal services at the highest value for our clients. Each of our clients is unique and so are their legal needs. We believe no one size fits all for professional services. Our lawyers offer flexible and creative solutions to meet our clients' respective needs.

WHAT WE DO

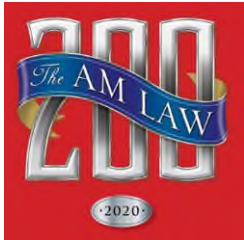
Greenspoon Marder's team of attorneys and business advisors has the experience to understand our clients' challenges and to address those challenges with individualized strategies. We provide comprehensive and tailored client services, which our clients expect and deserve. We serve Fortune 500, middle-market public and private companies, start-ups, emerging businesses, individuals and entrepreneurs around the world.

PRACTICE AREAS

Full-service capabilities allow us to provide seamless representation covering an array of legal needs. Our practice areas include:

- Appellate
- Banking & Finance
- Bankruptcy and Reorganization
- Blockchain
- Cannabis Law
- Class Action Defense
- Collections & Creditor Rights
- Community Association
- Construction
- Corporate & Business
- Entertainment, Media & Technology Industry Group
- FDA
- Financial Services
- Government Relations
- Health Law
- Hospitality , Alcohol & Leisure Industry Group
- Immigration & Naturalization
- Insurance Claims, First-Party Property
- Intellectual Property
- International
- International Trade
- International Wealth & Asset Planning
- Labor & Employment
- Land Use & Zoning
- Litigation
- Lobbying
- Marital & Family Law
- Mediation
- Private Client Services
- Public Finance
- Real Estate
- Regulatory Compliance & Defense
- Surrogacy
- Tax
- Timeshare & Resort
- White Collar & Criminal Defense
- Wills, Trusts & Estates

FIRM ACCOLADES



American Lawyer
"Am Law 200"
2015 - 2020



National Law Journal
"NLJ 500"
2014 - 2020



Law360
"Law360 400"
2014 - 2020



U.S. News & World Report
"Best Law Firm"
2013 - 2020
Tier 1 in Real Estate Law, Real Estate
Litigation and Land Use & Zoning

NATIONAL AND STATE LEVEL



Benchmark Litigation
"Highly Recommended Firm"
in Florida
2018 - 2020



Greenspoon Marder LLP
Chambers and Partners USA
Nationwide: Cannabis, Florida: General
Litigation and Florida: Real Estate
2020



Chambers Women in Law: USA
"Outstanding Firm in Advancing Gender
Diversity and Inclusion"
2017, 2019



The American Lawyer
"Diversity Scorecard"
2020



Benchmark Litigation
"Florida Firm of the Year"
Shortlisted 2020



Great Place To Work Certified
2020



Law360
"Best Law Firm For Minority Lawyers"
2019



Daily Business Review
"Most Inclusive and Diverse"
2019

COMMITMENT TO DIVERSITY



Greenspoon Marder is committed to diversity because it complements our core strengths and enhances our ability to serve our clients. Our differences unite us and allow us to become more resilient and adaptable, so that we best understand the varying needs of our clients and business partners. Our firm has a robust policy of equal employment opportunity, including initiatives for diversity enhancement and aggressive anti-harassment policies. Greenspoon Marder sustains a family-focused and interconnected working environment that aims to facilitate positive work/life balance. Our attorneys and staff regularly support and engage in community outreach efforts. Our firm also promotes diversity through partnerships with clients and other community, business and legal organizations.

Our firm is taking big strides in the business of law including diversity. Our firm's make-up is regularly changing and adding dynamics and strengths that help us better service and connect with our clients. We are comprised of almost 70% female employees, 37% of our employees identify as racial or ethnic minorities including: Hispanics, Asians, African-Americans, Pacific Islanders and LGBTQ.

The firm's is committed to the continued development of programs and policies that maintain and support a diverse workforce including specific Women's Initiatives and LGBTQ Initiatives. Also, as part of our firm's diversity initiative, Greenspoon Marder consistently reviews and adjusts its methods of outreach to ensure it attracts a diverse pool of legal and professional talent, which includes its outreach to law schools and prominence in a wide variety of publications that attract and appeal to a diverse audience.

COMMITMENT TO BUSINESS AND COMMUNITY



Greenspoon Marder believes that our attorneys and staff are our most valuable assets and that our achievements begin with their successes. Our firm and attorneys not only take pride in a solid reputation locally and nationally, but we are proud of the extensive philanthropic work we are committed to in our communities. Since our inception in 1981, Greenspoon Marder has called Florida home, and we now also reside in Arizona, California, Colorado, Maryland, Nevada, New Jersey, New Mexico, New York, Oregon, Tennessee and Washington D.C. We owe the honor to our clients, colleagues, friends and families. Without their unwavering trust, confidence and support, we would not be where we are today. As our firm's footprint continues to grow throughout the United States, we remain passionate about giving back to the charities, communities and business organizations within which our clients, attorneys, and staff are committed.

Greenspoon Marder is committed to the communities in which we live and work. Our Greenspoon Marder family is proud to have donated almost \$1 million in 2018 to charities and organizations throughout the United States.

**TAB 7:
ATTORNEY BIOGRAPHIES**



Joseph S. Geller

Partner

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joseph.geller@gmlaw.com

200 East Broward Boulevard, Suite 1800, Fort Lauderdale, FL, 33301

Joseph S. Geller focuses his practice on civil litigation, administrative law, election law, government relations, municipal law and land use and zoning. He has extensive litigation experience in both the Florida and federal courts. Mr. Geller was elected to the State House of Representatives, District 100, representing parts of Northeast Dade and Southeast Broward, in November, 2014 and was reelected without opposition in November, 2016 and again in November, 2018. He was previously elected as Mayor of North Bay Village in 2004 and was reelected in 2006 serving until 2008. Mr. Geller is also the former long-time Chair of the Miami-Dade County Democratic Party. Additionally, Mr. Geller served as the Village Attorney for the Village of El Portal for many years. He also previously served as City Attorney for the City of Opa-Locka. He is the former Town Attorney for the Town of Miami Lakes and the Town of Golden Beach and former City Attorney for the City of North Bay Village. Mr. Geller is a member of the Attorneys' Title Insurance Fund. Mr. Geller has also served as the Southeast Regional President of the American Jewish Congress.

Mr. Geller has more than 35 years experience, including state and federal court litigation, at both the trial and appellate level. In addition to Complex Civil Litigation matters, Mr. Geller's practice focuses on government relations, land use and zoning, election law, government relations, municipal law and administrative law. Mr. Geller is especially well known for a series of landmark Election Law cases, beginning with the City of Miami Mayoral Election Vote Fraud case in 1997, and including Recount Litigation, including the Gore Presidential Campaign in 2000, the "Ted's Shed" School Board residency case in 2000, successful representation of judicial candidates in the 2006 Election cycle, and successful representation in the 2010 cycle of candidates facing Resign to Run and Entitlement to Run-off issues. Most recently, he successfully defended a candidate's eligibility to run in the 2018 cycle. Mr. Geller has over twenty (20) years of experience in serving as a Municipal Attorney, and has served five (5) municipalities as their principal attorney, as well as serving as special counsel for a number of other municipalities. He has extensive litigation experience in a variety of complex civil litigation fields, including Construction Law, Intellectual Property, Fraud and Misrepresentation, Real Property Law, Family Law and Probate Litigation, along with others too numerous to mention.

Prior to joining Greenspoon Marder, Mr. Geller was partners with his brother, Senator Steven A. Geller, for many years in Geller & Geller, P.A., a long-time South Florida Civil Law Firm.

Court Admissions

- Supreme Court, State of Florida
- U.S. District Court, Southern District of Florida
- U.S. District Court, Middle District of Florida
- U.S. Court of Appeals, Eleventh Circuit

Bar Admissions

- Florida, 1980

Education

- J.D., Florida State University Law School, 1979
- B.A., History, Florida State University, 1975

Practice Areas

- Government Relations
- Litigation
- Lobbying
- Land Use & Zoning
- Hospitality, Alcohol & Leisure Industry Group

Professional and Community Involvement

- Miami-Dade Delegation for the 2020 Legislative Session, Chair, 2019-2020
- Florida House of Representatives, District 100, November 2014
 - Reelected, November 2016
- Village of El Portal, Village Attorney, 1995-1997, 2000- March 2018
- Town of Miami Lakes, Town Attorney, 2011-2013
- City of North Bay Village, City Attorney, 2009-2010
 - Interim City Attorney, 2003
- Town of Golden Beach, Town Attorney, 1999-2000
- City of Opa-Locka, City Attorney, December 2009-March 2015
 - Acting City Attorney, January-July 2008
 - Assistant City Attorney, 2005-2008
- Democracy Movement, Pro-Bono Counsel, 1996-Present
- Mayor of North Bay Village, Elected, November 2004
 - Reelected, November 2006
- American Jewish Congress, Southeast Region, President, 2004 -
 - First Vice President, 2000-2004
 - Board of Directors, Member, National Executive Committee, Governing Council, and Two-Time Resolution Committee Chair
- Dade County Democratic Party, Chair, 1989-2000
- Democratic National Committee, Member, 1996-2000
 - DNC Site Selection Committee, 1993-1996
- Art & Culture Center of Hollywood
 - Advisory Board of Trustees, 2013-2014
 - Honorary Board, 2014-Present
- Silver Knight Alumni Network

- Vice-Chair, 2012-2014
- Honorary Board, 2014-Present
- Holocaust Documentation and Education Center
 - Vice-Chair and General Counsel, 2013-2014
 - Honorary Board, 2014-Present
- Women's Emergency Network
 - Board of Directors, 1994-2007
 - Advisory Board, 2007-Present
- Dade County Fair Campaign Practices Committee, Member, 1989-2000
- Kids Voting of Miami-Dade County, Advisory Board, 1996-2000
- Builders Association of South Florida, Board of Directors, 1993-1995
- Temple Beth El of North Bay Village, Board of Directors, 1987-1991
- B'nai B'rith, Zahav Unit, Vice President, 1986-1990
- Young Democrats of Florida, President, 1978-1979
- Young Democrats, National Committeeman, 1981-1989

Speaking Engagements

- Speaker, Greater Hollywood Chamber of Commerce's 2019 Legislative Luncheon, June 20, 2019
- Speaker, "Keynote Panel," Broward County Bar Association Law Day, May 4, 2018
- Speaker, "Updates from Tallahassee & Washington, DC," North Miami Quarterly Business Luncheon, May 3, 2018
- Speaker, "Assisted Living Facilities and Nursing Home Regulations and Legislation," St. Thomas University 6th Annual Elder Law Symposium, April 17, 2018
- Speaker, "State of the State," Broward County Bar Association's (BCBA) Legislative Affairs Update & Reception, November 29, 2017
- Speaker, "Medical Marijuana in Florida: Understanding the Impact of Senate Bill 8-A on Local Businesses," City of North Miami's Business Luncheon, November 1, 2017
- Panelist, "Home Rule: What is its future in Florida?," Miami-Dade Ethics Commission, June 2, 2017
- Panelist, "The Medical Marijuana Debate and Medical Panel," Florida's Future, October 21, 2016

Recognitions

- *U.S. News & World Report*, "Best Lawyers in America," Administrative/Regulatory Law, 2021
- Holocaust Documentation & Education Center, "Honoree," 2018
- Florida Association of Counties, "County Champion Award," 2017
- Florida League of Cities, "Legislative Appreciation Award," 2017

In the News

- Quoted, "Warren Follows Biden's Flashy Florida Entrance With A Quiet Buildup," Politico.com, December 5, 2019
- Quoted, "Mixed-use Causeway Village project moves forward in North Miami," *The Real Deal*, September 22 2018
- Featured, "Public-Record Exemptions in Parkland Bill Lower Sunshine Scores For Most Lawmakers," *Miami Herald*, April 10, 2018
- Quoted, "A Condo Project May Be Headed For Single-Family Neighborhood in North Miami," *The Real Deal*, March 16, 2018

- Quoted, "Florida House: Require 2/3 Vote for Future Tax Hikes," *U.S. News & World Report*, January 25, 2018
- Quoted, "Some Lawmakers Hope To Change Way Floridians Vote In Presidential Elections," *WFSU News and Florida Politics*, January 17, 2018
- Quoted, "Warning Labels For Prescription Opioids Proposed Under Bill," *Florida Politics*, November 29, 2017
- Quoted, "Bill Would Add 'Gender Identity' To Hate Crimes," *Florida Politics*, October 3, 2017
- Highlighted, "Celebrity Waiter," Art and Culture Center 20th Annual Cuisine for Art, June 19, 2017
- Quoted, "South Florida Lawmakers Secure \$100 Million For Local Projects," *Sun Sentinel*, May 31, 2017
- Mentioned, "Cubans' Lighthouse Landing Merits US Entry, 11th Circ. Told," *Law360*, March 24, 2017
- Quoted, "Foreclosure Attorney's Suit to Boot Dem. Party Leader Can Proceed," *Daily Business Review*, February 3, 2017
- Video, "Florida's Future: The Medical Marijuana Debate and Medical Panel," *Sun Sentinel*, October 21, 2016
- Quoted, "Campaign-Finance Changes Blocked from November Ballot but Legal Fight Continues," *Miami Herald*, September 7, 2016
- Quoted, "Judge Refuses to Halt Miami-Dade Judicial Primary Race," *Daily Business Review*, August 25, 2016
- Quoted, "On 2nd try, Miami-Dade Commissioners Approve Petition Count," *Miami Herald*, August 22, 2016
- Quoted, "Suit coming to force campaign-cash rules on Miami-Dade ballot," *Miami Herald*, August 15, 2016
- Quoted, "Former State Senator, Davie Resident Face Off for Broward Commission," *Sun Sentinel*, August 11, 2016
- Quoted, "Sitting Miami Judge Files Suit to Keep Election Challenger Off Ballot," *Daily Business Review*, August 12, 2016

News

- Greenspoon Marder Partner Joseph Geller Elected As Chair Of The Miami-Dade Delegation
- Greenspoon Marder Partner Joseph Geller Panelist At The Greater Hollywood Chamber Of Commerce's 2019 Legislative Update Luncheon
- Greenspoon Marder Partner Joseph Geller Invited To Governor's Trade Mission To Israel
- Greenspoon Marder Partner Joseph Geller Chosen As Recipient Of The Florida League Of Cities' Legislative Appreciation Award
- Greenspoon Marder Supports the 21st Annual Cuisine for Art Fundraiser Presented by the Seminole Hard Rock Hotel and Casino
- Greenspoon Marder Shareholder Joseph S. Geller Panelist at Broward Bar Association's Legislative Affairs Update
- Greenspoon Marder Shareholder Joseph S. Geller To Deliver Keynote Address at the City of North Miami's Business Luncheon
- Greenspoon Marder Shareholder Joe Geller Receives A 2017 County Champion Award From Florida Association of Counties
- Greenspoon Marder Shareholder Joseph Geller Chosen as Recipient of the Florida League of Cities Legislative Appreciation Award
- Greenspoon Marder Shareholder Joseph Geller Speaker at the Miami-Dade Ethics Commissions Municipal Luncheon
- Greenspoon Marder Supports Art And Culture Center/Hollywood's 20th Annual Cuisine For Art
- The Holocaust Documentation & Education Center Acquires World War II Sherman Tank
- Joseph Geller of Greenspoon Marder Recognized as a 2016 Champion of Florida's Middle Class



James E. Rauh

Partner

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james.rauh@gmlaw.com
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James E. Rauh is a partner within the Hospitality, Alcohol and Leisure Industry Group at Greenspoon Marder. Mr. Rauh focuses his practice on the laws governing the nightlife, hospitality and alcohol industries, including diverse and multi-discipline areas of legal needs common to those industry clients. He has accumulated over 10 years of experience in those practice areas, including representing hotels, restaurants and nightclubs at all levels of municipal land use and zoning approvals, along with complete business licensing and permitting at the federal, state, and local levels.

Mr. Rauh's experience includes working with nightlife, hospitality and alcoholic beverage industry clients in a wide variety of issues, including business transactions for the purchase and sale of hotels, restaurants and nightclubs, as well as the acquisition of alcoholic beverage licenses for those operations. His experience also includes all aspects of alcohol licensing and structuring of alcohol service operations, defending regulatory enforcement actions, administrative litigation, state and local government lobbying efforts relating to nightlife, hospitality and alcoholic beverage regulations, and commercial leasing for alcohol industry tenants, as well as assisting clients with business permitting and transfers of business licenses as a result of new business ventures, expansion, and national mergers and acquisitions between nightlife, hospitality and alcohol industry clients, including contractual issues, obtaining business tax receipts, building permitting, certificates of use and occupancy, and other related operational permits.

Mr. Rauh's clients include real estate developers, hotels, restaurants and nightclubs, as well as management companies for those operations, situated in Miami Beach and other jurisdictions.

Mr. Rauh served on active duty in the United States Marine Corps and served as an Officer with the Second Marine Division and subsequently served in the Select Marine Corps Reserve as a Platoon Commander within TOW Company, 8th Tank Battalion, in Hialeah, Florida.

Bar Admissions

- Florida

Education

- J.D., St. Thomas University School of Law, *magna cum laude*, 2003
- B.A., Finance, Fordham University, 1996

Practice Areas

- Hospitality, Alcohol & Leisure Industry Group

Speaking Engagements

- Speaker, CEO Connect Featuring Albert Santalo, Founder of CareCloud, *South Florida Business & Wealth*, April 19, 2017

In the News

- Featured, "Senior-Level Hires and Promotions," *Miami Herald*, January 31, 2017

News

- Greenspoon Marder Promotes Eight Attorneys to Shareholder in 2017



Morris G. "Skip" Miller

Partner

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Fax: (561) 514-3456

skip.miller@gmlaw.com

525 Okeechobee Boulevard, Suite 900, West Palm Beach, FL, 33401

Morris G. "Skip" Miller focuses on public finance and representation of non-profit entities. He has extensive experience in municipal finance transactions of all types, including taxable bonds, bond issues for not-for-profit organizations, mini bonds, community redevelopment financing, special taxing districts and single- and multi-family housing revenue bonds.

Mr. Miller's clientele in municipal finance transactions include issuers, underwriters, lenders, not-for-profit and for-profit borrowers and trustees.

Court Admissions

- U.S. Eleventh Circuit Court of Appeals
- U.S. District, Southern District of Florida

Bar Admissions

- Florida

Education

- J.D., University of Florida, 1979
- B.S., Johns Hopkins University, 1976

Practice Areas

- Appellate
- Banking & Finance
- Corporate & Business
- Government & Government Relations
- Public Finance
- Bankruptcy and Reorganization

Professional and Community Involvement

- Artigras Fine Arts Festival Steering Committee, Member
- The Florida Bar, Member
 - City, County & Local Government Law Section, Member
- Housing Leadership Council of Palm Beach County
 - Public Policy Committee, Chair
- Kiwanis Club of Palm Beach Gardens, Vice-President
- Loggerhead Marinelife Center of Juno Beach, Board of Directors
- National Association of Bond Lawyers, Member
- Palm Beach County Bar Association, Member

Speaking Engagements

- Moderator, "Policy Formulation & Regulatory Barriers: What Needs to Be Changed," Palm Beach County Housing Summit, May 31, 2017
- Speaker, Florida Municipal Attorneys Association Annual Conference, 2012
- Speaker, Florida Association of Special Districts Annual Conference, 2007-2009
- Speaker, National Association of Bond Lawyers Workshop
- Speaker, National Conference of Black Mayor's Leadership Conference

Recognitions

- *Martindale-Hubbell*, Rated AV Preeminent®
- *South Florida Business & Wealth* magazine, Finalist, "Leaders in Law," Corporate, 2015
- Volunteer of the Year, North Palm Beach County Chamber of Commerce, 2010
- *The American Lawyer* magazine, "Top Rated Lawyers," 2012

Publications

- Florida Association of Special Districts Focus Winter 2014 Edition, Public Finance Update, November 2014
- Greenspoon Marder Client Alert: A Potential Surprise in the New Tax Law

News

- Greenspoon Marder Attorneys Selected as 2018 Legal Leaders
- Greenspoon Marder Supports the 28th Annual Kiwanis College Football Roast
- Greenspoon Marder Supports Artigras Fine Arts Festival
- Greenspoon Marder Client Alert: A Potential Surprise in the New Tax Law
- Greenspoon Marder Attorneys Receive 2018 AV Preeminent Rating By Martindale-Hubbell
- Greenspoon Marder Supports 27th Annual Kiwanis College Football Roast
- Greenspoon Marder Supports the Palm Beach County Housing Summit 2017
- Greenspoon Marder Attorneys Selected as 2016 Legal Leaders

- Greenspoon Marder Attorneys Receive 2017 AV Preeminent Rating By Martindale-Hubbell
- Greenspoon Marder Law and Eight of its Attorneys Selected as Finalists for South Florida Business & Wealth's 2015 Leaders in Law
- South Florida's Top Rated Lawyers, 2012



Glenn N. Smith

Partner

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glenn.smith@gmlaw.com

200 East Broward Boulevard, Suite 1800, Fort Lauderdale, FL, 33301

Glenn N. Smith is an experienced trial lawyer concentrating in complex commercial litigation in state and federal courts. Much of Mr. Smith's practice is focused on the representation of clients involved in or related to real estate development. Thus, he has prepared and tried numerous cases on matters such as:

- Contract Disputes
- Zoning and Land Use
- Business Disputes and Business Torts
- Professional Malpractice
- Construction Defects
- Bid Protests

In these matters, Mr. Smith has represented such clients as builders/developers, design professionals, contractors, subcontractors and lenders. He is also experienced in general commercial matters and administrative law.

Prior to joining the firm, Mr. Smith was Assistant Attorney General with the Civil Division, Florida Department of Legal Affairs.

Bar Admissions

- Florida

Education

- J.D., Florida State University School of Law, Honors, 1973
- B.A., Valdosta State College, 1968

Practice Areas

- Construction
- Government & Government Relations
- Litigation

Professional and Community Involvement

- American Academy of Trial Lawyers, Member
- American Bar Association, Member
- Broward County Bar Association, Member
- The Florida Bar
 - Administrative and Local Governmental Law Section, Member
 - Trial Lawyers Section, Member

Recognitions

- *Martindale-Hubbell*, Rated AV Preeminent®
- *U.S. News & World Report*, "Best Lawyers in America," Litigation, Construction, 2012-2020
- *U.S. News & World Report*, "Best Lawyers in America," Litigation, Land Use & Zoning, 2012-2020
- *U.S. News & World Report*, "Best Lawyers in America," Commercial Litigation, 2013-2020
- *U.S. News & World Report*, "Best Lawyers in America," Litigation, Real Estate, 2013-2020
- *U.S. News & World Report*, "Lawyer of the Year," Litigation, Real Estate, 2017
- *Super Lawyers* magazine, Florida "Super Lawyers," Construction Litigation, 2008-2013
- *The American Lawyer* magazine, "Top Rated Lawyers," 2012

News

- Greenspoon Marder Attorneys Selected as 2018 Legal Leaders
- Greenspoon Marder Supports the 2018 Annual Florida Outdoor Advertising Association's Convention
- 35 Attorneys From Greenspoon Marder Listed In The Best Lawyers in America® 2019
- Greenspoon Marder Attorneys Receive 2018 AV Preeminent Rating By Martindale-Hubbell
- Greenspoon Marder Supports The 2017 Annual Florida Outdoor Advertising Association's (FOAA) Convention
- 34 Attorneys from Greenspoon Marder Listed in The Best Lawyers in America® 2018
- Eight Attorneys From Greenspoon Marder Listed In The Best Lawyers Business Edition 2017
- Greenspoon Marder Attorneys Selected as 2016 Legal Leaders
- Greenspoon Marder Attorneys Receive 2017 AV Preeminent Rating By Martindale-Hubbell
- Two Greenspoon Marder Shareholders Selected as "Lawyer of the Year" by Best Lawyers for 2017
- 32 Attorneys from Greenspoon Marder Listed in the Best Lawyers in America 2017
- 25 Greenspoon Marder Law Attorneys Listed Among 2016 Best Lawyers in America
- Twenty-Three Greenspoon Marder Law Attorneys Listed Among Best Lawyers in America in 2015
- Twenty-Three Greenspoon Marder Attorneys Listed Among Best Lawyers in America in 2014
- 26 Greenspoon Marder Attorneys Listed Among Florida Super Lawyers
- Greenspoon Marder Named Among the 2013 "Best Law Firms"
- Greenspoon Marder Attorneys Named Among The Best Lawyers in America® 2013
- South Florida's Top Rated Lawyers, 2012



Francis X. Suarez

Of Counsel

Phone: (305) 789-2725
Francis.Suarez@gmlaw.com
600 Brickell Avenue, Suite 3600, Miami, FL, 33131

Francis X. Suarez is of counsel in the Corporate and Business practice group at Greenspoon Marder. Mr. Suarez has more than 13 years of experience in real estate and corporate finance, covering the gamut of clients' real estate needs, from acquisitions and financing to sales and joint ventures. He also has served as outside general counsel to a variety of companies.

Mr. Suarez serves as mayor of the City of Miami. He previously served as Commissioner for the City of Miami, District 4, working to raise the standards of the city in which he was born and raised. His civic accomplishments on behalf of the city are extensive. He is vice-chair of the Miami-Dade Transportation Planning Organization and immediate past president of the Miami-Dade County League of Cities, to name a few. He is dedicated to elevating the quality of life of the residents he serves by focusing on transportation and connectivity issues within the city and beyond, nurturing the growth of a tech-based economy in the area and, by extension, job creation and international opportunities with Latin America.

Mr. Suarez was recognized as the 2017 Elected Official of the Year by the Latin Builder's Association.

Court Admissions

- Florida State Courts
- U.S. District Court, Southern District of Florida

Bar Admissions

- Florida

Education

- J.D., University of Florida Fredric G. Levin College of Law, *cum laude*
- B.A., Florida International University

Other Languages

- Spanish

Practice Areas

- Corporate & Business
- Real Estate
- Hospitality, Alcohol & Leisure Industry Group

Professional and Community Involvement

- The Florida Bar
- Miami-Dade County League of Cities, Past President
- Miami-Dade Metropolitan Planning Organization, Vice-Chair
- Homeless Trust, Board Member
- Member of Community Redevelopment Agency for Overtown, Omni and Midtown (Chair)
- Banyan Health Systems (formerly known as Miami Behavioral Center, Inc.), former Board Member
- Spectrum Programs, former Board Member

Speaking Engagement

- Moderator, "New Wave of Innovative Real Estate Districts," eMerge Americas Rendezvous #4, March 16, 2017
- "Rentals, Mixed-Use and Condos and Their Impact on South Florida," Bisnow, Miami's Residential & Multifamily Forum, December 13, 2016

News

- Greenspoon Marder Supports the 2018 Urban Land Institute Miami Investor's Symposium
- Greenspoon Marder Attorneys Francis X. Suarez and Leslie José Zigel Featured Speakers at the Blockchain Shift Conference
- Greenspoon Marder Supports Invest: Miami 2018



Mark Lynn

Partner

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Mark Lynn has developed a comprehensive practice in real estate transactional law, with an emphasis on representation of developers in the acquisition, financing and development of commercial properties.

Mr. Lynn has developed several sub-specialties within this commercial real estate practice including the acquisition and sale of apartment complexes, office buildings, industrial developments and medical centers, lender representation, negotiation of construction contracts with contractors and architects, and the representation of landlords and tenants in office building, shopping center and warehouse leasing. Mr. Lynn also represents developers in obtaining zoning and land use approvals for large planned unit developments and commercial projects.

As a complement to Mr. Lynn's transactional practice, he also has a substantial background in the representation of both lenders and owners in real estate litigation and resolution of title defects, bank foreclosures and loan workouts.

A native Floridian, Mr. Lynn has sought to help communities seek a balance between development and preservation of the environment, and has written several articles on this issue. He is an active member of 1000 Friends of Florida.

Before joining Greenspoon Marder, Mr. Lynn was a title examiner for First American Title Insurance Company and co-owner and managing attorney of a title agency in Aventura, Florida.

Bar Admissions

- Florida

Education

- J.D., University of Miami School of Law, *cum laude*, 1996
- B.A., International Relations, University of Pennsylvania, 1992

Practice Areas

- Real Estate
- Land Use & Zoning
- Community Association & Condominium
- Banking & Finance

Professional and Community Involvement

- The Florida Bar, Member
- Israel Bonds, Miami-Dade County Chapter, Board of Directors
- American Red Magen David for Israel, Board of Directors
- Broward County Bar Association, Emerging Legal Issues Section
 - Real Property Subcommittee, Co-Chair
 - Ethics & Liability Subcommittee, Co-Chair
- American Israel Public Affairs Committee (AIPAC), Washington Club Member

Recognitions

- *Martindale-Hubbell*, Rated AV® Preeminent™

Publications

- Author, "South Florida Lawmakers Take On Sea Level Rise," *National Real Estate Investor*, March 11, 2015

In the News

- Featured, "Senior-Level Hires and Promotions," *Miami Herald*, January 22, 2017
- Featured, "What You Need to Know About AAAs," *GlobeSt.com*, December 12, 2014
- Featured, "How Cities are Mitigating King Tides," *GlobeSt.com*, December 11, 2014
- Featured, "Will So-Called King Tide Cost Us Millions?," *GlobeSt.com*, December 10, 2014

News

- Greenspoon Marder Attorneys Selected as 2018 Legal Leaders
- Greenspoon Marder Attorneys Receive 2018 AV Preeminent Rating By Martindale-Hubbell
- Greenspoon Marder Promotes Eight Attorneys to Shareholder in 2017
- What You Need To Know About AAAs
- How Cities Are Mitigating King Tides
- Will So-Called King Tide Cost Us Millions?



Olga Vieira

Partner

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Olga Vieira is a partner in the Litigation practice group at Greenspoon Marder. Ms. Vieira has extensive experience in extended trials, including serving as first chair and working with other trial counsel on legal issues to avoid errors or preserve the record for appeal. Ms. Vieira's practice focuses on product liability, catastrophic injury, and commercial litigation. Ms. Vieira strives to resolve disputes in efficient, common-sense ways that achieve her clients' legal and business goals. Her deep Miami roots and community leadership roles benefit her clients as they navigate the litigation process or local business environment.

In addition to her trial experience, Ms. Vieira has assisted clients through all phases of litigation including discovery, motions practice, settlement negotiations, and mediation. She has had extensive involvement in smoking and health litigation in Florida, including taking a lead role in coordinating the defense of over 1,000 individual claims pending in Miami-Dade County.

Court Admissions

- Florida State Courts
- U.S. District Court, Southern District of Florida

Bar Admissions

- Florida

Education

- J.D., Georgetown University Law Center, 2006
- B.S., University of Florida, *cum laude*, 2001

Other Languages

- Spanish

Practice Areas

- Litigation
- Real Estate
- Blockchain

Representative Experience

- One of the lead trial attorneys defending a tobacco manufacturer in a wrongful death claim where plaintiff sought \$50 million. Defendants obtained a complete defense verdict after a three-week trial.
- One of the lead trial attorneys for an engineering firm in a two-week personal injury trial where plaintiff alleged catastrophic injuries and sought over \$10 million in damages. The case resolved after the trial, while the jury deliberated. Kevin Charles Simpson v. FLSmidth, Inc.
- One of the lead trial attorneys for the defendant in a federal court labor dispute alleging unfair wage practices under the Fair Labor Standards Act. The case resulted in a complete defense verdict.
- Provided legal issues and trial support during a three-week trial over the death of a 54-year-old smoker claiming compensatory and punitive damages for lung cancer and addiction arising from the use of cigarettes containing nicotine.
- Provided legal issues and trial support in a two-week trial where a former smoker sought compensatory damages for bladder cancer caused by his alleged addiction to cigarettes containing nicotine.
- Provided legal issues and trial support in an eight-week trial where a smoker sought compensatory and punitive damages for cancer and addiction arising from the use of cigarettes containing nicotine.

Professional and Community Involvement

- The Florida Bar
- Amor en Acción
 - Board of Directors and Treasurer (2001-2016)
- Dade Heritage Trust
 - Board of Trustees (2008-2014)
 - President (2012-2014)
- Lawyers for Children America, Attorney Ad Litem

Speaking Engagements

- Moderator, "Tech Trends in Commercial Real Estate," CREW Miami Lunch Program, October 29, 2019
- Speaker, "The Role of In-House Counsel in Alternative Dispute Resolution And Settlement Offers: When, How, and How Much," FDCC 2018 Winter Meeting, Amelia Island, FL (February 26, 2018).

Recognitions

- *Martindale-Hubbell*, Rated AV® Preeminent™
- *South Florida Legal Guide*, "Top Lawyers," 2020
- *Benchmark Litigation*, "Under 40 Hot List," 2019
- *Daily Business Review*, "Young Lawyers on the Rise," 2017
- *Super Lawyers* magazine, "Florida Rising Star," 2013-2019
- *Florida Trend* magazine, Legal Elite, "Up and Comer," 2015
- Lawyers for Children America, John Edward Smith Child Advocacy Award, 2012

- In recognition of outstanding legal advocacy and exceptional service as a pro bono attorney for abused and neglected children
- Cystic Fibrosis Foundation, 40 Under 40 Outstanding Lawyers of Miami-Dade County, 2012
- International Academy of Trial Lawyers' Award, 2006
 - Participation in the D.C. Law Students in Court Program

Publications

- Food for Thought: Liability-Only Class Certification Denied for Claims That "No Sugar Added" Juice Labels Misled Consumers Into Thinking the Juice Had Fewer Calories," Carlton Fields Web Article, October 16, 2017
- Co-Author, "Your Apps May Be Selling You Out," Law360, July 12, 2017
- Co-Author, "Amazon Echo - Did Alexa Record a Murder?" Daily Business Review, April 17, 2017
- "CAUTION: Are Production Warnings Required in Languages Other than English?," Sports & Business Industry Association, January 17, 2012
- "Client Alert: New Decision on Personal Jurisdiction Over Corporate Defendants," Carlton Fields Web Article, 2011

News

- Greenspoon Marder Supports The JDRF Golf Tournament
- Three Greenspoon Marder Attorneys Recognized In Benchmark Litigation's "Under 40 Hotlist" 2019
- Greenspoon Marder Hosts The Miami Music Week: Crypto Monday Reception
- Greenspoon Marder Attorneys Selected as 2018 Legal Leaders
- Super Lawyers Recognizes 15 Attorneys At Greenspoon Marder As "2018 Rising Stars" In Florida





Elizabeth Somerstein Adler

Senior Counsel

Phone: (954) 527-2459

Fax: (954) 333-4059

elizabeth.adler@gmlaw.com

200 East Broward Boulevard, Suite 1800, Fort Lauderdale, FL, 33301

Elizabeth Somerstein Adler is senior counsel in the Litigation practice group at Greenspoon Marder LLP. She concentrates her practice on civil litigation, including, but not limited to, commercial, construction, zoning, environmental, and land use. Ms. Adler is credentialed by the U.S. Green Building Council as a LEED AP BD+C, which is an advanced professional credential obtained by only those professionals with significant expertise in the design and construction phases of green buildings, serving the commercial, residential, education and healthcare sectors.

Court Admissions

- U.S. Supreme Court
- U.S. District Court, Southern District of Florida
- U.S. Court of Appeals, Eleventh Circuit

Bar Admissions

- Florida

Education

- LEED AP BD+C Professional Credential
- J.D., University of Miami School of Law, *magna cum laude*, *Order of the Coif*
 - Writing Editor, [University of Miami Intern-American Law Review](#)
 - "Grey Quill Award," Recipient
- B.A., Art History, Emory University

Practice Areas

- Construction
- Litigation

Professional and Community Involvement

- Nova Southeastern University, Levan Ambassadors Board, Member
- City of Fort Lauderdale, Sustainability Advisory Board, Vice Chair
- Ghost Light Society, Steering Committee
- Broward County Bar Association, Member
- Order of the Coif, Member
- Silver Knight Alumni Association, Member
- South Florida Emory Alumni Association, Member

Recognitions

- *U.S. News and World Report*, "Best Lawyers in America: Ones to Watch," Commercial Litigation, 2021
- *Super Lawyers* magazine, "Florida Rising Stars," Land Use & Zoning, 2019
- *Daily Business Review*, Honoree, "On the Rise" Professional Excellence Awards, 2019
- *South Florida Business & Wealth* magazine, Nominee, "Up & Comers," 2018

Publications

- Author, "Senate Bill 360 in the Wake of the Recent City of Weston Ruling," October 25, 2010
- Co-Author, "New Challenges to Protecting a Landlord's Interest from its Tenants' Creditors," March 10, 2010
- Author, "Copyright Abolition and Attribution," *Review of Law & Economics*: Vol. 5: Iss. 3, Article 5, 2009
- Author, "Provenance: Issues in Museum Administration" ALI-ABA Course of Study, *Legal Issues in Museum Administration*, April 2009
- Author, "Who is really protecting Barbie: Goliath or the Silver Knight? A defense of Mattel's aggressive international attempts to protect its Barbie copyright and trademark," 39 *University of Miami Inter-American Law Review*, 559, 2008

In the News

- Featured, "Q&As With DBR's 2019 On the Rise Honorees," *Daily Business Review*, May 6, 2019
- Featured, "Meet Liz Adler of Greenspoon Marder in Brickell and Miami Beach," *VoyageMIA*, May 2, 2019
- Featured, "DBR Announces 2019 Professional Excellence Awards," *Daily Business Journal*, March 15, 2019
- Featured, "Alumni Welcome," NSU University School Viewpoint, Spring 2018

News

- 4 Greenspoon Marder Attorneys Listed In The Best Lawyers In America©: Ones To Watch 2021
- Greenspoon Marder Senior Counsel Elizabeth Somerstein Adler Elected To Serve As The Vice Chair Of The City Of Fort Lauderdale's Sustainability Advisory Board
- Greenspoon Marder supports the 10th Annual Ghost Light Society Soiree benefitting the Broward Center's Arts-in-Education Programs
- Greenspoon Marder Senior Counsel Elizabeth Somerstein Adler Earns LEED AP BD+C Professional Credential
- Greenspoon Marder Senior Counsel Elizabeth Somerstein Adler Inducted As A Member Of The NSU Levan Ambassadors Board
- Greenspoon Marder Senior Counsel Elizabeth Adler To Be Honored At The Daily Business Review's Florida Legal Awards
- Greenspoon Marder Attorney Elizabeth Somerstein Adler Reappointed for a Fourth Term to the City of Fort Lauderdale's Sustainability Advisory Board

- Greenspoon Marder Attorney Elizabeth Somerstein Adler Appointed to the Steering Committee for the Broward Center of Performing Art's Ghost Light Society
- Greenspoon Marder Attorney Elizabeth Somerstein Adler Recognized As A 2018 "Up and Comer" By South Florida Business & Wealth
- Greenspoon Marder Supports The B'Nai B'rith Justice Unit's 38th Annual Installation Brunch
- Greenspoon Marder Attorney Elizabeth Somerstein Adler Reappointed For A Third Term To The City of Fort Lauderdale's Sustainability Advisory Board
- Greenspoon Marder Associate Elizabeth Somerstein Adler Elected to Serve on Board of Broward B'Nai Brith's Justice Unit
- Greenspoon Marder Attorney Elizabeth Somerstein Adler Reappointed for a Second Term to the City of Fort Lauderdale's Sustainability Advisory Board
- Greenspoon Marder Attorney Elizabeth Somerstein Adler has been Appointed to the City of Fort Lauderdale's Sustainability Advisory Board



Jason D. Silver

Associate

Phone: (754) 200-7008

Fax: (954) 213-0168

jason.silver@gmlaw.com

200 East Broward Boulevard, Suite 1800, Fort Lauderdale, FL, 33301

100 West Cypress Creek Road, Suite 700, Fort Lauderdale, FL, 33309

Jason is an associate in the Financial Services practice group. He handles all facets of consumer finance litigation on behalf of financial institutions in Florida, New York, and the District of Columbia. He is also admitted in the U.S. Bankruptcy Courts throughout Florida and New York and frequently represents creditors in those Courts.

He also practices general civil litigation and municipal and government law, having presided as the Deputy Municipal Attorney at monthly municipal meetings at the Village of El Portal, Florida. He has assisted with the representation in election related disputes, municipal Zoning Board related disputes, a municipality's effort to implement a Form-Cased Code, and interned at the Office of the City Attorney at the City of Miami while in law school. He is a member of the Florida Municipal Attorneys Association (FMAA) and is a Florida Supreme Court Qualified Arbitrator.

Regarding service to the bar, he currently is a member of The Florida Bar's Constitutional Judiciary Committee, where he has been appointed has Vice Chair for 2020, and serves on Grievance Committee 17 I where was also appointed Vice Chair for 2020. He served as Chair of The Florida Bar's Standing Committee for Student Education and Admissions to the Bar in 2019, is a past President of The Florida Bar Young Lawyers Division's Law Student Division, and previously was as an elected member of The Dade County Bar Association Young Lawyers Section's Board of Directors and wrote for the Cuban American Bar Association's *CABA Briefs* magazine.

He was a Team Captain for Cycle for Survival in 2020, serves on the City of Ft. Lauderdale's Community Appearance Board, previously served on the Young Leadership Division Board of Directors with the Jewish Federation of Broward County, lectured and coached for the mock trial competition coach at David Posnack Hebrew Day High School through Greenspoon Marder LLP, and is a member of The Federalist Society.

Part of the communications staff for the Miami Dolphins seasonally since 2009, he worked Superbowls XLIV and LIV, the Pro Bowl in Miami, and the 2008 FedEx BCS National Championship game in Miami.

He is an avid runner and indoor cyclist and successfully completed the ING Miami Half Marathon and 13.1 races in 2011 and the Hollywood Beach Half Marathon in 2020.

Silver graduated the University of Florida where he was tapped into Florida Blue Key and the St. Thomas University School of Law.

Court Admissions

- U.S. District Court, Southern District of New York
- U.S. District Court, Eastern District of New York

- U.S. Bankruptcy Court, Southern District of New York
- U.S. Bankruptcy Court, Eastern District of New York
- U.S. Bankruptcy Court, Northern District of New York
- U.S. Bankruptcy Court, Western District of New York
- U.S. District Court, Southern District of Florida
- U.S. District Court, Middle District of Florida
- U.S. District Court, Northern District of Florida
- U.S. Bankruptcy Court, Southern District of Florida
- U.S. Bankruptcy Court, Middle District of Florida
- U.S. Bankruptcy Court, Northern District of Florida
- U.S. Court of Appeals, District of Columbia Circuit
- U.S. Court of Appeals, Seventh Circuit
- Florida Supreme Court Qualified Arbitrator

Bar Admissions

- District of Columbia
- Florida
- New York

Education

- J.D., St. Thomas School of Law, 2011
- B.S., Public Relations, University of Florida, 2008

Practice Areas

- Financial Services
- Real Estate

Professional and Community Involvement

- The Florida Bar, Member
 - Constitutional Judiciary Committee
 - Vice Chair, 2020-2021
 - Grievance Committee 17I
 - Vice Chair 2020-2021
 - Student Education & Admissions To The Bar Committee
 - Chair, 2018-2019
 - Vice Chair, 2017-2018
 - The Florida Bar Young Lawyers Division's Law Student Division
 - Past President, 2010-2011
- City of Fort Lauderdale, Community Appearance Board, Member
- Cycle for Survival

- Fundraising Team captain, Miami ride, 2019-2020
- Dade County Bar Association/Young Lawyers Section
 - Elected to Board of Directors, 2012
- Cuban American Bar Association
 - Writer for the *CABA Briefs* magazine
- University of Florida, Florida Blue Key,
 - Tapped, Fall, 2007
- Miami Dolphins, LTD.
 - Seasonal assistant to Media Relations staff, 2009-2020
 - The Orange Bowl Committee
 - Collegiate football bowl seasonal assistant to Communications staff , 2005-2012

Speaking Engagements

- Speaker, "Real Life on the Job Challenges Students Will Face and Professionalism," University of Miami School of Law's Externship Program Orientation, January 24, 2019
- Speaker, "Ethical Governance Day 2017," Miami-Dade County Commission on Ethics and Public Trust, Center for International Education, Homestead, FL, October 19, 2017
- Speaker, "The Winning Edge," Florida International College of Law, Miami, FL, October 25, 2016
- Speaker, "Ethical Governance Day 2016," Miami-Dade County Commission on Ethics and Public Trust, Mater Academy, Hialeah Gardens, FL, October 20, 2016
- Panelist, "Are Law Schools Adequately Preparing Students for the Practice of Law?," 65th Annual Florida Bar Convention, The Florida Bar, June 26, 2015
- Moderator, 64th Annual Florida Bar Convention, "Outlook Ethics," Continuing Legal Education, The Florida Bar, June 27, 2014

Recognitions

- *U.S. News and World Report*, "Best Lawyers in America: Ones to Watch," Financial Services Regulation Law, Real Estate Law, 2021
- *Super Lawyers* magazine, "Florida Rising Stars," Business Litigation, 2019-2020

In The News

- Featured, "Law School To Career: My Job As An Associate Attorney In Banking & Finance," *STU News*, July 2, 2020
- LAW SCHOOL TO CAREER: MY JOB AS AN ASSOCIATE ATTORNEY IN BANKING & FINANCE
- Featured, "Florida Bar Annual Convention 2019: Jason Silver on Student Education and Admissions to the Bar," *Florida Bar Podcast*, July 6, 2019
- Featured, "UF Students Crave More Health and Wellness Resources," *Florida Bar News*, December 15, 2018

News

- 4 Greenspoon Marder Attorneys Listed In The Best Lawyers In America©: Ones To Watch 2021
- Greenspoon Marder Associate Jason Silver Appointed As Vice-Chair Of Both The Florida Bar's Constitutional Judiciary Committee And The Seventeenth Circuit Grievance Committee "I"
- Super Lawyers Recognizes 14 Attorneys At Greenspoon Marder As "Rising Stars" In Florida
- Greenspoon Marder Associate Jason Silver Appointed To The City Of Fort Lauderdale's Community Appearance Board

**TAB 8:
CORPORATE STANDING AND
AUTHORIZED SIGNATORY**

2020 LIMITED LIABILITY PARTNERSHIP ANNUAL REPORT
FEE IS \$25.00! REPORT DUE BY MAY 1, 2020

SECRETARY OF STATE



FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS

REGISTRATION # LLP160002946

1. Name and Mailing Address

GREENSPOON MARDER LLP

200 EAST BROWARD BOULEVARD
SUITE 1800
FORT LAUDERDALE, FL 33301 US

If above mailing address is incorrect in any way, line through incorrect information and enter correction in Block 2.

3. Principal Place of Business Address

200 EAST BROWARD BOULEVARD
SUITE 1800
FORT LAUDERDALE, FL 33301 US

5. Federal Employee Identification Number

81-2555319

Applied For

Not Applicable

7. Name and Address of Registered Agent

GREENSPOON, GERALD
200 EAST BROWARD BOULEVARD, SUITE 1800
FORT LAUDERDALE, FL 33301

8. New Name and/or Address of Registered Agent:

Name

Street Address (P.O. Box Number is Not Acceptable)

FL

City

Zip Code

9. New Registered Agent's Signature, If Changed

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida

SIGNATURE: _____

SIGNATURE, TYPED OR PRINTED NAME OF REGISTERED AGENT AND TITLE IF APPLICABLE.

Date

10. General Partner's Signature (REQUIRED)

The execution of this report as a partner constitutes an affirmation under the penalties of perjury that the facts stated herein are true.

SIGNATURE: _____

SIGNATURE AND TYPED OR PRINTED NAME OF SIGNING PARTNER

Gerald Greenspoon
Co-Managing Director

2-20-20 / 954.491.1120

Daytime Phone #

E-mail Address: gerry.greenspoon@gmlaw.com

(To be used for future annual report notifications)

FILED

2020 FEB 25 AM 8:23

DIVISION OF CORPORATIONS

LLP 200000623
02/25/20--01015--016 **25.00

LLP #

LLP 200000623

CR2E029 (2/10)

2. New Mailing Address, if Applicable:

Suite, Apt#, etc.

City

State

Zip Code

4. New Principal Office Address, if Applicable:

Suite, Apt#, etc.

City

State

Zip Code

6. Certificate of Status Desired:

☐ \$8.75 Additional Fee Required

T MOORE

FEB 26 2020

Below is a list of the firm's partners who are authorized signatories for the firm.

Partner	Abrahamy, Daniel J.
Partner	Alman, Michael J.
Partner	Austin, Carolyn
Partner	Backman, Jeffrey A.
Partner	Bakst, Michael
Partner	Bermudez, Marcela
Partner	Birnbaum, Robby H.
Partner	Blair, Laurence I.
Partner	Boyles, Heidi
Partner	Bratter, Rebecca F.
Partner	Brown, Edward D.
Partner	Chapman, Amanda L.
Partner	Chmielarski, Mark J.
Partner	Cohn, Alan B.
Partner	Corman, Larry
Partner	Coyle, Thomas F.
Partner	Crawford, Cindy
Partner	Crespo, Manuel L.
Partner	Cummings, Brian R.
Partner	Draper, Chris A.
Partner	Edgar, William J.
Partner	Epstein, Richard
Partner	Ettinger, Arthur D.
Partner	Fawer, Mark
Partner	Freimann, Michael A.
Partner	Fuerst, Scott J.
Partner	Gannon, Patricia L.
Partner	Ganz, Denise F.
Partner	Gelety, John A.
Partner	Geller, Joseph S.
Partner	Gillette, Rachel K.
Partner	Gilmore, Ellen
Partner	Ginder, Matthew
Partner	Glasser, Gene K.
Partner	Grant, Mark F.
Partner	Greenspoon, Gerald
Partner	Guadiana, James A.
Partner	Hatic, Haas A.
Partner	Hipps, Kathleen C.
Partner	Hirschfeld, Neal W.
Partner	Homer, Franklin S.
Partner	Jackson, Robert B.
Partner	Kemper, Adam D.
Partner	Klein, Brent D.
Partner	Kline, Victor S.
Partner	Klinek, Evan B.
Partner	Krimsky, Beth-Ann E.
Partner	Kron, David P.

Partner	Krul, Michael H.
Partner	Kubiliun, David
Partner	Labat, Germain D.
Partner	Lawlor, Rebecca Y.
Partner	Lebow, Ron
Partner	Lenox, David R.
Partner	Linder, Carl H.
Partner	Loos III, Edmund O.
Partner	Lubart, Leonard
Partner	Lynn, Mark J.
Partner	Marder, Michael E.
Partner	Maysonet, Myrna
Partner	Mazanec, Daniel C.
Partner	Mele, Dennis D.
Partner	Merkur, David
Partner	Miller, Morris G.
Partner	Nair-Thomas, Nandini P.
Partner	Neufeld, Marla B.
Partner	O'Donnell, Garry W.
Partner	Patel, Jayesh
Partner	Pelzer, John H.
Partner	Rabinowitz, Mark P.
Partner	Rauh, James E.
Partner	Reichman, Robert P.
Partner	Richards II, Nicholas J.
Partner	Ross, Michael
Partner	Saft, Kathryn
Partner	Sances, Amy L.
Partner	Schuster, Carl
Partner	Schwartz, Marc E.
Partner	Seigel, Jenna H.
Partner	Shiekman, John L.
Partner	Siegel, Peter R.
Partner	Silverstein, Murray B.
Partner	Silvestri, Phillip A.
Partner	Slavis, Peter D.
Partner	Smith, Glenn N.
Partner	Smith, Michael A.
Partner	Somerstein, Alan
Partner	Somerstein, Barry
Partner	Somerstein, Dana L.
Partner	Somerstein, Mark
Partner	Sykes, Leah
Partner	Tamaroff, Chad J.
Partner	Tener, Elizabeth A.
Partner	Terminello, Louis J.
Partner	Thompson, Loretta
Partner	Turken, James H.
Partner	Urias, Sharon A.
Partner	Valvano II, James
Partner	Vieira, Olga M.
Partner	Weisman, David

Partner	Weiss, Jonathan B.
Partner	Wessely Esq., Robert P.
Partner	Zagzebski, Sander C.

Partner	Zann, Lawren
Partner	Zigel, Leslie J.

**TAB 9:
FORMS AND ATTACHMENTS**

RESPONDENT SUBMITTAL FORM:

ACKNOWLEDGEMENT OF ADDENDA

INSTRUCTIONS: COMPLETE PART I OR PART II, WHICHEVER APPLIES

PART I:

LIST BELOW ARE THE DATES OF ISSUE FOR EACH ADDENDUM RECEIVED IN CONNECTION WITH THIS RFQ

Addendum #1, Dated _____

Addendum #2, Dated _____

Addendum #3, Dated _____

Addendum #4, Dated _____

Addendum #5, Dated _____

Addendum #6, Dated _____

Addendum #7, Dated _____

Addendum #8, Dated _____

PART II:

☒ NO ADDENDUM WAS RECEIVED IN CONNECTION WITH THIS RFQ

FIRM NAME: Greenspoon Marder LLP

AUTHORIZED SIGNATURE: _____ DATE: 9/17/20

TITLE OF OFFICER: _____

**RESPONDENT SUBMITTAL FORM
PROFESSIONAL LEGAL SERVICES**

The undersigned Firm proposes and agrees, if this submission is accepted, to enter into an agreement with the Town of Bay Harbor Islands to perform and furnish all Services as specified or indicated in the Contract Documents.

The Firm accepts all of the terms and conditions of this Request for Proposals. This RFQ will remain subject to acceptance for 90 days after the day of RFQ opening. The Firms agrees to sign and submit the Agreement and other documents as required by the Bidding Requirements within ten days after the date of the Town's Notice of Award.

In submitting this response, the Firm represents, as more fully set forth in the Agreement, that:

- The Firm has familiarized himself/herself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Law and Regulations that in any manner may affect cost, progress, performance, or furnishing of the Work.
- The Firm has studied carefully all reports and drawings of subsurface conditions and drawings of physical conditions.
- The Firm has given the Town written notice of all conflicts, errors, discrepancies that it has discovered in the Contract Documents and the written resolution thereof by Town is acceptable to the Firm.
- This solicitation is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; the Firm has not directly or indirectly induced or solicited any other Firms to submit a false or sham Bid; the Firm has not solicited or induced any person, firm or corporation to refrain from Bidding; and Firm has not sought by collusion to obtain for itself any advantage over any other Firms or over the Town.

Firm Name:

Greenspoon Marder LLP

Street Address:

600 Brickell Avenue, Suite 3600

Mailing Address (if different):

Miami, FL 33131

Telephone No. 954-491-1120 Fax No. 954-331-2037

Email Address: joseph.geller@gmlaw.com FEIN No. 81-2555319

**By signing this document the Responder agrees to all Terms*

Signature:

(Signature of authorized agent)

Print Name: Joseph Geller

Title: Partner

THE EXECUTION OF THIS FORM CONSTITUTES THE UNEQUIVOCAL OFFER OF FIRM TO BE BOUND BY THE TERMS OF ITS SUBMISSION. FAILURE TO SIGN THIS SOLICITATION WHERE INDICATED ABOVE BY AN AUTHORIZED REPRESENTATIVE SHALL RENDER THE SUBMISSION NON-RESPONSIVE.



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
09/08/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services Northeast, Inc. New York NY Office One Liberty Plaza 165 Broadway, Suite 3201 New York NY 10006 USA	CONTACT NAME:		
	PHONE (A/C. No. Ext): (866) 283-7122	FAX (A/C. No.): (800) 363-0105	
	E-MAIL ADDRESS:		
INSURED Greenspoon Marder LLP. Equity Land Title LLC 200 E. Broward Blvd. Suite 1800 Fort Lauderdale FL 33301 USA	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: The Continental Insurance Company		35289
	INSURER B: Continental Casualty Company		20443
	INSURER C: Valley Forge Insurance Co		20508
	INSURER D:		
	INSURER E:		
	INSURER F:		

Holder Identifier :

COVERAGES**CERTIFICATE NUMBER:** 570083854574**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. **Limits shown are as requested**

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
C	☒ COMMERCIAL GENERAL LIABILITY			6049592407 Commercial Package Policy	05/01/2020	05/01/2021	EACH OCCURRENCE	\$1,000,000
	☐ CLAIMS-MADE ☒ OCCUR		DAMAGE TO RENTED PREMISES (Ea occurrence)				\$1,000,000	
			MED EXP (Any one person)				\$15,000	
			PERSONAL & ADV INJURY				\$1,000,000	
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$2,000,000
	☒ POLICY ☐ PROJECT ☐ LOC						PRODUCTS - COMP/OP AGG	\$2,000,000
	OTHER:							
B	AUTOMOBILE LIABILITY			6049592391 Business Auto	05/01/2020	05/01/2021	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
	☐ ANY AUTO		BODILY INJURY (Per person)					
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY		BODILY INJURY (Per accident)					
	☐ HIRED AUTOS ONLY		PROPERTY DAMAGE (Per accident)					
B	☒ UMBRELLA LIAB	☒ OCCUR		6049592410 Umbrella Liability, QUMB SIR applies per policy terms & conditions	05/01/2020	05/01/2021	EACH OCCURRENCE	\$1,000,000
	☐ EXCESS LIAB	☐ CLAIMS-MADE	AGGREGATE				\$1,000,000	
	☐ DED ☒ RETENTION							
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			6045605968	05/01/2020	05/01/2021	☒ PER STATUTE ☐ OTHER	
B	ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	☒ Y ☐ N	N/A	6045620325	05/01/2020	05/01/2021	E.L. EACH ACCIDENT	\$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below			Workers Compensation - Ca			E.L. DISEASE-EA EMPLOYEE	\$1,000,000
				Workers Compensation - Ca			E.L. DISEASE-POLICY LIMIT	\$1,000,000

Certificate No : 570083854574

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

1 - Office of the Town Clerk Town of Bay Harbor Islands is included as Additional Insured, as their interests may appear as respects to General Liability and Automobile Liability.

2 - Subject to the standard terms and conditions of the individual policies, indicated coverages are primary and non-contributory.

CERTIFICATE HOLDER**CANCELLATION**

Office of the Town Clerk Town of Bay Harbor Islands Attn: Town Clerk 9665 Bay Harbor Terrace Bay Harbor Islands, FL 33154 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Northeast, Inc.</i>

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CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
09/08/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services Northeast, Inc. New York NY Office One Liberty Plaza 165 Broadway, Suite 3201 New York NY 10006 USA	CONTACT NAME:	
	PHONE (A/C. No. Ext): (866) 283-7122	FAX (A/C. No.): (800) 363-0105
INSURED Greenspoon Marder LLP. 200 E. Broward Blvd, Suite 1800 Fort Lauderdale FL 33301 USA	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	NAIC #	
	INSURER A: Nautilus Insurance Company	
	INSURER B: Scottsdale Ins Company	
	INSURER C:	
	INSURER D:	
INSURER E:		
INSURER F:		

Holder Identifier :

COVERAGES**CERTIFICATE NUMBER:** 570083854193**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE
	☐ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)
							MED EXP (Any one person)
							PERSONAL & ADV INJURY
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE
	☐ POLICY ☐ PROJECT ☐ LOC						PRODUCTS - COMP/OP AGG
	OTHER:						
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)
	☐ ANY AUTO						BODILY INJURY (Per person)
	☐ OWNED AUTOS ONLY	☐ SCHEDULED AUTOS					BODILY INJURY (Per accident)
	☐ HIRED AUTOS ONLY	☐ NON-OWNED AUTOS ONLY					PROPERTY DAMAGE (Per accident)
	UMBRELLA LIAB	☐ OCCUR					EACH OCCURRENCE
	EXCESS LIAB	☐ CLAIMS-MADE					AGGREGATE
	☐ DED ☐ RETENTION						
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						☐ PER STATUTE ☐ OTH-ER
	ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	☐ Y ☐ N	N / A				E.L. EACH ACCIDENT
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE-EA EMPLOYEE
							E.L. DISEASE-POLICY LIMIT
A	Lawyers Prof			PLP_1000369_P-8	03/12/2020	03/12/2021	Per Claim
B				LWS0000809	03/12/2020	03/12/2021	Aggregate
							\$5,000,000
							\$10,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Primary Participation: Nautilus Insurance Company 50%, Scottsdale Insurance Company 50%
Errors & Omissions coverage is a Claims Made policy. There is no Additional Insured status on the Errors and Omissions coverage.

CERTIFICATE HOLDER**CANCELLATION**

Office of the Town Clerk Attn:Town Clerk Town of Bay Harbor Islands 9665 Bay Harbor Terrace Bay Harbor Islands, FL 33154 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Northeast, Inc.</i>

Certificate No : 570083854193

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA APPOINTING A TOWN ATTORNEY AND ASSISTANT TOWN ATTORNEY; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Bay Harbor Islands has conducted a search and selection process for town attorneys; and

WHEREAS, on Monday, March 22, 2021, the Village Council met for the purposes of making a selection, and named Greenspoon Marder, LLP, as Town Attorneys, with Joseph S. Geller of the firm being principal town attorney and James Rauh as assistant town attorney; and

WHEREAS, terms of the appointment are to be those specified in the response to request for proposal furnished by Greenspoon Marder, LLP, a copy of which is attached as Exhibit A hereto.

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

Section 1. The foregoing Recitals are true and correct and are incorporated -herein by this reference.

Section 2.- Greenspoon Marder, LLP are hereby named as Town Attorneys in accordance with the foregoing.

Section 3.- This resolution shall take effect as of April 1, 2021 and shall continue ~~in force until for the Town Organizational Meeting in April 2022.~~ ensuing year, unless terminated in accordance with law.

PASSED and ADOPTED by the Town Council of Town of Bay Harbor Islands Florida, this ____ day of April, 2021.

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_____ MAYOR

ATTEST:

TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

TOWN ATTORNEY—
SPECIAL COUNSEL

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AGENDA ITEM REPORT

April 14, 2021

ITEM NUMBER: 1.

ITEM: Discussion for the purpose of hearing any public comment with respect to a request from CBS Realty Holding, LLC for designation of the property located at 1000 Kane Concourse, Bay Harbor Islands, Florida 33154 as Brownfield Area, pursuant to Section 376.80(2)(c), Florida Statutes. Enclosed is a copy of the applicant's request and staff report provided by Town Planner Michael Miller.

DESCRIPTION:

Property owner / applicant: CBS Realty Holding, LLC

Folio Number: 13-2235-004-0010 and 13-2227-001-2470

Property Address: 1000 Kane Concourse, Bay Harbor Islands, FL 33154

Legal Description: Tract N of Nolan Brown; Lot 18, Block 12, 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.

On October 12, 2020, the Town received a submittal from the Goldstein Environmental Law Firm, P.A, the law firm representing CBS Realty Holding, LLC for a request for Brownfield Area Designation pursuant to Section 376.80(2)(c), Florida Statutes.

Brownfield area designation proposed by persons other than a governmental entity. For designation of a brownfield area that is proposed by a person other than the local government, the local government with jurisdiction over the proposed brownfield area shall provide notice and adopt a resolution to designate the brownfield area pursuant to paragraph (1)(c) if, at the public hearing to adopt the resolution, the person establishes all of the following:

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.
2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. 420.0004 or the creation of recreational areas, conservation areas, or parks.
3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations.
4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated pursuant to paragraph (1)(c), and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subparagraph must be posted in the affected area.
5. The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site.

The subject property received approval to construct a three-story mixed-use building with retail space on the first floor and the new home for the Church by the Sea on the second and third floors. The applicant seeks the Council consideration for Brownfield designation due to the presence of actual contamination on the property resulting from its former use for automotive sales and repair.

Enclosed is a copy of the request submitted by Mr. Brett Brumund of the Goldstein Environmental Law Firm, P.A. and other supporting documents including a response to questions from the March 10th, Public Hearing.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

N / A

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk

ATTACHMENTS

1. Supplemental Information to Request for Brownfield Area Designation (CBS Realty Holding LLC) (00044031xC4D3E)
2. Brownfield Area Designation Request to Town of Bay Harbor Islands - CBS Realty Holding LLC (00039795xC4D3E)
3. BHI TC Staff Report CBTS Brownfield Area Request Dec 18 2020
4. Aerial Photo - 1000 KC
5. 2- 1000 KC
6. LOCATION MAP- 1000KC

THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.
Brownfields, Due Diligence, Development, Permitting, Cleanups & Compliance

2100 Ponce de Leon Boulevard, Suite 710
Coral Gables, FL 33134
Telephone: (305) 777-1680
www.goldsteinenvlaw.com

Brett C. Brumund, Esq.
Direct Dial: (305) 640-5300
Email: bbrumund@goldsteinenvlaw.com

March 24, 2021

Via Email Only

Alba L. Chang, CMC, Town Clerk
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

Re: Response to Questions and Requests for Additional Information from the Mayor and Town Council of the Town of Bay Harbor Islands, Florida (the “Town”) from March 10, 2021, Brownfield Area Designation Public Hearing for Property Located at 1000 Kane Concourse, Bay Harbor Islands, FL (the “Subject Property”)

Dear Ms. Chang:

On behalf of CBS Realty Holding, LLC (“CBS”), we respectfully submit this letter in response to the questions and requests raised by the Mayor, Vice Mayor, and Councilmembers at the public hearing held on March 10, 2021. The specific questions and requests addressed in this letter are: 1) revision of the Brownfield Area Designation Eligibility Statement (the “Eligibility Statement”) and 2) documentation detailing the corporate structure of the applicant, CBS, and its sole managing member, The Church by the Sea Inc. (the “Church”).

I. Revisions to Eligibility Statement

In response to Vice Mayor Fuller’s request to revise Section I.2. of the Eligibility Statement, CBS amends this section to read as follows:¹

2. Economic Productivity. As the second requirement for designation, Florida Statutes § 376.80(2)(c)(2) provides that “[t]he rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the rehabilitation agreement or an agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement shall not apply to the rehabilitation and redevelopment of a

¹ A complete copy of the revised Eligibility Statement is enclosed at Exhibit A.

brownfield site that will provide affordable housing as defined in s. 420.0004 or the creation of recreational areas, conservation areas, or parks.”

CBS satisfies this criterion in that, first, the Project will result in significant economic productivity of the area. Specifically, the planned 9,000 square foot retail component of this mixed-use project will contribute to the economic productivity of the area by providing goods and services to residents and visitors in the Town. CBS further satisfies this criterion in that the Project will create more than five new permanent jobs at the Subject Property associated with future retail tenants and operation of the Church itself. For all the reasons discussed herein, CBS meets this second criterion.

Although there may be some indirect positive economic impact for the Town generated by the implementation of the redevelopment and rehabilitation project itself, § 376.80(2)(c)(2), Florida Statutes, requires that the completed redevelopment generate economic productivity to satisfy this second requirement for designation. As stated in both the original statement of economic productivity and in the revised statement above, the completed redevelopment will include a ground floor retail component fronting Kane Concourse that will create more than five new permanent, full time equivalent jobs not associated with the redevelopment or rehabilitation and will contribute to the economic productivity of the area.

II. Corporate Structure, Membership, and Corporate Officers of CBS and the Church

With respect to the corporate structure of the applicant itself, CBS is managed by its sole member, the Church, a Florida not for profit corporation with a principal address of 1045 95th Street, Bay Harbor Islands, Florida 33154. The most recent Florida Department of State, Division of Corporations (the “Department of State”) records for the Church name Karin Matos and Chris Bernstein as Co-Presidents and name Jason Nevader as Treasurer and Co-Secretary. In support of this structure, enclosed are the following:

- Limited Liability Company Operating Agreement of CBS Realty Holding, LLC, dated October 1, 2017;²
- 2020 Florida Limited Liability Company Annual Report for CBS Realty Holding, LLC, filed with the Department of State on June 4, 2020;³
- Amended Articles of Incorporation of the The Church by the Sea Inc., filed with the Department of State on June 6, 2012;⁴ and
- 2020 Florida Not For Profit Corporation Annual Report for The Church by the Sea Inc., filed with the Department of State on February 7, 2020.⁵

² Enclosed at Exhibit B.

³ Enclosed at Exhibit C.

⁴ Enclosed at Exhibit D.

⁵ Enclosed at Exhibit E.

Alba L. Chang, CMC, Town Clerk, Town of Bay Harbor Islands, Florida

March 24, 2021

Page 3 of 3

Thank you for the opportunity to address the Town Council's questions prior to the second public hearing scheduled on April 14, 2021. Should you or the Town Council have any additional questions or would like to request any additional information, please let us know.

Very truly yours,

THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.

Brett C. Brumund

Brett C. Brumund

/bcb

Enclosures

Cc: Frank Simone, Esq., Town Attorney for Town of Bay Harbor Islands, Florida
CBS Realty Holding, LLC

Exhibit A

Brownfield Area Designation Eligibility Statement

CBTS Green Reuse Area

1000 Kane Concourse, Bay Harbor Islands, Florida 33154

Folio Numbers 13-2235-004-0010 and 13-2227-001-2470

CBS Realty Holding, LLC (“CBS”)¹ proposes to redevelop and rehabilitate two parcels of land located at 1000 Kane Concourse, Bay Harbor Islands, Florida 33154, Folio Numbers 13-2235-004-0010 and 13-2227-001-2470 (the “Subject Property”) with a new mixed-use development. Once complete, the Subject Property will contain a single 76,000 square foot, three-story building with parking, retail, and lobby for the Church by the Sea (the “Church”) on the ground floor and space for the Church on the second and third floors (the “Project”). As demonstrated herein, the Project meets all five of the applicable designation criteria set forth at § 376.80(2)(c), Florida Statutes.² In addition, the Subject Property meets the definition of a “brownfield site” pursuant to § 376.79(4), Florida Statutes.

I. Subject Property Satisfies the Statutory Criteria for Designation

1. Agreement to Redevelop the Brownfield Site. As the first requirement for designation, Florida Statutes § 376.80(2)(c)(1) provides that “[a] person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.”

CBS satisfies this criterion in that it owns the Subject Property and has agreed to redevelop and rehabilitate it. See Special Warranty Deed, at Attachment B. Accordingly, CBS meets this first criterion.

2. Economic Productivity. As the second requirement for designation, Florida Statutes § 376.80(2)(c)(2) provides that “[t]he rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the rehabilitation agreement or an agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement shall not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. 420.0004 or the creation of recreational areas, conservation areas, or parks.”

CBS satisfies this criterion in that, first, the Project will result in significant economic productivity of the area. Specifically, the planned 9,000 square foot retail component of this mixed-use project will contribute to the economic productivity of the area by providing goods and services to residents and visitors in the Town. CBS further satisfies this criterion in that the Project will create more than five new permanent jobs at the Subject Property associated with future retail tenants and operation of the Church itself. For all the reasons discussed herein, CBS meets this second criterion.

3. Consistency with Local Comprehensive Plan and Permittable Use under Local Land Development Regulations. As the third requirement for designation, Florida Statutes § 376.80(2)(c)(3) provides that “[t]he redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permittable use under the applicable local land development regulations.”

CBS satisfies this criterion in that the Subject Property is located within a B-1 Business zoning district with a Commercial designation on the Town’s future land use map. The Town’s B-1 Business District is designed to allow higher intensity

¹ CBS is managed by its sole member, The Church by the Sea Inc., a Florida not for profit corporation.

² A copy of § 376.80, Florida Statutes, can be found at Attachment A to this Eligibility Statement.

development on the Town's eastern island fronting Kane Concourse. This district specifically allows development of projects with a mix of uses including retail, restaurant, and religious institutions provided the religious use is located on the second floor of the building or higher.³ This consistency and permissibility is further reflected in the Town's issuance of Building Permit No. B19-000232 for the construction of a new mixed use retail/worship/commercial building on June 29, 2020.⁴ For these reasons, CBS meets this third criterion.

4. Public Notice and Comment. Florida Statutes § 376.80(2)(c)(4) stipulates that “[n]otice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated, and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subsection must be posted in the affected area.” Additional notice requirements pertaining to applicants other than a governmental entity can be found at Florida Statutes § 376.80(1)(c)(4)(b) and consist of publication in a newspaper of general circulation in the area, publication in ethnic newspapers or local community bulletins, and announcement at a scheduled meeting of the local governing body before the actual public hearing.

CBS satisfies all applicable notice and opportunity to comment requirements established by Florida Statutes §376.80(2)(c)(4) and § 376.80(1)(c)(4)(b) as follows:

- (i) notice is being posted at the Subject Property;*
- (ii) notice is being published in the Miami Herald;*
- (iii) notice is being published in the community bulletin section of Craigslist; and*
- (iv) a virtual community meeting will be held using a video and teleconferencing platform.*

All notices will contain the following narrative:

Representatives for CBS Realty Holding, LLC., will hold a virtual community meeting on October 26, 2020, at 5:30 p.m. to not later than 7:00 p.m. for the purpose of affording interested parties the opportunity to provide comments and suggestions about the potential designation of land located at 1000 Kane Concourse, Bay Harbor Islands 33154, Folio Numbers 13-2235-004-0010 and 13-2227-001-2470, as a Green Reuse Area. The designation is being made pursuant to Section 376.80, Florida Statutes, of Florida's Brownfield Redevelopment Act, and will involve two public hearings before the Bay Harbor Islands Town Council. The virtual community meeting will also address future development and rehabilitation activities planned for the site.

The virtual community meeting is free and open to all members of the public. Please register at <http://bit.ly/CBTSMeeting> or call (305) 640-5300 before the meeting to receive instructions for accessing the virtual meeting. For additional instructions on how to join, or to provide comments and suggestions regarding designation, development, or rehabilitation at any time before or after the meeting date, please contact CBS Realty Holding, LLC's representatives, Michael R. Goldstein or Brett C. Brumund who can be reached by phone at (305) 640-5300, by email at bbrumund@goldsteinenvlaw.com, and/or U.S. Mail at The Goldstein Environmental Law Firm, P.A., 2100 Ponce de Leon Blvd., Suite 710, Coral Gables, FL 33134.

Proof of publication and posting will be provided to the Town.

5. Reasonable Financial Assurance. As the fifth requirement for designation, Florida Statutes § 376.80(2)(c)(5) provides that “[t]he person proposing the area for designation has provided reasonable

³ See Bay Harbor Islands, Fla., Code of Ordinances, § 23-5.

⁴ A copy of Building Permit No. B19-000232 is available at Attachment C.

assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan.”

The total capital budget of approximately \$32.9 million for the Project is fully funded through the financial resources of CBS’ manager, the Church.⁵ The financial position of the Church, as manager and funding source for CBS, provides reasonable assurance that CBS has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan. It therefore satisfies this fifth criterion.

II. Subject Property Meets the Definition of Brownfield Site

Section 376.79(4), Florida Statutes, defines “brownfield site” to mean “. . . real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination.” The facts here evidence that the Subject Property falls within the definition of the term “brownfield site” due to the presence of actual contamination resulting from its former use for automotive sales and repair. This has complicated redevelopment for CBS by requiring assessment and remediation under the oversight of the Miami-Dade County Division of Environmental Resources Management (“DERM”).

Specifically, a petroleum discharge was reported in 1986 at the former Ocean Cadillac facility that occupied the Subject Property. Later site assessment activities at the Subject Property identified several underground storage tanks (“USTs”) associated with the site’s former use, one of which still contained product that appeared to be used oil.⁶ The USTs and two hydraulic lifts were removed in March 2020. Additional assessment activities conducted during the UST closure and removal process identified groundwater with free floating petroleum product, concentrations of volatile organic compounds and polynuclear aromatic hydrocarbons above Florida Department of Environmental Protections (“FDEP”) groundwater cleanup target levels, and areas of stained soil around the former USTs and in the area of the hydraulic lifts. Following removal of the USTs and hydraulic lifts, approximately 8,000 gallons of free-floating product was pumped from the site and nearly 750 tons of impacted soils were removed and disposed offsite. Site assessment activities also identified elevated levels of arsenic in soils however, this is likely attributable to naturally occurring conditions and is considered a background condition on South Florida’s barrier island system.

As a result of the former use of the Subject Property, there was and is actual contamination that CBS has been required to carefully manage during redevelopment at great legal and financial risk. More specifically, actual contamination at the Subject Property has complicated redevelopment efforts for CBS by imposing design and construction changes on the Project that would not be required but for the presence of contamination. The presence of actual contamination also increases CBS’ exposure to environmental and regulatory liability with respect to the Project and has made it materially more expensive and time consuming to move forward. Accordingly, this designation, if granted, will allow for CBS to access limited but important state-based economic incentives to help underwrite the costs associated with managing the environmental risk as well as, generally, to put the Project to a more certain financial ground. In this sense, the designation will not only play a critical role in the successful redevelopment of the Subject Property, but also in the larger revitalization efforts for this area of the Town. Finally, the investigation and remediation of the contamination itself has added another major level of complexity as has required and may continue to require close and constant oversight by DERM. The regulatory process associated with remediation can be lengthy, complicated, uncertain, and without guaranteed end points. Accordingly, CBS has no assurance that as it

⁵ See Attachment D for correspondence from the Church’s financial institution, UBS Financial Services, Inc., confirming the Church has sufficient financial resources to fund the expected \$32.9 million redevelopment and any remaining rehabilitation.

⁶ See Attachment E for excerpts from the Tank Closure Assessment Report prepared and filed with DERM following removal of the USTs and hydraulic lifts.

moves forward with the Project the total cost of cleanup will not in fact ultimately exceed what is currently projected. Such uncertainty constitutes an *acute* form of redevelopment complexity that goes to the heart of the Florida Brownfield Program and underscores why incentives are so important for sites and projects exactly like this one.

Based on all the foregoing, the Subject Property clearly falls within the definition of “brownfield site” as set forth in § 376.79(4), Florida Statutes.

III. Conclusion

CBS has demonstrated that the Subject Property meets the definition of a “brownfield site” and that it satisfies the five statutory criteria for designation. Accordingly, designation of the Subject Property as a brownfield area pursuant to § 376.80(2)(c), Florida Statutes, of Florida’s Brownfield Redevelopment Act is appropriate.

Exhibit B

**LIMITED LIABILITY COMPANY OPERATING AGREEMENT
OF
CBS REALTY HOLDING, LLC**

THIS OPERATING AGREEMENT dated October 1st 2017 and effective as of May 5, 2016, by THE CHURCH BY THE SEA INC., Florida Not For Profit Corporation (the "Member") and CBS REALTY HOLDING, LLC, a Florida limited liability company (the "Company").

ARTICLE I

THE COMPANY

Section 1.1. Formation. The Member has caused the Company to be formed under the provisions of the Florida Revised Limited Liability Company Act (the "Act"), by the filing of the Articles of Organization of the Company on May 4, 2016 as required by the Act. The Company and the rights and obligations of the Member in its capacity as such shall be governed by the Act, except in each case as specifically set forth in this Agreement. The Company shall file such documents as may be required by law for the operation of the Company in all jurisdictions where the Company does business.

Section 1.2. Name. The name of the Company shall be: CBS REALTY HOLDING, LLC.

Section 1.3. Purpose. The purpose of the Company shall be to engage in any lawful act or activity for which a limited liability company may be organized under the Act. The Company shall possess and may exercise all the powers and privileges granted by the Act or by any other law, together with any powers incidental thereto, so far as such powers and privileges are reasonably necessary or convenient to the conduct, promotion or attainment of the business, purposes or activities of the Company.

Section 1.4. Registered Agent and Registered Office and Other Offices. The registered agent for service of process is Steven A. Weinberg, and the registered office of the Company in the State of Florida shall be c/o Frank, Weinberg & Black, P.L., 7805 S.W. 6th Court, Plantation, Florida 33324; in each case until otherwise established by an Amendment in the manner provided by law. The Company may have such other office or offices within or without the State of Florida as the Member may from time to time appoint or the business of the Company may require. The address of the principal place of business of the Company shall be 9700 Collins Avenue, Suite 300, Bal Harbour, Florida 33154.

Section 1.5. Term. The term of the Company shall commence as of May 4, 2016, which is the date of the filing of the Articles of Organization with the Florida Secretary of State, and shall continue until the date on which the Company is terminated pursuant to the provisions of this Agreement or as otherwise required by law.

Section 1.6. No Termination. Except as specifically provided in this Agreement, the Member shall not terminate or attempt to terminate this Agreement or voluntarily take any action which would result in such termination.

Section 1.7. Organizational Matters. From time to time as required, the Authorized Member (defined hereafter) shall execute all such certificates and other documents, make such filings and recordings and perform such other acts conforming hereto, as shall be required to comply with the Act and any other statutes, rules and regulations that affect the Company.

ARTICLE II

THE MEMBER

Section 2.1. Action by Member. Except as delegated by the Authorized Member to any officers or other persons or entities, the business of the Company shall be conducted under the exclusive management of the Member, who shall have the authority to act for and bind the Company in all matters. The Member, when acting for and binding the Company in all matters shall referred to itself as the "Authorized Member" when acting in the name of and on behalf of the Company with respect to its business. The Authorized Member shall have power and authority, in the name and on behalf of the Company, to (a) purchase, lease or otherwise acquire, or sell, lease or otherwise dispose of, any property, (b) open bank accounts and otherwise invest the funds of the Company, (c) purchase insurance on the business and assets of the Company, (d) commence, defend and settle lawsuits and other proceedings, (e) enter into any agreement, instrument or other writing with respect to the business of the Company, (f) retain accountants, attorneys and other agents, and (g) take any other lawful action that the Authorized Member considers necessary, convenient or advisable in connection with the business or operations of the Company.

Section 2.2. Liability for Debts of the Company. The Member shall not be personally liable for any debts or losses of the Company, except to the extent expressly required by the Act.

Section 2.3. Indemnification of Member, etc.. Except to the extent expressly prohibited by the Act, the Company shall indemnify, defend and hold harmless the Member, Authorized Member, officer, employee or agent (collectively, the "Indemnified Party") of the Company against all claims, actions, proceedings, demands, losses, damages, liabilities, costs and expenses (including, without limitation, attorneys' fees) to the extent that the same arise, directly or indirectly, from the business or operations of the Company and shall promptly reimburse the Indemnified Party, upon written request, for all costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by the Indemnified Party in connection therewith.

ARTICLE III

OFFICERS

Section 3.1. Officers. The Authorized Member may, but shall have no obligation to, elect one or more of the following officers (the "Officers") to supervise operations of the Company on a day-to-day basis: a chief executive officer, president, one or more vice presidents, a secretary, a treasurer and such other officers as the Authorized Member may determine. Except as limited

herein or under the Act, the Authorized Member shall determine the powers and duties of the Officers and any other terms or conditions regarding the positions held by them. All officers, agents and employees of the Company shall be subject to removal, with or without cause, at any time by the Authorized Member. The Officers of this Company shall be the same officers as serving the Member from time to time.

Section 3.2. Powers and Authority. The Officers shall have such power and authority to manage the day to day operations of the Company as are delegated to them by the Authorized Member. Any Officer's exercise of such delegated powers and authority shall, with the exception of actions taken by such Officer in the ordinary course of business, require the concurrence of the Authorized Member. Notwithstanding the immediately preceding sentence the Chief Executive Officer and President of the Company shall, in all matters other than Significant Transactions or matters involving Significant Transactions, have the power and authority to govern the activities of the Company and may, in his or her or its sole discretion, delegate such power and authority, or any portion thereof, to any Officer or the Authorized Member.

For purposes of this Agreement, a "Significant Transaction" shall mean any of the following activities:

- (a) any merger, consolidation or other business combination with respect to the Company or any subsidiary thereof, or any sale or other disposition of all or substantially all of the Company's or any such subsidiary's assets, or any acquisition by the Company or any such subsidiary of any material business or assets, or the liquidation or dissolution of the Company or any subsidiary or the adoption of any plan with respect to any such liquidation or dissolution;
- (b) any conveyance, sale, lease, transfer or other disposition of any significant amount of assets of the Company or any subsidiary thereof, other than the sale of inventory in the ordinary course of business;
- (c) the incurrence of any lien on any assets of the Company or any subsidiary thereof, other than purchase money liens on items the purchase of which is not otherwise subject to Authorized Member's approval;
- (d) any issuance by the Company or any subsidiary of any equity rights;
- (e) the incurrence, issuance, assumption or guaranty by the Company or any subsidiary thereof of any indebtedness for borrowed money or any note, bond, debenture or similar instrument;
- (f) the entering into or termination of any material contract or any amendment to, or waiver or termination of any material provision of any material contract;
- (g) the adoption or amendment of the Company's (or any of its subsidiaries') financial plan or operating and capital expenditure budget, or the material amendment of the Company's (or any of its subsidiaries') business plan;

(h) any capital expenditure during any fiscal year in excess of the capital budget approved by the Authorized Member for such year;

(i) the commencement of any lawsuit, proceeding or other action by or on behalf of the Company or any subsidiary thereof (other than (i) collection actions commenced by the Company in the ordinary course of its business, and (ii) cross-claims and counterclaims the commencement and resolution of which would not reasonably be expected to have a material effect on the business or financial condition of the Company and its subsidiaries, taken as a whole);

(j) the payment, or undertaking of any obligation to pay, compensation to any key employees or officers in excess of amounts authorized by the Authorized Member from time to time;

(k) the adoption of any pension plans, profit sharing plans or other benefit plans;

(l) the selection or change of the Company's or any of its subsidiaries; independent accountants or legal counsel;

(m) the hiring or discharge of senior officers of the Company or any subsidiary thereof;

(n) the entry by the Company or any subsidiary thereof into any line of business materially different from the Company's current line of business, or the exit by the Company or any such subsidiary from any material line of business included in such plan; and

(o) any amendment to or modification or repeal to any provision of the certificate of formation, operating agreement or other constitutive documents of the Company or any subsidiary thereof.

Section 3.3. Indemnity of the Officers. Each Officer, to the extent that he is acting for or in the interests of the Company, shall be indemnified by the Company to the fullest extent permitted by Florida law. Notwithstanding the foregoing, no Officer shall be indemnified for claims and expenses arising out of said Officer's illegal acts, gross negligence or willful misconduct.

Section 3.4. Resignation. An Officer of the Company may resign at any time by giving written notice to the Authorized Member. The resignation of any Officer shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. In the event of a resignation, the Member may nominate and elect such Officer's successor.

ARTICLE IV

CAPITAL

Section 4.1. Capital Contributions. The Member shall have the right, but not the obligation, to make capital contributions in such additional amounts as the Member shall from time to time desire.

ARTICLE V

DISTRIBUTIONS

Section 5.1. Distributions. All distributions of cash or other property from the Company to the Member shall be made at such times, and in such amounts, as the Authorized Member deems appropriate, and subject to any reserve which the Authorized Member may cause the Company to retain.

ARTICLE VI

BOOKS AND RECORDS

Section 6.1. Records and Books of Account. The Authorized Member shall keep the records required to be kept pursuant to the Act, and any other books and records with respect to the Company as the Authorized Member, in its sole discretion, shall deem necessary or desirable. The fiscal year of the Company shall run from January 1 through December 31. The Company's books and records shall at all times be maintained at the principal office of the Company and shall be open to the reasonable inspection and examination of the Member pursuant to the Act.

ARTICLE VII

DISSOLUTION

Section 7.1. Events of Dissolution. The Company shall be dissolved upon the earlier to occur of the following:

- (a) the written consent of the Member; or
- (b) the bankruptcy, insolvency, withdrawal, liquidation or dissolution of the Member.

Section 7.2. Application of Proceeds. Upon dissolution of the Company, the Authorized Member shall wind up the business of the Company and the assets of the Company shall be liquidated, and the cash proceeds applied, first to the satisfaction of creditors and then to the Member.

ARTICLE VIII

MISCELLANEOUS

Section 8.1. Governing Law. This Agreement, and all matters relating to the Member and the Company, shall be governed and construed in accordance with the domestic laws of the State of Florida without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Florida or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Florida. Venue shall be in Miami-Dade County, Florida.

Section 8.2. Entire Agreement and Amendments. This Agreement represents the entire agreement between the parties with respect to the subject matter of this Agreement, and may not be changed, modified or terminated except by an instrument in writing signed by the Member and the Company.

Section 8.3. Headings; Pronouns. The headings in this Agreement are for convenience only and shall not affect the meaning, construction or effect of this Agreement.

Section 8.4. Further Assurances. The Member shall sign such further and other documents, and perform or cause to be performed such other acts and things, in each case as may be necessary or desirable in order to give full effect to this Agreement.

Section 8.5. Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the parties to this Agreement hereby waive any provision of law which renders any provision hereof prohibited or unenforceable in any respect.

Section 8.6. No Waiver. No failure by the Member to insist upon the strict performance of any provision of this Agreement or to exercise any right or remedy upon a breach thereof shall constitute a waiver of any such breach or of a breach of any other provision hereof.

Section 8.7. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Member and its respective successors and permitted assigns.

Section 8.8. Counterparts. This Agreement may be signed in one or more counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF the Member and the Company have executed this Agreement as of the date first above written.

COMPANY:

CBS REALTY HOLDING, LLC, a Florida limited liability company

BY: THE CHURCH BY THE SEA INC., a Florida corporation, the Authorized Member

By: _____

Name: Karin Matos

Title: Co-President

MEMBER:

THE CHURCH BY THE SEA INC., a Florida corporation, the Member

By: _____

Name: Karin Matos

Title: Co-President

Exhibit C

2020 FLORIDA LIMITED LIABILITY COMPANY ANNUAL REPORT

DOCUMENT# L16000087920

Entity Name: CBS REALTY HOLDING, LLC

Current Principal Place of Business:

1045 95TH ST
BAY HARBOR ISLANDS, FL 33154

Current Mailing Address:

1045 95TH ST
BAY HARBOR ISLANDS, FL 33154 US

FEI Number: NOT APPLICABLE

Certificate of Status Desired: Yes

Name and Address of Current Registered Agent:

JOVEL, REYNA
1045 95TH ST
BAY HARBOR ISLANDS, FL 33154 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: REYNA JOVEL

06/04/2020

Electronic Signature of Registered Agent

Date

Authorized Person(s) Detail :

Title MGR
Name THE CHURCH BY THE SEA INC.
Address 1045 95TH ST
City-State-Zip: BAY HARBOR ISLANDS FL 33154

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 605, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: REYNA JOVEL

CONTROLLER

06/04/2020

Electronic Signature of Signing Authorized Person(s) Detail

Date

Exhibit D

Division of Corporations

Page 1 of 1

706917

Florida Department of State
Division of Corporations
Electronic Filing Cover Sheet

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

((H12000149620.3)))



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To: Division of Corporations
Fax Number : (850) 617-6380

From: Account Name : FRANK, WEINBERG, BLACK, P.L.
Account Number : I20040000083
Phone : (954) 474-8000
Fax Number : (954) 474-9850

****Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.****

Email Address: kmoro@fwblaw.net

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

**COR AMND/RESTATE/CORRECT OR O/D RESIGN
THE CHURCH BY THE SEA INC.**

Certificate of Status	0
Certified Copy	0
Page Count	01
Estimated Charge	\$35.00

Electronic Filing Menu

Corporate Filing Menu

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DR
6/7/12



June 6, 2012

FLORIDA DEPARTMENT OF STATE
Division of Corporations

THE CHURCH BY THE SEA INC.
501 96TH STREET
BAL HARBOUR, FL 33154US

SUBJECT: THE CHURCH BY THE SEA INC.
REF: 706917

We received your electronically transmitted document. However, the document has not been filed. Please make the following corrections and refile the complete document, including the electronic filing cover sheet.

The current name of the entity is as referenced above. Please correct your document accordingly.

Please remove the comma after the word Sea in the name of the corporation.

If you have any questions concerning the filing of your document, please call (850) 245-6050.

Annette Ramsey
Regulatory Specialist II

FAX Aud. #: H12000149620
Letter Number: 412A00016081

RECEIVED
FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS

2012 JUN -6 AM 8:10

TO: ASSEMBLY CLERK
SUFFICIENCY OF FILING

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AMENDED ARTICLES
of
INCORPORATION
of
THE CHURCH BY THE SEA INC.
A Florida Eleemosynary Corporation

FILED
2012 JUN -6 AM 10:11
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to a Vote of the Membership of the CORPORATION, these AMENDED ARTICLES of INCORPORATION of THE CHURCH BY THE SEA INC. were adopted on the 22nd day of November, 2009.

The PREAMBLE of ARTICLES of INCORPORATION of THE CHURCH BY THE SEA INC. is incorporated, herein, by reference and the remainder of the ARTICLES are deleted and the following is substituted, therefore:

ARTICLE I
NAME AND LOCATION

The name of this Corporation is THE CHURCH BY THE SEA Inc. Its location shall be 501 96th Street, Bal Harbour, Miami-Dade County, Florida 33154.

ARTICLE II
PURPOSE

The purpose or purposes for which the Corporation is formed are as follows:

- 1. Spiritual:** to conduct religious worship and to foster the spiritual growth and benefit, instruction, and enlightenment of its members and the moral and spiritual welfare of the community or communities in which it serves.

AMENDED ARTICLES of INCORPORATION
of
THE CHURCH BY THE SEA
501 96th Street, Bal Harbour, Florida 33154

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2.Temporal: to foster, conduct, and maintain for educational, religious, and instructional purposes churches, schools, parsonages, and other institutions connected therewith of a religious, educational, charitable, and benevolent character. To this end to acquire, either by gift or purchase, to hold, own, sell, mortgage, or encumber, lease, and improve real estate and personal property, to receive donations, gifts, and endowments and administer the same, to establish, participate in, operate, and administer trusts, life estates, other funds, make loans or grants in carrying out the religious or charitable welfare of its Members or the community in which it serves or the area or associations it aids or influences with the only limitation that all revenue, profit, income in the conduct of the Corporation's enterprise is to be used and employed in its religious, educational, charitable, and benevolent works as above set forth and not for the primary benefit of a member or a group of members of this Corporation, and to have the power to do any and all things necessary or expedient in carrying out the purposes of the Corporation, and in general to do all things as authorized by the State of Florida to eleemosynary corporations.

ARTICLE III QUALIFICATION OF MEMBERS

The qualification of Members and the manner of their admission shall be as follows:

- (i) Every person who signed the original Charter and
- (ii) Every person subsequently admitted to Membership of the Congregation so that their name appears on the records of the Church shall be a Member of this Corporation.

Any person shall be admitted to Membership of this Corporation who:

- has been approved for such membership by the Minister(s) and Membership Committee;

AMENDED ARTICLES of INCORPORATION
of

THE CHURCH BY THE SEA
501 96th Street, Bal Harbour, Florida 33154

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- has expressed a desire to join The Church by the Sea; who has been informed about the principles of the Christian faith set out in the Preamble to the By-Laws currently in effect, the mission of this church and the expectations the church has of those who are members;
- has in a service of worship, in person, or by proxy, promised to be a loyal and supportive member of the church; and
- has been accepted by the Membership present.

The new Member's name shall then be presented to the Secretary of the Corporation for enrollment on the Membership records of the Corporation.

There shall be two types of Memberships, to wit:

- **Regular Membership:** those members who have joined the Congregation of the Corporation to the exclusion of all other Church affiliations, and
- **Associate Membership:** those members who wish to take an active role in the welfare of the Church but who hold a regular membership in some other religious institution.

There shall be no distinction between the two types of Membership in the matter of voting or holding office other than as provided, hereinafter.

ARTICLE IV VOTING

All Regular and Associate Members have the right to vote in the affairs of this Corporation.

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ARTICLE V PERPETUAL EXISTENCE

The Corporation shall have perpetual existence, God willing.

ARTICLE VI RELIGIOUS AND SPIRITUAL ACTIVITIES

The spiritual activities of this Corporation shall be headed by the Senior Minister, as Pastor, assisted by Associate Ministers, the Diaconate, and such other committees as provided in the By-Laws.

The Senior Minister shall select his or her own staff to carry out the spiritual activities of the Church subject to the approval of the Board of Directors and within the financial limits established by the Board of Directors. The Senior Minister, the Diaconate, and all committees are charged to do all things necessary to nurture the spiritual welfare of the Membership.

The Spiritual mission of the Corporation shall be under the stewardship of the Diaconate. The Diaconate shall consist of all of the Deacons. The Diaconate may appoint Acting Deacons who shall serve as Deacons until the next Annual Meeting of the Corporation.

The Diaconate, among other things, has the responsibility of filling the pulpit in the temporary or extended absence (including but not limited to sabbatical or medical leaves) of the Senior Minister within the budget limitations established by the Board of Directors.

The Board of Directors, by committee or otherwise, shall have the responsibility of initiating action and supervising the selection and call of the Senior Minister, as provided by the By-Laws, in the event of a vacancy in that position. The President of the Corporation shall execute any contract of

AMENDED ARTICLES of INCORPORATION
of
THE CHURCH BY THE SEA
501 96th Street, Bal Harbour, Florida 33154
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employment with the Senior Minister, under such terms as the Board of Directors has authorized. However, before any initial contract of employment of the Senior Minister becomes effective, the call of the Senior Minister shall be approved by the Membership at any regular or special Meeting of the Membership; a quorum for said Meeting shall be determined in accordance with Article IX, *infra*.

The Board of Directors shall have the responsibility of removing the Senior Minister, if considered necessary, by majority vote of the full Membership of the Board of Directors.

ARTICLE VII TEMPORAL GOVERNANCE

All business matters of this Corporation such as, but not necessarily limited to those enumerated below, are strictly vested in the Board of Directors whose actions by majority vote of those present at any regular or special meeting will be the act of the Corporations:

- (i) management, maintenance, alteration, repair, mortgaging, purchase and sale of real property;
- (ii) receiving, buying and selling, mortgaging of personal property, contracting in name of Corporation; and
- (iii) establishing the amount and paying of salaries of employees of the Corporation.

The President or a Vice President, in the absence of the President, is authorized to execute all instruments in the name of and under the seal of the Corporation and attested by the Secretary or Vice Secretary in conformity with a resolution adopted by the Board of Directors at any regular or special meeting by majority vote of the quorum present. No other individual, or group, can enter into any matter of business on behalf of the Corporation unless granted such power to act by the Board of Directors, in writing.

AMENDED ARTICLES of INCORPORATION
of
THE CHURCH BY THE SEA
501 96th Street, Bal Harbour, Florida 33154
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ARTICLE VIII TERMINATION OF MEMBERSHIP

Membership in this Corporation shall be terminated as provided herein:

1. **By Death:** the names of Deceased Members shall be removed from the rolls of the Corporation by the Secretary and shall be reported to the Membership at the Annual Meeting of the Corporation and by the inclusion of their names in the Annual report of the Corporation.
2. **By Transfer or Resignation:** Members who by their own request transfer their membership to another congregation, or who resign from the Membership, shall be removed from the rolls by the Secretary of the Corporation.
3. **By Inactivity:** Members who have been inactive in the affairs of the Church may have their Membership terminated in accordance with procedures established by the Minister(s) and/or Membership Committee.

ARTICLE IX QUORUM

A quorum for all regular and special Meetings of the Membership shall be twenty-five (25) percent of the total number of the Church members eligible to vote as shown by the records of the Corporation, or seventy-five (75) Members, whichever is least.

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ARTICLE X

**BOARD OF DIRECTORS, OFFICERS
ELECTION & TERM,
QUORUM AND VOTING POWER**

The Board, election and term of officers and quorum are as follows:

1. **Directors:** The Corporation shall have not more than twenty-four (24), nor less than fifteen (15), Directors elected by the Membership at the Annual Meeting of the Corporation as provided in the By-Laws. The number of Directors may be increased or diminished from time to time by the By-Laws as deemed appropriate by the Membership. Directors shall serve terms of not more than two years, and may be re-elected to successive terms.
2. **Officers, Election and Term:** The Board shall elect within 30 days after the Annual Meeting, from within its own Membership, a President, Vice President(s), Treasurer, Secretary, and any assistant officers as may be deemed necessary, to serve a one (1) year term and who shall continue in office until a successor is elected.
3. **Quorum:** A quorum for any regular or special meeting of the Board of Directors shall not be less than seven (7) Directors.
4. **Senior Minister:** The Senior Minister shall be an *ex officio* member of the Board of Directors but without right to vote. The Senior Minister shall have the discretion to invite any staff member to attend any Board of Directors meeting without right to vote.
5. **Directors Emeriti:** The Board may at its discretion elect Directors Emeriti, consisting of those individuals who have in the past rendered outstanding service as Directors of the Corporation. Directors Emeriti shall have the right to attend and be heard on any issue or issues in all Board Meetings, but shall not have the right to vote. The presence of Directors

AMENDED ARTICLES of INCORPORATION
of

THE CHURCH BY THE SEA
501 96th Street, Bal Harbour, Florida 33154

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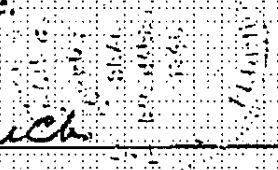
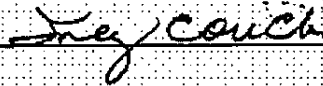
Emeriti, if any, shall be recorded by the Secretary of the Meeting, but shall not be counted in determination of a quorum.

ARTICLE XI AMENDMENTS

These Amended Articles of Incorporation of the Corporation may be amended at any regular or special meeting for that purpose called in accordance with the By-Laws by a majority vote of the quorum of the Membership present and the statutes of the State of Florida. Amendments to the Amended Articles of Incorporation shall become effective only when they are properly filed and recorded in accordance with the laws of the State of Florida.

I, Inez Couch, Secretary of the Corporation, attest the foregoing is a true and correct copy of the Amended Articles of Incorporation of The Church By The Sea, Inc. adopted on the 22nd day of November 2009, at a Meeting of the Membership of the Corporation.

WHEREFORE, I have affixed my name and the seal of the Corporation this 22nd day of November, in the Year of our Lord Two Thousand Nine.



Inez Couch, Secretary.

AMENDED ARTICLES of INCORPORATION
of
THE CHURCH BY THE SEA
501 96th Street, Bal Harbour, Florida 33154
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CERTIFICATE OF OFFICER

I, Inez Couch, being the duly elected Secretary of THE CHURCH BY THE SEA INC., a Florida not for profit corporation (the "Corporation") as of November 22, 2009, do hereby certify that on November 22, 2009, the Amended Articles of Incorporation of the Corporation to which this certification is attached were duly adopted by the Members of the Corporation and the number of votes cast for the amendment(s) were sufficient for approval

Executed this 29 day of May, 2012.

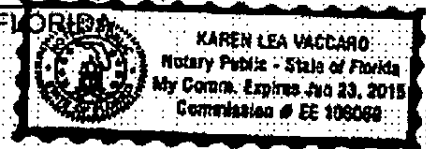
Inez E. Couch
Inez Couch

STATE OF FLORIDA)
) ss
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 29th day of May, 2012, by Inez Couch, as Secretary, as of November 22, 2009, of THE CHURCH BY THE SEA INC., a Florida not for profit corporation, on behalf of the Corporation and who is personally known to me or who produced a _____ as adequate identification.

Karen Lea Vaccaro
Notary Public, STATE OF FLORIDA

My Commission Expires:



H:\FWB\Church by the Sea, Inc\13871.000 Ratification of BHS Option Agreement\Corporate Documents\Certificate of Couch v.1.wp.docx

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Exhibit E

2020 FLORIDA NOT FOR PROFIT CORPORATION ANNUAL REPORT

DOCUMENT# 706917

Entity Name: THE CHURCH BY THE SEA INC.

Current Principal Place of Business:

1045 95TH STREET
BAY HARBOR ISLANDS, FL 33154

Current Mailing Address:

1045 95TH STREET
BAY HARBOR ISLANDS, FL 33154 US

FEI Number: 59-0668474

Certificate of Status Desired: No

Name and Address of Current Registered Agent:

JOVEL, REYNA
1045 95TH STREET
BAY HARBOR ISLANDS, FL 33154 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: REYNA JOVEL

02/07/2020

Electronic Signature of Registered Agent

Date

Officer/Director Detail :

Title CO-PRESIDENT
Name MATOS, KARIN
Address 1045 95TH STREET
City-State-Zip: BAY HARBOR ISLANDS FL 33154

Title TREASURER, CO-SECRETARY
Name NEVADER, JASON
Address 1045 95TH STREET
City-State-Zip: BAY HARBOR ISLANDS FL 33154

Title CO-PRESIDENT
Name BERNSTEIN, CHRIS
Address 1045 95TH STREET
City-State-Zip: BAY HARBOR ISLANDS FL 33154

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am an officer or director of the corporation or the receiver or trustee empowered to execute this report as required by Chapter 617, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: KARIN MATOS

CO-PRESIDENT

02/07/2020

Electronic Signature of Signing Officer/Director Detail

Date

THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.
Brownfields, Transactions, Due Diligence, Development, Permitting, Cleanups & Compliance

2100 Ponce de Leon Boulevard, Suite 710
Coral Gables, Florida 33134
Telephone: (305) 777-1680
www.goldsteinenvlaw.com

Michael R. Goldstein, Esq.
Direct Dial: (305) 777-1682
Email: mgoldstein@goldsteinenvlaw.com

October 12, 2020

Via Email

Ms. Maria Lasday, Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

Re: Request for Designation of the Property Located at 1000 Kane Concourse, Bay Harbor Islands, Florida 33154, Folio Numbers 13-2235-004-0010 and 13-2227-001-2470, as a Brownfield Area Pursuant to §376.80(2)(c), Florida Statutes

Dear Ms. Lasday:

On behalf of CBS Realty Holding, LLC (“CBS”), we are pleased to submit this Request for Designation of the property located at 1000 Kane Concourse, Bay Harbor Islands, Florida 33154, Folio Numbers 13-2235-004-0010 and 13-2227-001-2470 (the “Subject Property”), as a Brownfield Area pursuant to Chapter 376.80(2)(c), Florida Statutes. When fully redeveloped, the Subject Property will contain a three-story mixed-use building with retail space on the first floor and the new home for the Church by the Sea on the second and third floors. The completed project will have an estimated cost of approximately \$32.9 million. The legal description and property cards depicting the location of the Subject Property are enclosed herein at Exhibit A.

CBS is applying for the Brownfield Area Designation due to the presence of actual contamination on the Subject Property resulting from its former use for automobile sales and repair. This has required, and will continue to require, that CBS incur significant time and expense for technical, engineering, and legal consultants in order to properly conduct environmental assessment and remediation. The designation has thus become a key part of this ambitious project’s ultimate viability by enabling CBS to access certain regulatory and economic incentives to mitigate and manage the risk and expense associated with the discovery of contamination and the necessary response. It is also key to furthering

Ms. Maria Lasday, Town Manager
October 12, 2020
Page 2

the sustainable reuse of this centrally located property in the Town of Bay Harbor Islands' business district.

In considering a request for this type of designation, a local government must evaluate and apply the criteria set forth in Chapter 376.80(2)(c), Florida Statutes. As reflected in the Statement of Eligibility incorporated herein at Exhibit B, CBS meets such statutory criteria. Accordingly, based on the foregoing, we respectfully request that staff recommend approval. Of course, as you evaluate the application and supporting materials, please feel free to contact us with any questions or should further information be required. Thank you.

Very truly yours,

THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.

Michael R. Goldstein

Michael R. Goldstein
/mrg

Enclosures

cc: CBS Realty Holding, LLC

Exhibit A

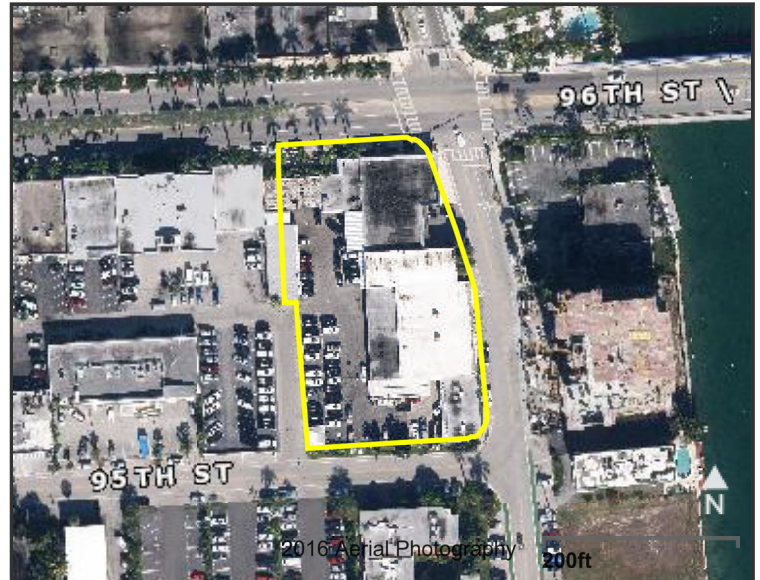


OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On : 10/7/2020

Property Information	
Folio:	13-2235-004-0010
Property Address:	1000 KANE CONC Bay Harbor Islands, FL 33154-2107
Owner	CBS REALTY HOLDING LLC
Mailing Address	1045 95 ST BAL HARBOUR, FL 33154 USA
PA Primary Zone	6000 COMMERCIAL - GENERAL
Primary Land Use	2719 AUTOMOTIVE OR MARINE : AUTOMOTIVE OR MARINE
Beds / Baths / Half	0 / 0 / 0
Floors	2
Living Units	0
Actual Area	Sq.Ft
Living Area	Sq.Ft
Adjusted Area	28,100 Sq.Ft
Lot Size	51,717 Sq.Ft
Year Built	Multiple (See Building Info.)



Assessment Information			
Year	2020	2019	2018
Land Value	\$12,929,250	\$10,343,400	\$12,929,250
Building Value	\$741,972	\$705,963	\$706,485
XF Value	\$61,250	\$61,474	\$61,698
Market Value	\$13,732,472	\$11,110,837	\$13,697,433
Assessed Value	\$12,221,920	\$11,110,837	\$12,223,560

Benefits Information				
Benefit	Type	2020	2019	2018
Non-Homestead Cap	Assessment Reduction	\$1,510,552		\$1,473,873
Religious	Exemption	\$12,221,920		
Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).				

Short Legal Description
NOLAN BROWN REPLAT PB 56-53 TRACT N LOT SIZE IRREGULAR OR 11567-1239 0882 5

Taxable Value Information			
	2020	2019	2018
County			
Exemption Value	\$12,221,920	\$0	\$0
Taxable Value	\$0	\$11,110,837	\$12,223,560
School Board			
Exemption Value	\$13,732,472	\$0	\$0
Taxable Value	\$0	\$11,110,837	\$13,697,433
City			
Exemption Value	\$12,221,920	\$0	\$0
Taxable Value	\$0	\$11,110,837	\$12,223,560
Regional			
Exemption Value	\$12,221,920	\$0	\$0
Taxable Value	\$0	\$11,110,837	\$12,223,560

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
06/01/2016	\$20,000,000	30100-3356	Qual on DOS, multi-parcel sale
09/01/1975	\$1,122,800	00000-00000	Deeds that include more than one parcel

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

Version:

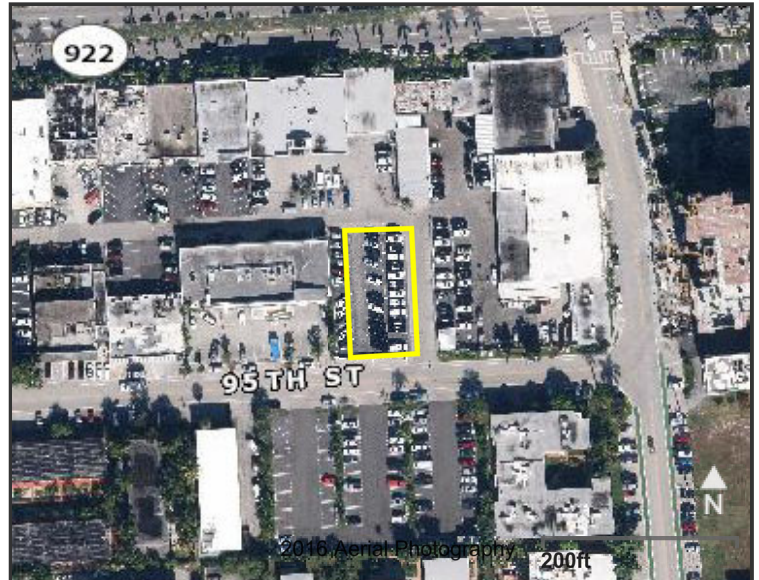


OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On : 10/7/2020

Property Information	
Folio:	13-2227-001-2470
Property Address:	
Owner	CBS REALTY HOLDING LLC
Mailing Address	1045 95 STREET BAL HARBOUR, FL 33154 USA
PA Primary Zone	6000 COMMERCIAL - GENERAL
Primary Land Use	1081 VACANT LAND - COMMERCIAL : VACANT LAND
Beds / Baths / Half	0 / 0 / 0
Floors	0
Living Units	0
Actual Area	0 Sq.Ft
Living Area	0 Sq.Ft
Adjusted Area	0 Sq.Ft
Lot Size	9,750 Sq.Ft
Year Built	0



Assessment Information			
Year	2020	2019	2018
Land Value	\$1,950,000	\$1,755,000	\$1,657,500
Building Value	\$0	\$0	\$0
XF Value	\$0	\$0	\$0
Market Value	\$1,950,000	\$1,755,000	\$1,657,500
Assessed Value	\$1,930,500	\$1,755,000	\$1,657,500

Benefits Information				
Benefit	Type	2020	2019	2018
Non-Homestead Cap	Assessment Reduction	\$19,500		
Religious	Exemption	\$1,930,500		
Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).				

Short Legal Description	
BAY HARBOR ISLAND PB 46-5 LOT 18 BLK 12 LOT SIZE 75.000 X 130 OR 11567-1239 0882 5	

Taxable Value Information			
	2020	2019	2018
County			
Exemption Value	\$1,930,500	\$0	\$0
Taxable Value	\$0	\$1,755,000	\$1,657,500
School Board			
Exemption Value	\$1,950,000	\$0	\$0
Taxable Value	\$0	\$1,755,000	\$1,657,500
City			
Exemption Value	\$1,930,500	\$0	\$0
Taxable Value	\$0	\$1,755,000	\$1,657,500
Regional			
Exemption Value	\$1,930,500	\$0	\$0
Taxable Value	\$0	\$1,755,000	\$1,657,500

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
06/01/2016	\$20,000,000	30100-3356	Qual on DOS, multi-parcel sale
09/01/1975	\$1,122,800	00000-00000	Deeds that include more than one parcel

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

Version:

EXHIBIT "A"

LEGAL DESCRIPTION

Tract N of NOLAN BROWN, according to the Plat thereof, as recorded in Plat Book 56, Page 53, of the Public Records of Miami-Dade County, Florida

and

Lot 18, Block 12, of BAY HARBOR ISLAND, according to the Plat thereof, as recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida

Exhibit B

Brownfield Area Designation Eligibility Statement

CBTS Green Reuse Area

1000 Kane Concourse, Bay Harbor Islands, Florida 33154

Folio Numbers 13-2235-004-0010 and 13-2227-001-2470

CBS Realty Holding, LLC (“CBS”) proposes to redevelop and rehabilitate two parcels of land located at 1000 Kane Concourse, Bay Harbor Islands, Florida 33154, Folio Numbers 13-2235-004-0010 and 13-2227-001-2470 (the “Subject Property”) with a new mixed-use development. Once complete, the Subject Property will contain a single 76,000 square foot, three-story building with parking, retail, and lobby for the Church by the Sea (the “Church”) on the ground floor and space for the Church on the second and third floors (the “Project”). As demonstrated herein, the Project meets all five of the applicable designation criteria set forth at § 376.80(2)(c), Florida Statutes.¹ In addition, the Subject Property meets the definition of a “brownfield site” pursuant to § 376.79(4), Florida Statutes.

I. Subject Property Satisfies the Statutory Criteria for Designation

1. Agreement to Redevelop the Brownfield Site. As the first requirement for designation, Florida Statutes § 376.80(2)(c)(1) provides that “[a] person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.”

CBS satisfies this criterion in that it owns the Subject Property and has agreed to redevelop and rehabilitate it. See Special Warranty Deed, at Attachment B. Accordingly, CBS meets this first criterion.

2. Economic Productivity. As the second requirement for designation, Florida Statutes § 376.80(2)(c)(2) provides that “[t]he rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the rehabilitation agreement or an agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement shall not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. 420.0004 or the creation of recreational areas, conservation areas, or parks.”

CBS satisfies this criterion in that, first, the Project will result in significant economic productivity of the area. The budget for redevelopment is approximately \$32.9 million, which will be spent in part on local labor, contractors, consultants, construction materials, furnishings, land and infrastructure improvements, and impact fees. The construction workers will spend a portion of their salaries with local merchants who, in turn, will reinvest locally in their respective businesses, as well as the businesses of other local merchants. The planned retail component of this mixed-use project will also contribute to the economic productivity of the area by providing goods and services to residents and visitors in the Town. CBS further satisfies this criterion in that the Project will create more than five new permanent jobs at the Subject Property associated with future retail tenants and operation of the Church itself. For all the reasons discussed herein, CBS meets this second criterion.

3. Consistency with Local Comprehensive Plan and Permittable Use under Local Land Development Regulations. As the third requirement for designation, Florida Statutes § 376.80(2)(c)(3) provides that “[t]he redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permittable use under the applicable local land development regulations.”

¹ A copy of § 376.80, Florida Statutes, can be found at Attachment A to this Eligibility Statement.

CBS satisfies this criterion in that the Subject Property is located within a B-1 Business zoning district with a Commercial designation on the Town's future land use map. The Town's B-1 Business District is designed to allow higher intensity development on the Town's eastern island fronting Kane Concourse. This district specifically allows development of projects with a mix of uses including retail, restaurant, and religious institutions provided the religious use is located on the second floor of the building or higher.² This consistency and permissibility is further reflected in the Town's issuance of Building Permit No. B19-000232 for the construction of a new mixed use retail/worship/commercial building on June 29, 2020.³ For these reasons, CBS meets this third criterion.

4. Public Notice and Comment. Florida Statutes § 376.80(2)(c)(4) stipulates that “[n]otice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated, and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subsection must be posted in the affected area.” Additional notice requirements pertaining to applicants other than a governmental entity can be found at Florida Statutes § 376.80(1)(c)(4)(b) and consist of publication in a newspaper of general circulation in the area, publication in ethnic newspapers or local community bulletins, and announcement at a scheduled meeting of the local governing body before the actual public hearing.

CBS satisfies all applicable notice and opportunity to comment requirements established by Florida Statutes §376.80(2)(c)(4) and § 376.80(1)(c)(4)(b) as follows:

- (i) notice is being posted at the Subject Property;*
- (ii) notice is being published in the Miami Herald;*
- (iii) notice is being published in the community bulletin section of Craigslist; and*
- (iv) a virtual community meeting will be held using a video and teleconferencing platform.*

All notices will contain the following narrative:

Representatives for CBS Realty Holding, LLC., will hold a virtual community meeting on October 26, 2020, at 5:30 p.m. to not later than 7:00 p.m. for the purpose of affording interested parties the opportunity to provide comments and suggestions about the potential designation of land located at 1000 Kane Concourse, Bay Harbor Islands 33154, Folio Numbers 13-2235-004-0010 and 13-2227-001-2470, as a Green Reuse Area. The designation is being made pursuant to Section 376.80, Florida Statutes, of Florida's Brownfield Redevelopment Act, and will involve two public hearings before the Bay Harbor Islands Town Council. The virtual community meeting will also address future development and rehabilitation activities planned for the site.

The virtual community meeting is free and open to all members of the public. Please register at <http://bit.ly/CBTSMeeting> or call (305) 640-5300 before the meeting to receive instructions for accessing the virtual meeting. For additional instructions on how to join, or to provide comments and suggestions regarding designation, development, or rehabilitation at any time before or after the meeting date, please contact CBS Realty Holding, LLC's representatives, Michael R. Goldstein or Brett C. Brumund who can be reached by phone at (305) 640-5300, by email at bbrumund@goldsteinenvlaw.com, and/or U.S. Mail at The Goldstein Environmental Law Firm, P.A., 2100 Ponce de Leon Blvd., Suite 710, Coral Gables, FL 33134.

Proof of publication and posting will be provided to the Town.

² See Bay Harbor Islands, Fla., Code of Ordinances, § 23-5.

³ A copy of Building Permit No. B19-000232 is available at Attachment C.

5. Reasonable Financial Assurance. As the fifth requirement for designation, Florida Statutes § 376.80(2)(c)(5) provides that “[t]he person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan.”

The total capital budget of approximately \$32.9 million for the Project is fully funded through the financial resources of CBS’ manager, the Church.⁴ The financial position of CBS through its manager, the Church, provides reasonable assurance that CBS has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan. It therefore satisfies this fifth criterion.

II. Subject Property Meets the Definition of Brownfield Site

Section 376.79(4), Florida Statutes, defines “brownfield site” to mean “. . . real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination.” The facts here evidence that the Subject Property falls within the definition of the term “brownfield site” due to the presence of actual contamination resulting from its former use for automotive sales and repair. This has complicated redevelopment for CBS by requiring assessment and remediation under the oversight of the Miami-Dade County Division of Environmental Resources Management (“DERM”).

Specifically, a petroleum discharge was reported in 1986 at the former Ocean Cadillac facility that occupied the Subject Property. Later site assessment activities at the Subject Property identified several underground storage tanks (“USTs”) associated with the site’s former use, one of which still contained product that appeared to be used oil.⁵ The USTs and two hydraulic lifts were removed in March 2020. Additional assessment activities conducted during the UST closure and removal process identified groundwater with free floating petroleum product, concentrations of volatile organic compounds and polynuclear aromatic hydrocarbons above Florida Department of Environmental Protections (“FDEP”) groundwater cleanup target levels, and areas of stained soil around the former USTs and in the area of the hydraulic lifts. Following removal of the USTs and hydraulic lifts, approximately 8,000 gallons of free-floating product was pumped from the site and nearly 750 tons of impacted soils were removed and disposed offsite. Site assessment activities also identified elevated levels of arsenic in soils however, this is likely attributable to naturally occurring conditions and is considered a background condition on South Florida’s barrier island system.

As a result of the former use of the Subject Property, there was and is actual contamination that CBS has been required to carefully manage during redevelopment at great legal and financial risk. More specifically, actual contamination at the Subject Property has complicated redevelopment efforts for CBS by imposing design and construction changes on the Project that would not be required but for the presence of contamination. The presence of actual contamination also increases CBS’ exposure to environmental and regulatory liability with respect to the Project and has made it materially more expensive and time consuming to move forward. Accordingly, this designation, if granted, will allow for CBS to access limited but important state-based economic incentives to help underwrite the costs associated with managing the environmental risk as well as, generally, to put the Project on a more certain financial ground. In this sense, the designation will not only play a critical role in the successful redevelopment of the Subject Property, but also in the larger revitalization efforts for this area of the Town. Finally, the investigation and remediation of the

⁴ See Attachment D for correspondence from CBS’ financial institution, UBS Financial Services, Inc., confirming the Church has sufficient financial resources to fund the expected \$32.9 million redevelopment and any remaining rehabilitation.

⁵ See Attachment E for excerpts from the Tank Closure Assessment Report prepared and filed with DERM following removal of the USTs and hydraulic lifts.

contamination itself has added another major level of complexity as has required and may continue to require close and constant oversight by DERM. The regulatory process associated with remediation can be lengthy, complicated, uncertain, and without guaranteed end points. Accordingly, CBS has no assurance that as it moves forward with the Project the total cost of cleanup will not in fact ultimately exceed what is currently projected. Such uncertainty constitutes an *acute* form of redevelopment complexity that goes to the heart of the Florida Brownfield Program and underscores why incentives are so important for sites and projects exactly like this one.

Based on all the foregoing, the Subject Property clearly falls within the definition of “brownfield site” as set forth in § 376.79(4), Florida Statutes.

III. Conclusion

CBS has demonstrated that the Subject Property meets the definition of a “brownfield site” and that it satisfies the five statutory criteria for designation. Accordingly, designation of the Subject Property as a brownfield area pursuant to § 376.80(2)(c), Florida Statutes, of Florida’s Brownfield Redevelopment Act is appropriate.

Attachment A

Select Year: 2019 ▼ Go

The 2019 Florida Statutes

[Title XXVIII](#)
NATURAL RESOURCES; CONSERVATION,
RECLAMATION, AND USE

[Chapter 376](#)
POLLUTANT DISCHARGE PREVENTION
AND REMOVAL

[View Entire
Chapter](#)

376.80 Brownfield program administration process.—

(1) The following general procedures apply to brownfield designations:

(a) The local government with jurisdiction over a proposed brownfield area shall designate such area pursuant to this section.

(b) For a brownfield area designation proposed by:

1. The jurisdictional local government, the designation criteria under paragraph (2)(a) apply, except if the local government proposes to designate as a brownfield area a specified redevelopment area as provided in paragraph (2)(b).

2. Any person, other than a governmental entity, including, but not limited to, individuals, corporations, partnerships, limited liability companies, community-based organizations, or not-for-profit corporations, the designation criteria under paragraph (2)(c) apply.

(c) Except as otherwise provided, the following provisions apply to all proposed brownfield area designations:

1. Notification to department following adoption.—A local government with jurisdiction over the brownfield area must notify the department, and, if applicable, the local pollution control program under s. [403.182](#), of its decision to designate a brownfield area for rehabilitation for the purposes of ss. [376.77-376.86](#). The notification must include a resolution adopted by the local government body. The local government shall notify the department, and, if applicable, the local pollution control program under s. [403.182](#), of the designation within 30 days after adoption of the resolution.

2. Resolution adoption.—The brownfield area designation must be carried out by a resolution adopted by the jurisdictional local government, which includes a map adequate to clearly delineate exactly which parcels are to be included in the brownfield area or alternatively a less-detailed map accompanied by a detailed legal description of the brownfield area. For municipalities, the governing body shall adopt the resolution in accordance with the procedures outlined in s. [166.041](#), except that the procedures for the public hearings on the proposed resolution must be in the form established in s. [166.041\(3\)\(c\)2](#). For counties, the governing body shall adopt the resolution in accordance with the procedures outlined in s. [125.66](#), except that the procedures for the public hearings on the proposed resolution shall be in the form established in s. [125.66\(4\)\(b\)](#).

3. Right to be removed from proposed brownfield area.—If a property owner within the area proposed for designation by the local government requests in writing to have his or her property removed from the proposed designation, the local government shall grant the request.

4. Notice and public hearing requirements for designation of a proposed brownfield area outside a redevelopment area or by a nongovernmental entity. Compliance with the following provisions is required before designation of a proposed brownfield area under paragraph (2)(a) or paragraph (2)(c):

a. At least one of the required public hearings shall be conducted as closely as is reasonably practicable to the area to be designated to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' considerations, and other relevant local concerns.

b. Notice of a public hearing must be made in a newspaper of general circulation in the area, must be made in ethnic newspapers or local community bulletins, must be posted in the affected area, and must be announced at a scheduled meeting of the local governing body before the actual public hearing.

(2)(a) *Local government-proposed brownfield area designation outside specified redevelopment areas.*—If a local government proposes to designate a brownfield area that is outside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area, the local government shall provide notice, adopt the resolution, and conduct public hearings pursuant to paragraph (1)(c). At a public hearing to designate the proposed brownfield area, the local government must consider:

1. Whether the brownfield area warrants economic development and has a reasonable potential for such activities;
2. Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;
3. Whether the area has potential to interest the private sector in participating in rehabilitation; and
4. Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.

(b) *Local government-proposed brownfield area designation within specified redevelopment areas.*—Paragraph (a) does not apply to a proposed brownfield area if the local government proposes to designate the brownfield area inside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area and the local government complies with paragraph (1)(c).

(c) *Brownfield area designation proposed by persons other than a governmental entity.*—For designation of a brownfield area that is proposed by a person other than the local government, the local government with jurisdiction over the proposed brownfield area shall provide notice and adopt a resolution to designate the brownfield area pursuant to paragraph (1)(c) if, at the public hearing to adopt the resolution, the person establishes all of the following:

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.
2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. [420.0004](#) or the creation of recreational areas, conservation areas, or parks.
3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations.
4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated pursuant to paragraph (1)(c), and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subparagraph must be posted in the affected area.
5. The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site.

(d) *Negotiation of brownfield site rehabilitation agreement.*—The designation of a brownfield area and the identification of a person responsible for brownfield site rehabilitation simply entitles the identified person to negotiate a brownfield site rehabilitation agreement with the department or approved local pollution control program.

(3) When there is a person responsible for brownfield site rehabilitation, the local government must notify the department of the identity of that person. If the agency or person who will be responsible for the coordination

changes during the approval process specified in subsections (4), (5), and (6), the department or the affected approved local pollution control program must notify the affected local government when the change occurs.

(4) Local governments or persons responsible for rehabilitation and redevelopment of brownfield areas must establish an advisory committee or use an existing advisory committee that has formally expressed its intent to address redevelopment of the specific brownfield area for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use, local employment opportunities, community safety, and environmental justice. Such advisory committee should include residents within or adjacent to the brownfield area, businesses operating within the brownfield area, and others deemed appropriate. The person responsible for brownfield site rehabilitation must notify the advisory committee of the intent to rehabilitate and redevelop the site before executing the brownfield site rehabilitation agreement, and provide the committee with a copy of the draft plan for site rehabilitation which addresses elements required by subsection (5). This includes disclosing potential reuse of the property as well as site rehabilitation activities, if any, to be performed. The advisory committee shall review any proposed redevelopment agreements prepared pursuant to paragraph (5)(i) and provide comments, if appropriate, to the board of the local government with jurisdiction over the brownfield area. The advisory committee must receive a copy of the executed brownfield site rehabilitation agreement. When the person responsible for brownfield site rehabilitation submits a site assessment report or the technical document containing the proposed course of action following site assessment to the department or the local pollution control program for review, the person responsible for brownfield site rehabilitation must hold a meeting or attend a regularly scheduled meeting to inform the advisory committee of the findings and recommendations in the site assessment report or the technical document containing the proposed course of action following site assessment.

(5) The person responsible for brownfield site rehabilitation must enter into a brownfield site rehabilitation agreement with the department or an approved local pollution control program if actual contamination exists at the brownfield site. The brownfield site rehabilitation agreement must include:

(a) A brownfield site rehabilitation schedule, including milestones for completion of site rehabilitation tasks and submittal of technical reports and rehabilitation plans as agreed upon by the parties to the agreement.

(b) A commitment to conduct site rehabilitation activities under the observation of professional engineers or geologists who are registered in accordance with the requirements of chapter 471 or chapter 492, respectively. Submittals provided by the person responsible for brownfield site rehabilitation must be signed and sealed by a professional engineer registered under chapter 471, or a professional geologist registered under chapter 492, certifying that the submittal and associated work comply with the law and rules of the department and those governing the profession. In addition, upon completion of the approved remedial action, the department shall require a professional engineer registered under chapter 471 or a professional geologist registered under chapter 492 to certify that the corrective action was, to the best of his or her knowledge, completed in substantial conformance with the plans and specifications approved by the department.

(c) A commitment to conduct site rehabilitation in accordance with department quality assurance rules.

(d) A commitment to conduct site rehabilitation consistent with state, federal, and local laws and consistent with the brownfield site contamination cleanup criteria in s. [376.81](#), including any applicable requirements for risk-based corrective action.

(e) Timeframes for the department's review of technical reports and plans submitted in accordance with the agreement. The department shall make every effort to adhere to established agency goals for reasonable timeframes for review of such documents.

(f) A commitment to secure site access for the department or approved local pollution control program to all brownfield sites within the eligible brownfield area for activities associated with site rehabilitation.

(g) Other provisions that the person responsible for brownfield site rehabilitation and the department agree upon, that are consistent with ss. [376.77-376.86](#), and that will improve or enhance the brownfield site rehabilitation process.

(h) A commitment to consider appropriate pollution prevention measures and to implement those that the person responsible for brownfield site rehabilitation determines are reasonable and cost-effective, taking into

account the ultimate use or uses of the brownfield site. Such measures may include improved inventory or production controls and procedures for preventing loss, spills, and leaks of hazardous waste and materials, and include goals for the reduction of releases of toxic materials.

(i) Certification that the person responsible for brownfield site rehabilitation has consulted with the local government with jurisdiction over the brownfield area about the proposed redevelopment of the brownfield site, that the local government is in agreement with or approves the proposed redevelopment, and that the proposed redevelopment complies with applicable laws and requirements for such redevelopment. Certification shall be accomplished by referencing or providing a legally recorded or officially approved land use or site plan, a development order or approval, a building permit, or a similar official document issued by the local government that reflects the local government's approval of proposed redevelopment of the brownfield site; providing a copy of the local government resolution designating the brownfield area that contains the proposed redevelopment of the brownfield site; or providing a letter from the local government that describes the proposed redevelopment of the brownfield site and expresses the local government's agreement with or approval of the proposed redevelopment.

(6) Any contractor performing site rehabilitation program tasks must demonstrate to the department that the contractor:

- (a) Meets all certification and license requirements imposed by law; and
- (b) Will conduct sample collection and analyses pursuant to department rules.

(7) During the cleanup process, if the department or local program fails to complete review of a technical document within the timeframe specified in the brownfield site rehabilitation agreement, the person responsible for brownfield site rehabilitation may proceed to the next site rehabilitation task. However, the person responsible for brownfield site rehabilitation does so at its own risk and may be required by the department or local program to complete additional work on a previous task. Exceptions to this subsection include requests for "no further action," "monitoring only proposals," and feasibility studies, which must be approved prior to implementation.

(8) If the person responsible for brownfield site rehabilitation fails to comply with the brownfield site rehabilitation agreement, the department shall allow 90 days for the person responsible for brownfield site rehabilitation to return to compliance with the provision at issue or to negotiate a modification to the brownfield site rehabilitation agreement with the department for good cause shown. If an imminent hazard exists, the 90-day grace period shall not apply. If the project is not returned to compliance with the brownfield site rehabilitation agreement and a modification cannot be negotiated, the immunity provisions of s. [376.82](#) are revoked.

(9) The department is specifically authorized and encouraged to enter into delegation agreements with local pollution control programs approved under s. [403.182](#) to administer the brownfield program within their jurisdictions, thereby maximizing the integration of this process with the other local development processes needed to facilitate redevelopment of a brownfield area. When determining whether a delegation pursuant to this subsection of all or part of the brownfield program to a local pollution control program is appropriate, the department shall consider the following. The local pollution control program must:

- (a) Have and maintain the administrative organization, staff, and financial and other resources to effectively and efficiently implement and enforce the statutory requirements of the delegated brownfield program; and
- (b) Provide for the enforcement of the requirements of the delegated brownfield program, and for notice and a right to challenge governmental action, by appropriate administrative and judicial process, which shall be specified in the delegation.

The local pollution control program shall not be delegated authority to take action on or to make decisions regarding any brownfield site on land owned by the local government. Any delegation agreement entered into pursuant to this subsection shall contain such terms and conditions necessary to ensure the effective and efficient administration and enforcement of the statutory requirements of the brownfield program as established by the act and the relevant rules and other criteria of the department.

(10) Local governments are encouraged to use the full range of economic and tax incentives available to facilitate and promote the rehabilitation of brownfield areas, to help eliminate the public health and

environmental hazards, and to promote the creation of jobs and economic development in these previously run-down, blighted, and underutilized areas.

(11)(a) The Legislature finds and declares that:

1. Brownfield site rehabilitation and redevelopment can improve the overall health of a community and the quality of life for communities, including for individuals living in such communities.
2. The community health benefits of brownfield site rehabilitation and redevelopment should be better measured in order to achieve the legislative intent as expressed in s. 376.78.
3. There is a need in this state to define and better measure the community health benefits of brownfield site rehabilitation and redevelopment.
4. Funding sources should be established to support efforts by the state and local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, to evaluate the community health benefits of brownfield site rehabilitation and redevelopment.

(b) Local governments may and are encouraged to evaluate the community health benefits and effects of brownfield site rehabilitation and redevelopment in connection with brownfield areas located within their jurisdictions. Factors that may be evaluated and monitored before and after brownfield site rehabilitation and redevelopment include, but are not limited to:

1. Health status, disease distribution, and quality of life measures regarding populations living in or around brownfield sites that have been rehabilitated and redeveloped.
2. Access to primary and other health care or health services for persons living in or around brownfield sites that have been rehabilitated and redeveloped.
3. Any new or increased access to open, green, park, or other recreational spaces that provide recreational opportunities for individuals living in or around brownfield sites that have been rehabilitated and redeveloped.
4. Other factors described in rules adopted by the Department of Environmental Protection or the Department of Health, as applicable.

(c) The Department of Health may and is encouraged to assist local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, in evaluating the community health benefits of brownfield site rehabilitation and redevelopment.

(12) A local government that designates a brownfield area pursuant to this section is not required to use the term “brownfield area” within the name of the brownfield area designated by the local government.

History.—s. 4, ch. 97-277; s. 3, ch. 98-75; s. 11, ch. 2000-317; s. 2, ch. 2004-40; s. 44, ch. 2005-2; s. 7, ch. 2006-291; s. 5, ch. 2008-239; s. 2, ch. 2014-114.

Attachment B

Prepared by and after recording, return to:
Erica L. English, Esq.
Katz Barron Squitero Faust
2699 S. Bayshore Drive, 7th Floor
Miami, Florida 33133

Parcel I.D. Nos. 13-2235-004-0010
13-2227-001-2470

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made this 1st day of June, 2016, by OCEAN CADILLAC INC., an Illinois corporation (hereinafter referred to as "Grantor"), whose post office address is 6307 N.W. 80 Drive, Parkland, Florida 33067, to CBS REALTY HOLDING, LLC, a Florida limited liability company (hereinafter referred to as "Grantee"), whose post office address is 9700 Collins Avenue, Bldg. A, Suite 300, Bal Harbour, Florida 3315 (the words "Grantor" and "Grantee" include their respective heirs, successors, legal representatives and assigns where the context requires or permits).

WITNESSETH, That:

Grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) in hand paid at and before the execution and delivery of these presents, the receipt and sufficiency whereof are hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does hereby grant, bargain, sell, alien, convey and confirm unto the said Grantee that certain tract or parcel of land described on Exhibit A, attached hereto and incorporated herein by this reference (hereinafter referred to as the "Property"), subject to and without warranty as to those certain matters set forth and described on Exhibit B, attached hereto and incorporated herein by this reference (hereinafter referred to as the "Permitted Exceptions"), but without serving to reimpose same.

TO HAVE AND TO HOLD the Property, subject to the Permitted Exceptions, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of Grantee, its heirs, successors, legal representatives and assigns, forever in fee simple.

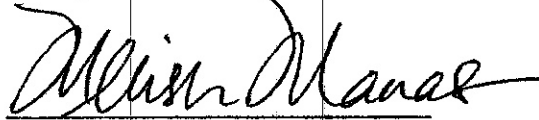
AND GRANTOR will warrant and forever defend the right and title to the Property unto Grantee, its heirs, successors, legal representatives and assigns, against the claims of all persons claiming, through and under Grantor (other than a claim arising out of the Permitted Exceptions), but not otherwise.

IN WITNESS WHEREOF, Grantor has executed and delivered this Special Warranty Deed as of the day and year first above written.

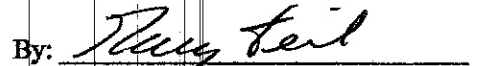
GRANTOR:

Signed, sealed and delivered
in the presence of:

OCEAN CADILLAC, INC., an Illinois
corporation



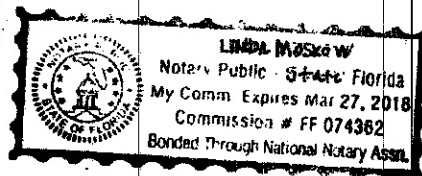
Printed Name: MELISSA MANAS

By: 
Print Name: GARY FEIL
Title: VICE PRESIDENT


Printed Name: COREY FEIL

STATE OF FL)
)SS.
COUNTY OF DADE)

The foregoing instrument was acknowledged before me this 26 day of MAY, 2016 by GARY FEIL, as VICE PRESIDENT of OCEAN CADILLAC, INC., an Illinois corporation, on behalf of the corporation. He is personally known to me (or has produced as identification).




Notary Public

Expiration of commission:

Special Warranty Deed - Signatures

EXHIBIT "A"

LEGAL DESCRIPTION

Tract N of NOLAN BROWN, according to the Plat thereof, as recorded in Plat Book 56, Page 53, of the Public Records of Miami-Dade County, Florida

and

Lot 18, Block 12, of BAY HARBOR ISLAND, according to the Plat thereof, as recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida

Attachment C



TOWN OF BAY HARBOR ISLANDS - DADE COUNTY, FLORIDA
THIS CARD MUST BE DISPLAYED ON FRONT OF JOB.
(ALL SUB-CONTRACT PERMITS MUST BE ATTACHED)

OWNER

CBS REALTY HOLDING LLC

CONTRACTOR

KVC Constructors Inc Project Manager

LOT TRACT

BLOCK N

No.

B19-000232

ADDRESS

1000 KANE CONC

DATE ISSUED

06/29/2020

SCOPE OF WORK

Construction of New Mixed Use Retail
/ Worship / Commercial Building

Note:

Permit Package must be posted for
inspector to sign. Notice of
Commencement is required for first
inspections.

PENALTY FOR REMOVAL UNTIL JOB IS COMPLETE

BUILDING PERMIT

**WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE
FOR IMPROVEMENTS TO YOUR PROPERTY IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN
ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT(F.S. 713.135)**

PERMIT EXPIRES 180 DAYS FROM EITHER THE ISSUE DATE OR THE LAST APPROVED INSPECTION

For inspections please call (305) 993-1786 or log onto our online portal for citizens: <https://www2.citizenserve.com/bhi>

Notice: In addition to the requirement of this permit, there may be additional restrictions applicable to this property that may be found in Public Records of the County, and there may be additional permits required from other governmental entities such as water management districts, state agencies, or federal agencies.

Attachment D



UBS Financial Services Inc.

100 S.E. 2nd Street
Suite 2500
Miami, FL 33131

ubs.com/fs

Confirmation

The Church by the Sea
1045 95th Street
Bay Harbor Isle, FL 33154

October 9, 2020

Confirmation: Information regarding the account of The Church by the Sea

The following client has requested UBS Financial Services Inc. to provide you with a letter of reference to confirm their banking relationship with our firm.

To whom it may concern:

The Church by the Sea has been a valued client of ours since November 2017, and as of the close of business on 10/08/2020 the Church by the Sea account has a total value in excess of \$32,900,000.00.

Please be aware this account is a securities account not a "bank" account. Securities, mutual funds and other non-deposit investment products are not FDIC-insured or bank guaranteed and are subject to market fluctuation. The assets in the account, including cash balances, **[if pledged:** have been pledged to a financial institution as collateral and] may also be subject to the risks of withdrawal and transfer. **[if margin:** This securities account has been approved for margin.] The above-referenced account value may reflect assets not held at UBS.

Questions

If you have any questions about this information, please contact Richard Suss at 305-536-9350.

UBS Financial Services is a member firm of the Securities Investor Protection Corporation (SIPC).

cc: The Church by the Sea

Attachment E



TECHNICAL
SERVICES

GALLAGHER BASSETT TECHNICAL SERVICES

TANK CLOSURE ASSESSMENT REPORT

OF

**CHURCH BY THE SEA PROPERTY (FORMER OCEAN CADILLAC)
1000 KANE CONCOURSE
BAY HARBOR ISLANDS, MIAMI-DADE COUNTY, FLORIDA 33154
FOLIO NUMBER: 13-2235-004-0010
MIAMI-DADE COUNTY DERM UT -2037 / FILE - 0391
FDEP ID: 138622149 / ELIGIBLE DISCHARGE DATE: 10/21/1986 (ATRP)**

Prepared For:

**Miami-Dade County Department of Regulation & Economic Resources
Division of Environmental Resources Management
701 Northwest 1st Court, Suite 400
Miami, Florida 33136-3912**

Prepared On Behalf Of:

**CHURCH BY THE SEA
c/o KVC Constructors, Inc.
9499 Northeast 2nd Avenue, Suite 205
Miami Shores, Florida 33138**

Prepared By:

**Gallagher Bassett Technical Services
5751 Miami Lakes Drive
Miami Lakes, Florida 33014
Phone: (305) 374 - 8300**

Report Date: June 29, 2020

Project No. 2020 - 3067

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- B Redevelopment Plans
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- G Laboratory Analytical Reports, Chain-of-Custody Forms & Field Logs

SECTION 1.0 INTRODUCTION

Gallagher Bassett Technical Services (GBTS), a division of Gallagher Bassett Services, Inc. (GBSI), was retained by KVC Constructors (referred to as the *Client*) to perform environmental site assessment activities and prepare this Tank Closure Assessment Report (TCAR) for the Church By The Sea Property (the Former Ocean Cadillac facility) located at 1000 Kane Concourse, Bay Harbor Islands, Miami-Dade County, Florida 33154 (hereafter referred to as the "*Property*"). The *Property* was further identified by the Miami-Dade County Property Appraiser folio number: 13-2235-004-0010 (see **Appendix A**). A Topographic Map depicted the location the *Property* is presented as **Figure 1**. A recent aerial photograph depicting the *Property* prior to the recent demolition activities is presented as **Figure 2**. A Site Layout Map showing the former layout of the Ocean Cadillac facility is presented as **Figure 3**.

The structures of the former Ocean Cadillac facility have recently been demolished and the *Property* is being redeveloped with the Church By The Sea facility, which will include a 3-story building and parking garage that will encompass the *Property*. Please refer **Appendix B** for maps illustrating the future facility.

Background Environmental History

The former Ocean Cadillac facility had a known petroleum discharge case from October 21, 1986, which was deemed eligible for the Abandoned Tank Restoration Program (ATRP) with a low priority score of 7. Regulatory files pertaining to the *Property* were found in Miami-Dade County Department of Resources Management's (DERM) tracking numbers: UT -2037 / FILE – 0391, and the Florida Department of Environmental Protection (FDEP) facility site ID: 13-8622149. A *Site Assessment Template Report* dated May 10, 2019 and prepared by MAS was previously submitted to DERM, which outlined current soil and groundwater quality, along with a remedial recommendations to address impacts (see **Appendix C** for the SAR summary tables and maps). The report noted the following:

- Past soil results did not identify impacts above the FDEP's Soil Cleanup Target Levels.
- Groundwater was impacted around the UST area with Volatile Organic Compounds (VOCs) and Polynuclear Aromatic Hydrocarbons (PAHs) above the FDEP's Groundwater Cleanup Target Levels (GCTLs).
- The groundwater impact was isolated onsite, and the horizontal and vertical delineation was achieved. Groundwater flow was documented toward the west. Depth-to-water was at 2 to 4-feet below land surface (BLS) and is assumed to be tidally-influenced.
- Free floating product (FFP) had been observed in monitoring well MW-2 during past assessments and remedial action was taken in 2015 via pump-out activities.
- The report recommend a source removal of a 10 by 10-foot wide and 8-foot deep excavation around the USTs area to address the impact.
- The report also recommended the addition of a "chemical oxidant" applied to the groundwater prior to backfilling as a polishing step, and if the source removal did not prove affective, then chemical treatment or biosparging may be considered.

SECTION 2.0 TANK REMOVAL ACTIVITIES

On March 23, 24 and 25, 2020, Gulfstream Petroleum Service, Inc. (Gulfstream), a Florida-licensed Petroleum Storage Specialty Contractor (PSSC), was onsite to remove the USTs from the *Property*. A description of the events related to the removal of the USTs is presented below:

- Per online regulatory files, the Former Ocean Cadillac maintained three 2,000-gallon steel USTs located west of the main repair center. The USTs were previously used to store gasoline, new oil and used oil. The regulatory information reflected that the USTs had been filled with concrete. During the uncovering of the USTs, the PSSC discovered a fourth UST which was located immediately south of the above three tanks. The fourth UST appeared to be 1,000-gallons in capacity and filled with product that appeared to be used oil. The USTs locations are shown in **Figure 3**.
- The contents of the fourth UST were pumped out via a vacuum truck and the tank was inerted with dry ice prior to removal.
- The three concrete-filled USTs were excavated and the steel around the USTs was removed, pressure washed and then hauled offsite for recycling. The fourth UST was excavated, cut open, pressure washed and then hauled for offsite recycling. A copy of the recycling and disposal manifests provided in **Appendix D**.
- A Miami-Dade County DERM representative was onsite March 25, 2020 to inspect the USTs and excavation. A copy of the DERM inspection report is provided as **Appendix E**.
- During the UST removal work, staining was observed on the exterior of the USTs and stained soils were present within the excavation area. Further, free floating product (FFP) was observed atop the exposed groundwater table within the excavation area. Based on these observations (and the recommendation within the 2019 SAR), remedial action was warranted to address the impacted soils and FFP. Initial Source Removal (ISR) actions are further discussed in Section 3.0.

SECTION 3.0

REMOVAL OF OTHER IN-GROUND STRUCTURES

During demolition activities of the Former Ocean Cadillac, KVC Constructors removed hydraulic lifts, oil-water separators, and storm water drainage structures at the *Property*. The following is a summary of these removal activities.

Hydraulic Lift Removals

Two hydraulic lifts located ~ 20-feet east of the initial UST excavation area was located in an area that had historically identified petroleum impacts. When this lift was removed, product was observed within the piston and around the top of the equipment. Gulfstream Petroleum conducted two test pit excavations between the UST area and the hydraulic lift area, and the soils appeared to be petroleum impacted at or below the watertable interface in between the two areas. The ISR soil excavation area was expanded to encompass where these former lifts were located (see **Figure 4**).

As part of demolition activities, the general contractor (KVC Constructors) removed the remaining automotive hydraulic lifts from within the former auto repair center, which was located further east of the aforementioned UST removal area. KVC reported that these other lifts were aboveground, and no other in-ground lifts or cylinders were encountered during the demolition.

OWS & Car Wash Drainage Structure Removal

During the demolition work, an oil-water separator (OWS) was identified south of the former repair center building (see **Figure 3** for a map illustrating the location). Further, a car wash reclamation and sand filtration tank was identified adjoining to the west of the OWS. The interior of the OWS was partially filled with oily petroleum contact water. The interior of the reclamation tank was filled with sand and water. Both structures were pumped out with a vacuum truck. The interior of the OWS also was pressure washed. The OWS structure could not be completely cleaned and was crushed and placed with the stockpiled soils removed from the UST excavation area. The excavation was expanded to encompass both the OWS and the car wash reclamation tank area (see **Figure 4**).

Following removal of the OWS structure, the excavation was inspected and a minor amount of stained soils were observed immediately around the former OWS. These soils were excavated and placed in the same stockpile as the source removal from the USTs area. No stained soils were noted within the reclamation tank excavation area; therefore, no source removal was performed in this area.

SECTION 4.0

INTERIM SOURCE REMOVAL – UST/LIFT AREA

On March 25 thru 30, 2020, source removal activities were conducted to address impacts in the area of the USTs and hydraulic lift. The removal included the excavation of soils from both areas and the removal of FFP from the UST / piston area. The following is a summary of the excavation areas and work.

Following removal of the USTs and hydraulic lifts, a soil source removal was conducted in this area (see **Figure 4**). The final excavation area was ~ 50 by 50-feet wide and ~ 6 to 8-feet deep. Excavated soils were temporarily stockpiled atop and covered by visqueen.

FFP was removed from the excavation via a vacuum truck over the course of three events. A total of 8,150-gallons of FFP / petroleum contact water / sludge was pumped from the UST pumpout, washing and excavation skimming events. A total of 746.57-tons of impacted soils were removed from the combined USTs/lift and OWS / reclamation tank areas. The soils were transported to Clean Earth of Southern Florida for proper disposal. Disposal manifests for the FFP and soils are provided in **Appendix D**.

The excavation area was backfilled with clean crushed limestone imported from a local quarry. During the backfilling, GTBS applied Oxygen Releasing Compounds (ORC-A) per GBTS's April 15, 2020 *Expedited Interim Remedial Action Plan* previously submitted to the DERM. This application included 440 pounds of ORC-A which was placed at and below the watertable interface. An excerpt of the plan and the DERM and FDEP approval letters are provided in **Appendix F**.

Post-Removal Soil Assessment – UST/Lift Area

During source removal, the soils along the excavation walls were field-screened with an organic vapor analyzer (OVA) equipped with a flame ionization detector (FID). The samples were analyzed with and without a charcoal filter to separate naturally-occurring methane from hydrocarbons vapors. OVA results generated from field testing of soils were compared with the action level established in the FDEP's "Guidelines for Assessment and Source Removal of Petroleum Contaminated Soils" dated May 1998. The OVA/FID soil sampling locations are depicted in **Figure 5**. The OVA/FID screening results are summarized in **Table 1**.

- None of the post-excavation wall soil samples collected above the water table exhibited elevated net OVA/FID readings above the 10-ppm action level, except for the 0 to 2-feet BLS interval of the UST Sidewall-1 location, which exhibited 110-ppm. However, these soils exhibited a natural organic odor and confirmation soil sampling did not reveal the presence of elevated petroleum constituents' concentrations.
- Soils collected at/below the water table (2 to 4-feet BLS interval) exhibited slight petroleum odors and elevated net OVA/FID readings in the southwestern portion of the excavation area. GBTS utilized groundwater sampling data to interpret the effect of residual petroleum-affected soils below the water table, and results were below cleanup target levels.

Characterization composite samples (Comp 1 - 3) were collected from the petroleum-affected stockpiled soils and analyzed for the following parameters, then utilized by the disposal facility (Clean Earth):

- Total Arsenic, Cadmium, Chromium and Lead by EPA Method 6010
- Volatile Organic Compounds (VOCs) by EPA Method 8260
- Polycyclic Aromatic Hydrocarbons (PAHs) by EPA Method 8270
- Total Petroleum Hydrocarbons (TPHs) by Method FL-PRO
- Polychlorinated Biphenyls (PCBs) by EPA Method 8082
- Toxicity by EPA Method 9023

Following completion of the source removal, eight sidewall locations were selected for confirmation analysis. These sample locations included the following; Sidewall A thru Sidewall F & UST East Sidewall and Southwest Sidewall. Samples from these eight locations were collected from the 0 to 2-feet and 2 to 3-feet BLS depth intervals (just above watertable interface). The locations of the confirmation sidewall samples are presented as **Figure 6**. These 16 soil samples were analyzed for the following parameters:

- Total Arsenic, Cadmium, Chromium and Lead by EPA Method 6010
- VOCs by EPA Method 8260
- PAHs by EPA Method 8270
- TPHs by Method FL-PRO
- PCBs by EPA Method 8082

Copies of the laboratory analytical reports, chain-of-custody forms, and field logs are provided in **Appendix G**. The soil analytical results are provided as **Tables 2** and **3**, and depicted in **Figure 6**.

Soil analytical results were compared with the FDEP's *Contaminant Cleanup Target Levels*, per Chapter 62-777, FAC, which regulates Soil Cleanup Target Levels (SCTLs) for *residential-use direct exposure* (SCTL-R), *commercial-use direct exposure* (SCTL-C) and *leachability* (SCTL-L) concerns.

The following is a summary of the post-excavation sidewall soil analytical findings:

- Confirmation soil samples collected from the excavation walls did not exhibit elevated concentrations of the analyzed parameters above the FDEP SCTLs, with the exception of total arsenic.
- Total arsenic was detected in all 16 samples at concentrations ranging from 4.4 milligrams per kilogram (mg/Kg) to 20.0 mg/Kg. All 16 samples contained a total arsenic concentration of above the 2.1 mg/Kg SCTL-R. Samples collected from Sidewall-A (0 to 2-feet BLS), Sidewall-E (2 to 3-feet BLS), Sidewall-F (0 to 2-feet BLS) and UST SW Sidewall (2 to 3-feet) contained total arsenic at concentrations above the SCTL-C. Fourteen of the 16 samples also exceeded the 5.2 mg/Kg anthropogenic background concentration for the 0 to 2-feet BLS depth interval established by the Miami-Dade County Department of Environmental Resources Management (DERM). This issue is further discussed in Section 6.0.

Post-Removal Groundwater Assessment – UST/Lift Area

On May 20, 2020, following backfilling, GBTS retained a Florida-licensed water drilling to install five shallow-interval temporary groundwater monitoring wells in and around the source removal area. These monitoring wells were designated MW-1 thru MW-5. The wells were 1.5-inches in diameter, extended to a total depth of 12-feet BLS, and the included 10-feet of pre-packed well screen and sufficient solid PVC riser to extend ~ 3-feet above grade. Monitoring well MW-1 was placed in the center of the excavation which was considered the source area, and the perimeter wells MW-2 thru MW-5 were placed ~ 25-feet in each ordinate direction around the excavation limits. The monitoring well details are provided within the Well Construction Logs (**Appendix G**) and illustrated as **Figure 8**.

On May 20, 2020, GBTS collected groundwater grab samples from a temporary well sampling point, labeled GW-1D. The sampling point was screened from 25 to 30-feet BLS.

On May 21, 2020, GBTS collected groundwater samples from monitoring wells MW-1 through MW-5. Groundwater sampling conducted in accordance with the FDEPs Standard Operating Procedures (SOPs) per Chapter 62-160 of the Florida Administrative Code (FAC). Groundwater samples were analyzed for the following parameters:

- Total 8 RCRA Metals by EPA Method 6010 / 7470 (MW-1 only)
- PCBs by EPA Method 8082 (MW-1 only)
- VOCs by EPA Method 8260 (all wells and GW-1D)
- PAHs by EPA Method 8270 (all wells and GW-1D)
- TPHs by Method FL-PRO (MW-1 thru MW-5 only)

On June 22, 2020, GBTS also collected groundwater samples from monitoring wells MW-1, MW-3 and MW-5 for Total Dissolved Solids (TDS) by EPA Method SM5240C.

Copies of the laboratory analytical reports, chain-of-custody forms, and field logs are provided in **Appendix G**. The groundwater analytical results are provided as **Table 9**, and depicted in **Figure 9**.

The groundwater analytical results were compared with the FDEP Groundwater Cleanup Target Levels (GCTLs) and the Natural Attenuation Default Source Concentrations (NADSCs) per Chapter 62-777, FAC.

The following is a summary of the groundwater analytical findings and observations:

- Groundwater results from monitoring wells MW-1 thru MW-5 did not exhibit elevated concentrations of the analyzed parameters above their respective FDEP GCTLs with the exception TDS in samples from MW-1 (4,590 mg/L), MW-3 (1,870 mg/L) and MW-5 (1,070 mg/L). These results exceeded the 500 mg/L GCTL, but were below the 5,000 mg/L NADSC
- No evidence of FFP or sheen was observed within the groundwater samples.

SECTION 5.0 INTERIM SOURCE REMOVAL – OWS AREA

On April 2, 2020, source removal activities were conducted to address the limited volume of stained soils observed immediately beneath the former southern OWS. On May 4, 2020, the northeast part of the excavation was expanded to address the discovery of a low concentration of benzo(a)pyrene. The soils were transported to Clean Earth of Southern Florida for proper disposal. The OWS excavation area was backfilled with clean crushed limestone imported from a local quarry.

Post-Removal Soil Assessment – OWS Area

Prior to backfilling, one confirmation soil sample designated OWS Northeast (2 to 3-feet BLS) was collected from the excavation wall. This soil sample was analyzed for the following parameters:

- Total Arsenic, Cadmium, Chromium and Lead by EPA Method 6010
- PCBs by EPA Method 8082
- VOCs by EPA Method 8260
- PAHs by EPA Method 8270
- TPHs by Method FL-PRO

Copies of the laboratory analytical reports, chain-of-custody forms, and field logs are provided in **Appendix G**. The soil analytical results are provided as **Tables 4** and **5**. The soil results are summarized in **Figure 6**.

Soil analytical results were compared with the FDEP's SCTLs. The following is a summary of the post-excavation sidewall soil analytical findings:

- Confirmation soil sample OWS NE Sidewall (2 to 3-feet BLS) did not exhibit elevated concentrations of the analyzed parameters, above the FDEP SCTLs, with the exception of total arsenic, benzo(a)pyrene (BaP), and BaP equivalents (BaP-E).
 - Total arsenic was detected at 2.5 mg/Kg which was slightly above the 2.1 mg/Kg SCTL-R, but below DERMs 5.2 mg/Kg anthropogenic background concentration, and below the 12 mg/Kg SCTL-C.
 - BaP was detected at 0.33 mg/Kg which exceeded its 0.1 mg/Kg SCTL-R, but was below its 0.8 mg/Kg SCTL-C and 8 mg/Kg SCTL-L. The BaP-E result was 0.5 mg/Kg, which exceeded the 0.1 mg/Kg SCTL-R, but was below the 0.7 mg/Kg SCTL-C.
 - The area was further excavated on May 4, 2020, and a second confirmation soil sample collected, which was analyzed for PAHs and concentrations were below the SCTL-R and SCTL-L.

Post-Removal Groundwater Assessment – OWS Area

One shallow-interval temporary groundwater monitoring well was installed in the center of the OWS excavation area which was designated MW-6. The well was 1.5-inches in diameter, extended to a total depth of 12-feet BLS, and the included 10-feet of pre-packed well screen and sufficient solid PVC riser to extend ~ 3-feet above grade. The monitoring well MW-6 details are provided within the Well Construction Log (**Appendix G**) and illustrated as **Figure 8**.

On May 21, 2020, GBTS collected groundwater samples from monitoring well MW-6. Groundwater sampling conducted in accordance with the FDEP SOPs, per Chapter 62-160, FAC. The groundwater samples were analyzed for the following parameters:

- Total Arsenic, Cadmium, Chromium and Lead by EPA Method 6010
- PCBs by EPA Method 8082
- VOCs by EPA Method 8260
- PAHs by EPA Method 8270
- TPHs by Method FL-PRO

Copies of the laboratory analytical reports, chain-of-custody forms, along with the well construction & development, soil & groundwater sampling and equipment calibration logs are provided in **Appendix G**. The groundwater analytical results are summarized as **Table 9**. The groundwater results are summarized in **Figure 9**.

The groundwater results were compared with the FDEP's SOPs. The following is a summary of the groundwater analytical findings:

- Groundwater results from monitoring wells MW-6 not exhibit elevated concentrations of the analyzed parameters above their respective FDEP GCTLs.

SECTION 6.0 EXPANDED SOIL ARSENIC ASSESSMENT

The post-excavation sampling revealed only one contaminant of concern in soils, which was total arsenic. There have been studies by the Miami-Dade County DERM with respect to the presence of naturally-occurring and anthropogenic arsenic in soils through the County's barrier islands, which include the *Property*. The arsenic detected in the excavation side wall soils was not attributed to the former USTs or OWS, but instead was attributed to pre-existing naturally-occurring arsenic. The additional sampling and evaluation was conducted as a basis for developing both a Soil Management Plan (SMP) and Health & Safety Plan (HASP) during soil disturbance activities for construction of the Church by the Sea development.

On May 20, 2020, GBTS oversaw the advancement of 10 soil borings gridded across the *Property*. Soil samples were collected from the 0 to 2-feet and 2 to 3-feet BLS depth intervals and analyzed for Total Arsenic by EPA Method 6010. The soil sampling locations are presented as **Figure 7**. The analytical results for these soil samples are presented in **Table 6**. Copies of the laboratory analytical reports, chain-of-custody forms and sampling logs are provided in **Appendix G**. The following is a summary of the findings:

- A total of 37 soil samples were collected from the soil borings and previous sidewall sampling, including 18 soil samples from the 0 to 2-feet BLS interval, and 19 soil samples from the 2 to 3-feet BLS interval.
 - Total arsenic concentrations ranged from 0.65 mg/Kg to 25.3 mg/Kg.
 - 36 soil samples contained total arsenic concentrations in excess of the 2.1 mg/Kg SCTL-R.
 - 32 soil samples contained total arsenic concentrations in excess the 5.2 mg/Kg Miami-Dade County Barrier Island Background Level.
 - 10 soils samples contained total arsenic concentrations in excess of the 12 mg/Kg SCTL-C.
- GBTS further evaluated the arsenic data using the FDEP's 95% Upper Confidence Limit (UCL) online calculator (ProUCL), which calculated the following results:
 - The 95% UCL result calculated for the 0 to 2-feet BLS interval was 11.9 mg/Kg, which exceeded both the 2.1 mg/Kg SCTL-R and the 5.2 mg/Kg Miami-Dade County Background Level, but was below the 12 mg/Kg SCTL-C. The 95% UCL arsenic results for the 0 to 2-feet BLS depth interval are provided in **Table 7**.
 - The 95% UCL result calculated for the 2 to 3-feet BLS interval was 13.3 mg/Kg, which exceeded the 2.1 mg/Kg SCTL-R, the 5.2 mg/Kg Miami-Dade County Background Level, and the 12 mg/Kg SCTL-C. The 95% UCL arsenic results for the 2 to 3-feet BLS depth interval are provided in **Table 8**.
- The potential for leaching of arsenic was evaluated using the two source area groundwater wells. Arsenic in the groundwater samples was below laboratory method detection limits and below the 10 ug/L GCTL.

SECTION 7.0 RECOMMENDATIONS

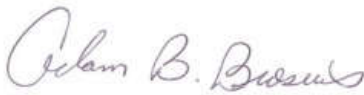
This report has documented the removal of source USTs, lifts and an OWS, along with the removal of 746.57 tons of petroleum-affected soils and 8,150-gallons of FFP/Contact Water/sludges. The post-excavation sampling was used to document that none of the remaining sidewall soils contain contaminants of concern above SCTLs associated with the source areas, and none of the groundwater samples collected contained contaminants of concern above GCTLs.

- The post-excavation sampling did reveal the presence of naturally-occurring arsenic in soils that exceed the SCTLs and the Miami-Dade County Barrier Island Natural Background Level. The presence of arsenic in onsite soils is not attributed to the former UST, lift or OWS source areas, but were in-place prior to development. The groundwater sampling did not reveal evidence of leaching, and arsenic concentrations were below the laboratory method detection limit and below the FDEP's 10 ug/L GCTL. Therefore, the presence of naturally-occurring arsenic does not pose a concern that warrants further assessment.
 - GBTS recommends that the naturally-occurring arsenic in soils be addressed with a Soil Management Plan (SMP) and Health & Safety Plan (HASP). These documents will guide the general contractor during soil disturbance activities, and will provide a protocol for soil relocation/disposal, dust control, and worker protection to minimize direct exposure concerns.
- Based on the post-removal soil and groundwater assessment findings, no further assessment is recommended. The information provided in the previous 2019 TSAR (by previous consultant on-file with DERM/FDEP), and supplemented with this extensive post-excavation TCAR sampling data, should be sufficient to conclude that SAR activities are complete.
- The post-removal assessment revealed that soil and groundwater samples are no longer impacted with petroleum constituents of concern. No further action is warranted with respect to this discharge. However, due to the use of ORCs during backfilling of the UST excavation area, as approved by DERM and FDEP, additional groundwater monitoring may be required. This will be difficult as the pile and pile cap installation is schedule to proceed in July, and by October the majority of the site will be covered with a hydrostatic concrete slab and caps. It is not feasible to pierce the hydrostatic slab for the purpose of monitoring a former petroleum discharge that has been remediated. Furthermore, the hydrostatic slab will extend to the edge of the *Property*, which may make it unfeasible to relocate wells beyond the building. Due to the impending slab installation, there is not sufficient time to complete 4 quarterly monitoring only plan (MOP) sampling events. GBTS proposes that DERM accept the groundwater sampling data presented in this TCAR to fulfill the 1st quarter MOP requirement. GBTS proposes two additional MOP semi-monthly monitoring events to provide assurance that the discharge has been addressed:
 - Collection of groundwater samples from monitoring wells MW-1 through MW-5 for VOCs (including BTEX/MTBE/IPB) by EPA Method 8260, PAHs by EPA Method 8270 and TDS by EPA Method SM2540C. Sampling will be conducted in July 2020 and September 2020.

SECTION 8.0
ENVIRONMENTAL PROFESSIONAL STATEMENT

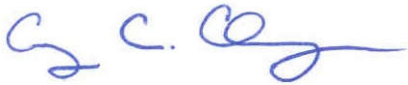
This TCAR was conducted under the supervision of the following GBTS professionals:

Report Prepared By:



Adam B. Brosius
Senior Staff Professional

and



Craig C. Clevenger, P.G.
Managing Director, Environmental Services
Gallagher Bassett Technical Services

Professional Geologist Certification:

I, Craig C. Clevenger, P.G. #1666, certify that I currently hold an active license in the state of Florida and am competent through education and experience to provide the geological consulting services documented in the aforementioned TCAR and source removal report. I further certify that, in my professional judgment, this report meets the requirements of Chapter 62-761, FAC, and Chapter 492, F.S., and was prepared by me or under my direction. Moreover, I certify that EE&G holds an active certificate of authorization #GB483 to provide geological services in the state of Florida.



Craig C. Clevenger, P.G.

July 2, 2020
Date

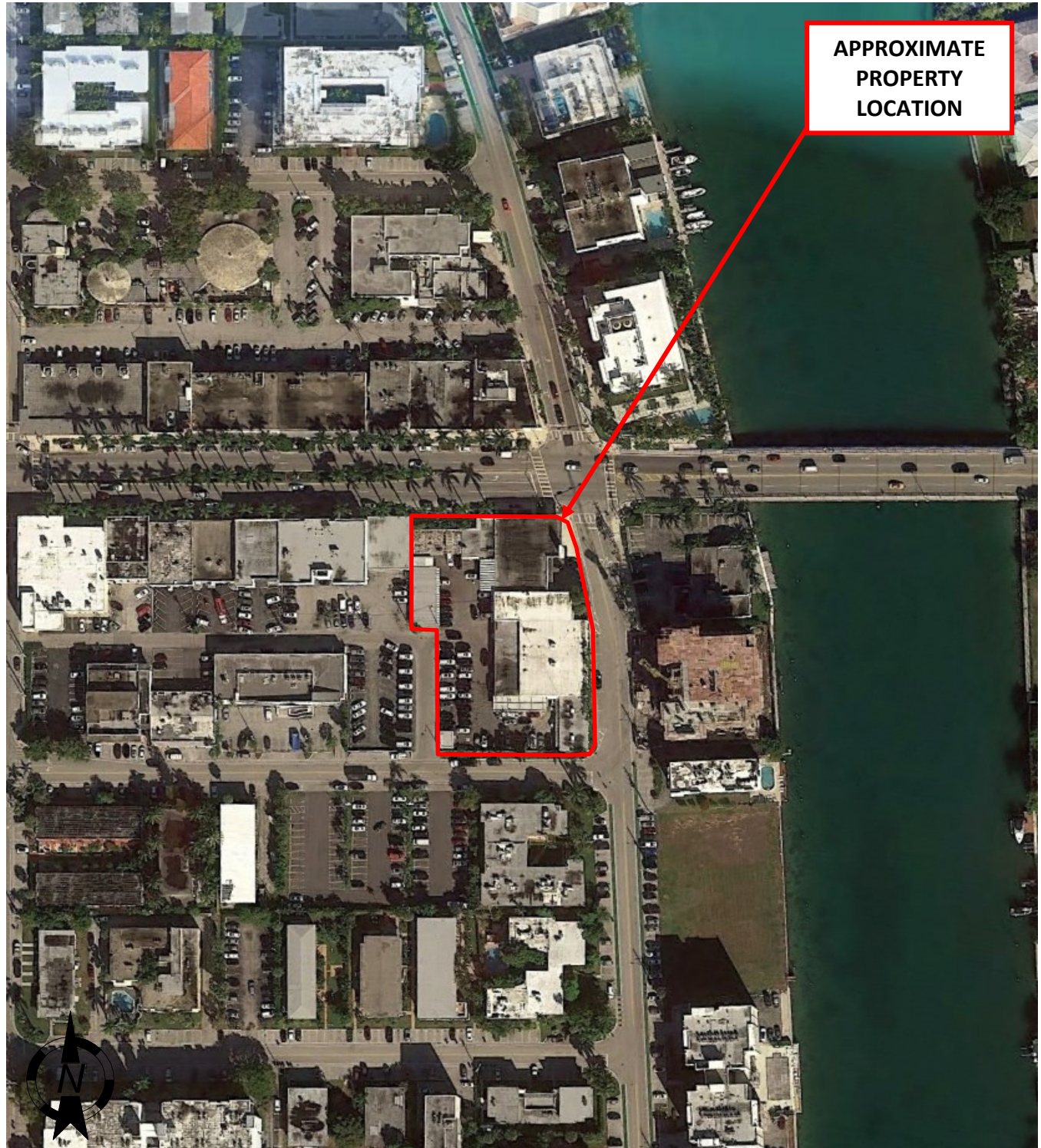
FIGURES



Church by the Sea
1000 Kane Concourse
Bay Harbor Islands, Florida 33154
Project #: 2020-3067

TOPOGRAPHIC MAP
Source: USGS

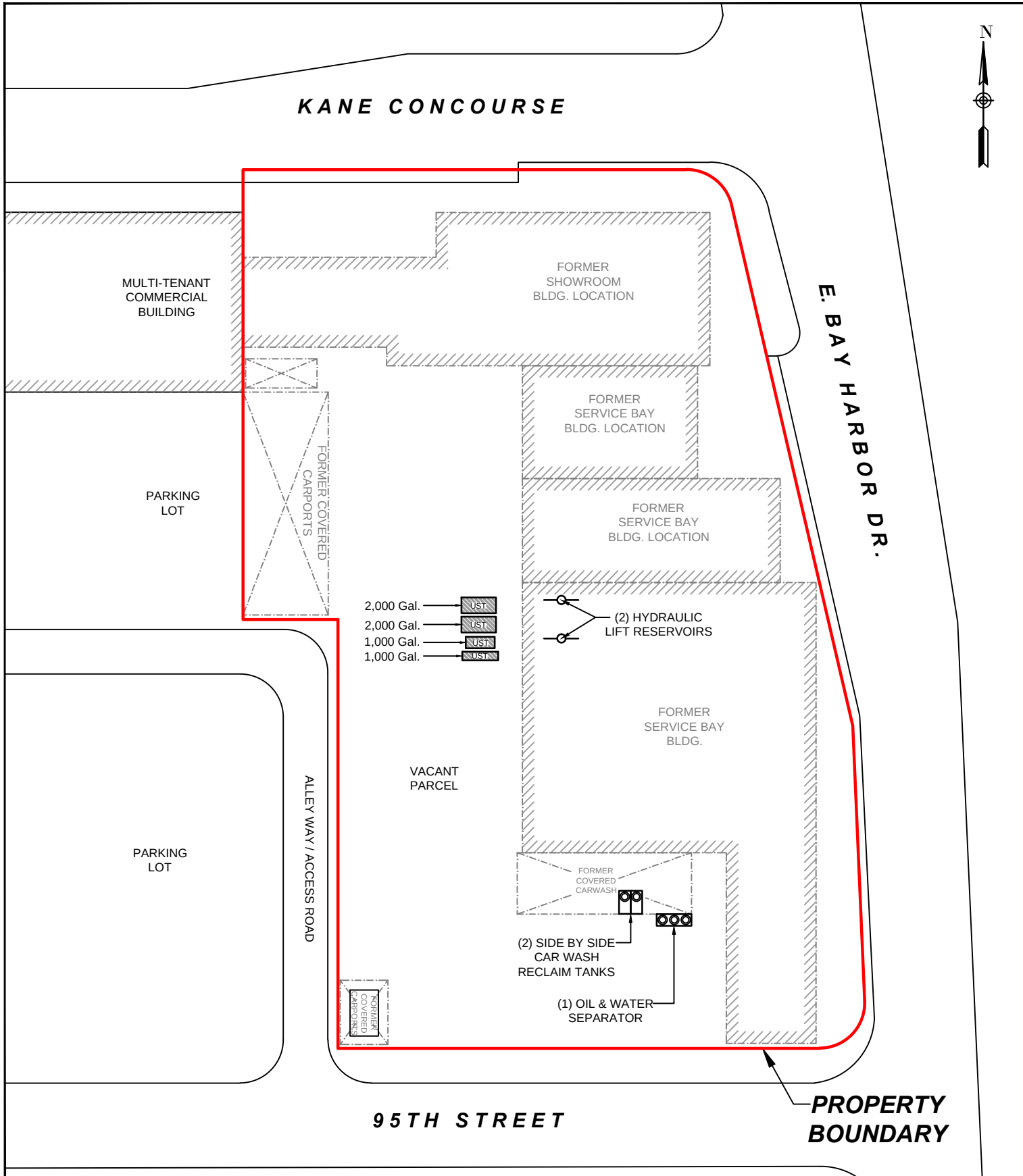
**FIGURE
1**



Church by the Sea
1000 Kane Concourse
Bay Harbor Islands, Florida 33154
Project #: 2020-3067

2019 AERIAL PHOTOGRAPH

**FIGURE
2**



GALLAGHER | TECHNICAL SERVICES
BASSETT

5751 MIAMI LAKES DRIVE
MIAMI LAKES, FLORIDA 33014
Phone: (305) 374-8300
Fax: (305) 374-9004

CHURCH BY THE SEA
1000 KANE CONCOURSE
BAY HARBOR ISLANDS, FLORIDA 33154

FIGURE
3

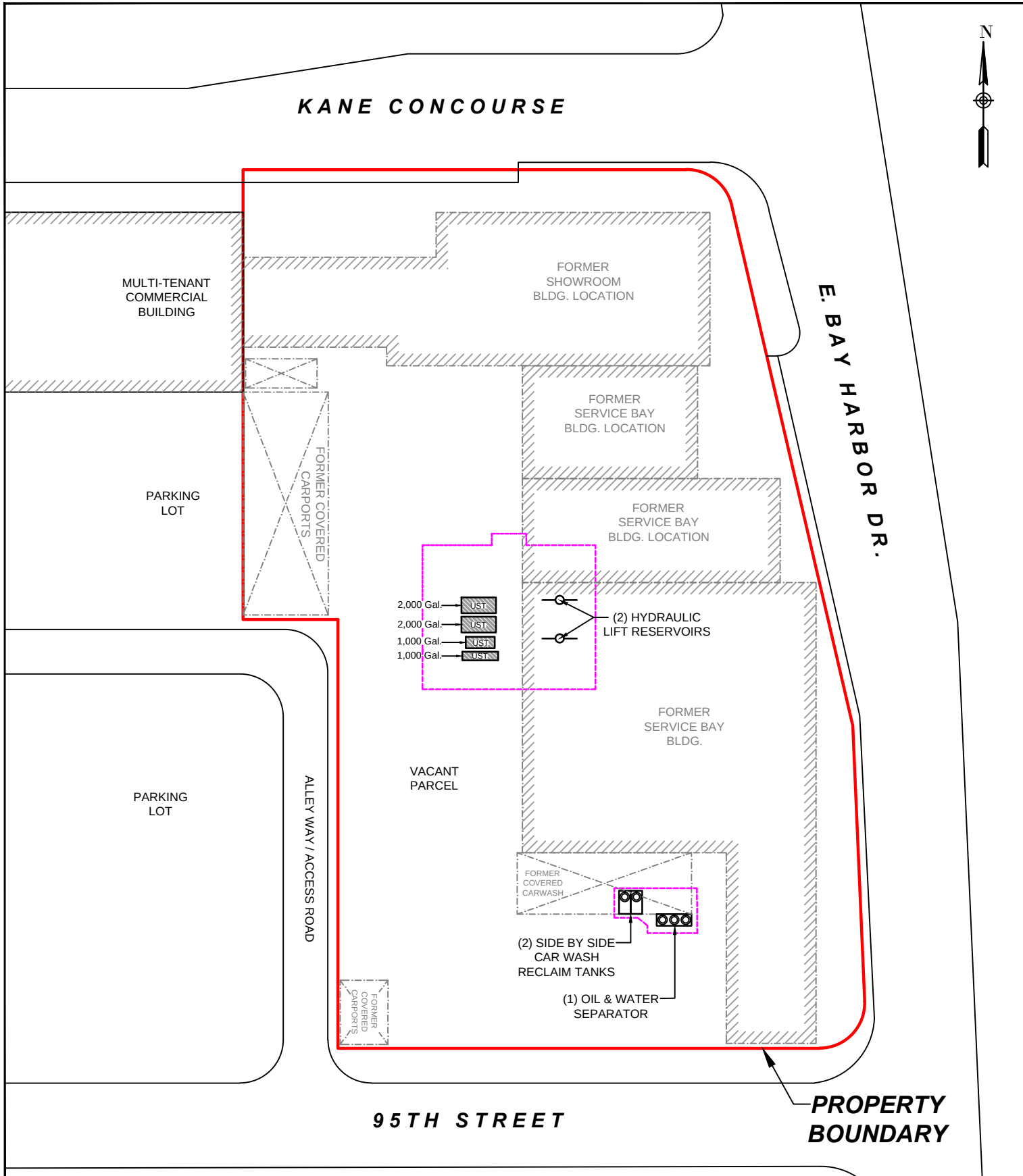
SITE LAYOUT MAP

SCALE: 1" = 50'

DRAWN BY: JL

PROJECT: 2020-3067

DATE: 2/21/2020



LEGEND:

= AREA OF EXCAVATION



**5751 MIAMI LAKES DRIVE
MIAMI LAKES, FLORIDA 33014
Phone: (305) 374-8300
Fax: (305) 374-9004**

CHURCH BY THE SEA

1000 KANE CONCOURSE
BAY HARBOR ISLANDS, FLORIDA 33154

**FIGURE
4**

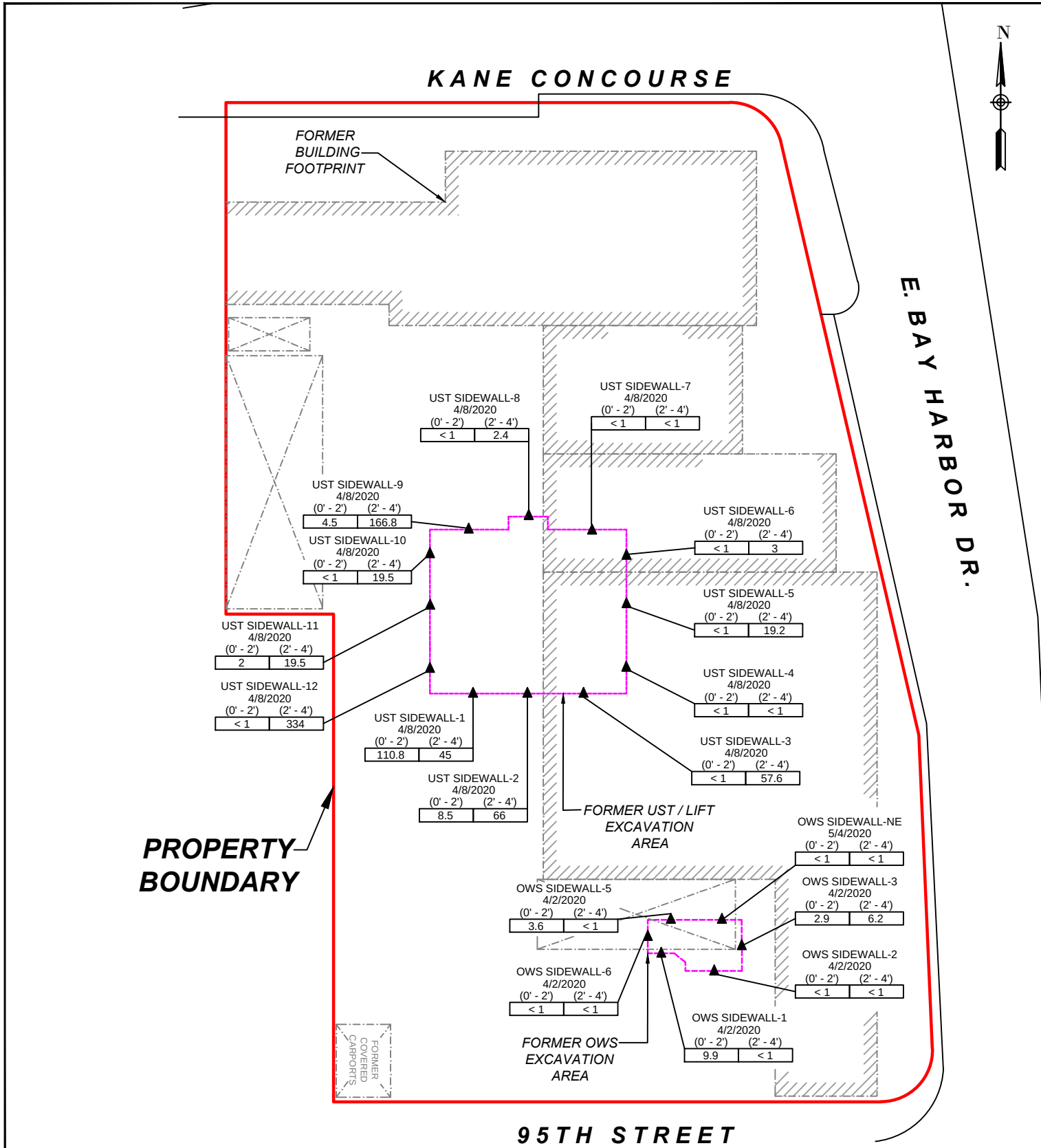
EXCAVATION MAP

SCALE: 1" = 50'

DRAWN BY: JL

PROJECT: 2020-3067

DATE: 2/21/2020



GALLAGHER BASSETT TECHNICAL SERVICES		CHURCH BY THE SEA 1000 KANE CONCOURSE BAY HARBOR ISLANDS, FLORIDA 33154	
5751 MIAMI LAKES DRIVE MIAMI LAKES, FLORIDA 33014 Phone: (305) 374-8300 Fax: (305) 374-9004		FIGURE 5	POST-EXCAVATION SOIL OVA / FID RESULTS MAP
SCALE: 1" = 40'		DRAWN BY: JL	
PROJECT: 2020-3067		DATE: 04/28/2020	

KANE CONCOURSE



FORMER
BUILDING
FOOTPRINT

E. BAY HARBOR DR.

SIDEWALL-E
4/21/2020
(0' - 2') (2' - 3')

9.9	15.5
2.3	0.79
5.9 U	20.4 U
< SCTL	< SCTL
< 0.1	< 0.1
< SCTL	< SCTL
< SCTL	< SCTL

SIDEWALL-D
4/21/2020
(0' - 2') (2' - 3')

8.4	10.2
4.4	2.5
301	6.7 U
< SCTL	< SCTL
< 0.1	< 0.1
< SCTL	< SCTL
< SCTL	< SCTL

SIDEWALL-F
4/21/2020
(0' - 2') (2' - 3')

14.9	5.6
1.8	0.73 I
21.5 U	13.2 U
< SCTL	< SCTL
< 0.1	< 0.1
< SCTL	< SCTL
< SCTL	< SCTL

UST-EAST SIDEWALL
4/21/2020 4/08/2020
(0' - 2') (2' - 3')

6.6	6.3
1.1	1.3
6.3 U	6.9 U
< SCTL	< SCTL
< 0.1	< 0.1
< SCTL	< SCTL
< SCTL	< SCTL

UST-SOUTHWEST
SIDEWALL
4/21/2020 4/08/2020
(0' - 2') (2' - 3')

6.2	15.2
0.75 I	1.4
120	8.5 U
< SCTL	< SCTL
< 0.1	< 0.1
< SCTL	< SCTL
< SCTL	< SCTL

FORMER
UST / LIFT
EXCAVATION
AREA

SIDEWALL-A
4/21/2020
(0' - 2') (2' - 3')

20.0	5.0
1.7	0.53 I
25.3 I	6.5 U
< SCTL	< SCTL
< 0.1	< 0.1
< SCTL	< SCTL
< SCTL	< SCTL

SIDEWALL-B
4/21/2020
(0' - 2') (2' - 3')

4.4	5.3
0.89	0.78
11.2 U	18.1 U
< SCTL	< SCTL
< 0.1	< 0.1
< SCTL	< SCTL
< SCTL	< SCTL

SIDEWALL-C
4/21/2020
(0' - 2') (2' - 3')

5.9	5.0
1.1	3.0
6.7 U	7.4 U
< SCTL	< SCTL
< 0.1	< 0.1
< SCTL	< SCTL
< SCTL	< SCTL

FORMER OWS
EXCAVATION
AREA

FORMER
COVERED
CARWASH

SIDEWALL-NE
4/8/2020 5/4/2020
(2' - 3') (2' - 3')

2.5	NT
41.8	NT
6.4 U	NT
0.33	NT
0.5	NT
< SCTL	< SCTL
< SCTL	NT

LEGEND:

- = AREA OF EXCAVATION
- ▲ = SIDEWALL SOIL SAMPLE
- BOLD** = ANALYTICAL RESULT EXCEEDED THE RESIDENTIAL SCTL
- BOLD** = ANALYTICAL RESULT EXCEEDED THE COMMERCIAL SCTL
- U = RESULTS BELOW THE LABORATORY METHOD DETECTION LIMITS
- I = THE REPORTED VALUE IS BETWEEN THE LABORATORY METHOD DETECTION LIMIT AND THE LABORATORY PRACTICAL QUANTITATION LIMIT
- *** = LEACHABILITY DETERMINED VIA SPLP ANALYSIS

	SCTL-R	SCTL-C	SCTL-L
ARSENIC	2.1	12	***
LEAD	400	1,400	***
TPH's	460	2,700	340
BaP	0.1	0.7	8
BaP-E	0.1	0.7	—
PAH's	VARIES PER CONSTITUENT		
VOC's	VARIES PER CONSTITUENT		



95TH STREET

**PROPERTY
BOUNDARY**

**GALLAGHER
BASSETT** | TECHNICAL SERVICES

**5751 MIAMI LAKES DRIVE
MIAMI LAKES, FLORIDA 33014**
Phone: (305) 374-8300
Fax: (305) 374-9004

CHURCH BY THE SEA
1000 KANE CONCOURSE
BAY HARBOR ISLANDS, FLORIDA 33154

**FIGURE
6**

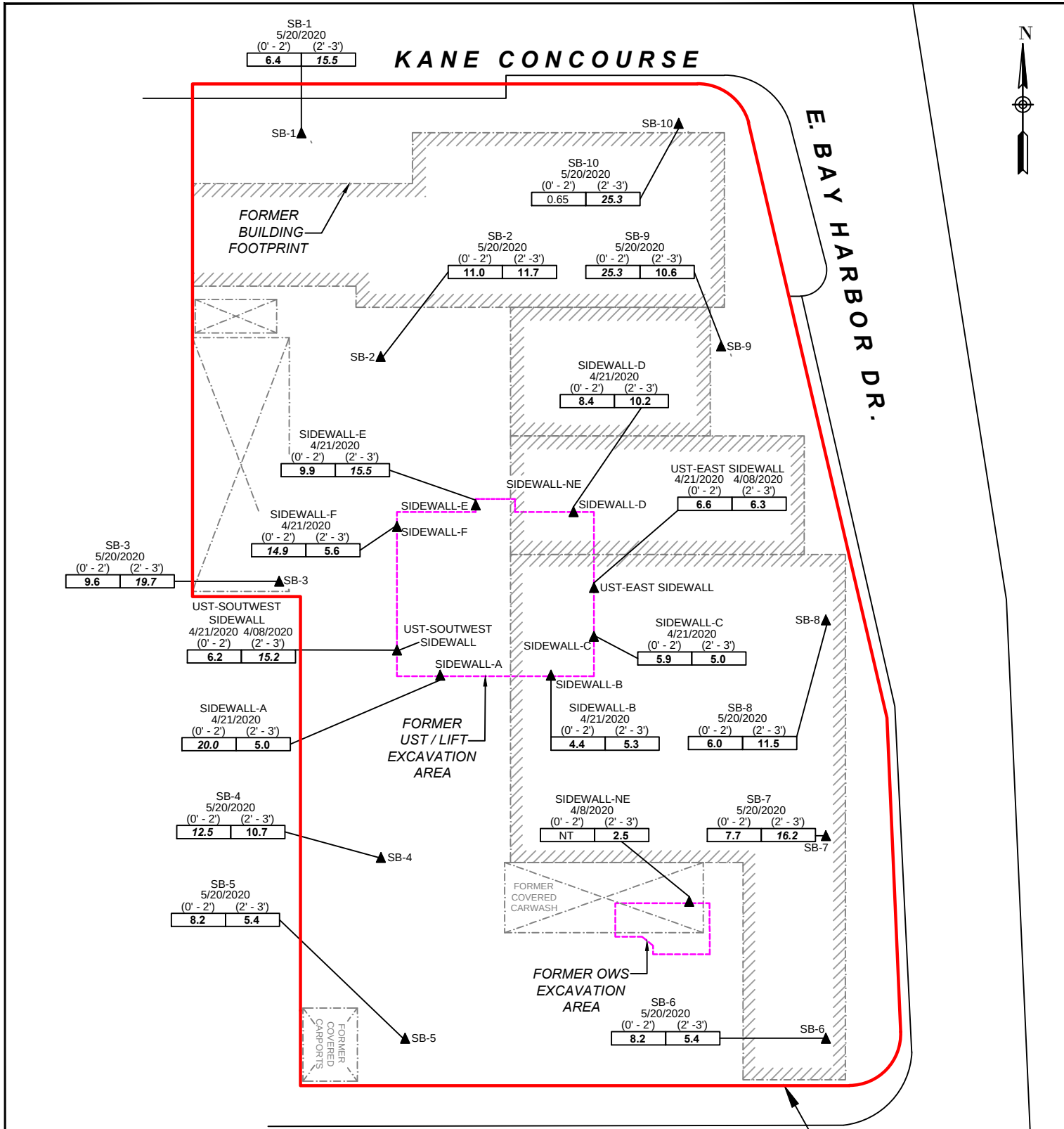
**POST EXCAVATION SIDEWALL
SOIL RESULTS MAP**

SCALE: 1" = 50'

DRAWN BY: JL

PROJECT: 2020-3067

DATE: 04/28/2020



LEGEND:

- = AREA OF EXCAVATION
- ▲ = SOIL SAMPLE
- BOLD** = ANALYTICAL RESULT EXCEEDED THE RESIDENTIAL SCTL
- BOLD** = ANALYTICAL RESULT EXCEEDED THE COMMERCIAL
- U = RESULTS BELOW THE LABORATORY METHOD DETECTION LIMITS
- I = THE REPORTED VALUE IS BETWEEN THE LABORATORY METHOD DETECTION LIMIT AND THE LABORATORY PRACTICAL QUANTITATION LIMIT
- *** = LEACHABILITY DETERMINED VIA SPLP ANALYSIS

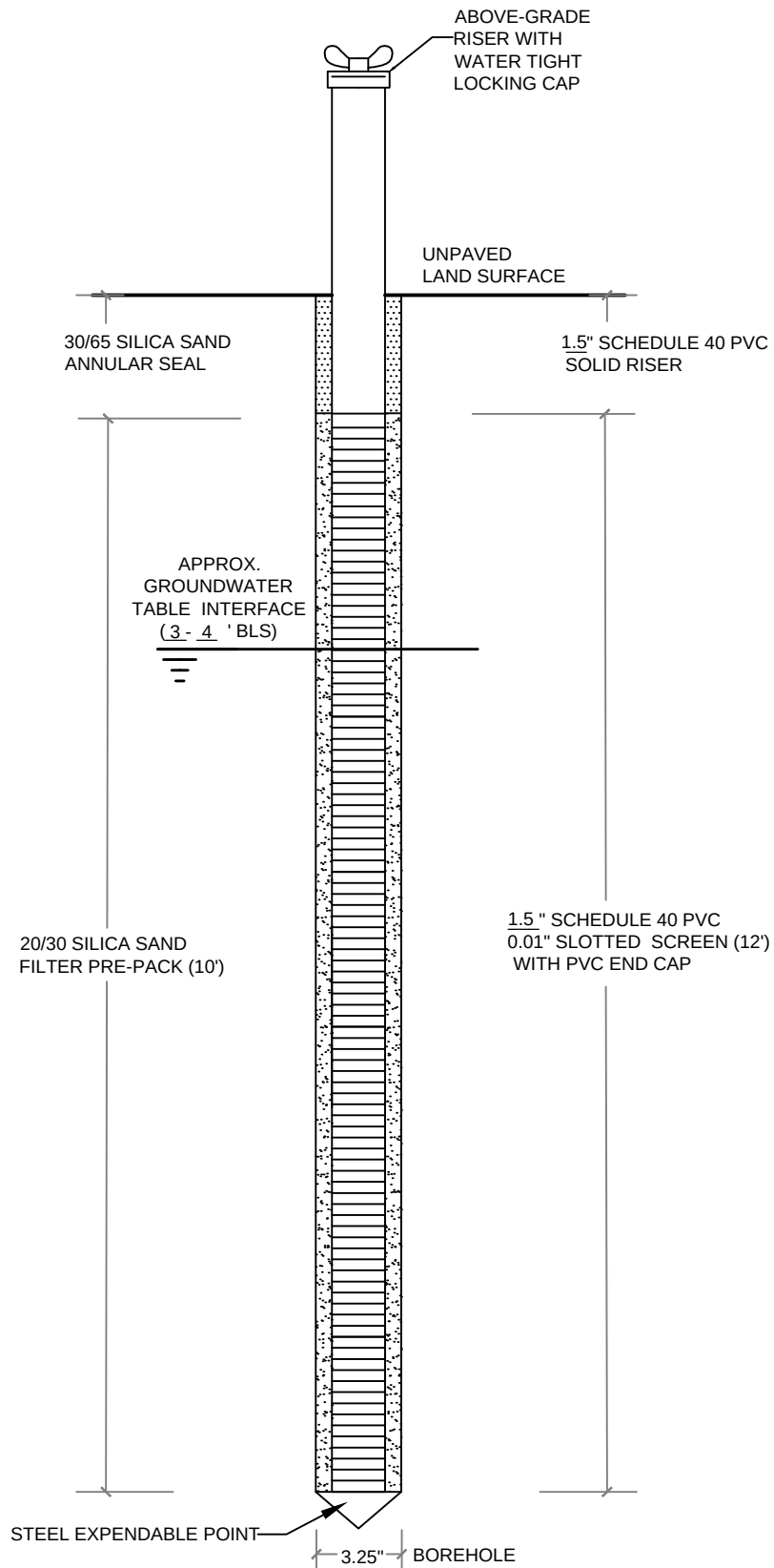
SCTL-R	SCTL-C	SCTL-L
ARSENIC	2.1	12



GALLAGHER | **TECHNICAL SERVICES**
BASSETT

5751 MIAMI LAKES DRIVE
MIAMI LAKES, FLORIDA 33014
Phone: (305) 374-8300
Fax: (305) 374-9004

CHURCH BY THE SEA 1000 KANE CONCOURSE BAY HARBOR ISLANDS, FLORIDA 33154		
FIGURE 7	SOIL RESULTS MAP (ARSENIC)	
SCALE:	1" = 40'	DRAWN BY: J.L.
PROJECT: 2020-3067	DATE: 5/28/2020	



**5751 MIAMI LAKES DRIVE
MIAMI LAKES, FLORIDA 33014**
Phone: (305) 374-8300
Fax: (305) 374-9004

CHURCH BY THE SEA

1000 KANE CONCOURSE
BAY HARBOR ISLANDS, FLORIDA 33154

FIGURE
8

SHALLOW MONITORING WELL
CONSTRUCTION DETAIL

SCALE:

NO SCALE

DRAWN BY: JL

PROJECT:

2020-3067

DATE:

6/19/2020

KANE CONCOURSE



FORMER
BUILDING
FOOTPRINT

E. BAY HARBOR DR.

95TH STREET

PROPERTY
BOUNDARY

LEGEND:

- = AREA OF EXCAVATION
- = MONITORING WELL
- = DPT GROUNDWATER SAMPLE
- BOLD** = ANALYTICAL RESULT EXCEEDED THE GCTL
- BOLD** = ANALYTICAL RESULT EXCEEDED THE NADSC
- U = RESULTS BELOW THE LABORATORY METHOD DETECTION LIMITS
- I = THE REPORTED VALUE IS BETWEEN THE LABORATORY METHOD DETECTION LIMIT AND THE LABORATORY PRACTICAL QUANTITATION LIMIT
- NT = RESULTS BELOW THE LABORATORY METHOD DETECTION LIMITS

	GCTL	NADSC
ARSENIC	10	100
LEAD	15	150
TPHS	5,000	50,000
PAHS	VARIES PER CONSTITUENT	
VOCS	VARIES PER CONSTITUENT	



**GALLAGHER
BASSETT** | TECHNICAL SERVICES

**5751 MIAMI LAKES DRIVE
MIAMI LAKES, FLORIDA 33014**
Phone: (305) 374-8300
Fax: (305) 374-9004

CHURCH BY THE SEA
1000 KANE CONCOURSE
BAY HARBOR ISLANDS, FLORIDA 33154

FIGURE
9

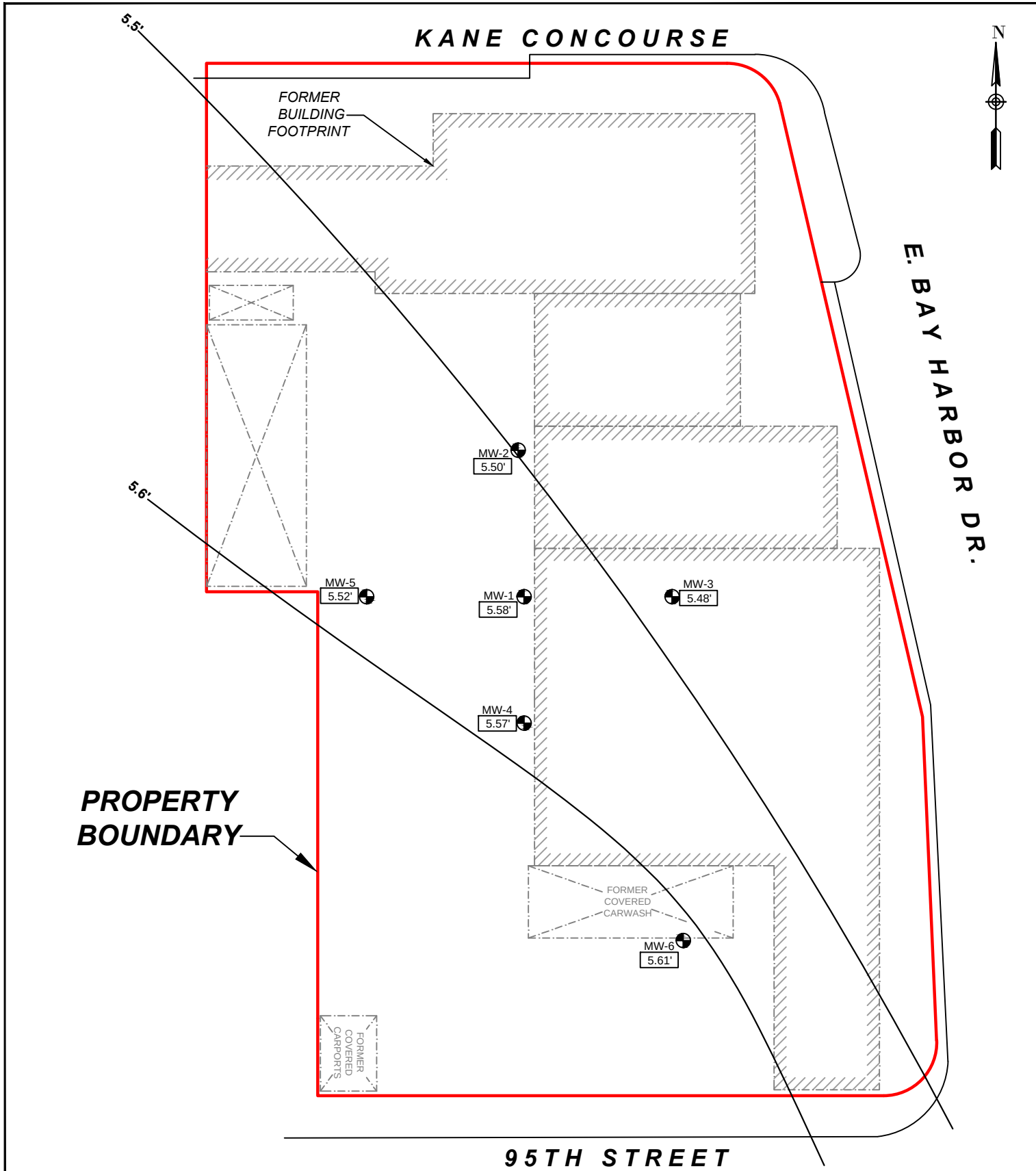
POST EXCAVATION
GROUNDWATER RESULTS MAP

SCALE: 1" = 50'

DRAWN BY: JL

PROJECT: 2020-3067

DATE: 04/28/2020



GALLAGHER BASSETT TECHNICAL SERVICES 5751 MIAMI LAKES DRIVE MIAMI LAKES, FLORIDA 33014 Phone: (305) 374-8300 Fax: (305) 374-9004		CHURCH BY THE SEA 1000 KANE CONCOURSE BAY HARBOR ISLANDS, FLORIDA 33154	
FIGURE 10		GROUNDWATER ELEVATION (LOW TIDE @ 6-10-20 / 8:23AM)	
SCALE: 1" = 40'		DRAWN BY: JL	
PROJECT: 2020-3067		DATE: 6/12/2020	



KANE CONCOURSE

FORMER
BUILDING
FOOTPRINT

E. BAY HARBOR DR.

6.5'

6.7'

**PROPERTY
BOUNDARY**

MW-2
6.73'

MW-5
6.53'

MW-1
6.60'

MW-3
6.69'

MW-4
6.68'

FORMER
COVERED
CARWASH

MW-6
6.45'

FORMER
COVERED
CARPORTS

95TH STREET

LEGEND:

● = MONITORING WELL



 **GALLAGHER
BASSETT** | TECHNICAL SERVICES

**5751 MIAMI LAKES DRIVE
MIAMI LAKES, FLORIDA 33014
Phone: (305) 374-8300
Fax: (305) 374-9004**

CHURCH BY THE SEA

1000 KANE CONCOURSE
BAY HARBOR ISLANDS, FLORIDA 33154

**FIGURE
11**

**GROUNDWATER ELEVATION
(HIGH TIDE @ 6-10-20 /14:09PM)**

SCALE: 1" = 40'

DRAWN BY: JL

PROJECT: 2020-3067

DATE: 6/12/2020

**TOWN OF BAY HARBOR ISLANDS
COMMUNITY DEVELOPMENT
MEMORANDUM**

To: Mayor and Town Councilmembers
Town of Bay Harbor Islands

CC: Maria Lasday – Town Manager
Marlene Siegel – Town Clerk

From: Michael J. Miller, AICP *MM*
Consultant Town Planner

Date: December 18th, 2020

Subject: Brownfield Area Designation Request
Church by the Sea (CBTS)
1000 Kane Concourse
Bay Harbor Islands Acct. No. MB2016-17
MMPA Acct. No. 01-0702-1032

RECOMMENDED ACTION

MMPA recommends the Town Council review our staff report explaining the request, and the documents submitted by The Goldstein Environmental Law Firm on behalf of Church-By-The-Sea (CBTS) requesting the Town to designate their redevelopment site as a "Brownfield Area", so that they can qualify under Chapter 376.80 Florida Statutes for certain regulatory and economic incentives under FDEP programs to assist in the expenses associated with the environmental cleanup of their sites due to the former Ocean Cadillac operations (fuel storage / oil changes / car wash / etc.). As we understand the program the Town simply designates the sites by Resolution, but the landowner is responsible for performing environmental studies / action plan for the cleanup and filing the request with the applicable governmental agencies to obtain permits and funding, if available. Any costs for advertising as required by Ch. 376.80 F.S. is to be covered by the applicant.

GENERAL PROJECT INFORMATION

Land Use Designation: C – Commercial

Zoning District: B-1 Business District

General Location: 1000 Kane Concourse

Legal Description: Tract "N" of "Nolan Brown", according to the Plat thereof, as recorded in Plat Book 56 Page 53, of the Public Records of Miami-Dade County, Florida.
And,
Lot 18 of Block 12, "Bay Harbor Island" Subdivision according to the Plat thereof, as recorded in Plat Book 46, at Page 5 of the Public Records of Miami-Dade County.

PROJECT DESCRIPTION

The project architect, Zyscovich Architects, as agent for the contract property owner at that time, the Church-by-the-Sea, Inc., submitted a Site Development Plan application to allow in early 2016 for the demolition of the former Ocean Cadillac automobile dealership facilities and the construction of a new 3-story mixed-use development project. The new complex will have commercial retail space at street level facing Kane Concourse with a religious establishment on the upper two (2) floors. The site is located at 1000 Kane Concourse.

The Ocean Cadillac automobile dealership operated on the site for decades. The dealership sold vehicles and serviced them as well, including general repairs and fluid changes (oil / other). A car wash facility was also on the site with underground reclaim tanks. Finally, four (4) underground fuel storage tanks (2 @ 2,000 gallons / 2 @ 1,000 gallons) were on the site. While proper permits were obtained for those facilities and periodic inspections, those facilities were installed underground in the saltwater environment of the Town. Environmental laws have changed greatly over the years as well as safe construction techniques and storage tank designs. Often at / near vehicle dealerships / public works complexes / gas stations / similar & other land uses that deal with vehicle maintenance & repairs or industrial manufacturing some leakage may occur from tank leakage or spills. While containment systems have been perfected over the years older installations may not be as good as newer installations.

On July 28th, 2016 the Town's Planning and Zoning Board (PZB) approved the initial Site Development Plan for the new CBTS complex (Res. No. 2098). As the construction plans were prepared certain revisions were requested. The PZB approved a series of minor plan revisions on May 21st, 2019 (Res. No. 2177). The construction plans were modified and an application for Building Permits was made on May 31st, 2020. After Town Bldg. Dept. / other agency reviews Building Permits were issued on June 29th, 2020. Over the summer / fall of 2020 the former Ocean Cadillac buildings and site improvements were demolished / removed from the site in anticipation of the new construction. During this activity the landowner discovered the true extent of the environmental cleanup impacts (more work / higher cleanup costs than expected). That work is now complete and new construction is underway (initially foundation / vertical to follow). Modern environmental permit programs include processes for extraordinary cleanup efforts. Florida statutes (and most other states) include the "Brownfield" programs. On the federal level there are programs for so-called "Superfund Cleanup Sites" for larger polluted sites.

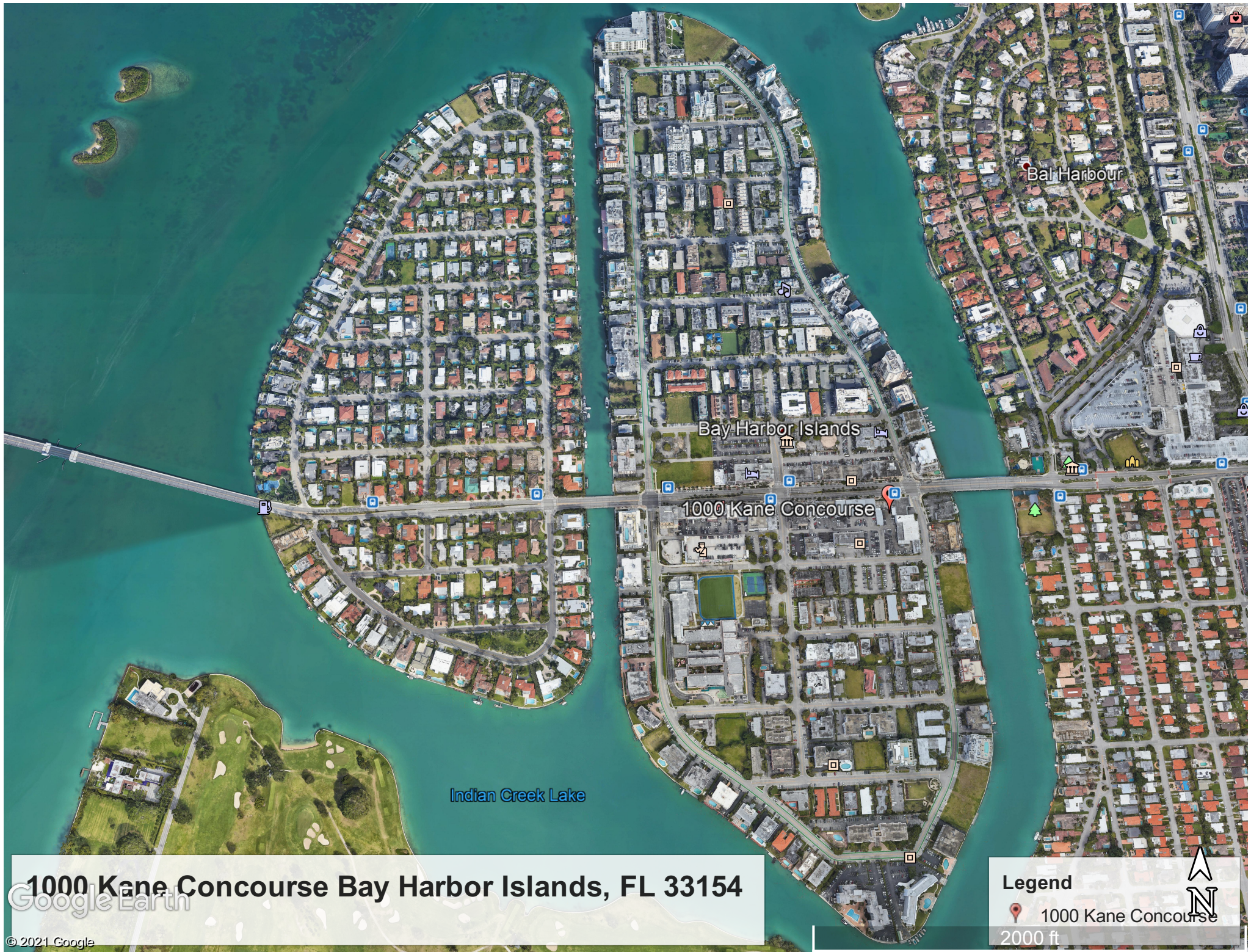
The Goldstein Environmental Law firm has submitted a letter explaining the site discovering issues and actions taken to date. There are requesting the Town to hold an advertised public meeting as required by Florida Statute and adopt a Resolution officially designating this site as a "Brownfield Area" which allows them to negotiate with applicable environmental permit agencies for regulatory and financial compensation (funds / tax relief / etc.). Attached to their letter are numerous exhibits with property ownership information, legal descriptions, engineering studies and a draft agreement in support of their request.

The Town will need to prepare / adopt a Resolution (applicant to provide a draft example) and advertise the matter as required by Florida Statute Ch. 376.80 prior to holding a public hearing. The cost of the advertisement must be paid by the applicant.

SUMMARY

On October 12th, 2020 the Town received an application submitted by The Goldstein Environmental Law Firm, on behalf of Church-By-The-Sea (CBTS), requesting the Town to designate their redevelopment site as a "Brownfield Area", so that they can qualify under Chapter 376.80(2)(c) Florida Statutes for certain regulatory and economic incentives under FDEP programs to assist in the expenses associated with the environmental cleanup of their sites due to the former Ocean Cadillac operations (fuel storage / oil changes / car wash / etc.). As we understand the program the Town simply designates the site by Resolution, but the landowner is responsible for performing environmental studies / action plan for the cleanup and filing the request with the applicable governmental agencies to obtain permits and funding, if available. Any costs for advertising as required by Ch. 376.80 F.S. is to be covered by the applicant.

Based on our review of the documents submitted, including the applicable provisions in Chapter 376.80 F.S., MMPA recommends the Town **APPROVE** a "Brownfield Area" designation for the collection CBTS properties. The site has now been fully cleaned up and the landowner is seeking to utilize the applicable environmental programs for regulatory and funding reimbursement due to the unexpected higher cost of required engineering studies and cleanup activities.



Google Earth

1000 Kane Concourse Bay Harbor Islands, FL 33154

© 2021 Google

Legend

 1000 Kane Concourse

2000 ft



1000 Kane Concourse

Write a description for your map.

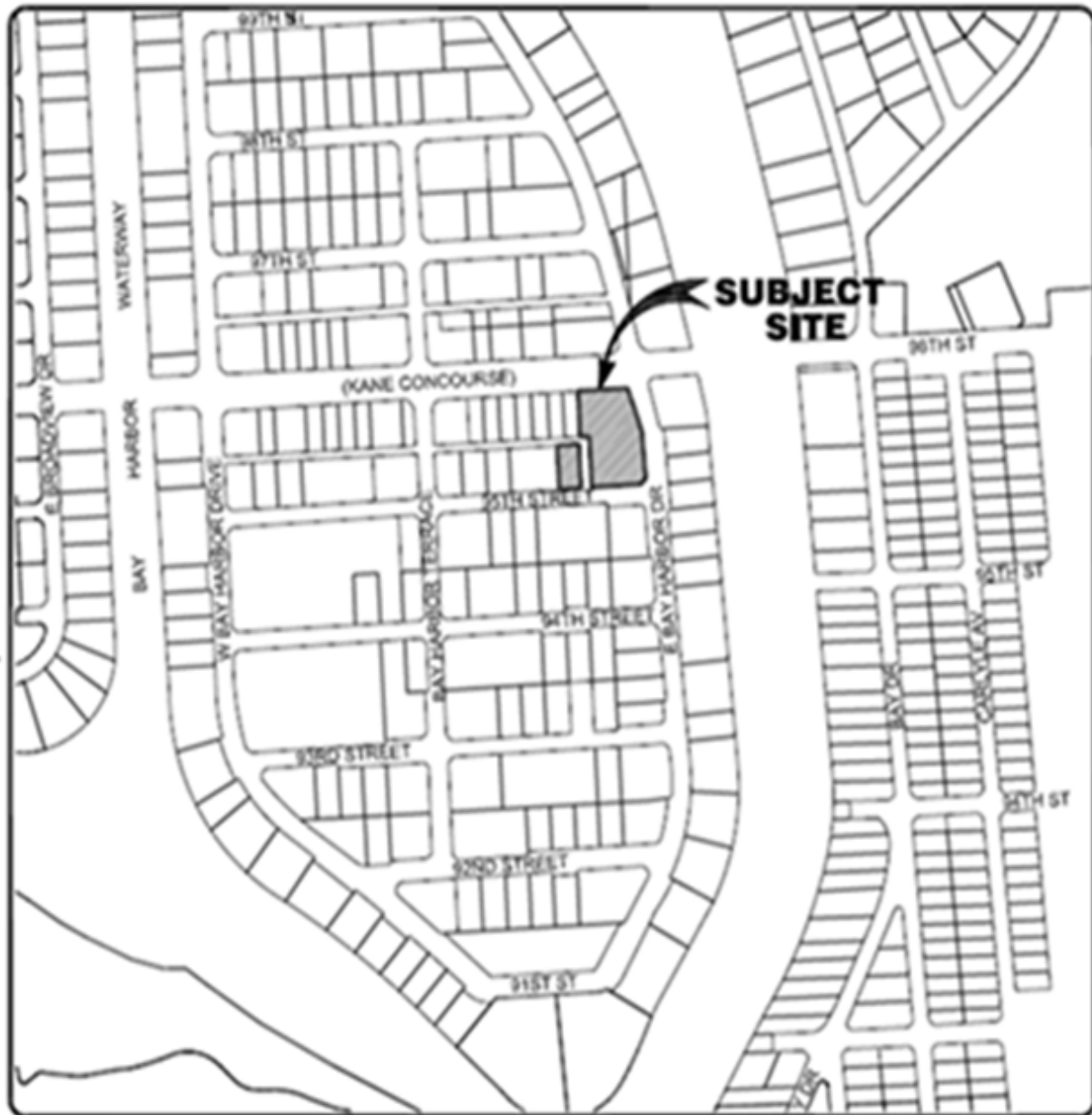


LOCATION MAP

Property Address: 1000 Kane Concourse

Folio Numbers: 13-2235-004-0010 and 13-2227-001-2470

**SECTION 34 • TOWNSHIP 52 SOUTH • RANGE 42 EAST
LYING IN BAY HARBOR ISLANDS, MIAMI-DADE COUNTY, FLORIDA**



LOCATION MAP
(NOT TO SCALE)

RESOLUTION NO. ____

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL
OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA;
PROVIDING FINDINGS; DESIGNATING A BROWNFIELD
AREA WITHIN THE TOWN FOR REAL PROPERTY
LOCATED AT 1000 KANE CONCOURSE, BAY HARBOR
ISLANDS, FLORIDA, AS DEPICTED ON EXHIBIT “A”
AND LEGALLY DESCRIBED ON EXHIBIT “B”, FOR THE
PURPOSES OF ENVIRONMENTAL REHABILITATION,
JOB CREATION, AND ECONOMIC DEVELOPMENT;
AUTHORIZING THE TOWN MANAGER TO IMPLEMENT
THIS RESOLUTION; PROVIDING FOR SEVERABILITY;
AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Legislature of the State of Florida, in Sections 376.77 - 376.85, *Florida Statutes*, adopted the Brownfields Redevelopment Act, the purpose of which is to encourage the redevelopment and the voluntary cleanup of real property where the expansion, redevelopment or reuse of such property may be complicated by actual or perceived environmental contamination; and

WHEREAS, the Brownfields Redevelopment Act created a process whereby a local government with jurisdiction over a brownfield area must notify the Florida Department of Environmental Protection and, if applicable, the local pollution control program of its decision to designate a brownfield area; and

WHEREAS, CBS Realty Holding, LLC (“CBS”), has requested that the Town Council of the Town of Bay Harbor Islands (the “Town”) designate as a brownfield area the parcels it owns located at 1000 Kane Concourse, Bay Harbor Islands, Florida, Folio Numbers 13-2235-004-0010 and 13-2227-001-2470 (the “Subject Property”) and that is depicted on Exhibit “A” and legally described on Exhibit “B” attached hereto (hereafter referred to as the “CBTS Green Reuse Area” that is incorporated herein by reference; and

WHEREAS, the Town has reviewed the relevant criteria that apply in designating a Brownfield Area as specified in Section 376.80(2)(c), Florida Statutes, and has determined and

finds that the Subject Property qualifies for designation as a Brownfield Area because the following requirements have been satisfied:

1. CBS owns the Subject Property which is proposed for designation and has agreed to rehabilitate and redevelop it;
2. The rehabilitation and redevelopment of the Subject Property will result in economic productivity in the area and will create at least five new permanent jobs at the Subject Property that are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area;
3. The redevelopment of the Subject Property is consistent with the Town's Comprehensive Plan and is a permissible use under the Town Code;
4. Proper notice of the proposed rehabilitation of the Subject Property has been provided to neighbors and nearby residents, and CBS has provided those receiving notice the opportunity to provide comments and suggestions regarding the rehabilitation; and
5. CBS has provided reasonable assurance that it has sufficient financial resources to implement and complete a rehabilitation agreement and redevelopment plan; and

WHEREAS, the Town desires to notify the Miami-Dade County Department of Regulatory and Economic Resources, Division of Environmental Resources Management and the Florida Department of Environmental Protection of its resolution designating the Subject Property a Brownfield Area to further its rehabilitation and redevelopment for purposes of Sections 376.77 – 376.86, Florida Statutes; and

WHEREAS, the applicable procedures set forth in Sections 376.80 and 166.041, Florida Statutes, have been followed and proper notice has been provided in accordance with Sections 376.80(1) and 166.041(3)(c)2, Florida Statutes.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above Recitals set forth above are hereby adopted, confirmed, and incorporated herein.

Section 2. Findings. The Town Council, based upon all testimony, staff report and other evidence presented and otherwise made part of the record, finds that the CBS has met all of the Brownfield Area designation criteria set forth at Section 376.80(2)(c), Florida Statutes.

Section 3. Designation of Brownfield Area. The Town Council hereby designates the property located at 1000 Kane Concourse, Bay Harbor Islands, Florida, Folio Numbers 13-2235-004-0010 and 13-2227-001-2470, as depicted on the map attached hereto on Exhibit “A” and legally described on Exhibit “B”, as a Brownfield Area to be called the “CBTS Green Reuse Area” for the purposes of Sections 376.77 – 376.84, Florida Statutes. Such designation shall not, however, render the Town liable for the cost of site rehabilitation or source removal, as those terms are defined in Section 376.79, Florida Statutes.

Section 4. Notification. The Town Manager or her designee is hereby authorized to notify the Florida Department of Environmental Protection and the Miami-Dade County Department of Regulatory and Economic Resources, Division of Environmental Resources Management of the designation of the Subject Property as a Brownfield Area for the purposes of Sections 376.77 – 376.84, Florida Statutes.

Section 5. Severability. If any section, sentence, clause, or other provision of this Resolution shall be held to be invalid or unconstitutional by a court of competent jurisdiction,

such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses or provisions of this Resolution

Section 5. **Effective Date.** This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED this ____ day of _____, 2021.

STEPHANIE BRUDER
MAYOR

ATTEST:

TOWN CLERK

EXHIBIT “A”

MAP OF PROPERTY

EXHIBIT “B”

LEGAL DESCRIPTION OF PROPERTY

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 1.

ITEM:

Approval of the following Meeting Minutes:

- a. September 14, 2020 - Public Hearing
- b. September 14, 2020 - Regular Council Meeting
- c. October 13, 2020 - Regular Council Meeting
- d. January 13, 2021 - Regular Council Meeting
- e. January 25, 2021 - Special Council Meeting

DESCRIPTION:

Enclosed please find the Draft Meeting Minutes for the following Meetings:

- a. September 14, 2020 - Public Hearing
- b. September 14, 2020 - Regular Council Meeting
- c. October 13, 2020 - Regular Council Meeting
- d. January 13, 2021 - Regular Council Meeting
- e. January 25, 2021 - Special Council Meeting

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk

ATTACHMENTS

- 1. September 14, 2020 - Public Hearing
- 2. September 14, 2020 - Regular Council Meeting
- 3. October 13, 2020 - Regular Council Meeting
- 4. January 13, 2021 - Regular Council Meeting
- 5. January 25, 2021 Special Council Meeting

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

A Virtual Public Hearing of the Town Council was held on Monday, September 14th, 2020 at 5:40 p.m. using video telephone communication through the zoom platform. Upon roll call the following members responded:

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

QUASI-JUDICIAL PUBLIC HEARING

Item 1. Discussion for the purpose of hearing any public comment with respect to an application for variance from Sections 23-12(6)(a)(v) and 23-12(8) of the Town Code in order construct a new "T-shaped" boat dock for property located at 9510 West Broadview Drive, Lot 75, Block 23, Bay Harbor Islands, Florida. The application for a variance is being requested by the property owners Richard & Helen Finvarb.

Item 2. Approval or Denial of a variance request for residence located at 9510 West Broadview Drive. As require by Section 2-22 of the Town Code, 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. If the request is granted, the decision of the Town Council shall be recorded in a resolution to be prepared by the office of the Town Attorney.

ACTION: Council Member Leonard made a motion to approve the proposed variance request for 9510 West Broadview Drive. Council Member Salver seconded the motion and it passed unanimously.

There being no further business to discuss meeting was adjourned at 5:45 p.m.

MAYOR

ATTEST

TOWN CLERK

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

A Virtual Meeting of the Town Council was held on Monday, September 14th, 2020 at 5:49 p.m. using video telephone communication through the zoom platform. Upon roll call the following members responded:

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

REQUESTS FOR WITHDRAWALS, DEFERMENTS AND FUTURE AGENDA ITEMS:

Council Member Leonard requested a future discussion item on the Town Clerk's selection process.

TOWN MANAGER'S REPORT:

- FPL wood poles previously located in front of the Trip Hotel were removed from West Bay Harbor Drive.
- Freebie, The Town of Surfside will be preparing a Request for Proposals for transportation services.
- Census, the Town had a 54.4% response rate so far, and will be sending several text blasts to obtain more feedback.

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

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

Kathleen Kennedy, 9180 W. Bay Harbor Drive, came forward and asked why the Police Department was requesting the purchase of another vehicle.

Frances Neuhut, 1060 Kane Concourse, came forward and asked why the Town Clerk re-scheduled the Town Elections this year; urged the Council to consider term limits, and the election of a Mayor.

At this time Item # 6 was pulled by Council Member Leonard for discussion.

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

Item 1. Approval of the following Meeting Minutes:

- a. January 7th, 2020 - Public Hearing**
- b. January 13, 2020 - Public Hearing**

Item 2. Consideration and Approval of a resolution requested by Council Member Yaffe urging Congress to re-authorize the National Flood Insurance Program.

Item 3. Consideration and Approval of a resolution requested by Council Member Yaffe urging Congress to pass legislation providing direct funding assistance to all cities to help mitigate expenditures of current and future losses as a result of the novel Corona Virus (COVID-19) pandemic.

Item 4. Consideration and Approval of a resolution adopting the current Miami-Dade County local mitigation strategy in accordance with the National Flood Insurance Program community rating system requirements.

Item 5. Consideration and Approval to piggy-back of the Florida Sheriff Association Contract to purchase a new 2021 Ford F-150 Crew Cab 4 X 4 high water vehicle in the amount of \$36,042.

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

Item 6. Approval of the annual contract with the health, life, disability, and dental insurance providers (NHP, UHC, Solstice & The Standard) in the amount of \$797,633.62 for the 2020 / 2021 fiscal year.

Council Member Leonard asked if there was a decrease on the employees' insurance providers. Staff responded there was a 6% decrease in the proposed rate.

ACTION: Council Member Leonard made a motion to approve the proposed annual contract for insurance providers. Council Member Tricoche seconded the motion and it passed by unanimous poll vote.

MAYOR

ATTEST

TOWN CLERK

TOWN OF BAY HARBOR ISLANDS
MINUTES OF A REGULAR COUNCIL MEETING

A Regular Meeting of the Town Council was held on Tuesday October 13th, 2020 at 5:00 p.m. through the ZOOM Platform. Upon roll call the following members responded:

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

REQUEST FOR WITHDRAWALS, DEFERMENTS AND FUTURE AGENDA ITEMS:

Vice Mayor Fuller pulled Item 6 from the Consent Agenda for discussion.

Council Member Reid asked the Council to think about ideas, for discussion at the next Council Meeting, to assist the Business District in distress due to COVID19.

Council Member Jordan pulled Item 7 from the Consent Agenda for discussion.

It was the consensus of the Council that Item 15 be deferred to the next Council Meeting for further review and discussion.

TOWN MANAGER'S REPORT

- The Broad Causeway project is still being worked on; a small design issue is being figured out.
- Special events are planned for Halloween with outdoor movie and passing out of treats, with people registering. Concerned with people gathering on the street with COVID19 and requested Council Members feedback about cancelling events.

Vice Mayor Fuller responded that the events were authorized by the Town Council; and he suggested the Town Manager determines which events are appropriate to be cancelled.

- Veterans Day virtual event.
- Church by The Sea requested closure of the sidewalk on 96th Street for two (2) months beginning November 1st and use of East Bay Harbor Drive on 95th Street. They offered to pay for a Crossing Guard at 95th and East Bay Harbor Drive.

Discussion ensued with some opposition to the street closure; a request for representatives from Church By The Sea to attend the next Council Meeting to provide a report to ensure work is being done as planned, such as having retail on the bottom floor; covering the portion of the sidewalk with scaffolding to allow people to walk under and still be safe, in accordance with OSHA regulations and to the satisfaction of the Building Department; obtaining an end date for the project, if an agreement is put together when the representatives report to the council; and making the project sustainable as they promised.

Town Manager Lasday mentioned the Planning & Zoning Board's request for Board meetings to be held at 6:00 P.M., and for them to be virtual rather than in-person meetings.

TOWN ATTORNEY'S REPORT

Item 1. Town Attorney's Request for Closed Meeting Pursuant to §286.011(8), Fla. Statutes to discuss Charge of Discrimination No. EEOC 510-2020-03421 filed with the Equal Employment Opportunity Commission and Settlement Offer Provided by Claimant in connection therewith.

Town Attorney Simone reported on his request for a close meeting pursuant to Florida Statutes, to discuss the charge of discrimination and the offer of settlement, in the referenced case.

Interim Town Clerk Chang announced a Shade Meeting for Monday, October 19, 2020 at 5:00 P.M.

Town Attorney Simone announced that the Shade Meeting will be attended by the attorneys on the matter and the Town Council.

ACTION:

Item.2 Discussion and possible action requested by Town Attorney Simone on whether the Town may continue to conduct meetings through the use of Communications Media Technology (CMT) during a State of Emergency after the Governor's Executive Order 2020-69, as extended is set to expire on November 1, 2020.

Town Attorney Simone spoke about the process for Council Meetings after the Governor's Executive Order ends on November 1st. He explained options for a hybrid system with four Council Members and the public, with the rest of the Council meeting virtually; or an alternative to have a completely virtual meeting. He requested direction from the Council on how to proceed to submit an ordinance or resolution for approval at their next meeting.

Discussion followed on the Council holding the November meeting on October 30th instead; skipping the December meeting thereby allowing the Council to wait until January to decide whether to try the hybrid or a completely remote meeting; adoption of a resolution or ordinance for the Council Meeting option, as well an ordinance that addresses meetings during State of Emergencies or when the Council is physically unavailable to be present; incorporating a hybrid system; support for the creation of related ordinance to be adopted at the next Council Meeting; opposition to all Council Members meeting in chambers; preference for a meeting option with the least contact; and suggestion for Council Meetings to be held at 7:00 P.M.

Town Attorney Simone cautioned the Council about not having meetings, citing the Town's Charter requirements for no less than 10 meetings per Fiscal Year.

It was the consensus of the Council to hold the Special Meeting on Wednesday, October 28th, 2020 at 6:00 P.M.

Council Member Yaffe advised the public to complete the Census Forms quickly, as the United States Supreme Court granted President Trump's motion to shut down the Census early.

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

Mayor Bruder reported that the After-School Program will be allowed to use the field and the basketball courts seven days per week, after school and on weekends. She noted that Ms. Choute, Community Activities Director, is working on implementing weekend programs; and the park will be opened this weekend.

Council Member Reid commended the Town Manager and staff for doing a good job; especially working under virtual circumstances.

Council Member Jordan informed the Commission of his intention to discuss an item concerning "Ride Sharing" at their next meeting, as it relates to the \$450,000 grant; and of his plans to speak at the next Miami-Dade County Commission Committee Meeting regarding the Town's regional transportation needs, to express support for a Brightline stop as close as possible to Broad Causeway.

There was consensus for Council Member Jordon to address the Miami-Dade County Commission, on behalf of the Town Council, in favor of a Brightline stop close to 123rd Street.

PUBLIC COMMENTS:

Frances Neuhut, 1060 Kane Concourse, spoke in opposition to the Bal Harbor Shops project.

Kathleen Kennedy, 9721 East Bay Harbor Drive, opposed holding a Halloween party for the kids; expressed thanks for removal of barrels from the bridge; and requested that the issue of clogged drains at Church by the Sea be addressed.

Former Mayor Linda Zilber, 1235 – 95th Street, reminded the Town Council that North Miami and Bay Harbor Islands agreed to having a Brightline stop at 125th Street; and during her time on the Miami-Dade County Trust Committee, residents and people who attended the transportation meetings were in favor of such a stop.

Item 3. Consideration and Approval of a request for appointments and re-appointment to the Planning & Zoning Board for the term 2020-2022.

Following the Council's vote on the matter, Wesley Kean, Oscar Sklar, and Jerome Gavcovich were re-appointed to the Planning & Zoning Board for a one-year term.

Janet Adler, Alan Bechik, Jed Frankel, and Steven Hurwitz were appointed to the Planning & Zoning Board for a two-year term.

STAFF RECOMMENDATION: Council Discretion

CONSENT AGENDA

Item 4. Consideration and Approval of the January 13th, 2020, Regular Council Meeting Minutes.

Item 5. Consideration and Approval of a resolution requested by Council Member Yaffe and co-sponsored by Council Member Leonard recognizing the growing problem of antisemitism in America and calling for the adoption of the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism as an important educational tool to address it.

Item 8. Consideration and approval of a renewal of a Mutual Aid Agreement with the Miami-Dade Schools Police and the Town of Bay Harbor Islands Police Department.

Item 10. Consideration and approval of a renewal of a Mutual Aid Agreement between the City of South Miami and the Town of Bay Harbor Islands Police Department.

Item 11. Consideration and approval of a renewal of a Mutual Aid Agreement between the City of Miami and the Town of Bay Harbor Islands.

Item 12. Consideration and Approval of a Memorandum of Understanding between the Town and the Dade County Police Benevolent Association to provide a one percent (1%) pay adjustment for sworn law enforcement officers for the performance of their duties substantially dedicated to mitigating or responding to COVID-19 public health emergency.

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

Item 6. Consideration and Approval of a resolution requested by Vice Mayor Fuller urging the Federal Aviation Administration (FAA) to modify flight patterns and altitudes imposed by Nextgen Air Transportation. Enclosed is a copy of the proposed resolution.

Vice Mayor Fuller explained the original plan for the Next Generation System where the landing patterns were removed from coming over Bay Harbor Islands; and a subsequent pattern going up the intercoastal and over Bay Harbor Islands after lobbying by Miami Beach, which is greatly affecting the citizens. He noted that other affected towns put forth Resolutions, but this council did not, as they felt it was completely successful with the landing patterns not affecting the Town, even though it was only partial, which is the reason for a Resolution now being requested.

Vice Mayor Fuller suggested the following changes to the proposed Resolution:

Second "WHEREAS", remove "oppose flight patterns over town" and insert "opposing flight patterns affecting the town."

Fourth "WHEREAS", remove comma after "day".

Seventh "WHEREAS" remove comma after "adopted".

First "WHEREAS" remove comma.

Council Member Salver spoke on the negative impact to the Town, due to the noise from the planes. He hoped Commissioner Salley Heyman's involvement would result in a change.

Mayor Bruder concurred; and stated that she had received numerous calls from residents about their peace being affected by the noise.

Vice Mayor Fuller requested an article regarding the FAA matter be included in the next Town newsletter.

ACTION:

Council Member Yaffe made a motion to approve the Resolution. Vice Mayor Fuller seconded the motion, and it passed unanimously.

Item 7. Consideration and Approval of a Memorandum of Understanding (MOU) between the Town and the School Board of Miami-Dade County for the School Based Law Enforcement Officer for the 2020/2021 School year.

Council Member Jordon reported that the MOU with the School Board, which has two (2) one-year extensions, is still in effect. And the original agreement called for approval of the extensions through email, rather than by another agreement.

Vice Mayor Fuller mentioned that one of the items was for SRO and mental health training, which was part of the agreement.

Council Member Tricoche suggested that staff find out if all the other cities received agreements; and to bring back the item to the Council, if there was an issue.

Council Member Salver agreed that a Resolution was not required, and for the Town Manager to send an email approving the one-year extension.

Council Member Reid asked if other schools in the feeder patterns were required to sign new agreements. She suggested that the Town Manager send an email approving the extension; and if it did not work, to bring the item back to the council.

Council Member Jordan expressed special thanks to Chief Lopez, of Miami-Dade County School Board, who was instrumental in getting the MOU approved.

ORDINANCES ON FIRST READING:

Item 13. Consideration and Approval of an ordinance on first reading to increase the monthly charge for water service to \$4.81 per one thousand gallons and to increase the minimum monthly service charges for each water meter to \$22.38.

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 \$4.81 PER ONE THOUSAND GALLONS AND TO INCREASE THE MINIMUM MONTHLY SERVICE CHARGES FOR EACH WATER METER TO \$22.38; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

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

Item 14. Consideration and Approval of an ordinance on first reading amending Section 20-9 of the Town Code increasing the monthly base and flow charges for sewer service.

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.

Council Member Trioche made a motion to approve the proposed ordinance on first reading. Council Member Reid seconded the motion, and it passed by a unanimous poll vote.

DEFERRED ITEMS: There were no deferred items.

TOWN MANAGERS REPORT:

~~**Item 15. Consideration and Approval of the Collective Bargaining Agreement between the Town and the Dade County Police Benevolent Association, Inc. (PBA).**~~

Item Number 15 was pulled from the agenda.

Item 16. Consideration and approval of contract award BHI-206 Remote Monitoring of Main Sanitary Lift Station (SCADA) to Champion Controls in the amount of \$151,441 for the design, implementation, and installation of the SCADA system.

ACTION: Council Member Reid made a motion to approve the contract Award BHI-206 for Remote of Monitoring Sanitary Lift Station (SCADA) to Champion Controls. Council Member Jordan seconded the motion, and it passed by a unanimous poll vote.

Item 17. Consideration and approval of Supplemental Agreement (SA) #1 for CEI services by KCI Technologies, Inc. for additional funding in the amount of \$33,480.00 to provide continuity to complete inspection of the work and close out all documentation necessary to certify BC-154: Broad Causeway Corridor Enhancements.

Council Member Yaffe suggested that the consultant for the project be held responsible for any cost, included in additional fees to be awarded to KCI, if one of the consultants had, in fact, measured something wrong and had to get new parts, so the system could fit into the space provided.

Council Member Tricoche concurred.

Mayor Bruder concurred.

Council Member Yaffe clarified that he was requesting a portion of the amount be reimbursed to the Town because of the consultant's error.

Town Attorney Simone responded that he would discuss the matter with the Town Manager and develop a strategy for reimbursement expenses the consultant's mistake has cost the town.

Council Member Trioche suggested obtaining reimbursement for police cost associated with the delay, as well.

ACTION: Council Member Yaffe made a motion to approve an amount up to \$33,4800.00 to allow flexibility to any claims the Town may have. Council Member Jordan seconded the motion, and it passed by unanimous poll vote.

Item 18. Consideration and Approval of a two-year extension of Contract BHI-183 for Landscape and Irrigation Maintenance with BrightView Landscape Services.

There was a lengthy discussion on opposition to a two-year contract due to substandard services; putting out a RFP for the services; affording the new Town Manager an opportunity to evaluate the company's services; termination provision in the contract that allows the services to be terminated anytime the Town was not comfortable with the services; suggestion of a six-month agreement alternative rather than a two-year extension; length of time of the contract; accepting the contract for one year with the understanding it will be reviewed after six months; allowing the Public Works Director to work with the company and let them know of the Town's unhappiness with their services; putting out an RFP in three to six months; and exercising the option of partnering with other companies, if the landscaping company didn't provide the required level of service.

Town Manager Lasday will provide an update to the Council in three (3) months.

ACTION: Mayor Bruder made a motion to accept the one-year contract with BrightView Landscape Services, subject to the Town Manager and the Town Council reviewing the matter within two to three months. Council Member Reid seconded the motion, and it passed unanimously.

DISCUSSION ITEMS:

Item 19. Discussion and possible action regarding the process to select and/or appoint a Town Attorney.

Discussion followed regarding the process for selection of a Town Attorney: not making a selection prior to next week's Shade Meeting; having the opportunity to decide on interviewing all of the firms or narrowing them down; narrowing the applications similar to the Town Manager's Selection Process; including the current Town Attorney in the list of firms to be interviewed; narrowing the firms and conducting interviews; possibly putting together a Blue Ribbon Panel to conduct interviews and provide nonbinding feedback to the Council, with each Council Member selecting a member (an attorney with either local knowledge or municipal background) similar to the process utilized by North Miami on their last search for a Town Attorney; conducting interviews now rather than waiting six months into the process; the Town currently using three of the seven firms; opposition to using outside people to conduct the interviews; holding a Special Council Meeting to conduct interviews; interviewing a representative from each firm that submitted resumes; inviting all applicants for interviews and making a decision at a Regular Meeting; and interviewing the individual from the firm who would represent the Town.

Mayor Bruder requested the Town Manager and the Town Clerk contact the applicants; facilitate the meetings for the Council; and provide the date once the Council has been polled on a meeting date.

PUBLIC COMMENT

Frances Neuhut, 1060 Kane Concourse, thanked the Council for delaying selection of a Town Attorney; requested that the public be provided with all information about the attorney who would be representing the Town; asked that attorneys' history with the Town be considered when choosing, as well as mentioning the one attorney who was involved in writing the Town's Charter and ordinance; and suggested correcting the stated amount that the Town paid to attorneys as she believed it was incorrect.

Kathleen Kennedy, 9180 West Bay Harbor Drive, recommended Representative Joseph Geller for town Attorney.

PUBLIC COMMENT CLOSED

Council Member Tricoche indicated that she would like to know if the applicants represented any other local communities that about the town.

Item 20. Discussion and possible action regarding the process to select and/or appoint a Town Clerk.

Mayor Bruder mentioned Town Clerk Marante's retirement in a couple months. Discussion took place about a selection process for the Town Clerk's position; opening the position to the public; possibly starting the selection process at the next Council Meeting; advertising through the Clerk's Association and the Florida League of Cities; posting the position to ensure the Council is doing due diligence as to whom the Town Clerk should be; filling the position internally without advertising the job opening; appropriateness of appointing a Town Clerk while the current Clerk was still working; the Council's discretion to fill the position from internally without advertising the job opening; requirement to put out an RFQ if the position were advertised to the public; not searching for a new Town Clerk for the sake of

stability of the Town, considering there is a brand new Town Manager and the ongoing search for a Town Attorney; support and recommendation for Alba Chang as Town Clerk, especially with her institutional knowledge of the Town, which is necessary in any organization; requirement to re-appointment the Town Clerk in six months; lack of transparency with the position, disagreement to comments on no transparency; and a motion to appoint Alba Chang as the Town Clerk by Council Member Reid.

Council Member Leonard stated for the record that he did not think Alba Chang was the right person for the job, even though she is a great employee. He asked the Council Members to at least open the position.

Interim Town Clerk Chang thanked the Council Members for their support; and spoke of transparency being at the forefront of the Town Clerk's Office. She stated that Council Member Jordan's comments might relate to her not always contacting the Council about Public Record Requests, which is not required by law. She invited Council Member Jordan to meet with her to discuss any issues he may have.

Town Attorney Simone reminded the Council that the item pertaining to selection of the Town Clerk was for discussion. He stated that the consensus is there for Alba Chang to be the Town Clerk, which can be done at the next meeting or at the meeting to be held in a few weeks.

The agenda item regarding the Town Clerk will be on the next agenda for possible action.

PUBLIC COMMENT

Former Linda Zilber, 1235 – 95th Street, stated that Alba Chang has been helpful, and hoped she will be the next clerk.

Kathleen Kennedy, highly recommended Alba Chang as the next Town Clerk. She asked that fancy tech words not be used when sending information to seniors.

Frances Neuhut, of 1060 Kane Concourse, recommended Alba Chang for the town Clerk.

PUBLIC COMMENT CLOSED

There being no further business to discuss meeting was adjourned at 6:58 p.m.

MAYOR

ATTEST

TOWN CLERK

DRAFT

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

A Regular Meeting of the Town Council was held on Wednesday, January 13th, 2020 at 7:00 p.m. through the ZOOM Platform. Upon roll call the following members responded:

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

SPECIAL PRESENTATION:

REQUESTS FOR WITHDRAWALS, DEFERMENTS AND FUTURE AGENDA ITEMS:

Vice Mayor Fuller pulled Items 6A & 6B from the Consent Agenda.

Council Member Yaffe requested an item on the next Council Agenda pertaining to license agreement with restaurants on Kane Concourse (outdoor seating).

Mayor Bruder pulled Item 7 from the Consent Agenda.

TOWN MANAGER'S REPORT:

Town Manager Lasday reported on the hiring of a new Deputy Town Clerk, a Finance Director, and a Police Chief; advertisement for a Human Resource Manager; and promotion of Jenice Rosado to Assistant Town Manager.

Manager Lasday further reported on a meeting held on Friday at the Community Center with the Children's Trust, which was arranged by Council Member Salver, to review possible programming ideas for the Town's youngest citizens.

TOWN ATTORNEY'S REPORT:

1. Report and possible action requested by Vice Mayor Fuller on the December 14th, 2020 filing in the 11th Circuit Court of Appeals for petition for review of Agency order. The order challenges the FAA's findings of no significant impact and records of decision concerning their order diverting flight patterns effecting the Town.

Vice Mayor Fuller requested the Town Council consideration and possible action to authorize the Town Manager to hire a lobbyist to represent the Town on the FAA issue.

Town Attorney Simone reported that the FAA changed the flight pattern, which impacts the Town; and a petition was filed appealing the FAA's decision. And Vice Mayor Fuller will address a matter regarding the hiring of a lobbyist.

Vice Mayor Fuller requested the hiring of a lobbyist on an emergency basis to address the flight pattern now, with a budget of up to \$75,000.

A lengthy discussion followed on the possibility of joining forces with other municipalities and having one lobbyist representation; the need for a professional federal lobbyist; Section 2-1.2 of the Town' Code allowing for consulting contracts without competitive bidding; suggestion to team up with Keystone Point; San Soucci, Surfside, and Bal Harbour against the flight patterns; Miami Beach did their own lobbying and pushed the matter during the middle of COVID19; working with North Miami; Bal Harbor's decision not to file in the 11th Circuit and fight the FAA; Surfside's decision to file; and lobbying efforts refused by Surfside and Indian Creek, who will reconsider once efforts are consolidated.

ACTION: Vice Mayor Fuller made a motion to approve up to \$75,000 to hire a lobbyist for the FAA matter. Council Member Leonard seconded the motion, and it passed unanimously.

2. Report requested by Council Member Leonard regarding the December 18, 2020 filing to join an amicus brief filed in the 11th Circuit Court of Appeals requesting a rehearing in the bank in Otto v. City of Boca Raton, which decision held that ordinances that ban conversion therapy are unenforceable.

Town Attorney Simone reported that he filed an Amicus Brief in the 11th Circuit Court of Appeals requesting a rehearing in Auto vs City of Boca Raton. The court decided that the ordinance banning Conversion Therapy is unenforceable. He noted that Council Member Leonard was instrumental in this matter.

Council Member Leonard made a motion in support of the item. Mayor Bruder seconded the motion, and it passed unanimously.

3. Report on the updated demand letter submitted by Mr. Barry Smith for request of funds that were previously held in escrow by Mr. Craig Sherman.

Town Council Simone explained that the lawsuit alleges that Craig Sherman defrauded Mr. Smith of \$4.1 Million; and Mr. Smith has a judgement against Craig Sherman and his law firm.

PUBLIC COMMENT

Kathleen Kennedy, of 9180 West Bay Harbor Drive, inquired about the \$4.1 Million matter.

PUBLIC COMMENT CLOSED

Town Attorney Simone clarified the matter stating that in March of last year, a Demand Letter was received from Barry Smith, who has a \$4.1 Million claim that Mr. Sherman held and distributed to the Town. A "Renew Demand Letter" for \$900,000 favors the Town, and he will be responding to the matter.

Mr. Simone requested that the Town Council selects a Town Attorney prior to the end of March.

TOWN CLERK'S REPORT:

4. Report on the Business District Coronavirus (COVID-19) Assessment.

Town Clerk Chang reported that a Business District Coronavirus Assessment was conducted at the direction of the Town Council, which resulted in notifications being sent out to all businesses via regular mail, through social media, and a text blast. There were 26 responses to the survey, and Questions #12 and #13 provided individual feedback from the people who participated in the survey.

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

Council Member Jordan stated his intention to revisit the Town's Ethics Ordinance at a future meeting to make some changes, similar to those that were proposed in 2014.

Council Member Tricoche thanked staff for their work putting together meetings. She announced the next "Meeting with Elizabeth" for January 27th at 7:00 P.M where Bay Harbor Islands will be the topic and will be attended by the Town Manager and the Police Chief.

Council Member Reid thanked staff for the great job with the successful Bay Harbor Testing Site; she hoped for vaccinations to be done locally; and expressed thanks to Commissioner Salley Heyman and County Mayor Daniella Levine Cava and staff. She also thanked the Town Manager; and requested that the selection of a Town Attorney be on the February agenda.

Council Member Salver thanked the Town Manager for the weekly reports to the Council. He reported on speaking with key administrative figures at the Children's Trust offering the Town as a site for programs, where there might be some possibilities. The Trust will send an exploratory group to see what assets are available, in anticipation of possibly launching a new program after school for the youngest residents.

Council Member Yaffe reported on the Miami-Dade County League of Cities adoption of a Resolution urging Governor DeSantis to expand the scope of vaccinations to include all teachers and other school-based personnel.

Vice Mayor Fuller congratulated the new Police Chief, the Finance Director, and welcomed other new staff members.

Mayor Bruder announced the opening of a new restaurant, Kinoko Restaurant at 1007 Kane Concourse; she spoke of upcoming programs at the Community Center; basketball, Jujitsu for kids 14-17 years old; mentoring programs for residents; yoga and Tai Chai in the park; as well as the concert series.

PUBLIC COMMENT:

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

Kathleen Kennedy, 9180 West Bay Drive, expressed appreciation to the Town doing something for the Community Center of Bay Harbor Islands.

Former Mayor Linda Zober, 1231 – 95th Street, welcomed the new staff, and suggested the Council do something in the parks and in the Community Center for handicapped children.

Staci Lauri, 9271 West Bay Harbor Drive, questioned the difference in obtaining permits for condominiums versus a regular home, particularly to pull a homeowner's permit from the Town's Building Department to change a door. She expressed concern to not receiving the information from the Building Department.

Town Attorney Simone explained that generally, in Condominium Associations doors and windows are usually common elements; and they require permission from the Condominium Association to make alterations.

Council Member Leonard advised Ms. Lauri to contact the Town Manager to resolve the issue with the Building Department.

Francis Neuhut, 1060 Kane Concourse commented on the Church by the Sea paying zero taxes.

Kathleen Kennedy, of 9180 West Bay Harbor Drive, thanked Vice Mayor Fuller for taking on the FAA matter, and she agreed to the Town hiring a lobbyist.

COMMITTEE REPORTS:

5. **Consideration and approval** of a request for appointment for the Parks & Recreation and the Sustainability & Resiliency Committees. Enclosed is a copy of the resumes of residents that seek appointment.

Following a vote by the Town Council, Town Clerk Chang announced appointment of members to the Sustainability & Resiliency Committee: Tamia Soto, Greg Sim, and Everton Diaz, Megan Blenet, Tamia Souto.

Lauren Raddick was appointed to the Parks & Recreation Committee.

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

6. **Approval** of the following Meeting Minutes:

- ~~a. February 18, 2020 - Regular Council Meeting~~
- ~~b. March 9, 2020 - Regular Council Meeting~~
- c. March 19, 2020 - Regular Council Meeting
- d. April 6, 2020 - Special Council Meeting
- e. April 22, 2020 - Special Council Meeting
- f. May 14, 2020 - Regular Council Meeting
- g. June 8, 2020 - Regular Council Meeting
- h. June 18, 2020 - Special Council Meeting
- i. June 22, 2020 - Special Council Meeting
- j. July 7, 2020 -Special Council Meeting

- 8. **Consideration and Approval** to carry-forward unexpended appropriations from the 2019-2020 budget year into the 2020-2021 fiscal year. Enclosed is a Memorandum provided by the Finance Director.
- 9. **Consideration** and **Approval** of an agreement between the Town and David Caserta Government Relations, Inc for consulting services related to government relations efforts at the State level. Enclosed is a copy of the proposed agreement.
- 10. **Consideration** and **Approval** of an Employment Agreement with the Chief of Police, Raul M. Diaz. Enclosed is a copy of the proposed agreement.
- 11. **Consideration** and **approval** of a renewal of a Mutual Aid Agreement with the Miami Dade County and the Town of Bay Harbor Islands Police Department. Enclosed is a copy of the proposed agreement.
- 12. **Consideration** and **Approval** of a contract with Off Duty Management (ODM) Inc. for the off-duty assignments software upgrade to the Bay Harbor Islands Police Department. Enclosed is a copy of the contract and other supporting documents.
- 13. **Consideration** and **Approval** of an Amendment to Toll System Maintenance Agreement between the Town and TransCore, LP for outstanding compensation in the amount of \$11,752.25 for labor and materials from November 2019 through October 2020. Enclosed is a copy of the proposed agreement.
- 14. **Approval** of a Memorandum of Understanding between the Miami Dade County School Board through the School Board Police Department and the Town of Bay Harbor Islands Police Department as it relates to the School Based Law Enforcement Officers (SBLEO). Enclosed is a copy of the agreement.

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

- 7. **Consideration** and **Approval** of the Regular Council Meeting dates for the 2021 calendar year. Enclosed is a copy of the proposed dates.

Council Member Tricoche made a motion to hold the Regular Council Meetings on Wednesdays at 7:00 P.M. Council Member Leonard seconded the motion, which passed unanimously.

PUBLIC COMMENT

Kathleen Kennedy, 9180 West Bay Harbor Drive, agreed that Council Meetings should be held on Wednesdays at 7:00 P.M.

Francis Neuhut, 1060 Kane Concourse, commented on her complaint to the Ethics Commission against the Council for not having the required 10 Council Meetings as per the Town's Charter; and on ethics as it relates to citizens not having the right to speak.

PUBLIC COMMENT CLOSED

Town Attorney Simone further reported on his attendance at a meeting with the Ethics Commission where complaints against the Town Council for failure to hold the requisite number of meetings during COVID19; against the Town Clerk and Interim Manager for failing to advise the Council; and against him for allegedly lying about the matter, were found to have no legal cause; and were dismissed.

Council Member Leonard stated for the record that any allegations made against him in the over 10 years he has served on the Town Council has never been sustained, because they did not rise to the level of substance for an investigation by the Ethics Commission.

ORDINANCES ON SECOND READING:

ORDINANCES ON FIRST READING

15. **Consideration and Approval** of an ordinance on first reading providing for local implementation of the mandatory year-round landscape irrigation conservation measures rule of the South Florida Water Management District. Enclosed is a copy of the proposed ordinance.

AN ORDINANCE OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA; PROVIDING FOR LOCAL IMPLEMENTATION OF THE MANDATORY YEAR-ROUND LANDSCAPE IRRIGATION CONSERVATION MEASURES RULE OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT (40E-24, F.A.C.); PROVIDING DEFINITIONS; PROVIDING FOR THE APPLICABILITY OF THE ORDINANCE; PROVIDING THE LANDSCAPE IRRIGATION SCHEDULE; PROVIDING EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULE; PROVIDING FOR A REQUIREMENT TO OPERATE TECHNOLOGY THAT INHIBITS OR INTERRUPTS AN IRRIGATION SYSTEM DURING PERIODS OF SUFFICIENT MOISTURE; PROVIDING FOR VARIANCES FROM THE SPECIFIC DAY OF THE WEEK LIMITATIONS; PROVIDING FOR ENFORCEMENT OF THE ORDINANCE; PROVIDING FOR PENALTIES FOR VIOLATION OF THE ORDINANCE; PROVIDING FOR CODIFICATION OF THE ORDINANCE; PROVIDING FOR THE REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

ACTION: Council Member Leonard made a motion to approve the Ordinance on first reading. Council Member Tricoche seconded the motion and it passed by a unanimous poll vote.

PUBLIC COMMENT:

Kathleen Kennedy, 9180 West Bay Harbor Drive, on behalf of the condominiums on the street thanked the Town Manager for the beautiful flowers.

PUBLIC COMMENTS CLOSED

DEFERRED ITEMS:

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

16. **Consideration and Approval** of the 2020-2021 Collective Bargaining Agreement between the Town and the Dade County Police Benevolent Association, Inc. (PBA). Enclosed is a copy of the Collective Bargaining Agreement.

Town Attorney Simone informed the Council that he and John Cunill did not have a chance to review the agreement when it was discussed; and has some potential revisions. He requested the Council not approve the agreement, allowing them to further discuss and negotiate a contract before it is approved by Council.

Michael Braverman, Special Counsel for the PBA, requested that the Council approve the agreement as the Town's collective bargaining went through negotiation session; the PBA met with the Acting Town Manager; spoke with John Cunill; and the PBA and then chief negotiator for the Town reached an agreement.

Council Member Leonard asked about the fiscal impact to the Town.

Mr. Cunill responded that it was a huge dollar amount, and there were some issues regarding policy.

Council Member Reid stated that the matter could have been accomplished talking to the Council, as she would have been prepared to vote in favor, and since it was ratified by the police officers 100%.

Town Attorney Simone advised the Council of his duty as the Town Attorney to represent an issue in the best interest of the Town.

Council Member Leonard encouraged the Town Manager to address a multi-year agreement.

PUBLIC COMMENT

Kathleen Kennedy, 9180 West Bay Harbor Drive, expressed support for the manager's recommendation for the police department.

PUBLIC COMMENT CLOSED

Council Member Reid stated that Interim Town Manager Siegel was authorized to work with the union; and they were aware of the one-year contract, rather than the three-year; which would be preferable for the Town and the union. She stated her agreement and was curious as to why the concerns were not brought to the Town Council before, since the contract was available at the October meeting.

Town Attorney Simone Stated that the contract was reviewed by Mr. Cunill as soon as it was presented to him. They had concerns that were brought to Mr. Braverman's attention and was told there would be no more negotiations. Since the contract had to come before the Town Council, he requested that it not be approved, so that he can continue to engage; as he wants an agreement that is fair to the officers, to the Town, and which offers long-term securities for all parties.

Council Member Reid made a motion to approve the 2020-2021 Collective Bargaining Agreement between the Town and the Dade County Police Benevolent Association, Inc. (PBA). Council Member Yaffe seconded the motion, and it failed by a 3-4 vote. The votes were as follow: Council Member Yaffe-No, Council Member Tricoche-No, Council Member-Salver-No, Council Member Reid-Yes, Council Member Leonard-Yes, Vice Mayor Fuller-No, and Mayor Bruder-Yes.

17. **Consideration and Approval** of a proposal provided by Lakes Engineering Inc. in the amount of \$60,013.00 for construction engineering and inspection services related to the repairs for the utility line support C-Channel on the Indian Creek Bridge. Enclosed is a copy of the proposal provided by Lakes Engineering.

ACTION: Mayor Bruder made a motion to approve the proposal to Lake Engineering, Inc. Council Member Yaffe seconded the motion and it passed by unanimous poll vote.

18. **Consideration and Approval** of a proposal provided by Lakes Engineering in the amount of \$27,540.00 for engineering and consulting services for the emergency repairs of a damaged Florida Power & Light (FPL) conduit and powerline located on the north side of the Intercoastal Waterway Bridge. Enclosed is a copy of the proposal and other supporting documents.

PUBLIC COMMENT

Kathleen Kennedy, 9180 West Bay Harbor Drive, urged the council to fix the bridge.

PUBLIC COMMENT CLOSED

ACTION: Council Member Leonard made a motion to approve the proposal to Lake Engineering, Inc. Mayor Bruder seconded the motion and it passed by a unanimous poll vote.

19. **Consideration and approval** of a proposal by Lakes Engineering Inc. in the amount of \$308,100 for engineering consulting services for the rehabilitation of the Intra Costal Waterway Bridge to address the repairs as provided in the inspection report provided by Marlin Engineering.

Discussion ensued regarding the high cost of the project; the Public Works Director contacting the company about reducing the cost; their response to consider the request and provide a response; and a suggestion for the Town to hire its own engineer with sufficient discipline to perform all the work.

It was the consensus of the Town Council that the Town Manager obtains other bids from engineering firms and bring the matter back to them in February.

20. **Consideration and approval** of a proposal from KCI Technologies Inc. in the amount of \$127,950 to develop a Town wide Storm Water Master Plan. Enclosed is a copy of the proposal and other supporting.

ACTION: Council Member Leonard made a motion to approve the proposal to KCI Technologies, Inc. Mayor Bruder seconded the motion and it passed by unanimous poll vote.

21. **Consideration and approval** of a proposal from Kimley-Horn Engineering in the amount of \$217,500.00 to provide professional services to design, permit and certify ±200 linear feet of a proposed 18" gravity sewer extension from Bay Harbor Terrace to the Town's existing lift station. This upgrade is mandatory to be in compliance with DERM standards to accept the 1177 Kane Concourse project's new sewer line. Enclosed is a copy of the proposal provided by Kimley-Horn Engineering.

Discussion took place about the amount for the project, which seemed very high. Public Works Director Armstrong mentioned that he had reached out to Kimley-Horn regarding the cost but had not received a response.

PUBLIC COMMENT

Former Mayor Linda Gilber, 1231 – 95th Street, spoke of the good work done by Kimley-Horn and approved of them doing the work.

PUBLIC COMMENT CLOSED

Council Member Leonard made a motion authorizing the Town Manager to negotiate a better price, up to \$217,500, using her professional judgement as to whether to move forward to accept the amount. If she is unable to obtain a satisfactory price, she will bring the matter back to the Council in February, contingent upon a response from Kimley-Horn. Council Member Tricoche seconded the motion and it passed by a unanimous poll vote.

The Town Manager will contact each Council member and provide an update on the results.

22. **Consideration and Approval** of a request from One Kane Concourse, LLC for extension of time to submit the Building Permit for project to be located at 9551 East Bay Harbor Drive. Enclosed is a copy of the request letter and other supporting documents.

ACTION: Council Member Yaffe made a motion to approve the request from One Kane Concourse, LLC. Council Member Salver seconded the motion and it passed by a unanimous vote.

DISCUSSION ITEMS:

23. **Discussion and possible action** regarding the installation of Automatic Vehicle Locating Service (AVLS/GPS) devices for all Town owned vehicles. Enclosed is a Memorandum provided by Lt. Johnson and other supporting documents.

ACTION: Council Member Salver made a motion to approve the installation of Automatic Vehicle Locating Service (AVLS/GPS). Council Member Tricoche seconded the motion.

There was discussion on the item being provided to the Council to see if they were amenable to the service; the amount exceeding the manager's spending authority, staff would formerly go out to bid and place the matter on the February agenda; contract necessary for one year; the legality of having a one-year contract; the need for the GPS service; and recommendation that the matter be put out to bid.

PUBLIC COMMENT:

Kathleen Kennedy, 9180 West Bay Harbor Drive, addressed the Council on the importance of having the GPS service, considering the recent vehicular burglary crime rate in the Town.

John Corral, 9660 West Bay Harbor Drive, spoke about the proposed technology being obsolete and recommended that GO Tab be looked at, as they are the industry leaders utilized by up to 70% of municipalities.

PUBLIC COMMENT CLOSED:

Town Manager Lasday stated that she had discussed the matter with IT and the Police Chief, and AT&T may be more compatible. She will obtain more information and bring the matter back to the Council.

MAYOR

ATTEST

TOWN CLERK

TOWN OF BAY HARBOR ISLANDS
MINUTES OF A SPECIAL COUNCIL MEETING

A Special Meeting of the Town Council was held on Monday, January 25th, 2021 at 6:00 p.m. through the ZOOM Platform. Upon roll call the following members responded:

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

Town Attorney Simone provided an update on the FAA matter, reporting that municipalities are now working together; and a telephone conference is scheduled in connection with all working together regarding the petitions. He stated that he will raise the issue if other municipalities would like to partake in the hiring of a lobbyist for concerted efforts at the meeting scheduled for this week or early next week, if that is the direction of the Town Council.

Vice Mayor Fuller reported that after speaking with elected officials from North Miami Beach, where a lot of follow up work was done, he expects them to be very supportive. There were also conversations with elected officials from Bal Harbor, who have not filed yet, but conversations are ongoing. Regarding the lobbyist that was authorized by the Town Council, a potential lobbyist was interviewed and could be engaged this week. The lobbyist will work only for Bay Harbor Islands, but in concert with whomever is hired by the other municipalities.

Council Member Reid inquired if the Town's current lobbyist, David Caserta, a FAA specialist, or a local lobbyist was being secured.

Vice Mayor Fuller explained that he has been coordinating the hiring of a lobbyist with David Caserta, whose lobbying is centered in the State of Florida; but a federal lobbyist who is more familiar with persons in Washington, DC will be hired. If Mr. Caserta cannot get somebody, the Town will go with whomever is decided upon separately.

Council Member Reid thanked Vice Mayor Fuller for taking the lead on the FAA matter.

Town Attorney Simone reported on a complaint received on the Trip Hotel regarding a "For Sale Sign" for a studio unit. After a telephone conference with Town Manager, himself, and Mr. Werneck; where it was discussed that the use is a 96-unit hotel and there is no variance from the PUD; they understood, agreed, and took the sign down; and will not put up another sign, unless the Town approves it. They have confirmed in writing that they will comply with the PUD in all respects.

1. **Consideration and Approval** of a Memorandum of Agreement between the Town and the State of Florida Department of Health, Miami Dade County Health Department to set forth guidance for the Town's designation as a Closed Point of Administration (POA) Vaccination Site and to implement an Immunization Plan. Enclosed is a copy of the proposed agreement.

PUBLIC COMMENT

Former Mayor Linda Zilber, 1231 – 95th Street, thought the matter of the vaccination site was a great idea, as she was concerned about senior.

PUBLIC COMMENT CLOSED

ACTION: Council Member Salver made a motion to approve the Memorandum of Agreement. Council Member Tricoche seconded the motion and it passed by a unanimous vote.

There being no further business to discuss meeting was adjourned at 7:10 p.m.

MAYOR

ATTEST

TOWN CLERK

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 2.

ITEM: Consideration and Approval of a resolution requested by Council Member Leonard recognizing and commending Hatzalah of Miami Dade County for providing outstanding public service within the Town and Miami Dade County via its volunteer response services. Enclosed is a copy of the proposed resolution.

DESCRIPTION:

The proposed resolution is sponsored by Council Member Leonard to recognize and commend Hatzalah of Miami Dade County which provides highly trained emergency medical services to residents of the Town and within Miami Dade County. Hatzalah volunteers are highly trained emergency medical technicians (the “EMT”) who are dedicated to providing EMT life support at the scene of injuries or illness, pending the arrival of ambulance or County Fire/Rescue personnel, and do so in a manner which is sensitive to the religious and cultural needs of our diverse communities.

Enclosed is a copy of the proposed resolution.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk
Jordan W. Leonard, Council Member

ATTACHMENTS

1. Resolution Recognizing and Commending Hatzalah of Miami-Dade County

RESOLUTION NO. _____

**A RESOLUTION OF THE TOWN COUNCIL OF THE
TOWN OF BAY HARBOR ISLANDS, FLORIDA,
RECOGNIZING AND COMMENDING HATZALAH OF
MIAMI-DADE COUNTY, INC., D/B/A HATZALAH OF
SOUTH FLORIDA, FOR PROVIDING OUTSTANDING
PUBLIC SERVICE WITHIN THE TOWN AND THE
MIAMI-DADE COUNTY COMMUNITY VIA ITS
VOLUNTEER RESPONSE SERVICES.**

WHEREAS, the Town of Bay Harbor Islands, and its Mayor and Town Council are deeply committed to promoting the health, safety, and welfare of the public; and has a history of accommodating and showing kindness to its visitors and residents, regardless of race, religion, or gender; and

WHEREAS, Hatzalah of Miami-Dade County, Inc., d/b/a Hatzalah of South Florida, (the “Hatzalah”) provides outstanding public service within the Town and within the Miami-Dade County community via its volunteer emergency response services; and

WHEREAS Hatzalah volunteers are highly trained emergency medical technicians (the “EMT”) who are dedicated to providing EMT life support at the scene of injuries or illness, pending the arrival of ambulance or County Fire/Rescue personnel, and do so in a manner which is sensitive to the religious and cultural needs of our diverse communities; and

WHEREAS, Hatzalah currently has 45 trained responders and 16 trained dispatchers, with all services, training, and operational costs entirely funded through private donations; and

WHEREAS the Mayor and Town Council would like to recognize and commend Hatzalah of South Florida for bringing an additional set of EMS specialists into our community.

NOW, THEREFORE, BE IT DULY RESOLVED, that the Mayor and Town Council of the Town of Bay Harbor Islands hereby recognize and commend Hatzalah of Miami-Dade County, Inc., d/b/a Hatzalah of South Florida, for providing outstanding public service within the Town and within the Miami-Dade County community via its volunteer emergency response services.

PASSED AND ADOPTED this 14th day of April 2021.

STEPHANIE BRUDER
MAYOR

ATTEST:

ALBA L. CHANG, CMC
TOWN CLERK

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 3.

ITEM: Consideration and approval to piggyback off a rental contract with United Rentals through Sourcewell in the amount of \$27,000 to provide on-site back-up Emergency generator for Town Hall electrical system in preparation of the upcoming Hurricane Season, pursuant to Section 2-1.2(6) of the Town Code. Enclosed is a copy of the contract and other supporting documents.

DESCRIPTION:

Every year, the Town must rent a backup generator to supplement, or replace, the existing and aging generator for backup emergency power throughout the upcoming Hurricane season. The 40-year-old plus existing generator cannot be depended upon to sustain backup power to the main sewer pumps and air compressors, and power the Police Department/EOC for extended periods, such as a hurricane. United Rentals, through Sourcewell, a cooperative buying consortium, provides the lowest cost rental of the size and type of generator the Town requires for continuous backup power. Attached is the Rental and Service Agreement from United Rentals, citing Sourcewell Agreement #06320-URI, with United Rentals and the Town's Sourcewell Membership #130356. Also attached is the Sourcewell Contract with United Rentals.

Sourcewell is a State of Minnesota local government agency and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities nation-wide. Participation is open to federal, state/province, and municipal governmental entities in the United States and Canada .

The rental is \$4,500.00/month, would begin on June 1, 2021, and end on November 30, 2021. Total cost in this fiscal year would be \$18,000.00, The total cost in next fiscal year would be \$9,000.00. Supporting documentation attached.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk
Maria Lasday, Town Manager

ATTACHMENTS

1. SOURCEWELL RENTAL QUOTE_191847053 FOR BACKUP GENERATOR FOR 2021

HURRICANE SEASON 23MAR21

2. SOURCEWELL RFP #062320 FOR UNITED RENTALS CONTRACT 06APR21



POWER & HVAC
BRANCH G18
3400 NW 15TH STREET
LAUDERHILL FL 33311
954-797-3867
954-797-3870 FAX



RENTAL QUOTE

191847053

Job Site | TOWN OF BAY HARBOR ISLANDS
9665 BAY HARBOR TER
BAY HARBOR IS FL 33154-2005
Office: 305-866-6241 Cell: 954-668-9220

Customer # : 1354606
Quote Date : 03/19/21
Estimated Out : 06/01/21 09:00 AM
Estimated In : 06/29/21 09:00 AM
UR Job Loc : 9665 BAY HARBOR TER,
UR Job # : 2
Customer Job ID:
P.O. # :
Ordered By : DOUGLAS ARMSTRONG
Written By : DAVID RYAN
Salesperson : DAVID RYAN

TOWN OF BAY HARBOR ISLANDS
9665 BAY HARBOR TER
BAY HARBOR ISLANDS FL 33154-2005

**This is not an invoice
Please do not pay from this document**

RENTAL ITEMS:							
Qty	Equipment	Description	Minimum	Day	Week	4 Week	Estimated Amt.
1	2403401	GENERATOR 500-599 KVA Sourcewell Membership Rental Agreement #062320-URI Town of Bay Harbor Islands Member # 130356	1,052.00	1,052.00	2,481.00	4,500.00	4,500.00
14	241/7662	CABLE 4/0 AWG 400 AMP 50' CAM					N/C
14	241/5970	CABLE TAIL 4/0 MCAM BARE END					N/C
14	241/5980	CABLE TAIL 4/0 FCAM BARE END					N/C
						Rental Subtotal:	4,500.00
						Agreement Subtotal:	4,500.00
						Estimated Total:	4,500.00

COMMENTS/NOTES:

CONTACT: DOUGLAS ARMSTRONG
CELL#: 954-668-9220

This proposal may be withdrawn if not accepted within 30 days. The above referenced Rental Protection Plan, environmental, and tax charges are estimates and are subject to change.

NOTICE: This is not a rental agreement. The rental of equipment and any items listed above is subject to availability and subject to the terms and conditions of the Rental and Service Agreement, which are available at <https://www.unitedrentals.com/legal/rental-service-terms-US> and which are incorporated herein by reference. A COPY OF THE RENTAL AND SERVICE AGREEMENT TERMS ARE AVAILABLE IN PAPER FORM UPON REQUEST.

Rent on contract with United Rentals & Sourcewell

Sourcewell 

Awarded Contract

Contract #062320-URI

Ordering Information

Contract Effective Date: 08/28/2020 – 08/27/2024

RFP# 062320

Contract Number: 062320-URI

Pricing Model: % off of list

Vendor Contract: Daniel Cunningham
Phone: 813-269-6567
Email: dcunning@ur.com

United Rentals
100 First Stamford Place, Suite 700
Stamford, CT 06902

Sourcewell Contracts Documents: "Contract" as used herein shall mean cumulative documentation consisting of this RFP, an entire Proposers response, and a fully executed "acceptance and award" pursuant to this RFP.
[Request for Proposal \(RFP\) Contract Forms](#)
[Contract](#)

Related Contract Documentation: [Proof of Publication](#)
[Proposal Opening Record Page](#)
[Proposal Evaluation](#)
[Evaluation Committee Comment & Review](#)

Summary of Contract Offerings:

Rental Equipment

[UnitedRentals.com/equipment](https://www.UnitedRentals.com/equipment)

United Rentals has 6 different equipment divisions to provide our customers with a full equipment offering including General Rental, Power & HVAC, Fluid Solutions, Tool Solutions, Trench Safety, and Reliable Onsite Services. Equipment Rental: For questions or to place an order govrents@ur.com

New & Used Equipment Sales

[UnitedRentals.com/used](https://www.UnitedRentals.com/used)

United Rentals sells quality equipment, sourced directly from top-tier manufacturers that have been maintained by the same experts who service our entire \$15 billion fleet. For more information on New Equipment Sales, please contact the Government Customer Care Team at 877-874-4468 or email: govrents@ur.com.

Customer Equipment Solutions

[UnitedRentals.com/services/equipment-maintenance/about](https://www.UnitedRentals.com/services/equipment-maintenance/about)

United Rental's dedicated workforce of manufacturer trained technicians will apply their expertise to maintaining and inspecting your equipment.

Sourcewell Contact: Kelly McAllister, Contract Administration Supervisor
Phone: 218-894-5468
Email: kelly.mcallister@sourcewell-mn.gov

202 12th Street NE, P.O. Box 219,
Staples, MN 56479
www.sourcewell-mn.gov



gsa.ur.com | 877-URI-4-GOV

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Rent on contract with United Rentals & Sourcewell

Sourcewell 

Awarded Contract

Contract # 062320-URI

What is Sourcewell?

Sourcewell serves as a municipal contracting agency for over 55,000 members throughout the nation with competitively awarded contract purchasing solutions through industry-leading vendors. Sourcewell membership is available to any agency of government, education (private or public) or non-profit agencies nationwide in the US and Canada at no cost, liability or obligation to the member. To become a member go to sourcewell-mn.gov

Benefits of our partnership with Sourcewell:

- National buying agency
- Volume based pricing
- 55,000 member agencies
- Reduced vendor protests
- No cost membership
- Streamline solicitations
- Save time and money
- Sourcewell is a government entity
- Competitively bid

United Rentals Government Solutions team offers in partnership with Sourcewell contract # 062320-URI:

- Dedicated Government Account Team
- 24/7 equipment service and emergency response
- OSHA compliant, complete knowledge of all local, state and federal regulatory safety issues
- Small Business Administration Partnerships: SDB, WBE, MBE, SDVOB, HUBZ and 8a
- Comprehensive knowledge of state, local, and federal regulations
- Experts on call for all your equipment rental needs: General Equipment, Tools Solutions, Power & HVAC, Trench Safety & Shoring, Sanitation Services and Fluid Solutions

Contract Options

- Rent Equipment
- Sell Used Equipment
- Sell New Equipment (Atlas Copco, Multiquip, Genie)
- Safety Training
- Service and Labor
- 3rd Party Rentals

Safety Training and Certification.

United Academy® is a comprehensive training solution designed to help you reduce the overall cost and complexity of safety training and credential tracking for your employees. With United Academy courses throughout the U.S. and Canada, you can:

- Take classes online 24/7
- Schedule training at one of our branches, or at your worksite
- Access blended learning operator certification courses: online theory and exam supported by live practical evaluations
- Select from a robust course catalog that includes OSHA 10/30, Operator Certification, Fall Protection, Trench & Evacuation Safety, and much more

For more information, visit: UnitedAcademy.ur.com

Sell New Equipment

For more information on new equipment sales, please contact the Government Customer Care Team at 877-874-4468 or email: govrents@ur.com



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**Solicitation Number: RFP #062320****CONTRACT**

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and United Rentals (North America) Inc., 100 First Stamford Place, Suite 700, Stamford, CT 06902 (Vendor).

Sourcewell is a State of Minnesota local government agency and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada.

Vendor desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

1. TERM OF CONTRACT

- A. **EFFECTIVE DATE.** This Contract is effective upon the date of the final signature below.
- B. **EXPIRATION DATE AND EXTENSION.** This Contract expires August 27, 2024 unless it is cancelled sooner pursuant to Article 24. This Contract may be extended up to one additional one-year period upon request of Sourcewell and with written agreement by Vendor.
- C. **SURVIVAL OF TERMS.** Articles 11 through 16 survive the expiration or cancellation of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

- A. **EQUIPMENT, PRODUCTS, OR SERVICES.** Vendor will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above. Vendor's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new/current model. Vendor may offer close-out or refurbished Equipment or Products if they are clearly indicated in

Vendor's product and pricing list. Unless agreed to by the Participating Entities in advance, Equipment or Products must be delivered as operational to the Participating Entity's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. WARRANTY.The following warranties apply:

For equipment rentals by a Participating Entity, Vendor warrants that upon delivery the equipment rented hereunder will be in good working condition. If the equipment is not in good working condition upon delivery, Vendor shall promptly repair or replace the equipment at its sole cost and expense. If the equipment requires repair or replacement during the rental period, Vendor will promptly repair or replace the equipment at its sole cost and expense; provided, however, if the repair or replacement is necessary due to Participating Entity's abuse, misuse, or neglect, then Participating Entity will be responsible for the cost of such repair or replacement. EXCEPT AS SET FORTH HEREIN VENDOR DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE RENTAL OF EQUIPMENT.

For equipment purchases by a Participating Entity, the only warranty provided with the equipment sold herein is the warranty provided by the original equipment manufacturer ("OEM"). Vendor will pass through all warranties, to the extent allowable, that the OEM provides. If a warranty claim is approved by the OEM and the OEM authorizes Vendor to repair or replace the equipment, Vendor will do so. ALL WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY EXCLUDED AND DISCLAIMED.

For services provided to a Participating Entity, Vendor warrants the services will be performed in a good and workmanlike manner. The duration of the warranty shall be 30 days after the service is completed. If during the 30-day warranty period the equipment requires additional service, because of defective original service or a defective replacement part(s), then Vendor will re-perform the defective service and/or replace the defective part at its sole cost and expense. If the equipment has been subject to abuse, misuse, or neglect, Vendor shall have no obligation to re-perform the service or replace any part(s). The only warranty on replacement parts provided with Vendor's service herein is the warranty provided by the original equipment manufacturer ("OEM"). Vendor will pass through all warranties, to the extent allowable, that the OEM provides. If a warranty claim on such replacement part is approved by the OEM and the OEM authorizes Vendor to repair or replace the part, Vendor will do so. EXCEPT AS SET FORTH HEREIN VENDOR DISCLAIMS ALL OTHER WARRANTIES EXPRESS OR IMPLIED WITH RESPECT TO REPLACEMENT PARTS AND SERVICE OF EQUIPMENT.

C. DEALERS, DISTRIBUTORS, AND/OR RESELLERS. Upon Contract execution, Vendor will make available to Sourcewell a means to validate or authenticate Vendor's authorized dealers, distributors, and/or resellers relative to the Equipment, Products, and Services related to this Contract. This list may be updated from time-to-time and is incorporated into this Contract by reference. It is the Vendor's responsibility to ensure Sourcewell receives the most current version of this list.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced as stated in Vendor's Proposal.

When providing pricing quotes to Participating Entities, all pricing quoted must reflect a Participating Entity's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Participating Entity's requested delivery location.

Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

A. SHIPPING AND SHIPPING COSTS. All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Vendor must permit the Equipment and Products to be returned within a reasonable time at no cost to Sourcewell or its Participating Entities. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery.

Vendor must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcewell may declare the Vendor in breach of this Contract if the Vendor intentionally delivers substandard or inferior Equipment or Products. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Vendor as soon as possible and the Vendor will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

B. SALES TAX. Each Participating Entity is responsible for supplying the Vendor with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

C. **HOT LIST PRICING.** At any time during this Contract, Vendor may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Vendor determines it will offer Hot List Pricing, it must be submitted electronically to Sourcewell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcewell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Participating Entities.

4. PRODUCT AND PRICING CHANGE REQUESTS

Vendor may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcewell Price and Product Change Request Form to the assigned Sourcewell Contract Administrator. This form is available from the assigned Sourcewell Contract Administrator. At a minimum, the request must:

- Identify the applicable Sourcewell contract number;
- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;
- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Request Form will become an amendment to this Contract and be incorporated by reference.

5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

A. **PARTICIPATION.** Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Participating Entities that can legally access the Equipment, Products, or Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service

Member of Sourcewell during such time of access. Vendor understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Equipment, Products, or Services from any other source.

Vendor is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential members to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Vendor's employees may be required to perform work at government-owned facilities, including schools. Vendor's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

6. PARTICIPATING ENTITY USE AND PURCHASING

A. ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Vendor that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Vendor. Typically, a Participating Entity will issue an order directly to Vendor. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell contract number. All Participating Entity orders under this Contract must be issued prior to expiration of this Contract; however, Vendor performance, Participating Entity payment, and any applicable warranty periods or other Vendor or Participating Entity obligations may extend beyond the term of this Contract.

Vendor's acceptable forms of payment are included in Attachment A. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

B. ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM. Additional terms and conditions to a purchase order may be negotiated between a Participating Entity and Vendor, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entities may require the use of a Participating Addendum; the terms of which will be worked out directly between the Participating Entity and the Vendor. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

C. PERFORMANCE BOND. If requested by a Participating Entity, Vendor will provide a performance bond that meets the requirements set forth in the Participating Entity's order.

D. **SPECIALIZED SERVICE REQUIREMENTS.** In the event that the Participating Entity requires service or specialized performance requirements (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements) not addressed in this Contract, the Participating Entity and the Vendor may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

E. **TERMINATION OF ORDERS.** Participating Entities may terminate an order, in whole or in part, immediately upon notice to Vendor in the event of any of the following events:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the goods to be purchased;
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements; or
3. Vendor commits any material breach of this Contract or the additional terms agreed to between the Vendor and a Participating Entity.

F. **GOVERNING LAW AND VENUE.** The governing law and venue for any action related to a Participating Entity's order will be determined by the Participating Entity making the purchase.

7. CUSTOMER SERVICE

A. **PRIMARY ACCOUNT REPRESENTATIVE.** Vendor will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcewell and Participating Entity inquiries; and
- Business reviews to Sourcewell and Participating Entities, if applicable.

B. **BUSINESS REVIEWS.** Vendor must perform a minimum of one business review with Sourcewell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, supply issues, customer issues, and any other necessary information.

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. **CONTRACT SALES ACTIVITY REPORT.** Each calendar quarter, Vendor must provide a contract sales activity report (Report) to the Sourcewell Contract Administrator assigned to this Contract. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Vendor must submit a report indicating no sales were made).

The Report must contain the following fields:

- Customer Name (e.g., City of Staples Highway Department);
- Customer Physical Street Address;
- Customer City;
- Customer State/Province;
- Customer Zip Code;
- Customer Contact Name;
- Customer Contact Email Address;
- Customer Contact Telephone Number;
- Sourcwell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcwell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Vendor.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcwell, the Vendor will pay an administrative fee to Sourcwell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Vendor may not charge Participating Entities more than the contracted price to offset the Administrative Fee.

The Vendor will submit a check payable to Sourcwell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Participating Entities under this Contract during each calendar quarter. Administrative fee will only be due and owing on invoices paid by the Participating Entity, and no administrative fee will be due if Vendor has not received payment from the Participating Entity. Payments should note the Sourcwell-assigned contract number in the memo and must be mailed to the address above "Attn: Accounts Receivable." Payments must be received no later than 45 calendar days after the end of each calendar quarter.

Vendor agrees to cooperate with Sourcwell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Vendor is delinquent in any undisputed administrative fees, Sourcwell reserves the right to cancel this Contract and reject any proposal submitted by the Vendor in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Vendor's Authorized Representative is the person named in the Vendor's Proposal. If Vendor's Authorized Representative changes at any time during this Contract, Vendor must promptly notify Sourcewell in writing.

10. ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. **ASSIGNMENT.** Neither the Vendor nor Sourcewell may assign or transfer any rights or obligations under this Contract without the prior consent of the parties and a fully executed assignment agreement. Such consent will not be unreasonably withheld.

B. **AMENDMENTS.** Any amendment to this Contract must be in writing and will not be effective until it has been fully executed by the parties.

C. **WAIVER.** If either party fails to enforce any provision of this Contract, that failure does not waive the provision or the right to enforce it.

D. **CONTRACT COMPLETE.** This Contract contains all negotiations and agreements between Sourcewell and Vendor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

E. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

11. LIABILITY

Vendor must indemnify, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees, arising out of the negligence or willful misconduct of Vendor during the performance of this Contract by the Vendor or its agents or employees. Vendor's liability for costs and expenses hereunder shall be limited to those that are reasonable and actual, including attorneys' fees. In no event will Vendor be liable for incidental, special or consequential damages.

12. AUDITS

Sourcewell reserves the right to review the books, records, documents, and accounting procedures and practices of the Vendor relevant to this Contract for a minimum of 6 years from

the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

13. GOVERNMENT DATA PRACTICES

Vendor and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell under this Contract and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Vendor under this Contract.

If the Vendor receives a request to release the data referred to in this article, the Vendor must immediately notify Sourcewell and Sourcewell will assist with how the Vendor should respond to the request.

14. INDEMNIFICATION

As applicable, Vendor agrees to indemnify and hold harmless Sourcewell and its Participating Entities against any and all suits, claims, judgments, and costs instituted or recovered against Sourcewell or Participating Entities by any person on account of the use of any Equipment or Products by Sourcewell or its Participating Entities supplied by Vendor in violation of applicable patent or copyright laws.

15. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. INTELLECTUAL PROPERTY

1. *Grant of License.* During the term of this Contract:
 - a. Sourcewell grants to Vendor a royalty-free, worldwide, non-exclusive right and license to use the Trademark(s) provided to Vendor by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Vendor.
 - b. Vendor grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Vendor's Trademarks in advertising and promotional materials for the purpose of marketing Vendor's relationship with Sourcewell.
2. *Limited Right of Sublicense.* The right and license granted herein includes a limited right of each party to grant sublicenses to its and their respective distributors, marketing representatives, and agents (collectively "Permitted Sublicensees") in advertising and promotional materials for the purpose of marketing the Parties' relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.
3. *Use; Quality Control.*

- a. Sourcewell must not alter Vendor's Trademarks from the form provided by Vendor and must comply with Vendor's removal requests as to specific uses of its trademarks or logos.
- b. Vendor must not alter Sourcewell's Trademarks from the form provided by Sourcewell and must comply with Sourcewell's removal requests as to specific uses of its trademarks or logos.
- c. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party's Trademarks only in good faith and in a dignified manner consistent with such party's use of the Trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.

4. *Termination.* Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party's name or logo (excepting Sourcewell's pre-printed catalog of vendors which may be used until the next printing). Vendor must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell's written directions.

B. **PUBLICITY.** Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

C. **MARKETING.** Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Materials should be sent to the Sourcewell Contract Administrator assigned to this Contract.

D. **ENDORSEMENT.** The Vendor must not claim that Sourcewell endorses its Equipment, Products, or Services.

16. GOVERNING LAW, JURISDICTION, AND VENUE

Minnesota law governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state court in Todd County or federal court in Fergus Falls, Minnesota.

17. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

18. SEVERABILITY

If any provision of this Contract is found to be illegal, unenforceable, or void then both Sourcewell and Vendor will be relieved of all obligations arising under such provisions. If the remainder of this Contract is capable of performance, it will not be affected by such declaration or finding and must be fully performed.

19. PERFORMANCE, DEFAULT, AND REMEDIES

A. **PERFORMANCE.** During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Vendor will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Vendor may escalate the resolution of the issue to a higher level of management. The Vendor will have 30 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending.* Notwithstanding the existence of a dispute, the Vendor must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Vendor fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed will be borne by the Vendor.

B. **DEFAULT AND REMEDIES.** Either of the following constitutes cause to declare this Contract, or any Participating Entity order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

Written notice of default and a reasonable opportunity to cure must be issued by the party claiming default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

20. INSURANCE

A. REQUIREMENTS. At its own expense, Vendor must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*

Workers' Compensation: As required by any applicable law or regulation.

Employer's Liability Insurance: must be provided in amounts not less than listed below:

Minimum limits:

\$500,000 each accident for bodily injury by accident

\$500,000 policy limit for bodily injury by disease

\$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Vendor will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.

Minimum Limits:

\$1,000,000 each occurrence Bodily Injury and Property Damage

\$1,000,000 Personal and Advertising Injury

\$2,000,000 aggregate for Products-Completed operations

\$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Vendor will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.

Minimum Limits:

\$1,000,000 each accident, combined single limit

4. *Umbrella Insurance.* During the term of this Contract, Vendor will maintain umbrella coverage over Workers' Compensation, Commercial General Liability, and Commercial Automobile.

Minimum Limits:

\$2,000,000

5. *Professional/Technical, Errors and Omissions, and/or Miscellaneous Professional Liability.* During the term of this Contract, Vendor will maintain coverage for all claims the Vendor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Vendor's professional services required under this Contract.

Minimum Limits:

\$2,000,000 per claim or event

\$2,000,000 – annual aggregate

6. *Network Security and Privacy Liability Insurance.* During the term of this Contract, Vendor will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Vendor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:

\$2,000,000 per occurrence

\$2,000,000 annual aggregate

Failure of Vendor to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Vendor must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Contract Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf. All policies must include there will be no cancellation, suspension, non-renewal, or reduction of coverage without 30 days' prior written notice to the Vendor.

Failure to request certificates of insurance by Sourcewell, or failure of Vendor to provide certificates of insurance, in no way limits or relieves Vendor of its duties and responsibilities in this Contract.

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Vendor agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Vendor's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Vendor, and products and completed operations of Vendor. The policy provision(s) or endorsement(s) must further provide that coverage is

primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. **WAIVER OF SUBROGATION.** Vendor waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Vendor or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Vendor or its subcontractors. Where permitted by law, Vendor must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. **UMBRELLA/EXCESS LIABILITY.** The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies).

F. **SELF-INSURED RETENTIONS.** Any self-insured retention in excess of \$10,000 is subject to Sourcewell's approval.

21. COMPLIANCE

A. **LAWS AND REGULATIONS.** All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. **LICENSES.** Vendor must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Vendor conducts with Sourcewell and Participating Entities.

22. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Vendor certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Vendor declares bankruptcy, Vendor must immediately notify Sourcewell in writing.

Vendor certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Vendor further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

23. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may also require additional requirements based on specific funding specifications. Within this Article, all references to “federal” should be interpreted to mean the United States federal government. The following list only applies when a Participating Entity accesses Vendor’s Equipment, Products, or Services with United States federal funds.

A. **EQUAL EMPLOYMENT OPPORTUNITY.** Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 C.F.R. § 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” The equal opportunity clause is incorporated herein by reference.

B. **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148).** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Vendor must be in compliance with all applicable Davis-Bacon Act provisions.

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of \$150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Vendor certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. § 180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names

of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Vendors must file any required certifications. Vendors must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Vendors must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Vendors must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Vendor must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Vendor further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Vendor must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Vendor must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Vendor agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Vendor that are directly pertinent to Vendor's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents.

L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation

and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

24. CANCELLATION

Sourcwell or Vendor may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcwell may cancel this Contract immediately upon discovery of a material defect in any certification made in Vendor's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

Sourcewell

DocuSigned by:

By: Jeremy Schwartz
C0FD2A139D06489...

Jeremy Schwartz

Title: Director of Operations &
Procurement/CPO

Date: 8/24/2020 | 10:18 AM CDT

United Rentals (North America) Inc.

DocuSigned by:

By: Craig Schmidt
55590D1F4D8A494...

Craig A. Schmidt

Title: Vice President National Accounts

Date: 8/28/2020 | 5:15 PM CDT

Approved:

DocuSigned by:

By: Chad Coauette
7E42B8F817A64CC...

Chad Coauette

Title: Executive Director/CEO

Date: 8/28/2020 | 5:16 PM CDT

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 4.

ITEM: Consideration and Approval to piggyback off the Miami Parking Authority contract with Pay-by-Phone for the wireless application and payment processing for all metered parking and other parking facilities owned by the Town, pursuant to Section 2-1.2(6) of the Town Code. Enclosed is a copy of the agreement with Miami Parking Authority and other supporting documents.

DESCRIPTION:

The proposed agreement between the Town and Pay-by-Phone is for the wireless application and payment processing for the metered parking within the Town parking facilities. The Town will piggyback of the Miami Parking Authority contract terms and conditions submitted in response to a Request for Proposal submitted by Pay-by-Phone.

The term of this Agreement commences upon full execution hereof and continues until November 30, 2025. Upon the expiration of the initial term of this Agreement, the Town shall have the option to extend this Agreement for two additional consecutive one-year renewal terms provided all terms, conditions and specifications remain the same and both parties agree to the extension.

Enclosed is a copy of the proposed agreement and other supporting documents.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

The Town pays Pay By Phone \$0.27 per transaction and charges drivers a convenience fee of \$0.27 in accordance with Option 3 of Appendix A of the MPA Contract.

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk
Jenice Rosado, Assistant Town Manager
Maria Lasday, Town Manager

ATTACHMENTS

1. PBP_Town of Bay Harbor Islands_Agreement_20210402
2. MPA-PayByPhone Agreement 2014 - FULLY EXECUTED
3. MPA & PBP Technologies - Amendment #2 - FULLY EXECUTED

AGREEMENT FOR PAY BY PHONE SERVICES

This Agreement is entered into as of April 2, 2021 between the Town of Bay Harbor Islands a municipal corporation, organized and existing under the laws of the State of Florida, whose address is 9665 Bay Harbor Terrace, Bay Harbor Islands, Florida 33154 (the “Town”) and PayByPhone Technologies, Inc., a British Columbia corporation authorized to do business in Florida with its principal place of business located at #403-1168 Hamilton Street, Vancouver, British Columbia, Canada (“PayByPhone”).

WITNESSETH

WHEREAS, the Town wishes to enter into this Agreement (the “Agreement”) with PayByPhone for payment by phone services; and **WHEREAS**, the parties wish to incorporate the terms and conditions of the Miami Parking Authority’s Request for Proposals for Pay By Phone Services RFP No. 14-06 (the “RFP”) and the Cooperation and Service Agreement dated November 30, 2014, as amended December 1, 2017 and December 20, 2019 (collectively, the “MPA Contract”) between the City of Miami Department of Off-Street Parking a/k/a Miami Parking Authority, an agency and instrumentality of the City of Miami, and PayByPhone into this Agreement; and

WHEREAS, the Town Purchasing Manual provides authority for the Town to select and contract through the use of the competitive selection process of another government entity as an exception to the Town’s otherwise required competitive selection process.

NOW THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

Section 1 TERM

The term of this Agreement commences upon full execution hereof and continues until November 30, 2025. Upon the expiration of the initial term of this Agreement, the Town shall have the option to extend this Agreement for two additional consecutive one-year renewal terms provided all terms, conditions and specifications remain the same and both parties agree to the extension.

Section 2 CONTRACT TERMS

PayByPhone agrees to provide the PayByPhone mobile payment service on the same terms and in the same manner as set forth in the MPA Contract, attached as Exhibit “A”, except as otherwise provided herein. All recitals, representations, and warranties of PayByPhone made by PayByPhone in the MPA Contract or in response to the RFP are restated as if set forth fully herein, made for the benefit of the Town, and incorporated herein, except that all references to the “MPA”, “Miami Parking Authority”, or “City of Miami” are hereby replaced with the “Town”, including the requirement to be named as additional insured on the required liability policies.

Section 3 PRICING AND PAYMENT

The Town pays PayByPhone \$0.27 per transaction and charges drivers a convenience fee of \$0.27 in accordance with Option 3 of Appendix A of the MPA Contract. The convenience fee may only be increased by mutual agreement of both parties.

Section 4 ASSIGNMENT

Neither party may assign its rights or obligations under this Agreement without the consent of the other.

Section 5 NOTICE

Notwithstanding Section 10.9 of the MPA Contract, notice hereunder shall be provided in writing by certified mail return receipt requested, or customarily used overnight transmission with proof of delivery, to the following parties, with mandatory copies, as provided below:

For Town: Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154

For PayByPhone: PayByPhone Technologies Inc.
#403 - 1168 Hamilton Street
Vancouver, British Columbia,
Canada

Section 6 SEVERABILITY

If any provision of this Agreement or the application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

Section 7 ENTIRE AGREEMENT

This Agreement, including the MPA Contract, the RFP and PayByPhone's response to the RFP, sets forth the entire agreement between PayByPhone and Town with respect to the subject matter of this Agreement. This Agreement supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, between the parties. This Agreement may not be modified except by the parties' mutual agreement set forth in writing and signed by the parties.

Section 8 MODIFICATION

This Agreement modifies the following sections of the MPA Contract as follows:

SECTION 4.1 SIGNAGE

The second paragraph of the section is deleted in its entirety.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

TOWN OF BAY HARBOR ISLANDS

PAYBYPHONE TECHNOLOGIES INC.

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT “A”
CONTRACT
BETWEEN
MIAMI PARKING AUTHORITY
AND
PAYBYPHONE TECHNOLOGIES INC.
FOR PAYBYPHONE MOBILE PAYMENT SERVICE



COOPERATION AND SERVICE AGREEMENT

This Cooperation and Service Agreement (the "Agreement") is entered into as of November 30th, 2014 between PayByPhone Technologies Inc., a developer of enhanced mobile commerce solutions, a British Columbia corporation with its principal place of business at #403 – 186 Hamilton Street, Vancouver, British Columbia, Canada ("PayByPhone") and City of Miami Department of Off-Street Parking a/k/a Miami Parking Authority, an agency and instrumentality of the City of Miami located at 40 NW 3rd Street, Miami, Florida 33128 ("MPA" or "Client").

RECITALS

For and in consideration of the mutual promises and covenants set forth herein and other good and valuable consideration, PayByPhone shall provide wireless applications to enhance the payment process for parking at parking facilities and metered parking stalls owned and/or managed by Client. PayByPhone mobile commerce solutions will also provide Client with a management information system, including real-time operation and transaction reports.

AGREEMENT

Section 1 INCORPORATION OF SOLICITATION AND RESPONSE; CONTROLLING DOCUMENT

The Parties hereby incorporate the solicitation, all addenda ("RFP") and PayByPhone's response as if all fully set forth herein and a part of this Agreement. In the event of any conflict between the RFP, PayByPhone's response and this Agreement, the RFP shall control, followed by this Agreement and ending with PayByPhone's response.

Section 2 THE PAYBYPHONE MOBILE PAYMENT PLATFORM AND APPLICATIONS

2.1 PAYBYPHONE MOBILE PAYMENT APPLICATION

PayByPhone agrees to utilize the PayByPhone mobile payment service for use at Client's managed and owned parking facilities as agreed upon by PayByPhone and Client, to allow for consumers to pay for the use of those facilities through personal wireless devices (e.g., cellular telephones) or other wireless systems.

2.2 PAYBYPHONE MANAGEMENT INFORMATION SYSTEM

PayByPhone will operate and manage a software application for Client that will provide near real time information and management reports on the transactions conducted utilizing the PayByPhone Parking Payment Application (the "Management Information System"). PayByPhone will host the Management Information System on its network. Client will access the Management Information System through a browser-based program installed on Client's computer hardware.

2.3 COMPUTER, NETWORKING AND TELECOMMUNICATION SYSTEMS

PayByPhone will own or possess, and will operate and maintain, all computer and networking hardware and software and data (collectively, "computer information") required to operate the PayByPhone mobile payment services service as contemplated in this Agreement, other than Client's existing computer and telecommunications systems. PayByPhone's shall be solely responsible for the security of any computer information stored on its system.

2.4 MOBILE PAYMENT SERVICE ENFORCEMENT

Client agrees to supply Wireless Devices to employees in the field to provide real time confirmation of validly parked vehicles.

2.5 REPORTS

PayByPhone will provide Client with a set of standard reports in the self-serve PayByPhone Service Management Interface System. Any changes or customizations to the standard set of reports will be subject to then-current PayByPhone Professional Services fees. See Appendix B for sample rates.

Section 3 FEES AND PAYMENTS

3.1 PRICING AND PAYMENT

Client agrees to pay the fees, as outlined in Appendix A. All amounts payable hereunder are exclusive of any and all taxes, including taxes applicable on fees paid by the consumer, and Client is responsible for payment of such taxes. All prices are stated, and Client shall pay, in US dollars. Payment is due within 30 days of invoicing.

3.2 MERCHANT ACCOUNT

Merchant account refers to Client's merchant account set up with Client's acquiring bank. PayByPhone will cover the cost of linking one (1) Client merchant account with PayByPhone's gateway provider. Client agrees to cover the cost of merchant account updates including all third party fees and then-current PayByPhone Professional Services fees. See Appendix B for sample rates.

3.3 TRANSACTION TESTING

PayByPhone reserves the right to execute test transactions from time to time to ensure top performance of the system and account. PayByPhone may execute up to ten (10) test transactions per month without adjusting the Client invoice.

3.4 THIRD PARTY INTEGRATION

In the event system changes (such as upgrades) by a third party impact the PayByPhone integration with Company sub-systems such as enforcement, Client agrees to cover any PayByPhone development costs required to maintain integration. PayByPhone will notify Client, in advance, of any such integration costs that could be added.

Section 4 MARKETING, PROMOTION AND USER EDUCATION

4.1 SIGNAGE

Client agrees to provide signage and adequate space for PayByPhone signage at each parking facility at which the PayByPhone mobile payment services service is to be available, with sign size and placement to be mutually agreed by PayByPhone and Client. Client agrees that signs will be hung and/or located near payment machines at parking facilities enabled with the PayByPhone mobile payment services service. Client will provide all decals and signs required for implementation. Client agrees to supply all future decals and signage, including new locations. Client agrees to supply replacement decals which may be required in the future.

PayByPhone will provide the first round of signage at Client's location offering PayByPhone as mobile payment service provider. PayByPhone will provide one sign to be located at each paystation, plus one at each level of the parking structure without a paystation. Additionally, one decal will be placed on each paystation and/or meter.

4.2 MARKETING EVENTS

PayByPhone may conduct on-site marketing events and campaigns for the service, whereby PayByPhone will inform parking lot consumers of the availability of the PayByPhone mobile payment services as well as any promotions available, with the knowledge and approval of Client which is not to be reasonably withheld.

4.3 CLIENT TRAINING

PayByPhone will provide initial training to Client using a "Train the Trainer" model on the self-served PayByPhone Service Management Interface (SMI). The said Client Trainer will, at its own expense, train its staff and employees, including patrollers, to operate the mobile payment services and related applications and technology. Additional training sessions are available at the then current professional services rates. See Appendix B for sample rates.

Section 5 PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

The parties shall cooperate with each other in protecting their respective trade names, designs, trademarks and other similar intellectual property rights from unauthorized use.

Section 6 TERM AND TERMINATION

6.1 TERM AND RENEWAL

This Agreement shall enter into force for a period of three (3) consecutive years from the date signed unless earlier terminated in accordance with this Section 6.

The contract shall be automatically renewed annually on the anniversary of the termination date above unless either party gives the other party at least ninety (90) days prior written notice of its intent not to renew the Agreement.

6.2 TERMINATION

Should a party breach a material term and such breach remains uncorrected for thirty (30) days after receipt of a written notice by the breaching party, the non-breaching party may, in addition to all other remedies available at law, terminate this Agreement by providing written notice to the breaching party, without further obligation provided, however, that if the nature of the breach is such that it cannot be reasonably cured within such thirty (30) day period, the breaching party will not be deemed in default of this Agreement so long as such party commences efforts to effect a cure and is diligently pursuing such efforts. Provided, further, that if the breach is as a result of the non-payment of any fee, the non-breaching party may terminate this Agreement if such breach remains uncorrected for ten (10) days after the breaching party's receipt of notice of such breach. Within thirty (30) days after the termination of this Agreement.

Section 7 REPRESENTATIONS AND WARRANTIES

7.1 MUTUAL REPRESENTATIONS AND WARRANTIES

Each party represents and warrants to the other that:

- i) it has the full corporate right and authority, and possesses all licenses, permits, authorizations and rights to intellectual property, necessary to enter into and perform this Agreement;
- ii) its entry into and performance of this Agreement do not and will not conflict with or result in a breach or violation of any agreement or order by which it is bound; and
- iii) this Agreement constitutes its legal, valid and binding obligations enforceable against it in accordance with the terms of this Agreement.

Section 8 DISCLAIMER, INDEMNIFICATION AND LIMITATION OF LIABILITY

8.1 DISCLAIMER

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, PAYBYPHONE DOES NOT MAKE, AND HEREBY SPECIFICALLY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE PAYBYPHONE MOBILE PAYMENT SERVICES INCLUDING ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. CLIENT ACKNOWLEDGES THAT THE PAYBYPHONE MOBILE PAYMENT SERVICES AND SERVICES FURNISHED BY PAYBYPHONE UNDER THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, ANY SERVERS OR OTHER HARDWARE, SOFTWARE, APPLICATIONS AND ANY OTHER ITEMS USED OR PROVIDED BY PAYBYPHONE OR ANY THIRD PARTIES IN CONNECTION WITH PROVIDING ACCESS TO OR HOSTING ANY OF THE FOREGOING OR THE PERFORMANCE OF ANY SERVICES BY PAYBYPHONE UNDER THIS AGREEMENT) ARE PROVIDED BY PAYBYPHONE "AS IS".

8.2 INDEMNIFICATION

Subject to Section 9.3, PayByPhone will protect, defend, indemnify and hold harmless the Client and the City of Miami its officers, employees, volunteers, and agents from and any against any and all third party claims, actions,

losses, penalties, fines, damages, settlements, judgments, claims, costs, charges, expenses, or liabilities, including any award of attorney fees and any award of costs, (collectively, "Losses") resulting from or arising out of PayByPhone's breach of any representation, warranty set forth in this Agreement. **The provisions and obligations of this section shall survive the expiration of earlier termination of this Agreement for a period no greater than the date of termination of the original agreement and shall only apply to events that took place during the term of this agreement.** In the event the Parties are notified of the existence of any covered Losses, the Parties shall agree upon a mutually satisfactory local attorney to defend the Client as necessary.

8.3 LIMITATION OF LIABILITY

IN NO EVENT SHALL ANY PARTY BE LIABLE FOR CONSEQUENTIAL, SPECIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING BUT NOT LIMITED TO ANY DAMAGES RESULTING FROM LOSS OF USE OR PROFITS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER IN AN ACTION BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.4 PARKING RATES

Client will be given access to confirm the parking rates at each location via the PayByPhone back office system. PayByPhone will make every attempt at ensuring the rates are configured correctly; upon completion of each location setup, it is the Client's responsibility to ensure all rates are configured correctly. Failing to do so shall exclude PayByPhone from any liability. Client shall provide PayByPhone with sufficient notice of any rates change during PayByPhone standard business hours.

Section 9 CONFIDENTIALITY

Subject to the provisions of Chapter 119, Florida Statutes (2014), neither party will disclose the other party's confidential or proprietary information (including this Agreement and any information provided by the other party that is confidentially maintained or proprietary or which derives value from not being generally known to persons who can obtain economic value from its disclosure or use) except:

- i) with the other party's consent;
- ii) to employees, agents and contractors who have a need to know in the discharge of their duties and who are subject to a contractual obligation to keep such information confidential that is at least as restrictive as this Agreement;
- iii) when required to do so by law or by any binding rule, order or request.

Each party shall exercise reasonable commercial care in protecting the confidentiality of the other party's confidential information disclosed to it. The parties agree that an actual or threatened breach of this provision would result in irreparable harm to the party whose confidential information would be disclosed in breach, and shall entitle that party to temporary or permanent injunctive relief without proof of actual damages.

For purposes of this Section 10, the parties agree that confidential or proprietary information does not include any information that is (a) already known to the receiving party at the time of disclosure hereunder (other than from the other party hereto) as demonstrated by its written records; (b) now or hereafter becomes publicly known other than through acts or omissions of the receiving party, or anyone to whom the receiving party disclosed such information; (c) disclosed to the receiving party, by a third party, under no obligation of confidentiality to the disclosing party or any other party; or (d) independently developed by the receiving party without reliance on the confidential information of the disclosing party as shown by its written records.

Section 10 MISCELLANEOUS

10.1 ASSIGNMENT

This Agreement shall be binding on the parties, their successors and their permitted assigns. Neither party may assign its rights or obligations under this Agreement without the written consent of the other.

10.2 NO AGENCY

Each party, in all matters relating to this Agreement, will act as an independent contractor and independent employers. Except as otherwise expressly set forth herein, neither party will have authority and will not represent that it has any authority to assume or create any obligation, express or implied, on behalf of the other, or to represent the other as an agent, employee or in any other capacity. Nothing in this Agreement shall be construed to have established any agency, joint venture or partnership between the parties. Neither party shall make any warranties or representations on behalf of the other party.

10.3 GOVERNING LAW

This Agreement, and all matters relating hereto, shall be governed in all respects by the laws of State of Florida, excluding the application of any conflict of laws principles and/or rules. The parties hereby agree that all disputes arising out of this Agreement shall be subject to the exclusive jurisdiction of and venue in the competent courts located in Miami Dade County Florida and consent to the personal and exclusive jurisdiction and venue of these courts.

10.4 SEVERABILITY

In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.

10.5 ATTORNEY'S FEES

In any legal proceeding between the parties, the parties shall be responsible for their own attorney's fees and expenses.

10.6 FORCE MAJEURE

If performance hereunder is prevented, restricted or interfered with by any act or condition whatsoever beyond the reasonable control of a party, the party so affected, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, restriction or interference.

10.7 ENTIRE AGREEMENT

This Agreement, together with the Appendix attached to it, constitutes the entire agreement between the parties with respect to the subject matter hereof. This Agreement supersedes, and the terms of this Agreement govern, any prior agreements with respect to the subject matter hereof. This Agreement may not be modified, amended or any provision waived except by the parties' mutual written agreement.

10.8 NO WAIVER

Failure by either party to enforce any provision of this Agreement (whether in any one or more instance) shall not be deemed a waiver of future enforcement of that or any other provision.

10.9 NOTICE

Any notices hereunder provided to PayByPhone shall be given at the address specified below or at such other address as PayByPhone specifies in writing. Any notices hereunder provided to Client shall be given at the address specified below or at such other address as Client specifies in writing. Any notice or other communication required to be given hereunder by either party shall be deemed duly given (a) when personally delivered to the other party, or (b) on the date of receipt when such notice was mailed by certified mail, postage prepaid and return receipt requested, addressed to the other party at the address set forth above, or such other address as either party may designate by giving written notice to the other; or (c) on the date of receipt when such notice was sent by facsimile or e-mail to the other party; provided the sending party receives a written or electronic notice of receipt from the other party of the facsimile or e-mail.

10.10 COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument. The parties further agree that a signature transmitted via facsimile shall be deemed original for all purposes hereunder.

10.11 CAPTIONS

The captions used in this Agreement are for convenience only and shall not affect in any way the meaning or interpretation of the provision set forth herein.

10.12 TRADEMARKS, TRADE NAMES, LOGOS

Except as expressly provided in this Agreement, no trademark, trade name, logo, trade dress, copyright or license therein, or other intellectual property rights (collectively, "Intellectual Property") are conveyed by this Agreement. Each party reserves the right to approve in advance the use of its Intellectual Property by the other party in each and every instance. All Intellectual Property owned by either party shall remain the exclusive property of such party and shall be returned to such party promptly after the expiration of this Agreement.

10.13 AGREEMENT APPROVAL

Each party hereby represents and warrants that all necessary corporate and/or governmental approvals for this Agreement have been obtained, and the person whose signature appears below has the authority necessary to execute this Agreement on behalf of the party indicated.

10.14 SOPHISTICATION OF PARTIES

Each party to this Agreement represents that it is a sophisticated commercial party capable of understanding all of the terms of this Agreement, that it has had an opportunity to review this Agreement with its counsel, and that it enters this Agreement with full knowledge of the terms of the agreement.

10.15 CLIENT'S CONDUCT OF BUSINESS THROUGH AFFILIATES

The parties acknowledge that Client may carry out its business through affiliates. Client agrees to cause its affiliates to take such actions and to execute such documents as may be reasonably required to give effect to this Agreement as though references to Client in this Agreement were references to Client and those of its affiliates through which it carries on the business of owning and operating parking facilities.

10.16 PUBLIC RECORDS

PayByPhone understands that the public shall have access, at all reasonable times, to all documents and information pertaining to MPA contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by MPA and the public to all documents subject to disclosure under applicable law. PayByPhone's failure or refusal to comply with the provisions of this Section shall result in MPA's immediate cancellation of this Agreement. PayByPhone acknowledges that this termination is not subject to cure provisions contained elsewhere in this Agreement. PayByPhone shall additionally comply with the provisions of Section 119.0701, Florida Statutes, entitled "Contracts; public records", as may be applicable, which statute is deemed as being incorporated by reference herein.

[SIGNATURES TO FOLLOW ON THE NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorised representatives.

ATTEST:



PAYBYPHONE:



Print Name: Cindy Chiu
Title: Senior Client Relationship manager

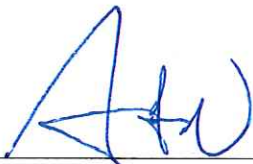
By: _____
Print Name: Maggie Clay
Title: VP Finance & Administration

ATTEST:



Print Name: Rolando Trapanes
Title: Dir. of Planning & Dev.

CLIENT:

By:  _____
Arthur Noriega, MPA
Chief Executive Officer

APPROVED AS TO FORM AND
CORRECTNESS:

Victoria Mendez
City Attorney

Notice Address
40 NW 3rd Street
#1103
Miami, FL 33128

Notice Address:
#403 – 1168 Hamilton St.
Vancouver, British Columbia,
Canada

APPENDIX A

RFP Response From PayByPhone

AMENDMENT #2
To the Cooperation and Service Agreement
between PayByPhone Technologies Inc. and Miami Parking Authority

This Amendment #2 (the "Amendment"), effective December 1, 2019 (the "Amendment Effective Date"), amends the Cooperation and Service Agreement entered into as of November 30, 2014, as amended effective December 1, 2017 (collectively, the "Agreement") between PayByPhone Technologies Inc. and Miami Parking Authority ("MPA").

In consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, PayByPhone and MPA hereby agree as follows:

1. **Amendment.** Effective December 1, 2019, "Appendix A" of the Agreement is deleted in its entirety and replaced with the "Appendix A" attached to this Amendment.
2. **Force and Effect.** Except as set forth in this Amendment, the terms of the Agreement shall continue in full force and effect.
3. **Priority Order.** In the event of a conflict between the Agreement and this Amendment, the terms of this Amendment shall take precedence.
4. **Counterparts.** This Amendment may be executed in counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument. The parties further agree that a signature transmitted via facsimile shall be deemed original for all purposes hereunder.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized representatives with effect from the Amendment Effective Date.

Miami Parking Authority

Signature: _____

Printed name: _____

Printed title: _____

Notice Address:

40 NW 3rd Street

Miami, Florida, USA

Date: _____

PayByPhone Technologies Inc.

Signature: _____

Printed name: Jules Marshall

Printed title: VP, Finance

Notice Address:

#403 – 1168 Hamilton St.

Vancouver, British Columbia, Canada

Date: _____

Appendix A

	Pricing Tier 1	Pricing Tier 2	Pricing Tier 3
4 pricing options	The first 99,999 transactions/month will be charged at:	The next 150k transactions/month will be charged at:	All transactions over 250k /month will be charged at:
Option 1 - PBP fee paid by MPA excl text	\$0.170	\$0.153	\$0.138
Option 1 - PBP fee paid by MPA incl text	\$0.220	\$0.203	\$0.188
Option 2 - PBP fee paid by MPA	\$0.20	\$0.18	\$0.16
Option 2 - Non-resident consumer pays text	\$0.10	\$0.10	\$0.10
Option 3 - PBP (convenience) fee paid by consumer	\$0.27		
Option 4 - PBP fee paid by MPA once transaction volumes exceed 600,000 per month	\$0.085		

PayByPhone and MPA agree that the parties will renew the Agreement with the above pricing for five (5) years, commencing December 1, 2020.

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 5.

ITEM: Consideration and approval to piggyback off a contract with Sourcewell for a five-year lease agreement with Enterprise Fleet Management in the amount of \$950.31 per month or \$11,403.72 per year, pursuant to Section 2-1.2(6) of the Town Code. Please find attached the Open-End (Equity) Lease Quote and the original executed contract agreement with Enterprise.

DESCRIPTION:

The Town is in need of replacing the Sewer Department van, a 1993 Chevy C30 step van. At nearly 30-years-old, this vehicle is in such a state of disrepair that mechanics who have looked at it reveal that it should not be driven outside of Town for fear of breakdown. Since the Town has entered into a multi-year agreement with Enterprise Fleet Leasing, Enterprise has provided a quotation to replace the aging vehicle with a Dodge 3500 ProMaster utility van at a monthly rate of \$950.31 for 60 months (\$11,403.72/yr.). Please find the Open-End (Equity) lease agreement attached, as well as the executed leasing contract the Town has with Enterprise.

This is the third attempt to order this vehicle. In Fiscal Year 2018-19, the van was ordered too late to make the production run after Dodge created an arbitrary cut-off date for all orders; unfortunately the Town's order was cut. In Fiscal Year 2019-20, The COVID - 19 Pandemic shut down production and most orders were cancelled for manpower requirements. In the current Fiscal Year (2020-21) funding was approved in the budget to order this van; however, the town must sign the Open-End (Equity) Lease Rate Quote before Enterprise can place the order to Dodge. Approval of this lease quote would get the order into Dodge for production, but it will not be delivered prior to the 2020-21 Fiscal Year end, and new funding shall be placed in the FY 2021-22 Budget.

RECOMMENDED ACTION:

Approval.

FINANCIAL ANALYSIS:

This approval will not impact the current Fiscal Year's budget; however \$11,403.72 will be requested in the FY 2021-22 budget to cover the monthly cost upon delivery this Fall.

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk
Maria Lasday, Town Manager

ATTACHMENTS

1. Q 4952053 ENTERRPISE OPEN END LEASE FOR DODGE 3500 PROMASTER VAN
31MAR21

2. ENTERPRISE MASTER LEASE AGREEMENT 31MAR21
3. Sourcewell Acceptance and Award-Enterprise Fleet Management 060618

Prepared For: Town of Bay Harbor Islands
Armstrong, Douglas

Date 03/31/2021
AE/AM BAF/TF

Unit #

Year 2021 **Make** RAM **Model** ProMaster 3500

Series High Roof Extended Cargo Van 159 in. WB

Vehicle Order Type In-Stock **Term** 60 **State** FL **Customer#** 382039

\$ 52,443.30	Capitalized Price of Vehicle ¹
\$ 0.00 *	Sales Tax <u>0.0000%</u> State <u>FL</u>
\$ 0.00 *	Initial License Fee
\$ 0.00 *	Registration Fee
\$ 0.00	Other: (See Page 2)
\$ 5,165.38 *	Capitalized Price Reduction
\$ 0.00 *	Tax on Capitalized Price Reduction
\$ 0.00	Gain Applied From Prior Unit
\$ 0.00 *	Tax on Gain On Prior
\$ 0.00 *	Security Deposit
\$ 0.00 *	Tax on Incentive (Taxable Incentive Total : \$0.00)

\$ 47,277.92	Total Capitalized Amount (Delivered Price)
\$ 780.09	Depreciation Reserve @ <u>1.6500%</u>
\$ 123.96	Monthly Lease Charge (Based on Interest Rate - Subject to a Floor) ²
\$ 904.05	Total Monthly Rental Excluding Additional Services

Additional Fleet Management

Master Policy Enrollment Fees
Commercial Automobile Liability Enrollment
Liability Limit \$0.00

\$ 0.00 Physical Damage Management

\$ 46.26 Full Maintenance Program³ Contract Miles 50,000
Incl: # Brake Sets (1 set = 1 Axle) 1

\$ 46.26 Additional Services SubTotal

\$ 0.00 Sales Tax 7.0000%

\$ 950.31 Total Monthly Rental Including Additional Services

\$ 472.52 Reduced Book Value at 60 Months

\$ 495.00 Service Charge Due at Lease Termination

All language and acknowledgments contained in the signed quote apply to all vehicles that are ordered under this signed quote.

Order Information

Driver Name
Exterior Color (0 P) Bright White Clearcoat
Interior Color (0 I) Black w/Cloth Bucket Seats or Vinyl Buc
Lic. Plate Type Government
GVWR 0

Comp/Coll Deductible 0 / 0
OverMileage Charge \$ 0.0450 Per Mile
Tires 2 Loaner Vehicle Not Included

Quote based on estimated annual mileage of 10,000
(Current market and vehicle conditions may also affect value of vehicle)
(Quote is Subject to Customer's Credit Approval)
Notes

Enterprise FM Trust will be the owner of the vehicle covered by this Quote. Enterprise FM Trust (not Enterprise Fleet Management) will be the Lessor of such vehicle under the Master Open - End (Equity) Lease Agreement and shall have all rights and obligations of the Lessor under the Master Open - End (Equity) Lease Agreement with respect to such vehicle. Lessee must maintain insurance coverage on the vehicle as set forth in Section 11 of the Master Open-End (Equity) Lease Agreement until the vehicle is sold.

ALL TAX AND LICENSE FEES TO BE BILLED TO LESSEE AS THEY OCCUR.

Lessee hereby authorizes this vehicle order, agrees to lease the vehicle on the terms set forth herein and in the Master Equity Lease Agreement and agrees that Lessor shall have the right to collect damages in the event Lessee fails or refuses to accept delivery of the ordered vehicle. Lessee certifies that it intends that more than 50% of the use of the vehicle is to be in a trade or business of the Lessee.

LESSEE Town of Bay Harbor Islands

BY **TITLE**

DATE

* INDICATES ITEMS TO BE BILLED ON DELIVERY.

¹ Capitalized Price of Vehicle May be Adjusted to Reflect Final Manufacturer's Invoice. Lessee Hereby Assigns to Lessor any Manufacturer Rebates And/Or Manufacturer Incentives Intended for the Lessee, Which Rebates And/Or Incentives Have Been Used By Lessor to Reduce the Capitalized Price of the Vehicle.

² Monthly Lease Charge Will Be Adjusted to Reflect the Interest Rate on the Delivery Date (Subject to a Floor).

³ The inclusion herein of references to maintenance fees/services are solely for the administrative convenience of Lessee. Notwithstanding the inclusion of such references in this [Invoice/Schedule/Quote], all such maintenance services are to be performed by Enterprise Fleet Management, Inc., and all such maintenance fees are payable by Lessee solely for the account of Enterprise Fleet Management, Inc., pursuant to that certain separate [Maintenance Agreement] entered into by and between Lessee and Enterprise Fleet Management, Inc.; provided that such maintenance fees are being billed by Enterprise FM Trust, and are payable at the direction of Enterprise FM Trust, solely as an authorized agent for collection on behalf of Enterprise Fleet Management, Inc.

Aftermarket Equipment Total

Description	(B)illed or (C)apped	Price
Keys	C	\$ 358.80
Ali @ HG2 Graphics and lights	C	\$ 2,905.00
AWV FTL Q# FTL-SO04104	C	\$ 7,425.75
Total Aftermarket Equipment Billed		\$ 0.00
Total Aftermarket Equipment Capitalized		\$ 10,689.55
Aftermarket Equipment Total		\$ 10,689.55

Other Totals

Description	(B)illed or (C)apped	Price
Initial Administration Fee	B	\$ 150.00
Courtesy Delivery Fee	C	\$ 0.00
Total Other Charges Billed		\$ 150.00
Total Other Charges Capitalized		\$ 0.00
Other Charges Total		\$ 150.00

VEHICLE INFORMATION:

2021 RAM ProMaster 3500 High Roof Extended Cargo Van 159 in. WB - US

Series ID: VF3L17

Pricing Summary:

	INVOICE	MSRP
Base Vehicle	\$40,027	\$41,890.00
Total Options	\$2,428.00	\$2,685.00
Destination Charge	\$1,695.00	\$1,695.00
Total Price	\$44,150.00	\$46,270.00

SELECTED COLOR:

Exterior: PW7-(0 P) Bright White Clearcoat
 Interior: X9-(0 I) Black w/Cloth Bucket Seats or Vinyl Bucket Seats

SELECTED OPTIONS:

CODE	DESCRIPTION	INVOICE	MSRP
21A	Quick Order Package 21A	NC	NC
A7	Cloth Bucket Seats	STD	STD
APA	Monotone Paint Application	STD	STD
DG2	Transmission: 6-Speed Automatic 62TE	STD	STD
DL	Dealer Adj	\$10.00	\$0.00
ERB	Engine: 3.6L V6 24V VVT	STD	STD
GTB	Wide Power Heated Mirrors	\$220.00	\$245.00
JLN	GPS Navigation	Included	Included
JLP	GPS Antenna Input	Included	Included
LCP	MOPAR Cargo Area LED Lighting	\$257.00	\$285.00
LSU	Full Speed FWD Collision Warn Plus	\$446.00	\$495.00
NAS	50 State Emissions	NC	NC
NHM	Speed Control	\$310.00	\$345.00
PW7_01	(0 P) Bright White Clearcoat	NC	NC
RCD	4 Speakers	Included	Included
RDZ	Steering Wheel Mounted Audio Controls	Included	Included
RFU	5.0" Touchscreen Display	Included	Included
RS6	Media Hub (USB, AUX)	Included	Included
RSF	Media Input Hub	Included	Included
SDB	Heavy Duty Suspension	STD	STD
STDAX	3.86 Axle Ratio	STD	STD
TWA	Tires: LT225/75R16E BSW All Season	STD	STD
UAB	Radio: Uconnect 3 Nav w/5" Display	\$473.00	\$525.00
WCS	Wheels: 16" x 6.0" Steel	STD	STD
WMN	Center Wheel Cap	Included	Included
X9_01	(0 I) Black w/Cloth Bucket Seats or Vinyl Bucket Seats	NC	NC
XAA	ParkSense Rear Park Assist System	\$266.00	\$295.00
XAN	Blind Spot & Cross Path Detection	\$446.00	\$495.00
XRB	Integrated Voice Command w/Bluetooth	Included	Included
XZP	96" Wide Exterior Mirrors	Included	Included
Z3G	GVWR: 9,350 lbs	STD	STD

CONFIGURED FEATURES:

Body Exterior Features:

Number Of Doors: 3
Rear Cargo Door Type: split swing-out
Driver And Passenger Mirror: power remote heated manual folding side-view door mirrors with turn signal indicator
Convex Driver Mirror: convex driver and passenger mirror
Mirror Type: manual extendable trailer mirrors
Door Handles: black
Front And Rear Bumpers: black front and rear bumpers
Rear Step Bumper: rear step bumper
Body Material: fully galvanized steel body material
Fender Flares: grey fender flares
Grille: silver grille

Convenience Features:

Air Conditioning: manual air conditioning
Cruise Control: cruise control
Power Windows: power windows with driver and passenger 1-touch down
Remote Keyless Entry: keyfob (all doors) remote keyless entry
Illuminated Entry: illuminated entry
Integrated Key Remote: integrated key/remote
Auto Locking: auto-locking doors
Trunk FOB Controls: keyfob trunk/hatch/door release
Steering Wheel: steering wheel with manual telescoping
Day-Night Rearview Mirror: day-night rearview mirror
Navigation System: navigation system with voice activation
Front Cupholder: front cupholder
Glove Box: glove box
Driver Door Bin: driver and passenger door bins
Dashboard Storage: covered dashboard storage
IP Storage: bin instrument-panel storage
Driver Footrest: driver's footrest
Power Accessory Outlet: 1 12V DC power outlet

Entertainment Features:

radio: AM/FM/Satellite-prep with seek-scan
Voice Activated Radio: voice activated radio
Speed Sensitive Volume: speed-sensitive volume
Steering Wheel Radio Controls: steering-wheel mounted audio controls
Speakers: 4 speakers
1st Row LCD: 1 1st row LCD monitor
Wireless Connectivity: wireless phone connectivity
Antenna: integrated roof antenna

Lighting, Visibility and Instrumentation Features:

Headlamp Type: aero-composite halogen headlamps
Cab Clearance Lights: cab clearance lights
Front Wipers: variable intermittent wipers
Tinted Windows: light-tinted windows
Dome Light: dome light with fade
Front Reading Lights: front reading lights
Variable IP Lighting: variable instrument panel lighting
Display Type: analog appearance
Tachometer: tachometer
Exterior Temp: outside-temperature display
Low Tire Pressure Warning: tire specific low-tire-pressure warning
Park Distance Control: ParkSense rear parking sensors
Trip Computer: trip computer
Trip Odometer: trip odometer
Blind Spot Sensor: blind spot

Forward Collision Alert: forward collision
Water Temp Gauge: water temp. gauge
Clock: in-radio display clock
Systems Monitor: systems monitor
Rear Vision Camera: rear vision camera
Oil Pressure Warning: oil-pressure warning
Water Temp Warning: water-temp. warning
Battery Warning: battery warning
Low Oil Level Warning: low-oil-level warning
Low Coolant Warning: low-coolant warning
Lights On Warning: lights-on warning
Key in Ignition Warning: key-in-ignition warning
Low Fuel Warning: low-fuel warning
Low Washer Fluid Warning: low-washer-fluid warning
Bulb Failure Warning: bulb-failure warning
Door Ajar Warning: door-ajar warning
Trunk Ajar Warning: trunk-ajar warning
Brake Fluid Warning: brake-fluid warning
Transmission Fluid Temperature Warning: transmission-fluid-temperature warning
Brake Pad Wear: brake pad wear

Safety And Security:

ABS four-wheel ABS brakes
Number of ABS Channels: 4 ABS channels
Brake Assistance: brake assist
Brake Type: Brembo four-wheel disc brakes
Vented Disc Brakes: front and rear ventilated disc brakes
Spare Tire Type: full-size spare tire
Spare Tire Mount: underbody mounted spare tire
Driver Front Impact Airbag: driver and passenger front-impact airbags
Driver Side Airbag: seat-mounted driver and passenger side-impact airbags
Overhead Airbag: curtain 1st row overhead airbag
Height Adjustable Seatbelts: height adjustable front seatbelts
Seatbelt Pretensioners: front seatbelt pre-tensioners
Side Impact Bars: side-impact bars
Tailgate/Rear Door Lock Type: tailgate/rear door lock included with power door locks
Ignition Disable: immobilizer
Electronic Stability: Crosswind Assist electronic stability stability control with anti-roll
Traction Control: ABS and driveline traction control
Front and Rear Headrests: fixed front head restraints

Seats And Trim:

Seating Capacity max. seating capacity of 2
Front Bucket Seats: front bucket seats
Number of Driver Seat Adjustments: 4-way driver and passenger seat adjustments
Reclining Driver Seat: manual reclining driver and passenger seats
Driver Fore/Aft: manual driver and passenger fore/aft adjustment
Leather Upholstery: cloth front seat upholstery
Headliner Material: front cloth headliner
Floor Covering: front vinyl/rubber floor covering
Shift Knob Trim: urethane shift knob
Cargo Tie Downs: cargo tie-downs
Cargo Light: cargo light

Standard Engine:

Engine 280-hp, 3.6-liter V-6 (regular gas)

Standard Transmission:

Transmission 6-speed automatic w/ OD and auto-manual

MASTER EQUITY LEASE AGREEMENT

This Master Equity Lease Agreement is entered into this seventeenth day of September, 2018, by and between Enterprise FM Trust, a Delaware statutory trust ("Lessor"), and the lessee whose name and address is set forth on the signature page below ("Lessee").

1. LEASE OF VEHICLES: Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the vehicles (individually, a "Vehicle" and collectively, the "Vehicles") described in the schedules from time to time delivered by Lessor to Lessee as set forth below ("Schedule(s)") for the rentals and on the terms set forth in this Agreement and in the applicable Schedule. References to this "Agreement" shall include this Master Equity Lease Agreement and the various Schedules and addenda to this Master Equity Lease Agreement. Lessor will, on or about the date of delivery of each Vehicle to Lessee, send Lessee a Schedule covering the Vehicle, which will include, among other things, a description of the Vehicle, the lease term and the monthly rental and other payments due with respect to the Vehicle. The terms contained in each such Schedule will be binding on Lessee unless Lessee objects in writing to such Schedule within ten (10) days after the date of delivery of the Vehicle covered by such Schedule. Lessor is the sole legal owner of each Vehicle. This Agreement is a lease only and Lessee will have no right, title or interest in or to the Vehicles except for the use of the Vehicles as described in this Agreement. This Agreement shall be treated as a true lease for federal and applicable state income tax purposes with Lessor having all benefits of ownership of the Vehicles. It is understood and agreed that Enterprise Fleet Management, Inc. or an affiliate thereof (together with any subservicer, agent, successor or assign as servicer on behalf of Lessor, "Servicer") may administer this Agreement on behalf of Lessor and may perform the service functions herein provided to be performed by Lessor.

2. TERM: The term of this Agreement ("Term") for each Vehicle begins on the date such Vehicle is delivered to Lessee (the "Delivery Date") and, unless terminated earlier in accordance with the terms of this Agreement, continues for the "Lease Term" as described in the applicable Schedule.

3. RENT AND OTHER CHARGES:

(a) Lessee agrees to pay Lessor monthly rental and other payments according to the Schedules and this Agreement. The monthly payments will be in the amount listed as the "Total Monthly Rental Including Additional Services" on the applicable Schedule (with any portion of such amount identified as a charge for maintenance services under Section 4 of the applicable Schedule being payable to Lessor as agent for Enterprise Fleet Management, Inc.) and will be due and payable in advance on the first day of each month. If a Vehicle is delivered to Lessee on any day other than the first day of a month, monthly rental payments will begin on the first day of the next month. In addition to the monthly rental payments, Lessee agrees to pay Lessor a pro-rated rental charge for the number of days that the Delivery Date precedes the first monthly rental payment date. A portion of each monthly rental payment, being the amount designated as "Depreciation Reserve" on the applicable Schedule, will be considered as a reserve for depreciation and will be credited against the Delivered Price of the Vehicle for purposes of computing the Book Value of the Vehicle under Section 3(c). Lessee agrees to pay Lessor the "Total Initial Charges" set forth in each Schedule on the due date of the first monthly rental payment under such Schedule. Lessee agrees to pay Lessor the "Service Charge Due at Lease Termination" set forth in each Schedule at the end of the applicable Term (whether by reason of expiration, early termination or otherwise).

(b) In the event the Term for any Vehicle ends prior to the last day of the scheduled Term, whether as a result of a default by Lessee, a Casualty Occurrence or any other reason, the rentals and management fees paid by Lessee will be recalculated in accordance with the rule of 78's and the adjusted amount will be payable by Lessee to Lessor on the termination date.

(c) Lessee agrees to pay Lessor within thirty (30) days after the end of the Term for each Vehicle, additional rent equal to the excess, if any, of the Book Value of such Vehicle over the greater of (i) the wholesale value of such Vehicle as determined by Lessor in good faith or (ii) except as provided below, twenty percent (20%) of the Delivered Price of such Vehicle as set forth in the applicable Schedule. If the Book Value of such Vehicle is less than the greater of (i) the wholesale value of such Vehicle as determined by Lessor in good faith or (ii) except as provided below, twenty percent (20%) of the Delivered Price of such Vehicle as set forth in the applicable Schedule, Lessor agrees to pay such deficiency to Lessee as a terminal rental adjustment within thirty (30) days after the end of the applicable Term. Notwithstanding the foregoing, if (i) the Term for a Vehicle is greater than forty-eight (48) months (including any extension of the Term for such Vehicle), (ii) the mileage on a Vehicle at the end of the Term is greater than 15,000 miles per year on average (prorated on a daily basis) (i.e., if the mileage on a Vehicle with a Term of thirty-six (36) months is greater than 45,000 miles) or (iii) in the sole judgment of Lessor, a Vehicle has been subject to damage or any abnormal or excessive wear and tear, the calculations described in the two immediately preceding sentences shall be made without giving effect to clause (ii) in each such sentence. The "Book Value" of a Vehicle means the sum of (i) the "Delivered Price" of the Vehicle as set forth in the applicable Schedule minus (ii) the total Depreciation Reserve paid by Lessee to Lessor with respect to such Vehicle plus (iii) all accrued and unpaid rent and/or other amounts owed by Lessee with respect to such Vehicle.

(d) Any security deposit of Lessee will be returned to Lessee at the end of the applicable Term, except that the deposit will first be applied to any losses and/or damages suffered by Lessor as a result of Lessee's breach of or default under this Agreement and/or to any other amounts then owed by Lessee to Lessor.

(e) Any rental payment or other amount owed by Lessee to Lessor which is not paid within twenty (20) days after its due date will accrue interest, payable on demand of Lessor, from the date due until paid in full at a rate per annum equal to the lesser of (i) Eighteen Percent (18%) per annum or (ii) the highest rate permitted by applicable law (the "Default Rate").

(f) If Lessee fails to pay any amount due under this Agreement or to comply with any of the covenants contained in this Agreement, Lessor, Servicer or any other agent of Lessor may, at its option, pay such amounts or perform such covenants and all sums paid or incurred by Lessor in connection therewith will be repayable by Lessee to Lessor upon demand together with interest thereon at the Default Rate.

(g) Lessee's obligations to make all payments of rent and other amounts under this Agreement are absolute and unconditional and such payments shall be made in immediately available funds without setoff, counterclaim or deduction of any kind. Lessee acknowledges and agrees that neither any Casualty Occurrence to any Vehicle nor any defect, unfitness or lack of governmental approval in, of, or with respect to, any Vehicle regardless of the cause or consequence nor any breach by Enterprise Fleet Management, Inc. of any maintenance agreement between Enterprise Fleet Management, Inc. and Lessee covering any Vehicle regardless of the cause or consequence will relieve Lessee from the performance of any of its obligations under this Agreement, including, without limitation, the payment of rent and other amounts under this Agreement.

4. USE AND SURRENDER OF VEHICLES: Lessee agrees to allow only duly authorized, licensed and insured drivers to use and operate the Vehicles. Lessee agrees to comply with, and cause its drivers to comply with, all laws, statutes, rules, regulations and ordinances and the provisions of all insurance policies affecting or covering the Vehicles or their use or operation. Lessee agrees to keep the Vehicles free of all liens, charges and encumbrances. Lessee agrees that in no event will any Vehicle be used or operated for transporting hazardous substances or persons for hire, for any illegal purpose or to pull trailers that exceed the manufacturer's trailer towing recommendations. Lessee agrees that no Vehicle is intended to be or will be utilized as a "school bus" as defined in the Code of Federal Regulations or any applicable state or municipal statute or regulation. Lessee agrees not to remove any Vehicle from the continental United States without first obtaining Lessor's written consent. At the expiration or earlier termination of this Agreement with respect to each Vehicle, or upon demand by Lessor made pursuant to Section 14, Lessee at its risk and expense agrees to return such Vehicle to Lessor at such place and by such reasonable means as may be designated by Lessor. If for any reason Lessee fails to return any Vehicle to Lessor as and when required in accordance with this Section, Lessee agrees to pay Lessor additional rent for such Vehicle at twice the normal pro-rated daily rent. Acceptance of such additional rent by Lessor will in no way limit Lessor's remedies with respect to Lessee's failure to return any Vehicle as required hereunder.

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5. COSTS, EXPENSES, FEES AND CHARGES: Lessee agrees to pay all costs, expenses, fees, charges, fines, tickets, penalties and taxes (other than federal and state income taxes on the income of Lessor) incurred in connection with the titling, registration, delivery, purchase, sale, rental, use or operation of the Vehicles during the Term. If Lessor, Servicer or any other agent of Lessor incurs any such costs or expenses, Lessee agrees to promptly reimburse Lessor for the same.

6. LICENSE AND CHARGES: Each Vehicle will be titled and licensed in the name designated by Lessor at Lessee's expense. Certain other charges relating to the acquisition of each Vehicle and paid or satisfied by Lessor have been capitalized in determining the monthly rental, treated as an initial charge or otherwise charged to Lessee. Such charges have been determined without reduction for trade-in, exchange allowance or other credit attributable to any Lessor-owned vehicle.

7. REGISTRATION PLATES, ETC.: Lessee agrees, at its expense, to obtain in the name designated by Lessor all registration plates and other plates, permits, inspections and/or licenses required in connection with the Vehicles, except for the initial registration plates which Lessor will obtain at Lessee's expense. The parties agree to cooperate and to furnish any and all information or documentation, which may be reasonably necessary for compliance with the provisions of this Section or any federal, state or local law, rule, regulation or ordinance. Lessee agrees that it will not permit any Vehicle to be located in a state other than the state in which such Vehicle is then titled for any continuous period of time that would require such Vehicle to become subject to the titling and/or registration laws of such other state.

8. MAINTENANCE OF AND IMPROVEMENTS TO VEHICLES:

(a) Lessee agrees, at its expense, to (i) maintain the Vehicles in good condition, repair, maintenance and running order and in accordance with all manufacturer's instructions and warranty requirements and all legal requirements and (ii) furnish all labor, materials, parts and other essentials required for the proper operation and maintenance of the Vehicles. Any alterations, additions, replacement parts or improvements to a Vehicle will become and remain the property of Lessor and will be returned with such Vehicle upon such Vehicle's return pursuant to Section 4. Notwithstanding the foregoing, so long as no Event of Default has occurred and is continuing, Lessee shall have the right to remove any additional equipment installed by Lessee on a Vehicle prior to returning such Vehicle to Lessor under Section 4. The value of such alterations, additions, replacement parts and improvements will in no instance be regarded as rent. Without the prior written consent of Lessor, Lessee will not make any alterations, additions, replacement parts or improvements to any Vehicle which detract from its economic value or functional utility. Lessor will not be required to make any repairs or replacements of any nature or description with respect to any Vehicle, to maintain or repair any Vehicle or to make any expenditure whatsoever in connection with any Vehicle or this Agreement.

(b) Lessor and Lessee acknowledge and agree that if Section 4 of a Schedule includes a charge for maintenance, (i) the Vehicle(s) covered by such Schedule are subject to a separate maintenance agreement between Enterprise Fleet Management, Inc. and Lessee and (ii) Lessor shall have no liability or responsibility for any failure of Enterprise Fleet Management, Inc. to perform any of its obligations thereunder or to pay or reimburse Lessee for its payment of any costs and expenses incurred in connection with the maintenance or repair of any such Vehicle(s).

9. SELECTION OF VEHICLES AND DISCLAIMER OF WARRANTIES:

(a) LESSEE ACCEPTANCE OF DELIVERY AND USE OF EACH VEHICLE WILL CONCLUSIVELY ESTABLISH THAT SUCH VEHICLE IS OF A SIZE, DESIGN, CAPACITY, TYPE AND MANUFACTURE SELECTED BY LESSEE AND THAT SUCH VEHICLE IS IN GOOD CONDITION AND REPAIR AND IS SATISFACTORY IN ALL RESPECTS AND IS SUITABLE FOR LESSEE'S PURPOSE. LESSEE ACKNOWLEDGES THAT LESSOR IS NOT A MANUFACTURER OF ANY VEHICLE OR AN AGENT OF A MANUFACTURER OF ANY VEHICLE.

(b) LESSOR MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY VEHICLE, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY AS TO CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, IT BEING AGREED THAT ALL SUCH RISKS ARE TO BE BORNE BY LESSEE. THE VEHICLES ARE LEASED "AS IS," "WITH ALL FAULTS." All warranties made by any supplier, vendor and/or manufacturer of a Vehicle are hereby assigned by Lessor to Lessee for the applicable Term and Lessee's only remedy, if any, is against the supplier, vendor or manufacturer of the Vehicle.

(c) None of Lessor, Servicer or any other agent of Lessor will be liable to Lessee for any liability, claim, loss, damage (direct, incidental or consequential) or expense of any kind or nature, caused directly or indirectly, by any Vehicle or any inadequacy of any Vehicle for any purpose or any defect (latent or patent) in any Vehicle or the use or maintenance of any Vehicle or any repair, servicing or adjustment of or to any Vehicle, or any delay in providing or failure to provide any Vehicle, or any interruption or loss of service or use of any Vehicle, or any loss of business or any damage whatsoever and however caused. In addition, none of Lessor, Servicer or any other agent of Lessor will have any liability to Lessee under this Agreement or under any order authorization form executed by Lessee if Lessor is unable to locate or purchase a Vehicle ordered by Lessee or for any delay in delivery of any Vehicle ordered by Lessee.

10. RISK OF LOSS: Lessee assumes and agrees to bear the entire risk of loss of, theft of, damage to or destruction of any Vehicle from any cause whatsoever ("Casualty Occurrence"). In the event of a Casualty Occurrence to a Vehicle, Lessee shall give Lessor prompt notice of the Casualty Occurrence and thereafter will place the applicable Vehicle in good repair, condition and working order; provided, however, that if the applicable Vehicle is determined by Lessor to be lost, stolen, destroyed or damaged beyond repair (a "Totaled Vehicle"), Lessee agrees to pay Lessor no later than the date thirty (30) days after the date of the Casualty Occurrence the amounts owed under Sections 3(b) and 3(c) with respect to such Totaled Vehicle. Upon such payment, this Agreement will terminate with respect to such Totaled Vehicle.

11. INSURANCE:

(a) Lessee agrees to purchase and maintain in force during the Term, insurance policies in at least the amounts listed below covering each Vehicle, to be written by an insurance company or companies satisfactory to Lessor, insuring Lessee, Lessor and any other person or entity designated by Lessor against any damage, claim, suit, action or liability:

(i) Commercial Automobile Liability Insurance (including Uninsured/Underinsured Motorist Coverage and No-Fault Protection where required by law) for the limits listed below (Note - \$2,000,000 Combined Single Limit Bodily Injury and Property Damage with No Deductible is required for each Vehicle capable of transporting more than 8 passengers):

<u>State of Vehicle Registration</u>	<u>Coverage</u>
Connecticut, Massachusetts, Maine, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont	\$1,000,000 Combined Single Limit Bodily Injury and Property Damage - No Deductible
Florida	\$500,000 Combined Single Limit Bodily Injury and Property Damage or \$100,000 Bodily Injury Per Person, \$300,000 Per Occurrence and \$50,000 Property Damage (100/300/50) - No Deductible
All Other States	\$300,000 Combined Single Limit Bodily Injury and Property Damage or \$100,000 Bodily Injury Per Person, \$300,000 Per Occurrence and \$50,000 Property Damage (100/300/50) - No Deductible

(ii) Physical Damage Insurance (Collision & Comprehensive): Actual cash value of the applicable Vehicle. Maximum deductible of \$500 per occurrence - Collision and \$250 per occurrence - Comprehensive).

If the requirements of any governmental or regulatory agency exceed the minimums stated in this Agreement, Lessee must obtain and maintain the higher insurance requirements. Lessee agrees that each required policy of insurance will by appropriate endorsement or otherwise name Lessor and any other person or entity designated by Lessor as additional insureds and loss payees, as their respective interests may appear. Further, each such insurance policy must provide the following: (i) that the same may not be cancelled, changed or modified until after the insurer has given to Lessor, Servicer and any other person or entity designated by Lessor at least thirty (30) days prior written notice of such proposed cancellation, change or modification, (ii) that no act or default of Lessee or any other person or entity shall affect the right of Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns to recover under such policy or policies of insurance in the event of any loss of or damage to any Vehicle and (iii) that the coverage is "primary coverage" for the protection of Lessee, Lessor, Servicer, any other agent of Lessor and their respective successors and assigns notwithstanding any other coverage carried by Lessee, Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns protecting against similar risks. Original certificates evidencing such coverage and naming Lessor, Servicer, any other agent of Lessor and any other person or entity designated by Lessor as additional insureds and loss payees shall be furnished to Lessor prior to the Delivery Date, and annually thereafter and/or as reasonably requested by Lessor from time to time. In the event of default, Lessee hereby appoints Lessor, Servicer and any other agent of Lessor as Lessee's attorney-in-fact to receive payment of, to endorse all checks and other documents and to take any other actions necessary to pursue insurance claims and recover payments if Lessee fails to do so. Any expense of Lessor, Servicer or any other agent of Lessor in adjusting or collecting insurance shall be borne by Lessee.

Lessee, its drivers, servants and agents agree to cooperate fully with Lessor, Servicer, any other agent of Lessor and any insurance carriers in the investigation, defense and prosecution of all claims or suits arising from the use or operation of any Vehicle. If any claim is made or action commenced for death, personal injury or property damage resulting from the ownership, maintenance, use or operation of any Vehicle, Lessee will promptly notify Lessor of such action or claim and forward to Lessor a copy of every demand, notice, summons or other process received in connection with such claim or action.

(b) Notwithstanding the provisions of Section 11(a) above: (i) if Section 4 of a Schedule includes a charge for physical damage waiver, Lessor agrees that (A) Lessee will not be required to obtain or maintain the minimum physical damage insurance (collision and comprehensive) required under Section 11(a) for the Vehicle(s) covered by such Schedule and (B) Lessor will assume the risk of physical damage (collision and comprehensive) to the Vehicle(s) covered by such Schedule; provided, however, that such physical damage waiver shall not apply to, and Lessee shall be and remain liable and responsible for, damage to a covered Vehicle caused by wear and tear or mechanical breakdown or failure, damage to or loss of any parts, accessories or components added to a covered Vehicle by Lessee without the prior written consent of Lessor and/or damage to or loss of any property and/or personal effects contained in a covered Vehicle. In the event of a Casualty Occurrence to a covered Vehicle, Lessor may, at its option, replace, rather than repair, the damaged Vehicle with an equivalent vehicle, which replacement vehicle will then constitute the "Vehicle" for purposes of this Agreement; and (ii) if Section 4 of a Schedule includes a charge for commercial automobile liability enrollment, Lessor agrees that it will, at its expense, obtain for and on behalf of Lessee, by adding Lessee as an additional insured under a commercial automobile liability insurance policy issued by an insurance company selected by Lessor, commercial automobile liability insurance satisfying the minimum commercial automobile liability insurance required under Section 11(a) for the Vehicle(s) covered by such Schedule. Lessor may at any time during the applicable Term terminate said obligation to provide physical damage waiver and/or commercial automobile liability enrollment and cancel such physical damage waiver and/or commercial automobile liability enrollment upon giving Lessee at least ten (10) days prior written notice. Upon such cancellation, insurance in the minimum amounts as set forth in 11(a) shall be obtained and maintained by Lessee at Lessee's expense. An adjustment will be made in monthly rental charges payable by Lessee to reflect any such change and Lessee agrees to furnish Lessor with satisfactory proof of insurance coverage within ten (10) days after mailing of the notice. In addition, Lessor may change the rates charged by Lessor under this Section 11(b) for physical damage waiver and/or commercial automobile liability enrollment upon giving Lessee at least thirty (30) days prior written notice.

12. INDEMNITY: To the extent permitted by state law, Lessee agrees to defend and indemnify Lessor, Servicer, any other agent of Lessor and their respective successors and assigns from and against any and all losses, damages, liabilities, suits, claims, demands, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) which Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns may incur by reason of Lessee's breach or violation of, or failure to observe or perform, any term, provision or covenant of this Agreement, or as a result of any loss, damage, theft or destruction of any Vehicle or related to or arising out of or in connection with the use, operation or condition of any Vehicle. The provisions of this Section 12 shall survive any expiration or termination of this Agreement. Nothing herein shall be deemed to affect the rights, privileges, and immunities of Lessee and the foregoing Indemnity provision is not intended to be a waiver of any sovereign immunity afforded to Lessee pursuant to the law.

13. INSPECTION OF VEHICLES; ODOMETER DISCLOSURE; FINANCIAL STATEMENTS: Lessee agrees to accomplish, at its expense, all inspections of the Vehicles required by any governmental authority during the Term. Lessor, Servicer, any other agent of Lessor and any of their respective successors or assigns will have the right to inspect any Vehicle at any reasonable time(s) during the Term and for this purpose to enter into or upon any building or place where any Vehicle is located. Lessee agrees to comply with all odometer disclosure laws, rules and regulations and to provide such written and signed disclosure information on such forms and in such manner as directed by Lessor. Providing false information or failure to complete the odometer disclosure form as required by law may result in fines and/or imprisonment. Lessee hereby agrees to promptly deliver to Lessor such financial statements and other financial information regarding Lessee as Lessor may from time to time reasonably request.

14. DEFAULT; REMEDIES: The following shall constitute events of default ("Events of Default") by Lessee under this Agreement: (a) if Lessee fails to pay when due any rent or other amount due under this Agreement and any such failure shall remain unremedied for ten (10) days; (b) if Lessee fails to perform, keep or observe any term, provision or covenant contained in Section 11 of this Agreement; (c) if Lessee fails to perform, keep or observe any other term, provision or covenant contained in this Agreement and any such failure shall remain unremedied for thirty (30) days after written notice thereof is given by Lessor, Servicer or any other agent of Lessor to Lessee; (d) any seizure or confiscation of any Vehicle or any other act (other than a Casualty Occurrence) otherwise rendering any Vehicle unsuitable for use (as determined by Lessor); (e) if any present or future guaranty in favor of Lessor of all or any portion of the obligations of Lessee under this Agreement shall at any time for any reason cease to be in full force and effect or shall be declared to be null and void by a court of competent jurisdiction, or if the validity or enforceability of any such guaranty shall be contested or denied by any guarantor, or if any guarantor shall deny that it, he or she has any further liability or obligation under any such guaranty or if any guarantor shall fail to comply with or observe any of the terms, provisions or conditions contained in any such guaranty; (f) the occurrence of a material adverse change in the financial condition or business of Lessee or any guarantor; or (g) if Lessee or any guarantor is in default under or fails to comply with any other present or future agreement with or in favor of Lessor, The Crawford Group, Inc. or any direct or indirect subsidiary of The Crawford Group, Inc.. For purposes of this Section 14, the term "guarantor" shall mean any present or future guarantor of all or any portion of the obligations of Lessee under this Agreement.

Upon the occurrence of any Event of Default, Lessor, without notice to Lessee, will have the right to exercise concurrently or separately (and without any election of remedies being deemed made), the following remedies: (a) Lessor may demand and receive immediate possession of any or all of the Vehicles from Lessee, without releasing Lessee from its obligations under this Agreement; if Lessee fails to surrender possession of the Vehicles to Lessor on default (or termination or expiration of the Term), Lessor, Servicer, any other agent of Lessor and any of Lessor's independent contractors shall have the right to enter upon any premises where the Vehicles may be located and to remove and repossess the Vehicles; (b) Lessor may enforce performance by Lessee of its obligations under this Agreement; (c) Lessor may recover damages and expenses sustained by Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns by reason of Lessee's default including, to the extent permitted by applicable law, all costs and expenses, including court costs and reasonable attorneys' fees and expenses, incurred by Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns in attempting or effecting enforcement of Lessor's rights under this Agreement (whether or not litigation is commenced) and/or in connection with bankruptcy or insolvency proceedings; (d) upon written notice to Lessee, Lessor may terminate Lessee's rights

under this Agreement; (a) with respect to each Vehicle, Lessor may recover from Lessee all amounts owed by Lessee under Sections 3(b) and 3(c) of this Agreement (and, if Lessor does not recover possession of a Vehicle, (i) the estimated wholesale value of such Vehicle for purposes of Section 3(c) shall be deemed to be \$0.00 and (ii) the calculations described in the first two sentences of Section 3(c) shall be made without giving effect to clause (ii) in each such sentence); and/or (f) Lessor may exercise any other right or remedy which may be available to Lessor under the Uniform Commercial Code, any other applicable law or in equity. A termination of this Agreement shall occur only upon written notice by Lessor to Lessee. Any termination shall not affect Lessee's obligation to pay all amounts due for periods prior to the effective date of such termination or Lessee's obligation to pay any indemnities under this Agreement. All remedies of Lessor under this Agreement or at law or in equity are cumulative.

15. ASSIGNMENTS: Lessor may from time to time assign, pledge or transfer this Agreement and/or any or all of its rights and obligations under this Agreement to any person or entity. Lessee agrees, upon notice of any such assignment, pledge or transfer of any amounts due or to become due to Lessor under this Agreement to pay all such amounts to such assignee, pledgee or transferee. Any such assignee, pledgee or transferee of any rights or obligations of Lessor under this Agreement will have all of the rights and obligations that have been assigned to it. Lessee's rights and interest in and to the Vehicles are and will continue at all times to be subject and subordinate in all respects to any assignment, pledge or transfer now or hereafter executed by Lessor with or in favor of any such assignee, pledgee or transferee, provided that Lessee shall have the right of quiet enjoyment of the Vehicles so long as no Event of Default under this Agreement has occurred and is continuing. Lessee acknowledges and agrees that the rights of any assignee, pledgee or transferee in and to any amounts payable by the Lessee under any provisions of this Agreement shall be absolute and unconditional and shall not be subject to any abatement whatsoever, or to any defense, setoff, counterclaim or recoupment whatsoever, whether by reason of any damage to or loss or destruction of any Vehicle or by reason of any defect in or failure of title of the Lessor or interruption from whatsoever cause in the use, operation or possession of any Vehicle, or by reason of any indebtedness or liability howsoever and whenever arising of the Lessor or any of its affiliates to the Lessee or to any other person or entity, or for any other reason.

Without the prior written consent of Lessor, Lessee may not assign, sublease, transfer or pledge this Agreement, any Vehicle, or any interest in this Agreement or in and to any Vehicle, or permit its rights under this Agreement or any Vehicle to be subject to any lien, charge or encumbrance. Lessee's interest in this Agreement is not assignable and cannot be assigned or transferred by operation of law. Lessee will not transfer or relinquish possession of any Vehicle (except for the sole purpose of repair or service of such Vehicle) without the prior written consent of Lessor.

16. MISCELLANEOUS: This Agreement contains the entire understanding of the parties. This Agreement may only be amended or modified by an instrument in writing executed by both parties. Lessor shall not by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies under this Agreement and no waiver whatsoever shall be valid unless in writing and signed by Lessor and then only to the extent therein set forth. A waiver by Lessor of any right or remedy under this Agreement on any one occasion shall not be construed as a bar to any right or remedy, which Lessor would otherwise have on any future occasion. If any term or provision of this Agreement or any application of any such term or provision is invalid or unenforceable, the remainder of this Agreement and any other application of such term or provision will not be affected thereby. Giving of all notices under this Agreement will be sufficient if mailed by certified mail to a party at its address set forth below or at such other address as such party may provide in writing from time to time. Any such notice mailed to such address will be effective one (1) day after deposit in the United States mail, duly addressed, with certified mail, postage prepaid. Lessee will promptly notify Lessor of any change in Lessee's address. This Agreement may be executed in multiple counterparts (including facsimile and pdf counterparts), but the counterpart marked "ORIGINAL" by Lessor will be the original lease for purposes of applicable law. All of the representations, warranties, covenants, agreements and obligations of each Lessee under this Agreement (if more than one) are joint and several.

17. SUCCESSORS AND ASSIGNS; GOVERNING LAW: Subject to the provisions of Section 15, this Agreement will be binding upon Lessee and its heirs, executors, personal representatives, successors and assigns, and will inure to the benefit of Lessor, Servicer, any other agent of Lessor and their respective successors and assigns. This Agreement will be governed by and construed in accordance with the substantive laws of the State of Missouri (determined without reference to conflict of law principles).

18. NON-PETITION: Each party hereto hereby covenants and agrees that, prior to the date which is one year and one day after payment in full of all indebtedness of Lessor, it shall not institute against, or join any other person in instituting against, Lessor any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other similar proceeding under the laws of the United States or any state of the United States. The provisions of this Section 18 shall survive termination of this Master Equity Lease Agreement.

19. NON-APPROPRIATION: Lessee's funding of this Agreement shall be on a Fiscal Year basis and is subject to annual appropriations. Lessor acknowledges that Lessee is a municipal corporation, is precluded by the County or State Constitution and other laws from entering into obligations that financially bind future governing bodies, and that, therefore, nothing in this Agreement shall constitute an obligation of future legislative bodies of the County or State to appropriate funds for purposes of this Agreement. Accordingly, the parties agree that the lease terms within this Agreement or any Schedules relating hereto are contingent upon appropriation of funds. The parties further agree that should the County or State fail to appropriate such funds, the Lessor shall be paid all rentals due and owing hereunder up until the actual day of termination. In addition, Lessor reserves the right to be paid for any reasonable damages. These reasonable damages will be limited to the losses incurred by the Lessor for having to sell the vehicles on the open used car market prior to the end of the scheduled term (as determined in Section 3 and Section 14 of this Agreement).

IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Master Equity Lease Agreement as of the day and year first above written.

LESSEE: Town of Bay Harbor Islands, Florida

LESSOR: Enterprise FM Trust

By: Enterprise Fleet Management, Inc., its attorney in fact

By:

Title:

Address: 8665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

By: Brett Frazee

Title: Vice President

Address: 5105 Johnson Road
Coconut Creek, FL 33073

Date Signed: November 16, 2018

Date Signed: 11/26/18

AMENDMENT TO MASTER EQUITY LEASE AGREEMENT

THIS AMENDMENT ("Amendment") dated this ____ day of September, 2018 is attached to, and made a part of, the MASTER EQUITY LEASE AGREEMENT entered into on the ____ day of September, 2018 ("Agreement") by and between Enterprise FM Trust, a Delaware statutory trust ("Lessor") and Bay Harbor Islands ("Lessee"). This Amendment is made for good and valuable consideration, the receipt of which is hereby acknowledged by the parties.

Section 12 of the Master Equity Lease Agreement is amended to read as follows:

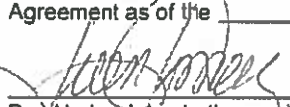
INDEMNITY: To the extent permitted by Florida law, Lessee agrees to defend and indemnify Lessor, Servicer, any other agent of Lessor and their respective successors and assigns from and against any and all losses, damages, liabilities, suits, claims, demands, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) which Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns may incur by reason of Lessee's breach or violation of, or failure to observe or perform, any term, provision or covenant of this Agreement, or as a result of any loss, damage, theft or destruction of any Vehicle or related to or arising out of or in connection with the use, operation or condition of any Vehicle. The provisions of this Section 12 shall survive any expiration or termination of this Agreement. Nothing herein shall be deemed to affect the rights, privileges, and immunities of Lessee as set forth in Section 768.28 of the Florida Statutes and the foregoing indemnity provision is not intended to be a waiver of any sovereign immunity afforded to Lessee pursuant to Florida law.

Section 19 of the Master Equity Lease Agreement is amended to read as follows:

NON-APPROPRIATION: Lessee's funding of this Agreement shall be on a Fiscal Year basis and is subject to annual appropriations. Lessor acknowledges that Lessee is a municipal corporation, is precluded by the Florida State Constitution and other laws from entering into obligations that financially bind future governing bodies, and that, therefore, nothing in this Agreement shall constitute an obligation of future legislative bodies of the State of Florida to appropriate funds for purposes of this Agreement. Accordingly, the parties agree that the lease terms within this Agreement or any Schedules relating hereto are contingent upon appropriation of funds. The parties further agree that should the State of Florida fail to appropriate such funds, the Lessor shall be paid all rentals due and owing hereunder up until the actual day of termination. In addition, the parties agree that Lessor may recover the losses incurred by the Lessor for having to sell the vehicles on the open used car market prior to the end of the scheduled term (as determined in Section 3 and Section 14 of this Agreement).

All references in the Agreement and in the various Schedules and addenda to the Agreement and any other references of similar import shall henceforth mean the Agreement as amended by this Amendment. Except to the extent specifically amended by this Amendment, all of the terms, provisions, conditions, covenants, representations and warranties contained in the Agreement shall be and remain in full force and effect and the same are hereby ratified and confirmed.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Amendment to Master Equity Lease Agreement as of the ____ day of September, 2018.



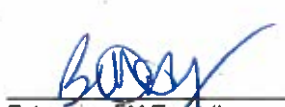
Bay Harbor Islands (Lessee)

By

J.D. Jimenez

Title

Town Manager



Enterprise FM Trust (Lessor)

By: Enterprise Fleet Management, Inc., its attorney in fact

By

Brett Frazer

Title

Vice President

MAINTENANCE AGREEMENT

This Maintenance Agreement (this "Agreement") is made and entered into this seventeenth day of September, 2018, by Enterprise Fleet Management, Inc., a Missouri corporation ("EFM"), and Town of Bay Harbor Islands, Florida ("Lessee").

WITNESSETH

1. **LEASE.** Reference is hereby made to that certain Master Equity Lease Agreement dated as of the seventeenth day of September, 2018, by and between Enterprise FM Trust, a Delaware statutory trust, as lessor ("Lessor"), and Lessee, as lessee (as the same may from time to time be amended, modified, extended, renewed, supplemented or restated, the "Lease"). All capitalized terms used and not otherwise defined in this Agreement shall have the respective meanings ascribed to them in the Lease.

2. **COVERED VEHICLES.** This Agreement shall only apply to those vehicles leased by Lessor to Lessee pursuant to the Lease to the extent Section 4 of the Schedule for such vehicle includes a charge for maintenance (the "Covered Vehicle(s)").

3. **TERM AND TERMINATION.** The term of this Agreement ("Term") for each Covered Vehicle shall begin on the Delivery Date of such Covered Vehicle and shall continue until the last day of the "Term" (as defined in the Lease) for such Covered Vehicle unless earlier terminated as set forth below. Each of EFM and Lessee shall each have the right to terminate this Agreement effective as of the last day of any calendar month with respect to any or all of the Covered Vehicles upon not less than sixty (60) days prior written notice to the other party. The termination of this Agreement with respect to any or all of the Covered Vehicles shall not affect any rights or obligations under this Agreement which shall have previously accrued or shall thereafter arise with respect to any occurrence prior to termination, and such rights and obligations shall continue to be governed by the terms of this Agreement.

4. **VEHICLE REPAIRS AND SERVICE.** EFM agrees that, during the Term for the applicable Covered Vehicle and subject to the terms and conditions of this Agreement, it will pay for, or reimburse Lessee for its payment of, all costs and expenses incurred in connection with the maintenance or repair of a Covered Vehicle. This Agreement does not cover, and Lessee will remain responsible for and pay for, (a) fuel, (b) oil and other fluids between changes, (c) tire repair and replacement, (d) washing, (e) repair of damage due to lack of maintenance by Lessee between scheduled services (including, without limitation, failure to maintain fluid levels), (f) maintenance or repair of any alterations to a Covered Vehicle or of any after-market components (this Agreement covers maintenance and repair only of the Covered Vehicles themselves and any factory-installed components and does not cover maintenance or repair of chassis alterations, add-on bodies (including, without limitation, step vans) or other equipment (including, without limitation, lift gates and PTO controls) which is installed or modified by a dealer, body shop, upfitter or anyone else other than the manufacturer of the Covered Vehicle, (g) any service and/or damage resulting from, related to or arising out of an accident, a collision, theft, fire, freezing, vandalism, not, explosion, other Acts of God, an object striking the Covered Vehicle, improper use of the Covered Vehicle (including, without limitation, driving over curbs, overloading, racing or other competition) or Lessee's failure to maintain the Covered Vehicle as required by the Lease, (h) roadside assistance or towing for vehicle maintenance purposes, (i) mobile services, (j) the cost of loaner or rental vehicles or (k) if the Covered Vehicle is a truck, (i) manual transmission clutch adjustment or replacement, (ii) brake adjustment or replacement or (iii) front axle alignment. Whenever it is necessary to have a Covered Vehicle serviced, Lessee agrees to have the necessary work performed by an authorized dealer of such Covered Vehicle or by a service facility acceptable to EFM. In every case, if the cost of such service will exceed \$50.00, Lessee must notify EFM and obtain EFM's authorization for such service and EFM's instructions as to where such service shall be made and the extent of service to be obtained. Lessee agrees to furnish an invoice for all service to a Covered Vehicle, accompanied by a copy of the shop or service order (odometer mileage must be shown on each shop or service order). EFM will not be obligated to pay for any unauthorized charges or those exceeding \$50.00 for one service on any Covered Vehicle unless Lessee has complied with the above terms and conditions. EFM will not have any responsibility to pay for any services in excess of the services recommended by the manufacturer, unless otherwise agreed to by EFM. Notwithstanding any other provision of this Agreement to the contrary, (a) all service performed within one hundred twenty (120) days prior to the last day of the scheduled "Term" (as defined in the Lease) for the applicable Covered Vehicle must be authorized by and have the prior consent and approval of EFM and any service not so authorized will be the responsibility of and be paid for by Lessee and (b) EFM is not required to provide or pay for any service to any Covered Vehicle after 100,000 miles.

5. **ENTERPRISE CARDS.** EFM may, at its option, provide Lessee with an authorization card (the "EFM Card") for use in authorizing the payment of charges incurred in connection with the maintenance of the Covered Vehicles. Lessee agrees to be liable to EFM for, and upon receipt of a monthly or other statement from EFM, Lessee agrees to promptly pay to EFM, all charges made by or for the account of Lessee with the EFM Card (other than any charges which are the responsibility of EFM under the terms of this Agreement). EFM reserves the right to change the terms and conditions for the use of the EFM Card at any time. The EFM Card remains the property of EFM and EFM may revoke Lessee's right to possess or use the EFM Card at any time. Upon the termination of this Agreement or upon the demand of EFM, Lessee must return the EFM Card to EFM. The EFM Card is non-transferable.

6. **PAYMENT TERMS.** The amount of the monthly maintenance fee will be listed on the applicable Schedule and will be due and payable in advance on the first day of each month. If the first day of the Term for a Covered Vehicle is other than the first day of a calendar month, Lessee will pay EFM, on the first day of the Term for such Covered Vehicle, a pro-rated maintenance fee for the number of days that the Delivery Date precedes the first monthly maintenance fee payment date. Any monthly maintenance fee or other amount owed by Lessee to EFM under this Agreement which is not paid within twenty (20) days after its due date will accrue interest, payable upon demand of EFM, from the date due until paid in full at a rate per annum equal to the lesser of (i) Eighteen Percent (18%) per annum or (ii) the highest rate allowed by applicable law. The monthly maintenance fee set forth on each applicable Schedule allows the number of miles per month as set forth in such Schedule. Lessee agrees to pay EFM at the end of the applicable Term (whether by reason of termination of this Agreement or otherwise) an overmileage maintenance fee for any miles in excess of this average amount per month at the rate set forth in the applicable Schedule. EFM may, at its option, permit Lessor, as an agent for EFM, to bill and collect amounts due to EFM under this Agreement from Lessee on behalf of EFM.

7. **NO WARRANTIES.** Lessee acknowledges that EFM does not perform maintenance or repair services on the Covered Vehicles but rather EFM arranges for maintenance and/or repair services on the Covered Vehicles to be performed by third parties. EFM MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY PRODUCTS, REPAIRS OR SERVICES PROVIDED FOR UNDER THIS AGREEMENT BY THIRD PARTIES, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COMPLIANCE WITH SPECIFICATIONS, OPERATION, CONDITION, SUITABILITY, PERFORMANCE OR QUALITY. ANY DEFECT IN THE PERFORMANCE OF ANY PRODUCT, REPAIR OR SERVICE WILL NOT RELIEVE LESSEE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, INCLUDING THE PAYMENT TO EFM OF THE MONTHLY MAINTENANCE FEES AND OTHER CHARGES DUE UNDER THIS AGREEMENT.

Initials: EFM  CUSE 

8. LESSOR NOT A PARTY. Lessor is not a party to, and shall have no rights, obligations or duties under or in respect of, this Agreement.

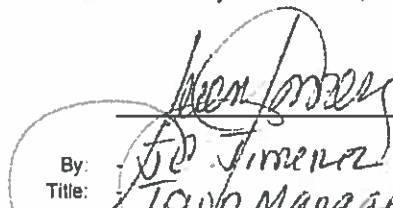
9. NOTICES. Any notice or other communication under this Agreement shall be in writing and delivered in person or sent by facsimile, recognized overnight courier or registered or certified mail, return receipt requested and postage prepaid, to the applicable party at its address or facsimile number set forth on the signature page of this Agreement, or at such other address or facsimile number as any party hereto may designate as its address or facsimile number for communications under this Agreement by notice so given. Such notices shall be deemed effective on the day on which delivered or sent if delivered in person or sent by facsimile, on the first (1st) business day after the day on which sent, if sent by recognized overnight courier or on the third (3rd) business day after the day on which mailed, if sent by registered or certified mail.

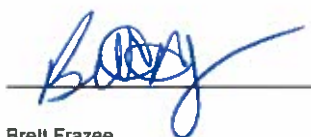
10. MISCELLANEOUS. This Agreement embodies the entire Agreement between the parties relating to the subject matter hereof. This Agreement may be amended only by an agreement in writing signed by EFM and Lessee. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provisions in any other jurisdiction. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that Lessee may not assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of EFM. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Missouri (without reference to conflict of law principles).

IN WITNESS WHEREOF, EFM and Lessee have executed this Maintenance Agreement as of the day and year first above written.

LESSEE: Town of Bay Harbor Islands, Florida

EFM: Enterprise Fleet Management, Inc.

By: 
Title: Town Manager
Address: 9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

By: 
Title: Vice President
Address: 5105 Johnson Road
Coconut Creek, FL 33073

Attention: _____

Attention: _____

Facsimile No.: _____

Facsimile No.: _____

Date Signed: November 16, 2018

Date Signed: 11/26/18

MAINTENANCE MANAGEMENT AND FLEET RENTAL AGREEMENT

This Agreement is entered into as of the seventeenth day of September, 2018, by and between Enterprise Fleet Management, Inc., a Missouri corporation, doing business as "Enterprise Fleet Management" ("EFM"), and Town of Bay Harbor Islands, Florida (the "Company").

WITNESSETH:

1. **ENTERPRISE CARDS:** Upon request from the Company, EFM will provide a driver information packet outlining its vehicle maintenance program (the "Program") and a card ("Card") for each Company vehicle included in the Company's request. All drivers of vehicles subject to this Agreement must be a representative of the Company, its subsidiaries or affiliates. All Cards issued by EFM upon request of the Company shall be subject to the terms of this Agreement and the responsibility of the Company. All Cards shall bear an expiration date.

Cards issued to the Company shall be used by the Company in accordance with this Agreement and limited solely to purchases of certain products and services for Company vehicles, which are included in the Program. The Program is subject to all other EFM instructions, rules and regulations which may be revised from time to time by EFM. Cards shall remain the property of EFM and returned to EFM upon expiration or cancellation.

2. **VEHICLE REPAIRS AND SERVICE:** EFM will provide purchase order control by phone or in writing authorizing charges for repairs and service over \$75, or such other amount as may be established by EFM from time to time under the Program. All charges for repairs and services will be invoiced to EFM. Invoices will be reviewed by EFM for accuracy, proper application of potential manufacturer's warranties, application of potential discounts and unnecessary, unauthorized repairs.

Notwithstanding the above, in the event the repairs and service are the result of damage from an accident or other non-maintenance related cause (including glass claims), these matters will be referred to the Company's Fleet Manager. If the Company prefers that EFM handle the damage repair, the Company agrees to assign the administration of the matter to EFM. EFM will administer such claims in its discretion. The fees for this service will be up to \$125.00 per claim and the Company agrees to reimburse for repairs as outlined in this agreement. If the Company desires the assistance of EFM in recovering damage amounts from at fault third parties, a Vehicle Risk Management Agreement must be on file for the Company.

3. **BILLING AND PAYMENT:** All audited invoices paid by EFM on behalf of the Company will be consolidated and submitted to the Company on a single monthly invoice for the entire Company fleet covered under this Agreement. The Company is liable for, and will pay EFM within ten (10) days after receipt of an invoice or statement for, all purchases invoiced to the Company by EFM, which were paid by EFM for or on behalf of the Company. EFM will be entitled to retain for its own account, and treat as being paid by EFM for purposes of this Agreement, any discounts it receives from a supplier with respect to such purchases which are based on the overall volume of business EFM provides to such supplier and not solely the Company's business. EFM will exercise due care to prevent additional charges from being incurred once the Company has notified EFM of its desire to cancel any outstanding Card under this Agreement. The Company will use its best efforts to obtain and return any such cancelled Card.
4. **RENTAL VEHICLES:** The Card will authorize the Company's representative to arrange for rental vehicles with a subsidiary of Enterprise Rent-A-Car Company for a maximum of two (2) days without prior authorization. Extensions beyond two (2) days must be granted by an EFM representative. The Company assumes all responsibility for all rental agreements arranged by EFM with a subsidiary of Enterprise Rent-A-Car Company through an EFM representative or through the use of the Card. All drivers must be at least 21 years of age, hold a valid driver's license, be an employee of the Company or authorized by the Company through established reservation procedures and meet other applicable requirements of the applicable subsidiary of Enterprise Rent-A-Car Company.
5. **NO WARRANTY:** EFM MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO PRODUCTS, REPAIRS OR SERVICES PROVIDED FOR UNDER THIS AGREEMENT BY THIRD PARTIES, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY AS TO MERCHANTABILITY, COMPLIANCE WITH SPECIFICATIONS, OPERATION, CONDITION, SUITABILITY, PERFORMANCE, QUALITY OR FITNESS FOR USE. Any defect in the performance of any product, repair or service will not relieve the Company from its obligations under this Agreement, including without limitation the payment to EFM of monthly invoices.
6. **CANCELLATION:** Either party may cancel any Card under this Agreement or this Agreement in its entirety at any time by giving written notice to the other party. The cancellation of any Card or termination of this Agreement will not affect any rights

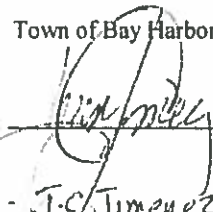
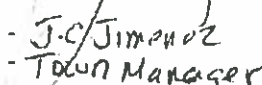
or obligations under this Agreement, which shall have previously accrued or shall thereafter arise with respect to any occurrence prior to such cancellation or termination. A Card shall be immediately returned to EFM upon cancellation to: Enterprise Fleet Management, 600 Corporate Park Drive, St. Louis, MO 63105, Attention: Enterprise Card Department. Notice to EFM regarding the cancellation of any Card shall specify the Card number and identify the Company's representative. In the case of a terminated representative, such notice shall include a brief description of the efforts made to reclaim the Card.

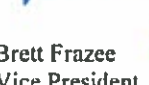
7. **NOTICES:** All notices of cancellation or termination under this Agreement shall be mailed postage prepaid by registered or certified mail, or sent by express overnight delivery service, to the other party at its address set forth on the signature page of this Agreement or at such other address as such party may provide in writing from time to time. Any such notice sent by mail will be effective three (3) days after deposit in the United States mail, duly addressed, with registered or certified mail postage prepaid. Any such notice sent by express overnight delivery service will be effective one (1) day after deposit with such delivery service, duly addressed, with delivery fees prepaid. The Company will promptly notify EFM of any change in the Company's address.
8. **FEES:** EFM will charge the Company for the service under this Agreement \$6.00 per month per Card, plus a one time set-up fee of \$0.00.
9. **MISCELLANEOUS:** This Agreement may be amended only by an agreement in writing signed by EFM and the Company. This Agreement is governed by the substantive laws of the State of Missouri (determined without reference to conflict of law principles).

IN WITNESS WHEREOF, EFM and the Company have executed this Maintenance Management and Fleet Rental Agreement as of the day and year first above written.

Company: Town of Bay Harbor Islands, Florida

EFM: Enterprise Fleet Management, Inc.

By: 
Title: 

By: 
Title: 

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

Address: 5105 Johnson Road
Coconut Creek, FL 33073

Date Signed: Nov 16, 2018

Date Signed: 11/26/18

FORM E

CONTRACT ACCEPTANCE AND AWARD



(Top portion of this form will be completed by Sourcewell if the vendor is awarded a contract. The vendor should complete the vendor authorized signatures as part of the RFP response.)

Sourcewell Contract # 060618-EFM

Proposer's full legal name: Enterprise Fleet Management, Inc.

MS
8-27-18

Based on Sourcewell's evaluation of your proposal, you have been awarded a contract. As an awarded vendor, you agree to provide the products and services contained in your proposal and to meet all of the terms and conditions set forth in this RFP, in any amendments to this RFP, and in any exceptions that are accepted by Sourcewell.

The effective date of the Contract will be July 24, 2018 and will expire on July 24, 2022 (no later than the later of four years from the expiration date of the currently awarded contract or four years from the date that the Sourcewell Chief Procurement Officer awards the Contract). This Contract may be extended for a fifth year at Sourcewell's discretion.

Sourcewell Authorized Signatures:

DocuSigned by:

Jeremy Schwartz

78144D620E84E3

SOURCEWELL DIRECTOR OF COOPERATIVE CONTRACTS
AND PROCUREMENT/CPO SIGNATURE

Jeremy Schwartz
(NAME PRINTED OR TYPED)

DocuSigned by:

Chad Coquette

3F75E028A547448

SOURCEWELL EXECUTIVE DIRECTOR/CEO SIGNATURE

Chad Coquette
(NAME PRINTED OR TYPED)

Awarded on 07/23/2018

Sourcewell Contract # 060618-EFM

Vendor Authorized Signatures:

The Vendor hereby accepts this Contract award, including all accepted exceptions and amendments.

Vendor Name

Enterprise Fleet Management, Inc. *MS* 8-27-18

Authorized Signatory's Title

Assistant Vice President

VENDOR AUTHORIZED SIGNATURE

Alvin Girsip
(NAME PRINTED OR TYPED)

Executed on *Aug 14th* 2018

Sourcewell Contract # 060618-EFM

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 6.

ITEM: Consideration and approval to re-appropriate a \$258,000.00 carryforward from FY 2019-2020, to FY 2020-2021 to cover cost of CIPP T-Liner work performed in this fiscal year. Additional information attached.

DESCRIPTION:

Line item 402.5350.400063.000 Improvements (Excl. Buildings) was budgeted at \$450,250.00 for FY 2020-2021. Currently the account balance is \$388,055.10, which leaves the available \$62,194.90 to be expended; however, \$258,000.00 was budgeted last fiscal year (2019-2020) in this line item, but the invoice for LMK Pipe to perform CIPP in that fiscal year was not received until this fiscal year, and the amounts were omitted by the previous finance director from the carryforward schedule submitted for approval in March, 2021. Ordinance No. 1051, Section 2, explicitly states “That the budgets of the Town may be amended during the budget year by a motion approved by the Town Council to include the carryforward of unexpected appropriations from the previous year’s budget or to authorize additional appropriations of available funds.” (See attached Ordinance No. 1051) Therefore the Town Council can approve the carryforwards by motion on the consent agenda.

RECOMMENDED ACTION:

Approval.

FINANCIAL ANALYSIS:

This funding is necessary to pay for the LMK Pipe renewal work (t-liner) performed in FY '19-'20. Once the final amount is paid to LMK, the Town can complete the necessary grant paperwork and receive reimbursement of one-half of the total project cost from the state.

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk
Peter Kajokas, Finance Director
Maria Lasday, Town Manager

ATTACHMENTS

1. Sewer Fund Carryforwards Memo
2. Sewer Department Carryforward Worksheet Attachment B PDF
3. Ordinance No. 1051 - Budget Appropriations 09.14.2021



TOWN OF BAY HARBOR ISLANDS MEMORANDUM

DATE: APRIL 14, 2021
TO: HONORABLE MAYOR, VICE-MAYOR AND MEMBERS OF THE TOWN COMMISSION
FROM: MARIA LASDAY, TOWN MANAGER
RE: FY 2020/2021 SEWER FUND BUDGET CARRYFORWARD

It is recommended that the Council approve the following re-appropriation carryforward representing Sewer Fund project funded in 2019/2020 but not completed or deferred until after September 30, 2020. The sum to be carried forward is the total previously approved amount less any amounts expended prior to September 30, 2020. Sewer Fund project may be substantially complete at this time but were still in process as of September 30th, 2020. Since final payments will be made in the 2020-2021 fiscal year, the funding needs to be brought forward.

Town of Bay Harbor Islands, Florida
Carryforwards to the 2020-2021 Budget
Attachement B

Fiscal Year 2020/2021

Fund Nos. 402 Sewer Fund

Account Number	Account Description	Justification	Original/Adjusted Budget	Increase	Decrease	Adjusted Budget
SEWER FUND						
		Re-Appropriate Sewer Department Fund Balance for Carryforward amount from FY 2019-2020 for projects completed but payments not processed.				
402.5350.400063.000	Improvements (Excl. Buildings)		450,250.00	258,000.00	-	708,250.00
TOTAL	SEWER FUND EXPENDITURES			\$ 258,000.00		

Town of Bay Harbor Islands, Florida
Carryforwards to the 2020-2021 Budget
Attachement B

Fiscal Year 2020/2021

Fund Nos. 402 Sewer Fund

Account Number	Account Description	Justification	Original/Adjusted Budget	Increase	Decrease	Adjusted Budget
S E W E R F U N D						
402.5350.400063.000	Improvements (Excl. Buildings)	Re-Appropriate Sewer Department Fund Balance for Carryforward amount from FY 2019-2020 for projects completed but payments not proceesed.	450,250.00	258,000.00	-	708,250.00
TOTAL	SEWER FUND EXPENDITURES			\$ 258,000.00		

ORDINANCE NO. 1051

AN ORDINANCE MAKING APPROPRIATIONS FOR THE GENERAL, WATER, SEWER, PARKING, SOLID WASTE, CAUSEWAY, AND STORMWATER FUNDS FOR THE YEAR BEGINNING OCTOBER 1, 2020 AND ENDING SEPTEMBER 30, 2021, IN THE TOTAL SUM OF \$22,644,648; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS HEREBY ORDAINS:

Section 1. That the amounts as detailed on Exhibit "A" entitled "Town of Bay Harbor Islands Proposed Operating Budgets 2020-2021", attached hereto and made a part hereof, aggregating Twenty -Two Million, Six Hundred Forty-Four Thousand, Six Hundred Forty-Eight Dollars and No cents (\$22,644,648) or so much thereof as may be necessary, are hereby appropriated in the Town's General, Water, Sewer, Parking, Solid Waste, Causeway, and Stormwater Funds for the use of the several departments of the Town for the fiscal year beginning October 1, 2020 and ending September 30, 2021.

Section 2. That the budgets of the Town may be amended during the budget year by a motion approved by the Town Council to include the carryforward of unexpended appropriations from the previous year's budget or to authorize additional appropriations of available funds.

Section 3. 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. This ordinance shall become effective immediately upon passage by the Town Council on second reading.

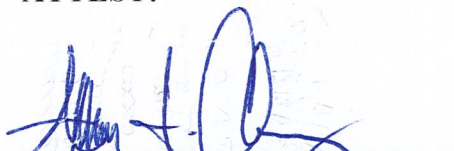
PASSED AND ADOPTED THIS 8TH DAY OF SEPTEMBER 2020 on first reading.

PASSED AND ADOPTED THIS 14TH DAY OF SEPTEMBER 2020 on second reading.



MAYOR

ATTEST:



INTERIM TOWN CLERK



Exhibit A

Town of Bay Harbor Islands

**2020-2021
Proposed
Budget**

Fund: 001 - General Fund

Department: 5110 - Town Council

001.5110.400011.000	Executive Salaries	7
001.5110.400031.000	Professional Services	18,000
001.5110.400040.000	Travel & Per Diem	9,600
001.5110.400041.000	Communications and Freight	16,740
001.5110.400045.000	Insurance	1,233
001.5110.400047.000	Printing & Binding	42,000
001.5110.400048.000	Promotional Activities	4,500
001.5110.400049.000	Other Current Charges	15,850
001.5110.400052.000	Operating Supplies	1,500
001.5110.400054.000	Publications and Training	2,500
001.5110.400064.000	Machinery & Equipment	-
Total Department: 5110 - Town Council:		111,930



Exhibit A

Town of Bay Harbor Islands

		2020-2021 Proposed Budget
Department: 5120 - Office of Town Manager		
001.5120.400012.000	Regular Salaries & Wages	165,943
001.5120.400014.000	Overtime Pay	3,319
001.5120.400021.000	F.I.C.A. Taxes	12,949
001.5120.400022.000	Retirement Contribution	29,882
001.5120.400023.000	Group Insurance	30,465
001.5120.400024.000	Workers' Compensation'	1,165
001.5120.400025.000	Unemployment Compensation	830
001.5120.400031.000	Professional Services	72,900
001.5120.400034.000	Other Contractual Services	37,500
001.5120.400040.000	Travel & Per Diem	8,500
001.5120.400041.000	Communications and Freight	15,600
001.5120.400044.000	Rentals & Leases	-
001.5120.400045.000	Insurance	3,083
001.5120.400047.000	Printing & Binding	6,000
001.5120.400049.000	Other Current Charges	29,500
001.5120.400051.000	Office Supplies	25,000
001.5120.400052.000	Operating Supplies	1,700
001.5120.400054.000	Publications and Training	7,100
Total Department: 5120 - Office of Town Manager:		451,436



Exhibit A

Town of Bay Harbor Islands

		2020-2021 Proposed Budget
Department: 5125 - Town Clerk		
001.5125.400012.000	Regular Salaries & Wages	79,875
001.5125.400014.000	Overtime Pay	1,598
001.5125.400021.000	F.I.C.A. Taxes	6,233
001.5125.400022.000	Retirement Contribution	14,384
001.5125.400023.000	Group Insurance	16,673
001.5125.400024.000	Workers' Compensation'	1,613
001.5125.400025.000	Unemployment Compensation	399
001.5125.400031.000	Professional Services	5,000
001.5125.400034.000	Other Contractual Services	32,845
001.5125.400040.000	Travel & Per Diem	-
001.5125.400041.000	Communications and Freight	500
001.5125.400044.000	Rentals & Leases	8,323
001.5125.400045.000	Insurance	1,850
001.5125.400046.000	Repairs & Maintenance	-
001.5125.400047.000	Printing & Binding	8,200
001.5125.400049.000	Other Current Charges	50,600
001.5125.400052.000	Operating Supplies	1,200
001.5125.400054.000	Publications and Training	1,400
001.5125.400066.000	Computer software	15,000
Total Department: 5125 - Town Clerk:		245,693



Exhibit A

Town of Bay Harbor Islands

		2020-2021 Proposed Budget
Department: 5130 - Finance and Administration		
001.5130.400012.000	Regular Salaries & Wages	87,861
001.5130.400014.000	Overtime Pay	4,393
001.5130.400021.000	F.I.C.A. Taxes	7,057
001.5130.400022.000	Retirement Contribution	15,822
001.5130.400023.000	Group Insurance	13,495
001.5130.400024.000	Workers' Compensation'	1,790
001.5130.400025.000	Unemployment Compensation	439
001.5130.400031.000	Professional Services	34,000
001.5130.400032.000	Accounting & Auditing	21,875
001.5130.400034.000	Other Contractual Services	25,000
001.5130.400040.000	Travel & Per Diem	-
001.5130.400041.000	Communications and Freight	200
001.5130.400044.000	Rentals & Leases	3,360
001.5130.400045.000	Insurance	617
001.5130.400046.000	Repairs & Maintenance	250
001.5130.400047.000	Printing & Binding	3,400
001.5130.400049.000	Other Current Charges	500
001.5130.400052.000	Operating Supplies	1,500
001.5130.400054.000	Publications and Training	470
Total Department: 5130 - Finance and Administration:		222,029



Exhibit A

Town of Bay Harbor Islands

		<u>2020-2021</u>
		<u>Proposed</u>
		<u>Budget</u>
Department: 5135 - Information Technology		
001.5135.400012.000	Regular Salaries & Wages	38,175
001.5135.400014.000	Overtime Pay	1,909
001.5135.400021.000	F.I.C.A. Taxes	3,066
001.5135.400022.000	Retirement Contribution	6,874
001.5135.400023.000	Group Insurance	8,227
001.5135.400024.000	Workers' Compensation'	579
001.5135.400025.000	Unemployment Compensation	191
001.5135.400031.000	Professional Services	12,000
001.5135.400034.000	Other Contractual Services	48,080
001.5135.400040.000	Travel & Per Diem	-
001.5135.400041.000	Communications and Freight	114,660
001.5135.400045.000	Insurance	1,233
001.5135.400046.000	Repairs & Maintenance	62,800
001.5135.400049.000	Other Current Charges	-
001.5135.400052.000	Operating Supplies	61,819
001.5135.400054.000	Publications and Training	-
001.5135.400066.000	COMPUTER SOFTWARE	-
Total Department: 5135 - Information Technology:		359,613



Exhibit A

Town of Bay Harbor Islands

		2020-2021 Proposed Budget
Department: 5137 - Human Resources		
001.5137.400012.000	Regular Salaries & Wages	32,136
001.5137.400021.000	F.I.C.A. Taxes	2,458
001.5137.400022.000	Retirement Contribution	5,787
001.5137.400023.000	Group Insurance	6,428
001.5137.400024.000	Workers' Compensation	533
001.5137.400025.000	Unemployment Compensation	161
001.5137.400034.000	Other Contractual Services	17,000
001.5137.400040.000	Travel & Per Diem	-
001.5137.400045.000	Insurance	1,233
001.5137.400048.000	Promotional Activities	11,000
001.5137.400049.000	Other Current Charges	13,700
001.5137.400052.000	Operating Supplies	270
001.5137.400054.000	Publications and Training	5,000
Total Department: 5137 - Human Resources:		95,706



Exhibit A

Town of Bay Harbor Islands

**2020-2021
Proposed
Budget**

Department: 5140 - Legal Counsel

[001.5140.400031.000](#)

Professional Services

243,600

Total Department: 5140 - Legal Counsel:

243,600



Exhibit A

Town of Bay Harbor Islands

		<u>2020-2021</u> <u>Proposed</u> <u>Budget</u>
Department: 5170 - Debt Service		
<u>001.5170.400071.000</u>	Principal Payments	338,000
<u>001.5170.400072.000</u>	Interest	165,181
<u>001.5170.400073.000</u>	Other Debt Service Costs	4,175
Total Department: 5170 - Debt Service:		507,356



Exhibit A

Town of Bay Harbor Islands

		2020-2021 Proposed Budget
Department: 5190 - Public Buildings		
001.5190.400034.000	Other Contractual Services	62,580
001.5190.400043.000	Utility Services	31,560
001.5190.400044.000	Rentals & Leases	30,000
001.5190.400045.000	Insurance	17,878
001.5190.400046.000	Repairs & Maintenance	54,900
001.5190.400049.000	Other Current Charges	2,600
001.5190.400052.000	Operating Supplies	8,150
001.5190.400063.000	Improvements (excl. Buildings)	35,000
001.5190.400064.000	Machinery & Equipment	120,000
Total Department: 5190 - Public Buildings:		362,668



Exhibit A

Town of Bay Harbor Islands

		2020-2021 Proposed Budget
Department: 5210 - Law Enforcement		
001.5210.400012.000	Regular Salaries & Wages	2,521,777
001.5210.400014.000	Overtime Pay	175,000
001.5210.400021.000	F.I.C.A. Taxes	206,303
001.5210.400022.000	Retirement Contribution	445,426
001.5210.400023.000	Group Insurance	332,414
001.5210.400024.000	Workers' Compensation'	38,819
001.5210.400025.000	Unemployment Compensation	12,609
001.5210.400031.000	Professional Services	11,840
001.5210.400034.000	Other Contractual Services	46,375
001.5210.400040.000	Travel & Per Diem	-
001.5210.400041.000	Communications and Freight	1,000
001.5210.400044.000	Rentals & Leases	128,085
001.5210.400045.000	Insurance	33,909
001.5210.400046.000	Repairs & Maintenance	42,060
001.5210.400047.000	Printing & Binding	5,000
001.5210.400048.000	Promotional Activities	6,000
001.5210.400049.000	Other Current Charges	6,000
001.5210.400052.000	Operating Supplies	139,500
001.5210.400054.000	Publications and Training	15,950
001.5210.400064.000	Machinery & Equipment	99,025
Total Department: 5210 - Law Enforcement:		4,267,092



Exhibit A

Town of Bay Harbor Islands

		2020-2021 Proposed Budget
Department: 5240 - Building		
001.5240.400012.000	Regular Salaries & Wages	447,789
001.5240.400021.000	F.I.C.A. Taxes	34,256
001.5240.400022.000	Retirement Contribution	51,087
001.5240.400023.000	Group Insurance	55,287
001.5240.400024.000	Workers' Compensation¹	1,654
001.5240.400025.000	Unemployment Compensation	2,239
001.5240.400031.000	Professional Services	179,000
001.5240.400034.000	Other Contractual Services	5,000
001.5240.400040.000	Travel & Per Diem	-
001.5240.400041.000	Communications and Freight	6,088
001.5240.400044.000	Rentals & Leases	12,120
001.5240.400045.000	Insurance	4,316
001.5240.400046.000	Repairs & Maintenance	1,188
001.5240.400047.000	Printing & Binding	5,820
001.5240.400052.000	Operating Supplies	3,000
001.5240.400054.000	Publications and Training	2,850
Total Department: 5240 - Building:		811,694



Exhibit A

Town of Bay Harbor Islands

		2020-2021 Proposed Budget
Department: 5245 - Code Compliance		
001.5245.400012.000	Regular Salaries & Wages	132,840
001.5245.400021.000	F.I.C.A. Taxes	10,162
001.5245.400022.000	Retirement Contribution	23,921
001.5245.400023.000	Group Insurance	32,835
001.5245.400024.000	Workers' Compensation'	1,813
001.5245.400025.000	Unemployment Compensation	664
001.5245.400040.000	Travel & Per Diem	-
001.5245.400044.000	Rentals & Leases	6,600
001.5245.400045.000	Insurance	617
001.5245.400046.000	Repairs & Maintenance	3,580
001.5245.400047.000	Printing & Binding	650
001.5245.400052.000	Operating Supplies	5,600
001.5245.400054.000	Publications and Training	404
Total Department: 5245 - Code Compliance:		219,686



Exhibit A

Town of Bay Harbor Islands

		2020-2021 Proposed Budget
Department: 5290 - Other Public Safety		
001.5290.400013.000	Other Salaries & Wages	64,232
001.5290.400021.000	F.I.C.A. Taxes	4,914
001.5290.400024.000	Workers' Compensation'	986
001.5290.400025.000	Unemployment Compensation	321
001.5290.400049.000	Other Current Charges	-
001.5290.400052.000	Operating Supplies	2,650
001.5290.400054.000	Publications and Training	50
Total Department: 5290 - Other Public Safety:		73,153



Exhibit A

Town of Bay Harbor Islands

		2020-2021 Proposed Budget
Department: 5410 - Streets & Parkways		
001.5410.400012.000	Regular Salaries & Wages	70,488
001.5410.400014.000	Overtime Pay	1,410
001.5410.400021.000	F.I.C.A. Taxes	5,500
001.5410.400022.000	Retirement Contribution	12,693
001.5410.400023.000	Group Insurance	17,866
001.5410.400024.000	Workers' Compensation'	2,164
001.5410.400025.000	Unemployment Compensation	352
001.5410.400031.000	Professional Services	1,500
001.5410.400034.000	Other Contractual Services	212,739
001.5410.400040.000	Travel & Per Diem	-
001.5410.400041.000	Communications and Freight	480
001.5410.400043.000	Utility Services	84,000
001.5410.400044.000	Rentals & Leases	13,190
001.5410.400045.000	Insurance	5,549
001.5410.400046.000	Repairs & Maintenance	34,350
001.5410.400049.000	Other Current Charges	35
001.5410.400052.000	Operating Supplies	35,730
001.5410.400054.000	Publications and Training	2,750
001.5410.400063.000	Improvements (excl. Buildings)	27,500
001.5410.400064.000	Machinery & Equipment	-
Total Department: 5410 - Streets & Parkways:		528,296



Exhibit A

Town of Bay Harbor Islands

		<u>2020-2021</u>
		<u>Proposed</u>
		<u>Budget</u>
Department: 5440 - Public Transit		
<u>001.5440.400034.000</u>	Other Contractual Services	150,000
<u>001.5440.400052.000</u>	Operating Supplies	8,000
Total Department: 5440 - Public Transit:		158,000



Exhibit A

Town of Bay Harbor Islands

		2020-2021 Proposed Budget
Account Number		
Department: 5720 - Parks and Recreation		
001.5720.400012.000	Regular Salaries & Wages	432,020
001.5720.400021.000	F.I.C.A. Taxes	33,050
001.5720.400022.000	Retirement Contribution	77,797
001.5720.400023.000	Group Insurance	82,078
001.5720.400024.000	Workers' Compensation'	6,534
001.5720.400025.000	Unemployment Compensation	2,160
001.5720.400034.000	Other Contractual Services	18,100
001.5720.400040.000	Travel & Per Diem	-
001.5720.400043.000	Utility Services	34,000
001.5720.400044.000	Rentals & Leases	3,900
001.5720.400045.000	Insurance	8,900
001.5720.400046.000	Repairs & Maintenance	17,850
001.5720.400047.000	Printing & Binding	7,940
001.5720.400049.000	Other Current Charges	130,070
001.5720.400049.010	Other Current Charges - Aftercare	108,200
001.5720.400049.020	Other Current Charges - Camps	43,000
001.5720.400049.030	Other Current Charges - Town Events	92,200
001.5720.400052.000	Operating Supplies	7,500
001.5720.400054.000	Publications and Training	1,205
001.5720.400063.000	Improvements (excl. Buildings)	530,000
001.5720.400091.600	Transfer to Reserves	65,000
Total Department: 5720 - Parks and Recreation:		1,701,504
Total Fund: 001 - General Fund:		10,359,455



Exhibit A

Town of Bay Harbor Islands

**2020-2021
Proposed
Budget**

Fund: 401 - Causeway Fund

Department: 5415 - Causeway Operations

401.5415.400012.000	Regular Salaries & Wages	1,109,738
401.5415.400014.000	Overtime Pay	49,938
401.5415.400021.000	F.I.C.A. Taxes	88,715
401.5415.400022.000	Retirement Contribution	199,837
401.5415.400023.000	Group Insurance	261,280
401.5415.400024.000	Workers' Compensation'	3,308
401.5415.400025.000	Unemployment Compensation	5,549
401.5415.400031.000	Professional Services	133,500
401.5415.400032.000	Accounting & Auditing	21,875
401.5415.400034.000	Other Contractual Services	375,602
401.5415.400040.000	Travel & Per Diem	-
401.5415.400041.000	Communications and Freight	25,000
401.5415.400043.000	Utility Services	66,600
401.5415.400044.000	Rentals & Leases	28,160
401.5415.400045.000	Insurance	224,926
401.5415.400046.000	Repairs & Maintenance	63,900
401.5415.400052.000	Operating Supplies	32,400
401.5415.400054.000	Publications and Training	-
401.5415.400063.000	Improvements (excl. Buildings)	1,415,000
401.5415.400071.000	Principal Payments	918,000
401.5415.400072.000	Interest	191,445
401.5415.400091.000	Transfers to Other Funds	1,300,000
Total Department: 5415 - Causeway Operations:		6,514,773
Total Fund: 401 - Causeway Fund:		6,514,773



Exhibit A

Town of Bay Harbor Islands

		2020-2021 Proposed Budget
Fund: 402 - Sewer Fund		
Department: 5350 - Sewer		
402.5350.400012.000	Regular Salaries & Wages	223,752
402.5350.400014.000	Overtime Pay	44,750
402.5350.400021.000	F.I.C.A. Taxes	20,540
402.5350.400022.000	Retirement Contribution	40,292
402.5350.400023.000	Group Insurance	53,326
402.5350.400024.000	Workers' Compensation	2,757
402.5350.400025.000	Unemployment Compensation	1,119
402.5350.400031.000	Professional Services	15,600
402.5350.400032.000	Accounting & Auditing	7,500
402.5350.400034.000	Other Contractual Services	11,945
402.5350.400034.200	Sewage Disposal	840,000
402.5350.400040.000	Travel & Per Diem	-
402.5350.400041.000	Communications and Freight	2,500
402.5350.400043.000	Utility Services	44,000
402.5350.400044.000	Rentals & Leases	13,400
402.5350.400045.000	Insurance	21,760
402.5350.400046.000	Repairs & Maintenance	76,100
402.5350.400046.183	Repairs & Maintenance #183	1,200
402.5350.400049.000	Other Current Charges	400
402.5350.400052.000	Operating Supplies	23,635
402.5350.400054.000	Publications and Training	-
402.5350.400063.000	Improvements (excl. Buildings)	450,250
402.5350.400074.000	Combined Debt Service	75,320
402.5350.400091.500	Transfer for Debt Service	498,829
Total Department: 5350 - Sewer:		2,468,975
Total Fund: 402 - Sewer Fund:		2,468,975



Exhibit A

Town of Bay Harbor Islands

		2020-2021 Proposed Budget
Fund: 403 - Water Fund		
Department: 5330 - Water		
403.5330.400012.000	Regular Salaries & Wages	259,606
403.5330.400014.000	Overtime Pay	12,980
403.5330.400021.000	F.I.C.A. Taxes	20,853
403.5330.400022.000	Retirement Contribution	46,749
403.5330.400023.000	Group Insurance	66,318
403.5330.400024.000	Workers' Compensation	3,171
403.5330.400025.000	Unemployment Compensation	1,298
403.5330.400031.000	Professional Services	7,700
403.5330.400032.000	Accounting & Auditing	5,000
403.5330.400034.000	Other Contractual Services	12,496
403.5330.400034.100	Water Purchases	600,000
403.5330.400040.000	Travel & Per Diem	-
403.5330.400041.000	Communications and Freight	400
403.5330.400044.000	Rentals & Leases	9,950
403.5330.400045.000	Insurance	14,506
403.5330.400046.000	Repairs & Maintenance	37,775
403.5330.400047.000	Printing & Binding	-
403.5330.400049.000	Other Current Charges	22,662
403.5330.400052.000	Operating Supplies	45,305
403.5330.400054.000	Publications and Training	140
403.5330.400063.000	Improvements (excl. Buildings)	6,000
403.5330.400064.000	Machinery & Equipment	-
403.5330.400091.500	Transfer for Debt Service	245,000
Total Department: 5330 - Water:		1,417,909
Total Fund: 403 - Water Fund:		1,417,909



Exhibit A

Town of Bay Harbor Islands

		2020-2021 Proposed Budget
Fund: 404 - Parking Fund		
Department: 5450 - Parking		
404.5450.400012.000	Regular Salaries & Wages	133,555
404.5450.400014.000	Overtime Pay	12,020
404.5450.400021.000	F.I.C.A. Taxes	11,136
404.5450.400022.000	Retirement Contribution	24,050
404.5450.400023.000	Group Insurance	31,834
404.5450.400024.000	Workers' Compensation	1,951
404.5450.400025.000	Unemployment Compensation	668
404.5450.400031.000	Professional Services	-
404.5450.400032.000	Accounting & Auditing	2,500
404.5450.400034.000	Other Contractual Services	10,850
404.5450.400041.000	Communications and Freight	29,000
404.5450.400043.000	Utility Services	26,100
404.5450.400044.000	Rentals & Leases	16,350
404.5450.400045.000	Insurance	7,253
404.5450.400046.000	Repairs & Maintenance	34,640
404.5450.400047.000	Printing & Binding	-
404.5450.400049.000	Other Current Charges	16,800
404.5450.400052.000	Operating Supplies	10,100
404.5450.400063.000	Improvements (excl. Buildings)	12,500
404.5450.400064.000	Machinery & Equipment	-
404.5450.400071.000	Principal Payments	358,000
404.5450.400072.000	Interest	60,760
Total Department: 5450 - Parking:		800,067
Total Fund: 404 - Parking Fund:		800,067



Exhibit A

Town of Bay Harbor Islands

		<u>2020-2021</u> <u>Proposed</u> <u>Budget</u>
Fund: 405 - Solid Waste Fund		
Department: 5340 - Solid Waste		
405.5340.400031.000	Professional Services	250
405.5340.400032.000	Accounting & Auditing	2,500
405.5340.400034.000	Other Contractual Services	-
405.5340.400034.300	SW Disposal Fees-Reg Pickup	679,028
405.5340.400034.350	SW Disposal Fees-Bus Regular	-
405.5340.400034.400	SW Disposal Fees-Daily Pickup	77,160
405.5340.400046.000	Repairs & Maintenance	-
405.5340.400049.000	Other Current Charges	850
405.5340.400052.000	Operating Supplies	2,000
	Total Department: 5340 - Solid Waste:	761,788
	Total Fund: 405 - Solid Waste Fund:	761,788



Exhibit A

Town of Bay Harbor Islands

		2020-2021 Proposed Budget
Fund: 406 - Stormwater Fund		
Department: 5380 - Stormwater		
406.5380.400012.000	Regular Salaries & Wages	40,130
406.5380.400021.000	F.I.C.A. Taxes	3,070
406.5380.400022.000	Retirement Contribution	7,226
406.5380.400023.000	Group Insurance	4,964
406.5380.400024.000	Workers' Compensation	613
406.5380.400025.000	Unemployment Compensation	201
406.5380.400031.000	Professional Services	200
406.5380.400032.000	Accounting & Auditing	1,250
406.5380.400034.000	Other Contractual Services	105,000
406.5380.400040.000	Travel & Per Diem	-
406.5380.400043.000	Utility Services	2,000
406.5380.400045.000	Insurance	3,627
406.5380.400046.000	Repairs & Maintenance	59,500
406.5380.400049.000	Other Current Charges	3,200
406.5380.400052.000	Operating Supplies	2,500
406.5380.400054.000	Publications and Training	700
406.5380.400063.000	Improvements (excl. Buildings)	87,500
Total Department: 5380 - Stormwater:		321,681
Total Fund: 406 - Stormwater Fund:		321,681
Report Total:		22,644,648



Exhibit A

Town of Bay Harbor Islands

	<u>2020-2021</u> <u>Proposed</u> <u>Budget</u>
Fund	
001 - General Fund	10,359,455
401 - Causeway Fund	6,514,773
402 - Sewer Fund	2,468,975
403 - Water Fund	1,417,909
404 - Parking Fund	800,067
405 - Solid Waste Fund	761,788
406 - Stormwater Fund	321,681
Report Total:	22,644,648

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 7.

ITEM:

~~Consideration and approval of an ordinance on second reading amending Section 23-21(e) of the Town Code to modify the Kane Concourse setback requirements for ground level restaurants and certain weatherization. Enclosed is a copy of the proposed ordinance and staff report provided by Town Planner Michael Miller.~~

DESCRIPTION:

At the February 10th, 2021 Regular Council Meeting, the Town Council held a discussion at the request of One Kane Concourse, LLC relating to possible code amendments affecting the Gateway properties. As requested by the Town Council, the Town Planner and Town Attorney hereby present the proposed code amendments as follow:

* Kane Concourse building setbacks
* language relating to weatherization (such as panels for the outdoor restaurant)

Enclosed is a copy of the proposed ordinance and staff report provided by Town Planner Michael Miller.

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk

ATTACHMENTS

1. BHI Gateway Proposed Ordinance 2021
2. BHI TC Staff Report Gateway Rev Staf Report Feb 25 2021
3. BHI Gateway Zone Rev Illustrations Feb 25 2021
4. OKC_East-West_low-res
5. OKC_West-East_low-res

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 THE GATEWAY (G) ZONING DISTRICT, AMENDING SECTION 23-21(e) OF THE CODE OF ORDINANCES TO MODIFY THE KANE CONCOURSE SETBACK REQUIREMENTS FOR GROUND LEVEL RESTAURANTS AND CERTAIN WEATHERIZATION, PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING AN EFFECTIVE DATE.

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

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

WHEREAS, the Town's 1995 Evaluation and Appraisal Report (EAR) of the adopted Comprehensive Plan concluded that the Town should consider strategies to encourage the re-development of lands on the eastern island of the Town; and

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

WHEREAS, one of the primary land development issues identified by the urban planning professionals are the so-called "Gateway" properties, being those properties abutting the Kane Concourse at the bridges to the Town's eastern island; and

WHEREAS, the Town's Comprehensive Plan identifies the need to address the "Gateway" properties by studying the land areas and considering special land development regulations for these strategic properties; and

WHEREAS, the Town Council amended the Town's Zoning and Planning Code in 2004 to create a Gateway "G" Zoning District and has occasionally updated certain provisions of the district regulations; and

WHEREAS, the Gateway "G" District regulations have proven to be a successful zoning tool for the Town to guide desired development scale, form and urban design for 3 of 4 gateway sites including two hotels and commercial complex to date; and

WHEREAS, the Town has been approached to consider modifying certain regulations for the commercial gateway site to facilitate desired tenant operations; and

WHEREAS, a meeting was held before the Local Planning Agency for the Town to review the 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 provisions in Section 23-21, the Gateway "G" Zoning District to address the unique attributes of the subject sites which provide for a method for the Town to consider land development applications, as more fully set forth in the attached Exhibit "A", and by reference are made a part hereof.

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

Section 3: That it is the intention of the Town Council of the Town of Bay Harbor Islands, and it is therefore ordained, that the provisions of the Ordinance shall become and be made a part of the Town of Bay Harbor Islands' Code of Ordinances, that sections

of this Ordinance may be re-numbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

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

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

PASSED on First Reading this ____ day of _____, 2021.

PASSED on Second Reading this ____ day of _____, 2021.

STEPHANIE BRUDER
Mayor

ATTEST:

ALBA L. CHANG, CMC
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

FRANK SIMONE, ESQ.
Town Attorney

Exhibit “A”

Amendments to the Town of Bay Harbor Islands Zoning and Planning Code

Sec. 23-21. Gateway (G) Zoning District.

(a) *Purpose and intent.* The purpose and intent of the Gateway (G) District is to create a set of design standards for the properties at the entrances to the eastern island of the Town that are to scale with the established and desired urban form and compatible with the Town's desire to have a substantial and elegant pedestrian promenade along the Kane Concourse roadway frontage; to establish a living and working environment that are responsive to the needs of the Town's inhabitants; to provide flexibility in planning, design and development; to encourage innovative approaches to the design of the properties; to provide efficient use of land; to provide an environment compatible with surrounding land use; to adapt the zoning process to changes in construction and development technology; and to promote the public health, safety and general welfare of the town.

(b) *Location of District.* The Gateway District is applicable to the following properties: Lot 1 and 2 of Block 1; Lot 1 of Block 2; Lot 32 of Block 3; and Lot 37 of Block 4.

(c) *Permitted Uses.* In the Gateway District, no building or land shall be used and no building shall hereafter be erected, constructed, reconstructed or structurally altered which is designed, arranged or intended to be used or occupied for any purpose, excepting for one (1) or more of the following uses:

- 1) For Lots 1 and 2 of Block 1 – those uses listed in Section 23-5 of the Town's Code.
- 2) For all other Lots referenced in subsection (b) above – those uses listed in Section 23-4 of the Town Code.

(d) *Town Approval.* The property shall be planned and developed according to detailed plans including site plans, floor plans, phasing plans and elevations showing all proposed development on the property as approved by the Town Council.

(e) *Building Setbacks, Building Height and Maximum Density.*

- 1) Kane Concourse - All properties shall have a building setback of not less than twenty (20) feet from the Kane Concourse right-of-way line. In addition, for any structure over twenty-five (25) feet in height, the setback shall be increased one (1) foot for each two (2) feet of building height for that portion of the building over 25 feet in height. A pedestal underground parking structure with no more than five (5) feet of the structure above grade (not including an inclined bridge) but completely opaque to the adjoining roadway by earthen berms and landscaping may encroach into the above building setback, but in no case less than fifteen (15) feet from the Kane Concourse right-of-way. Notwithstanding the above provision, a pedestal parking structure may be constructed within the above setback area to the Kane Concourse right-of-way line for Lot 1 in Block 1 and Lot 37 in Block 4 adjoining the bridge rising eastward towards and across the Indian Creek Waterway, provided that any such development shall provide for a continuous pedestrian environment at

least thirty (30) feet in width, including the sidewalk on the bridge, and continuing flush into the adjoining property appearing as a continuous plaza on the roof of a parking garage and tapered to be not visible toward East Bay Harbor Drive, except as otherwise allowed below. The area must appear as a common open plaza with both visual and physical access to the waterway as approved by the Town. Also, notwithstanding the above provision, a ground level restaurant may extend an enclosed air-conditioned building area closer toward Kane Concourse, but it shall not extend farther than ten (10) feet from the Kane Concourse right-of-way line. Any such ground level restaurant building extension may have a solid covered roof, but the exterior façade shall be primarily transparent (fixed or retractable glass / other clear weather barrier). An indemnification and hold-harmless agreement shall be required for any such extension in a form acceptable to the Town Attorney.

- 2) East Bay Harbor Drive / West Bay Harbor Drive – All properties shall have a minimum setback of twenty (20) feet for buildings up to twenty-five (25) feet in height. In addition, for any structure over twenty-five (25) feet in height, the setback shall be increased one (1) foot for each two (2) feet of building height for that portion of the building over 25 feet in height with a maximum setback of thirty (30) feet. A pedestal underground parking structure with no more than five (5) feet of the structure above grade but completely opaque to the adjoining roadway by earthen berms and landscaping may encroach into the above building setback but in no case less than fifteen (15) feet from the adjoining roadway. To accommodate the need to provide access from East Bay Harbor Drive to the top of any parking structure as the bridge rises toward the Indian Creek waterway, stairs, ramps, lifts and/or supportive walls shall be permitted within the fifteen (15) foot setback area specified herein, provided they are located within twenty-five (25) feet of the Kane Concourse right-of-way and provided the design and appearance are approved by the Town during the Site Plan approval process. Notwithstanding the above, an extended structure covering a drop-off / lobby area may be permitted if approved as part of the site plan.
- 3) Side Property Lines - All properties shall have a minimum setback of ten (10) feet for buildings up to twenty-five (25) feet in height. In addition, for any structure over twenty-five (25) feet in height, the setback shall be increased one (1) foot for each two (2) feet of building height for that portion of the building over 25 feet in height with a maximum setback of twenty-five (25) feet. Notwithstanding the above provision, for developments located on single lots, the maximum setback shall be twenty (20) feet. Pedestal parking structures must be completely screened to the adjoining property by earthen berms and landscaping.
- 4) Waterfront Property Lines - All properties shall have a minimum setback of twenty (20) feet, regardless of building height. This shall also apply to underground parking structures. Notwithstanding the above, if an exterior seating area for a ground level restaurant is provided, an extended roof canopy over the seating may be provided, but the roof canopy shall not extend farther than ten (10) feet from the property line. Clear retractable weather barriers may be affixed thereto.

- 5) Flex setbacks - A project designer has the option to offer creative design solutions to the building configurations and the Town Council may allow portions of the building structure over twenty-five (25) feet in height to encroach into the setback requirements above. The total amount of encroachment shall not exceed one-third of the allowable width or length of the building. This provision shall serve to create an architectural opportunity for creative design approaches while promoting the beneficial purposes of building setbacks in the district. In no case shall any portion of a building encroach into the base building setbacks set forth above for portions of buildings below twenty-five (25) feet in height.
- 6) Building Height - On Lot 1 and 2 in Block 1, Lot 1 in Block 2, Lot 32 in Block 3 and Lot 37 in Block 4, no portion of a building or structure shall exceed twenty-five (25) feet within the minimum principal building setback area but may be increased in height at a ratio of one (1) foot for each two (2) feet of building height over twenty-five (25) feet. The maximum allowable height of buildings or structures is seventy-five (75) feet in Block 1 and in Block 4 and the maximum allowable height of buildings or structures is sixty (60) feet in Block 2 and in Block 3. Notwithstanding the above, if rooftop exterior seating areas for a restaurant located in the building is provided after receiving approval by the Town Council as set forth in the Code, clear vertical retractable weather barriers may be provided over seating areas attached to rooftop canopies, trellis or similar structures.
- 7) The maximum allowable residential density shall be in accordance with the adopted Comprehensive Plan provisions as to the base residential density and any additional allocated density as may be approved by the Town Council.

(f) *Pedestrian Promenade.* The Town desires to continue the established pedestrian promenade along Kane Concourse between East Bay Harbor Drive and West Bay Harbor Drive on the Gateway properties to the adjoining waterways. A minimum ten (10) foot wide waterway access and landscape buffer shall be provided adjoining the Kane Concourse right-of-way. A minimum 8-foot wide pedestrian walkway shall be constructed within the corridor from the adjoining roadways to the seawall and shall connect to the sidewalks along the bridges together with such landscaping deemed compatible and consistent with the overall Kane Concourse promenade appearance. These provisions may be modified as provided for in subsection (e) above.

(g) *Public hearing procedure.* At the public hearing, the applicant shall have the burden of proof in demonstrating how the proposed application complies with the purpose and intent of the Gateway Zoning District code provisions. In determining whether to grant approval of the application with or without appropriate and necessary conditions and safeguards, the Town Council shall determine whether the application complies with the purpose and intent of this section and shall make the following findings:

- (1) Whether the site development plan design complies with at least the minimum standards contained herein;
- (2) Whether the application will have a favorable effect on the economy of the Town;

- (3) Whether the application will generate or result in excessive noise or traffic congestion;
- (4) Whether the application will cause an undue or excessive burden on public facilities, including potable water, sanitary sewer, solid waste disposal, community recreation, transportation facilities or other such public facilities which have been constructed or which are planned and budgeted for construction;
- (5) Whether the application will cause excessive overcrowding or concentration of people or population;
- (6) Whether the application will be compatible with the surrounding area and its development in scale and appearance. The Town shall base compatibility on the existing scale of adjoining development and the allowable scale under the applicable zoning district; and
- (7) Whether the application is a reasonable use of property and results in a public benefit including, but not limited to, the enhancement of the subject real property and/or the redevelopment of structures in deteriorated or poor condition.

The Town Council shall have full authority to approve, approve with modifications, or deny a site development plan application based upon its determination that the application, as proposed or modified, serves and protects or does not serve and protect the public health, safety and welfare. Likewise, the Town Council shall have authority to impose reasonable conditions and safeguards necessary to protect the public health, safety and welfare upon the approval of any development application.

(h) *Ownership requirements.* An applicant for approval shall be the owner(s) of record, a contract purchaser of the property (provide consent from owner of record) or an authorized agent thereof of the entire property encompassed by the application (the "property").

(i) *Application procedure.* The applicant shall submit an application to the Town Manager or his or her designee on a form(s) prescribed by the Town Manager. The Town Manager or his or her designee shall require at least the following information with the application:

- (1) Letter of intent.
- (2) A detailed site development plan showing dimensions of all buildings, structures, setbacks, open spaces, landscaping and off-street parking. In the event that sufficient off-street parking is not available on site to meet existing code requirements, the applicant shall furnish to the Town Manager written documentation of a cross parking agreement or other parking arrangement satisfactory to the Town Attorney, which will provide sufficient parking as determined by the Town Council.
- (3) Proposed floor plans and elevations (including signage) for all buildings and structures. Exterior building materials and colors shall be identified.

- (4) A complete list of uses and the square footage for each use requested.
- (5) A certified copy of a land survey of the property (not more than 6 months old).
- (6) Development review and processing fees as established by the Town Council by Resolution shall be charged for all design review services provided by the Town staff and any consultants. In addition, all costs for advertisements and mailing shall be borne by the applicant.
- (7) Such other documentation as the Town Manager reasonably determines is necessary to properly review the proposed project.

(j) *Legal effect of Town Approval.* Notwithstanding anything in the code to the contrary, the approval of the application shall constitute the approved site development plan and the development regulations applicable to the property. The Town Council shall be prohibited from approving an application that would increase the intensity, density or height of development above that which is allowed by the adopted Comprehensive Plan and any Land Development Regulations to implement the intensity standards.

Any prior land development permits issued by the Town, including but not limited to the PUD Overlay designation on Lots 35 through 37 of Block 4, shall remain in effect until such time as the Town or property owner seeks to remove the designation and/or modify the approved development plan. The development criteria contained in this section shall supercede any other code provisions, however, existing development shall be permitted to remain until re-development is requested.

In the event that the owner wishes to modify an approved site development plan application in any fashion which would increase the amount of square footage of the building(s) or lessen landscaping or open space or create an undue burden on any public facilities, a separate and new application shall be filed and shall be subject to the terms and conditions of this section.

In the further event that the owner does not submit complete plans for building permits of the main building to the Town within twelve (12) months and begin development within eighteen (18) months from the date of approval, the Town's approval shall lapse. For the purposes of this section, the term "begin development" shall mean substantial construction such as land clearing, utility construction, foundation work, etc. The term shall not include property fencing, placement of construction trailers, equipment and materials. Once construction commences, construction activities shall occur continuously with regular inspections. The Town, upon a demonstration of just cause by the owner, may grant a reasonable extension of time to commence development. If construction ceases for more than sixty (60) days, the project shall be deemed abandoned and the Town's approval shall lapse.

**TOWN OF BAY HARBOR ISLANDS
COMMUNITY DEVELOPMENT
MEMORANDUM**

To: Mayor and Town Councilmembers
Town of Bay Harbor Islands

CC: Maria Lasday – Town Manager
Alba Chang – Town Clerk
Frank Simone, Esq. – Town Attorney

From: Michael J. Miller, AICP 
Consultant Town Planner

Date: February 25th, 2021

Subject: Gateway (G) Zoning District
Proposed Code Amendments
Kane Concourse Setbacks / Outdoor Use Weatherization
Town of Bay Harbor Islands
MMPA Acct. No. 01-0702-0400

ISSUE

On November 11th, 2004, the Town adopted Ordinance No. 753 that created the Gateway (G) Zoning District. There have two minor revisions adopted over the years (2008 / 2015). This zoning classification was initially designated on the first lot of each Block that fronts Kane Concourse and the waterways that surround the East Island (Bay Harbor Waterway / Indian Creek). In Block 1 (One Kane Concourse) the owners requested / Town approved a rezoning to rezone both Lot 1 and 2 to the Gateway District in 2007 primarily to have a consistent set of land development regulations for future development. This was applied in the project's approval. The primary purpose of the Gateway Zoning District was to establish special regulations to these sites as prominent visual "gateways" to the Town's East Island. One of the major goals for the community's urban design zoning criteria for the sites was to have "understated" gateways with wider setbacks adjoining Kane Concourse (20') to provide enough space to establish "pedestrian promenades" with wide walkways and landscaped areas similar to the areas along Kane Concourse in the main commercial areas which exists between East Bay Harbor Drive and West Bay Harbor Drive (wide walkways / outdoor dining / landscaping). As to building heights and setbacks a base building setback of 20' was established. If a building exceeds 2-stories (25') the required setbacks increase 1':1' for the additional height up to the 75' maximum height. This forces the major mass of taller portions of buildings to slope away from the roadways. There is a "flex" setback provision to encourage building undulation.

ANALYSIS

As of 2021 the Town has received and approved three (3) of the gateway sites (the Monarch / TRYP 96-room Hotel / Grand Beach 96-room Hotel / One Kane Concourse commercial complex with offices / restaurant). The Town recently acquired the 4th gateway site (Lot 32 of Block 3) as part of the 1177 Kane Concourse mixed-use development approval. A community park is planned for the Town's gateway site. The two hotels have been built and are operational. The One Kane Concourse commercial complex has not been built as yet – but plans are being made to move forward with the construction of the complex in the near future. The One Kane Concourse commercial development team recently approached the Town with their plans and have requested consideration of a few possible Zoning Code / Site Plan condition modifications primarily for a high-end ground floor restaurant use. Most of the requests can be accommodated via administrative staff approvals. The PZB site plan approval Resolution (Res. No. 2112) has a condition that limits rooftop table service. The owners would like permission to have occasional rooftop dining. The PZB will need to consider this revision. As the proposed building is 75' in height no habitable space is allowed due to the Town Charter building height restriction. Finally, any business activity on a rooftop in the commercial areas requires prior Town Council approval of the use - Sec. 23-5 (15). Even though the Town Code has limitations as to rooftop uses and the project approvals have additional restrictions (i.e. Res. conditions).

At the February 10th, 2021 Town Council meeting a discussion occurred on this topic. It appeared consensus was reached on most items. As the One Kane Concourse site is one of four Gateway District sites, any general Code amendments would apply uniformly to allow sites, in the opinion of the Town Attorney, to avoid an appearance of "spot zoning".

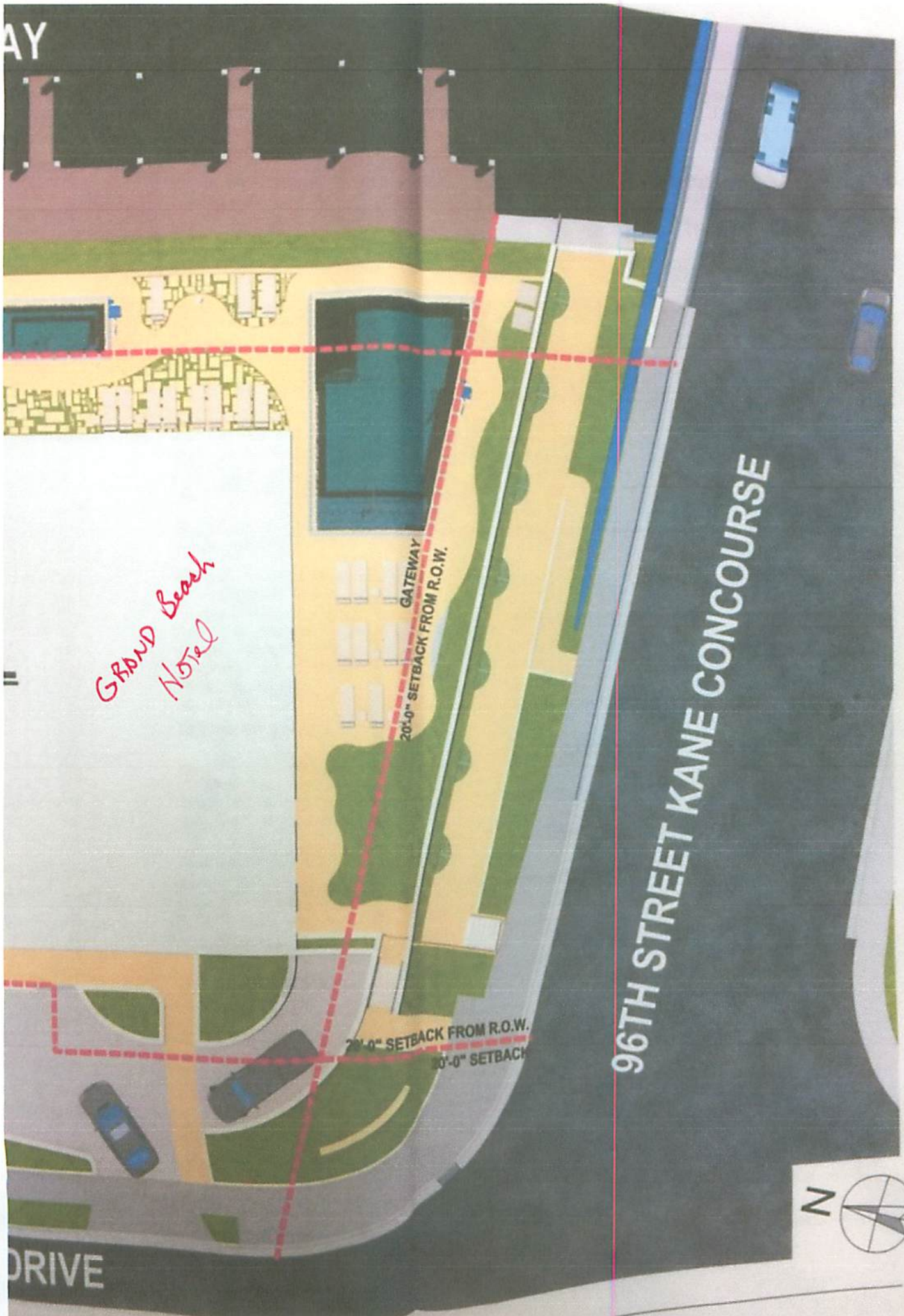
The Code amendments staff feels may be necessary to accommodate the One Kane Concourse developer mostly revolve around a requested reduction in the Kane Concourse ground floor setback. The current Code requires a minimum 20' setback from the Kane Concourse right-of-way to any vertical building surface above the ground. The Code already allows an underground parking garage to extend up to the Kane Concourse road right-of-way line. The intention was the 20' wide pedestrian promenade would be built on top of the parking garage – that is how the One Kane Concourse complex is designed. Adjoining the bridge is a mandatory min. 8' wide walkway with landscaping. The balance of the area next to the building was shown as an outdoor plaza so extra restaurant seats / tables could be added if needed. The developer is seeking to allow a ground floor restaurant to move the vertical wall surface out to a 10' setback from the Kane Concourse right-of-way. While MMPA understands the purpose of their request we are opposed to this Code revision, as it would affect the Town's consistent 30' wide pedestrian promenade corridor and 20' onsite plaza area. We would not be opposed to a cantilevered roof covering with weatherization panels for outdoor seating next to the building. All of the other gateway sites have complied with the Code and built the 20' wide pedestrian promenades (see attached plan excerpts from the Grand Beach Hotel and TRYP Hotel complexes). As a matter of reference 20' is the length of a typical large SUV. 10' is a very short dimension.

If the Town revises the Code, it could be expected that the existing hotels may request similar setback extensions and those plazas would be essentially lost. While staff believes we could administratively approve wider roof overhangs and weatherization panels, a Code clarification would assist us legally, as this is not mentioned.

As instructed MMPA worked with the Town Attorney to draft a proposed Code amendment ordinance to adjust to the Kane Concourse building setback and added weatherization text, that is recommended in any event. MMPA sought to draft new Code amendments very narrowly to apply only to the One Kane Concourse site, as it is the only Gateway site with a commercial land use designation per the Town's Comprehensive Plan Future Land Use Map (FLUM). The Town Attorney has cautioned that site specific Code variations could lead to challenges and allegations of "spot zoning". Based on that legal advice we have drafted the text accordingly.

CONCLUSION AND RECOMMENDATION

Based on the above analysis, MMPA recommends that the Town Council consider the above thoughts on this issue and proceed as desired. MMPA is generally opposed to the requested Kane Concourse setback reduction for the reasons stated (loss of wide pedestrian promenade). Alternatives exist for extended roof covering and weatherization panels. Outdoor dining is encouraged and is prevalent along Kane Concourse with tables / chairs / umbrellas. MMPA / staff recommends the Code be amended regardless of the Kane Concourse setback issue to address weatherization panel allowances, which occurs now with no Code guidance to staff.



Grand Beach
Hotel

GATEWAY
20'-0" SETBACK FROM R.O.W.

20'-0" SETBACK FROM R.O.W.
20'-0" SETBACK

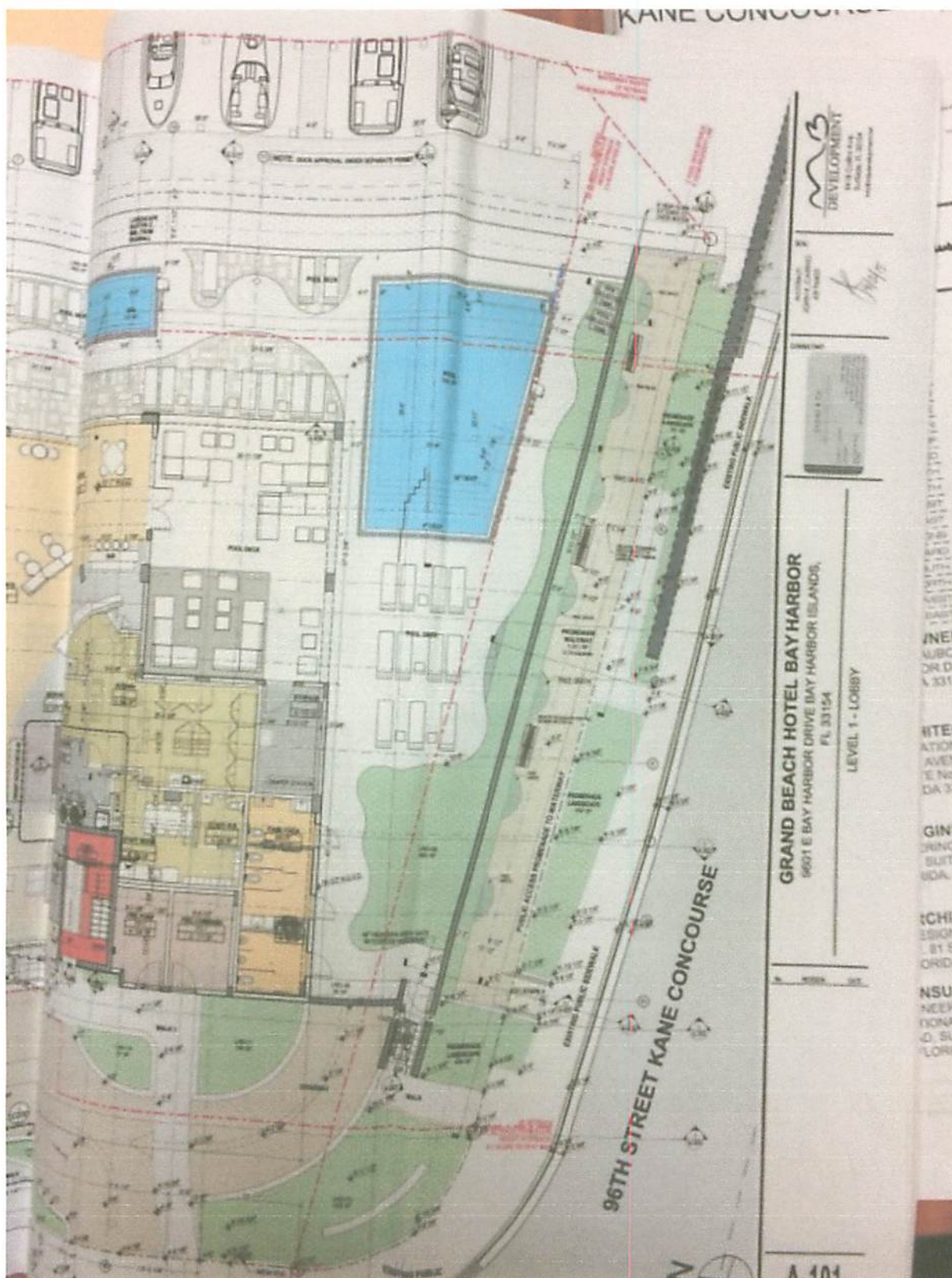
96TH STREET KANE CONCOURSE

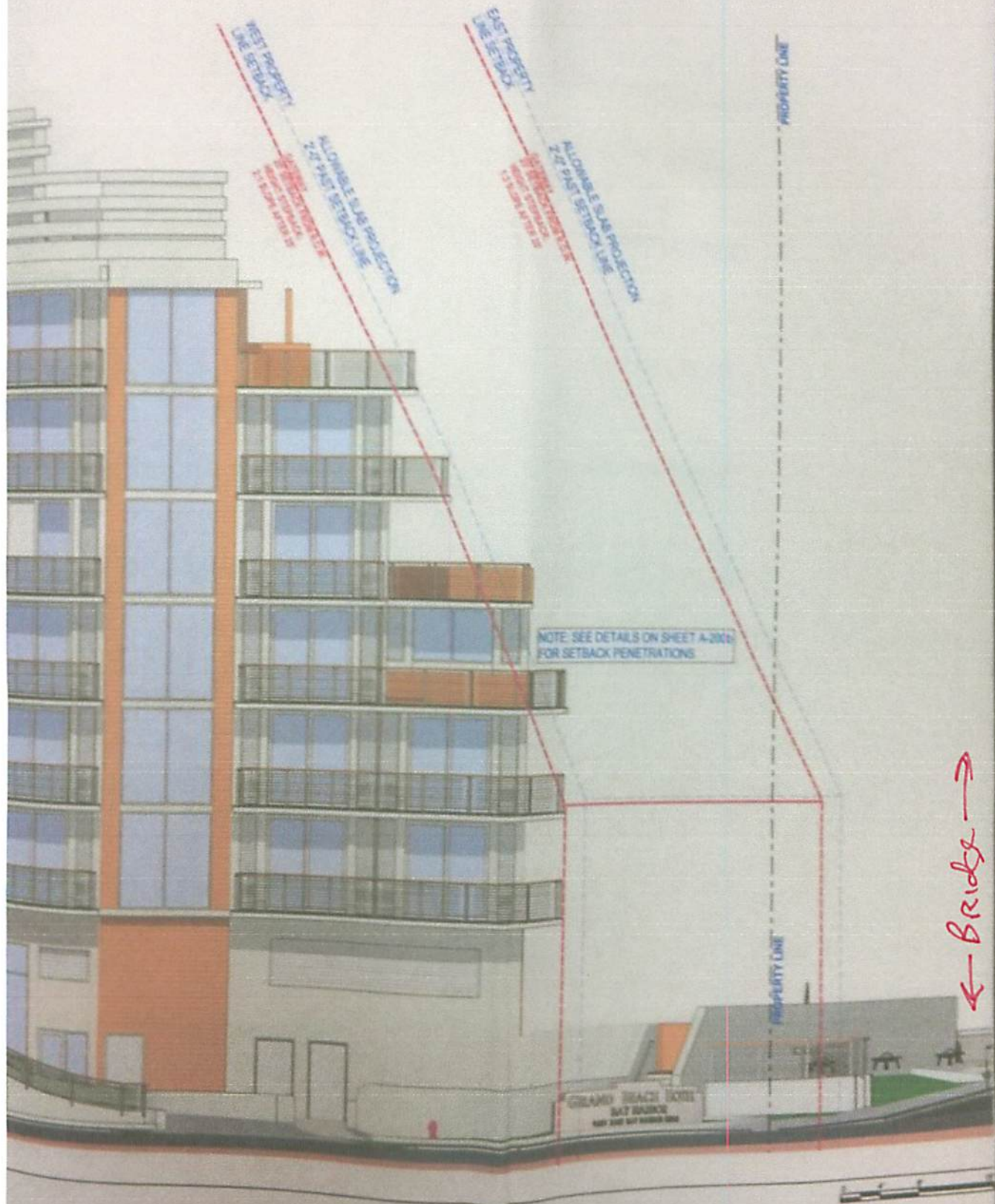


GRAND BEACH HOTEL BAY HARBOR
9601 E BAY HARBOR DRIVE BAY HARBOR ISLANDS,
FL 33454

Architect:
JOHN L. CAIRNS
A/E 94603

CONSULTANT:
CAIRNS & CO.
ARCHITECTS & ENGINEERS





GRAND BEACH HOTEL BAY HARBOR
9601 E BAY HARBOR DRIVE BAY HARBOR ISLANDS,
FL 33154

WEST ELEVATION

DEVELOPER
9418 G
SOUTH
WILMINGTON

ARCHITECT
JOHN E. CARBON
ARCHITECTS

CONSULTANT



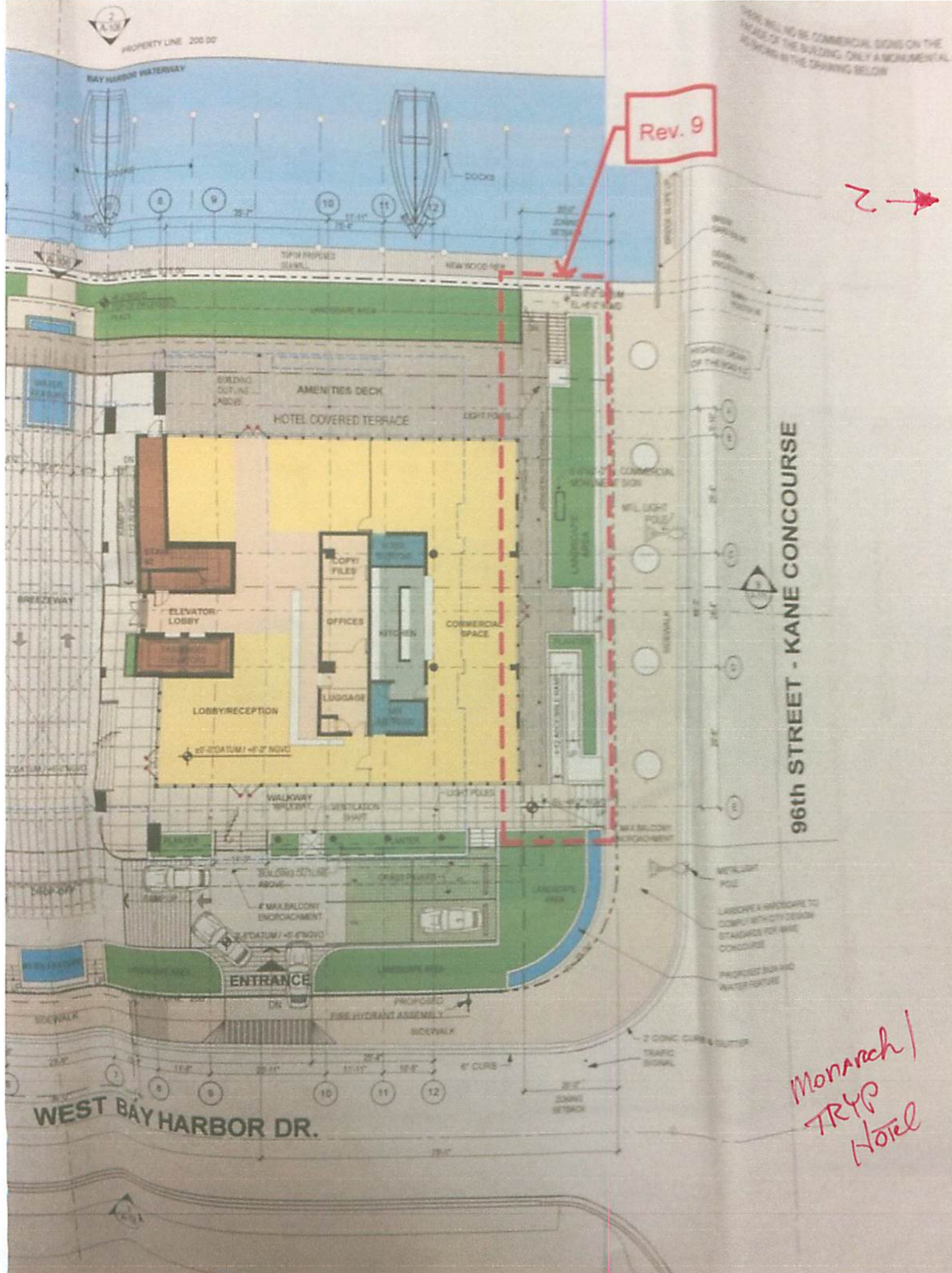
PROPERTY LINE 200.00'

BAY HARBOR WATERWAY

NO SIGNAGE OR COMMERCIAL SIGNS ON THE
FRONT OF THE BUILDING. ONLY A MONUMENTAL
SIGNAGE IN THE DRAWING BELOW

Rev. 9

2 →



96th STREET - KANE CONCOURSE

WEST BAY HARBOR DR.

Monarch /
TRYP
Hotel

A-100

ENTRANCE

11/20/11
11/20/11
11/20/11

DESIGN BY

Handwritten signature

PROJECT NO. Revue
AF-0007872

PROJECT

MONARCH HOTEL

Bay Harbor Islands - FL 33154

OWNER INFORMATION

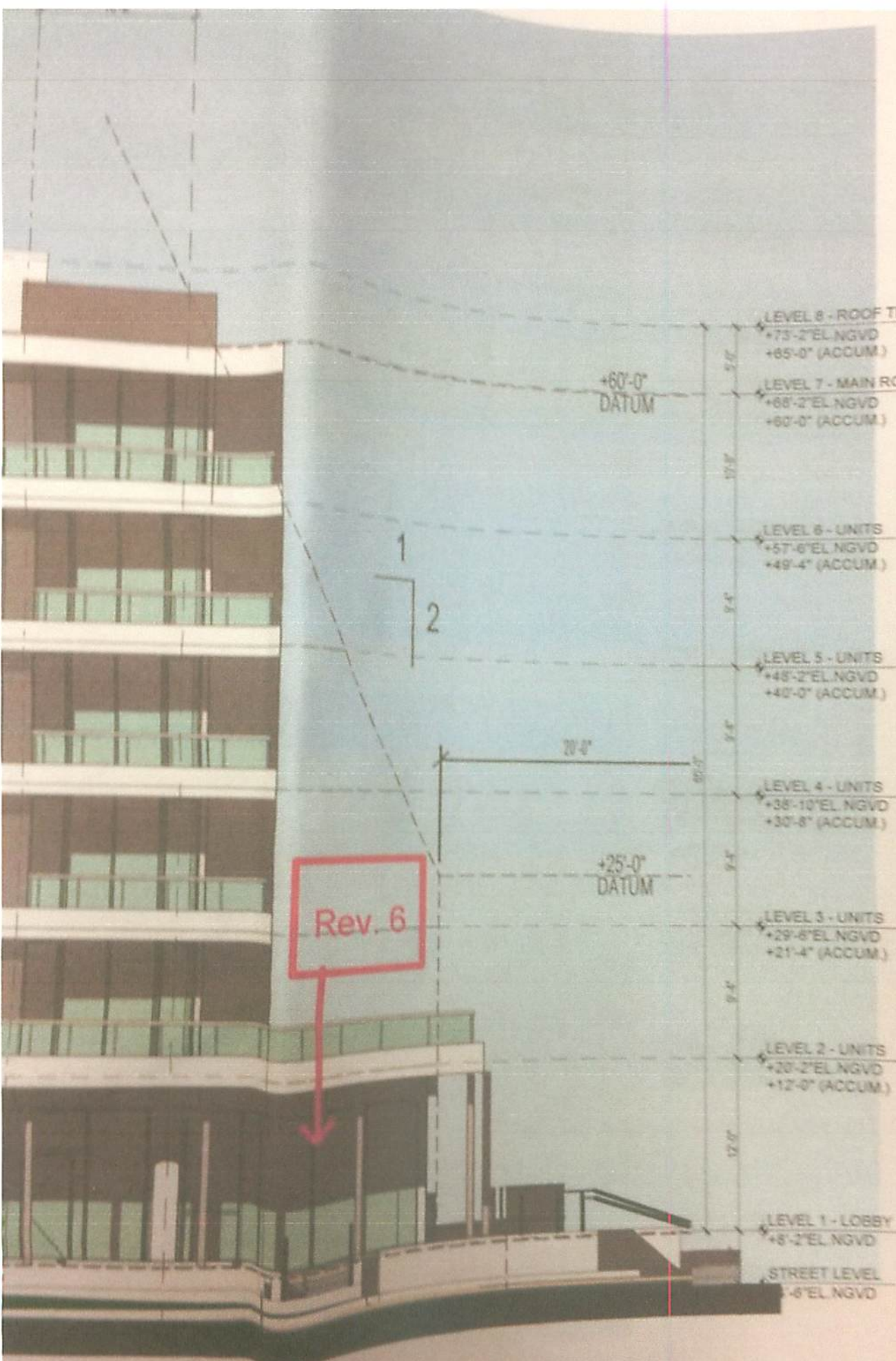
BAY VILL
CONDOS,

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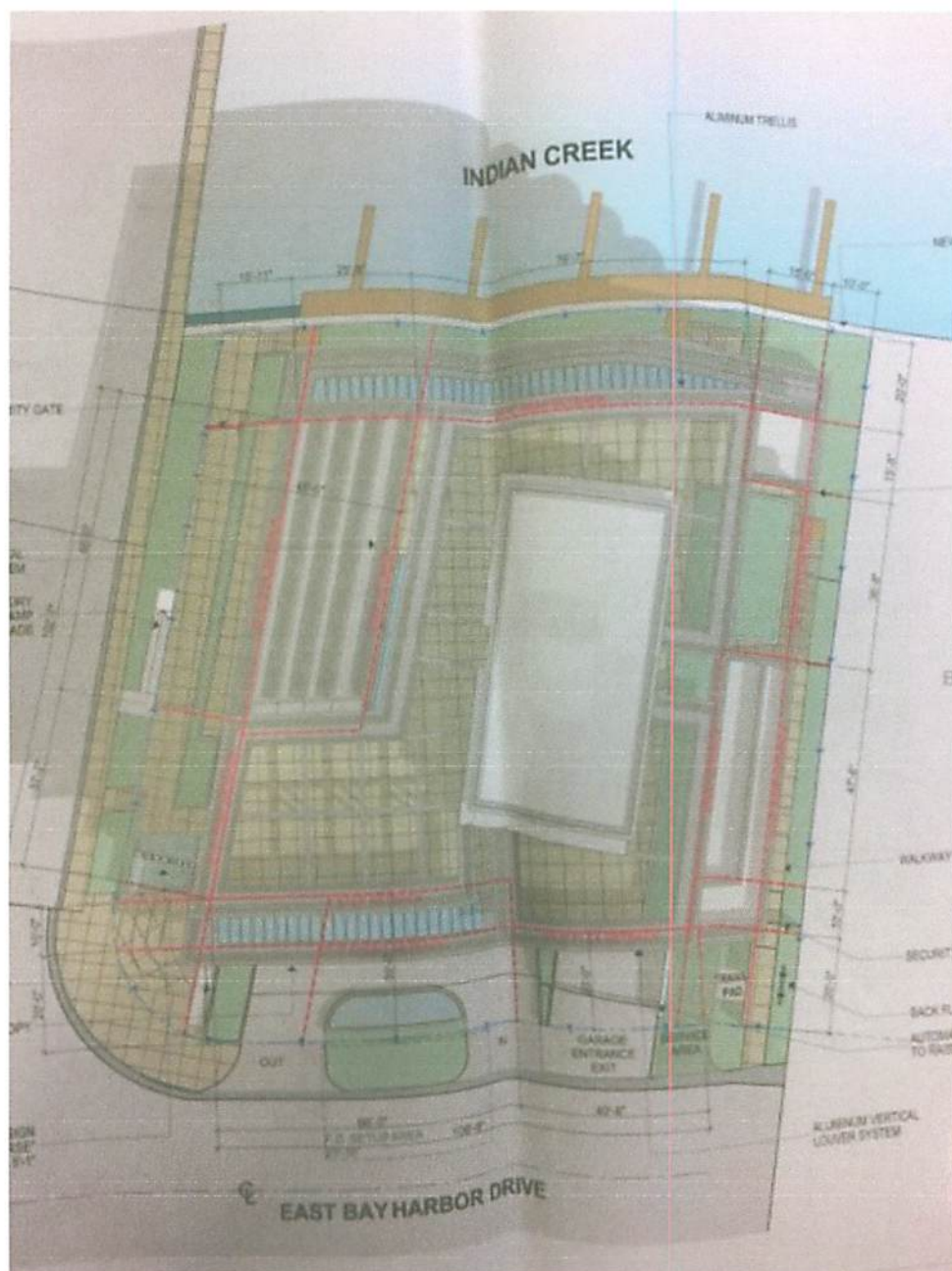
Permit Revisions

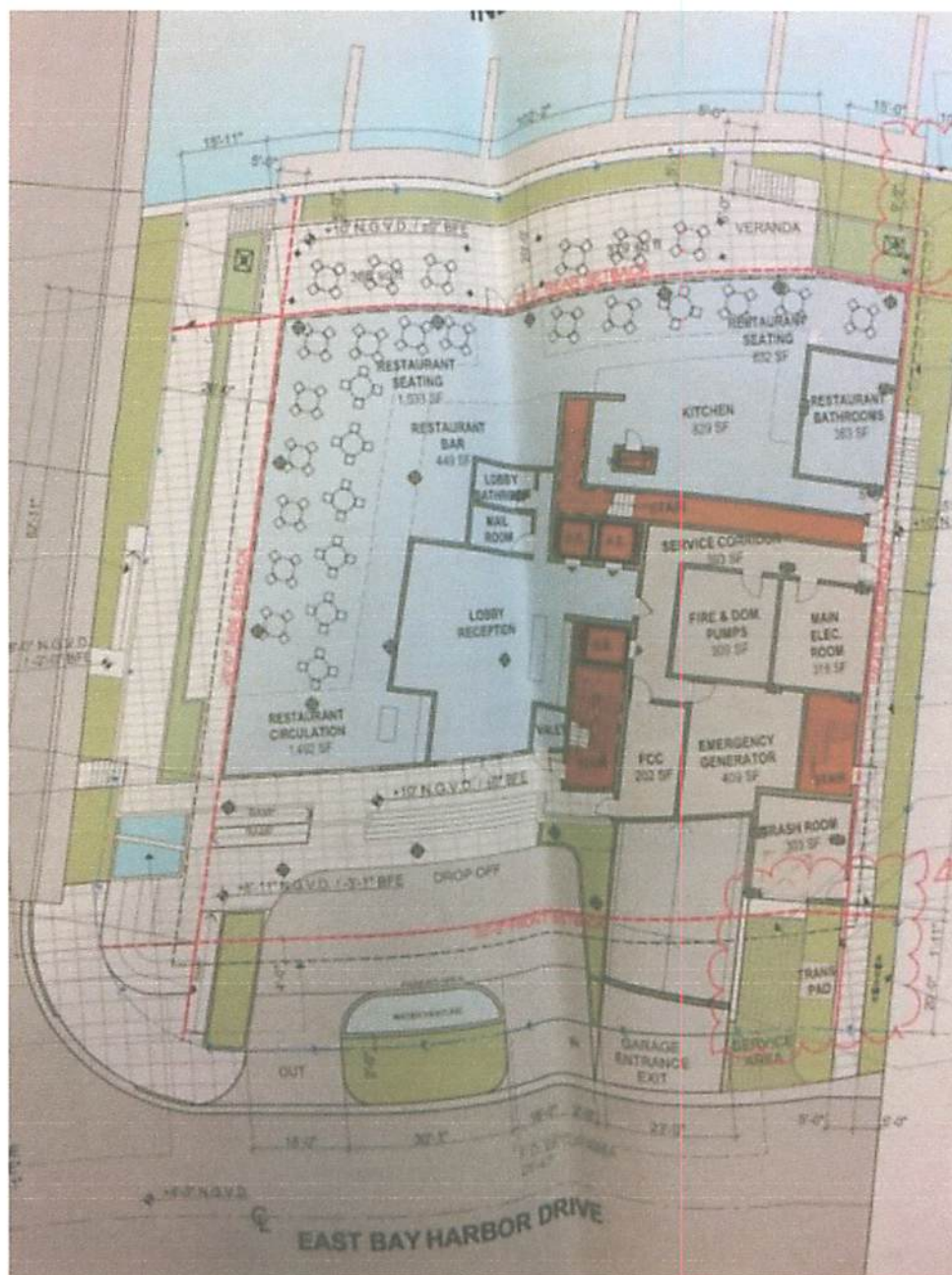
CONSULTANTS

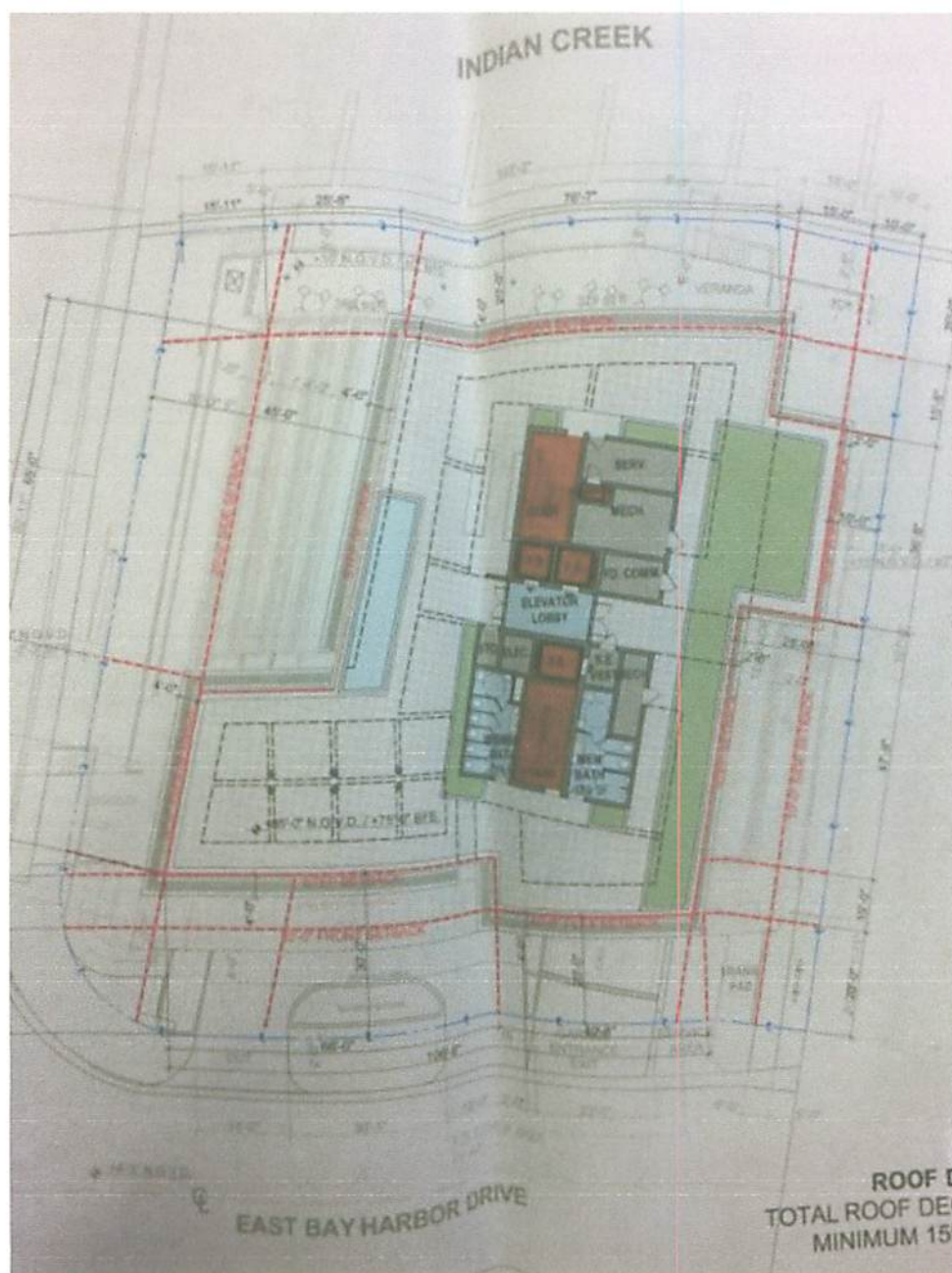
Rev. 6



EAST ELEVATION
11'-0"











AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 8.

ITEM: Consideration and Approval of an ordinance on **first** reading amending Chapter 9 of the Town Code updating the solid waste schedule of fees. Enclosed is a copy of the proposed ordinance.

DESCRIPTION:

The proposed ordinance will amend Chapter 9 of the Town Code entitled Solid Waste and Recycling Collection Schedule of Fees. The solid waste and recycling fees are currently codified in the Town Code requiring a Code amendment to change the fees. The proposed ordinance will amend the code for such fees to be updated when applicable via resolution.

Enclosed is a copy of the proposed ordinance.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk
 Peter Kajokas, Finance Director
 Maria Lasday, Town Manager

ATTACHMENTS

1. Solid Waste ORdinance 03.30.2021

ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE
TOWN OF BAY HARBOR ISLANDS, FLORIDA,
AMENDING CHAPTER 9 OF THE TOWN'S ADOPTED
CODE OF ORDINANCES ENTITLED SOLID WASTE
COLLECTION, BY AMMENDING SECTION 9-38
ENTITLED SCHEDULE OF FEES; PROVIDING FOR
SEVERABILITY; PROVIDING FOR CODIFICATION; AND
PROVIDING AN EFFECTIVE DATE.**

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

WHEREAS, the Town has the option to enter into contract(s) with a private solid waste and recycling contractor(s) to provide solid waste and recycling collection services to the Town, business entities located in the Town, and for the residents of the Town; and

WHEREASE, the cost of solid waste and recycling services set forth in such contract(s) change from time to time and, as a result, the amount payable for such services by the the Town, business entities located in the Town, and for the residents of the Town must also change from time to time to reflect the same; and

WHEREAS, the costs of solid waste and recycling services shall be set forth by Resolution to account for and reflect such cost changes.

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

Section 1: That Section 9-38 of the Town of Bay Harbor Islands Code of Ordinances is hereby amended as 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 upon its passage and adoption.

PASSED on First Reading this _____ day of _____ 2021.

PASSED AND ADOPTED on Second Reading this _____ day of _____ 2021.

STEPHANIE BRUDER
Mayor

ATTEST:

ALBA CHANG
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

JOSEPH S. GELLER, ESQ.
Town Attorney

EXHIBIT A

Sec. 9-38. - Schedule of fees.

- (a) Every person, firm, corporation, partnership or other legal entity owning or operating a commercial establishment or residential unit(s) shall be required to use solid waste and recycling collection and disposal services furnished by the town and pay for said services as hereinafter provided. The town shall have the option to enter into contract(s) with private solid waste and recycling contractor(s) for such solid waste and recycling collection services. The solid waste and recycling collection contractor(s) shall be paid by the town and the town, in turn, shall bill the commercial establishment and residential unit(s) establishment who shall be billed monthly for the actual costs thereof, plus an administrative fee, as set forth herein.
- (b) ~~For establishments selling food for human consumption, such establishments shall pay a monthly fee, as established by Resolution. For all other commercial establishments, the amount of the fee shall be based upon the amount of waste normally collected and shall be paid directly by the owner or operator of the property or commercial establishment.~~
- (b) Every person, firm, corporation, partnership or other legal entity owning or operating a residential unit, whether a single-family dwelling, multiple-family dwelling, a condominium, apartment or other dwelling unit shall pay a monthly fee, as established by Resolution. as follows:
 - (1) ~~For a condominium or co-op building with three or more units, a monthly fee of \$16.75 per unit.~~
 - (2) ~~For a rental apartment building with three or more units, a monthly fee of \$19.90 per unit.~~
 - (3) ~~For single family residences, a monthly fee of \$22.80 per unit; and~~
 - (4) ~~For all buildings, dwellings, etc., with private waste haulers, a monthly fee of \$3.40 per unit for recycling fees.~~
- (c) Every person, firm, corporation, partnership or legal entity owning or operating a commercial establishment, shall ~~be required to use sanitation and solid waste disposal service furnished by the town and the owner of said property shall pay for waste collection and disposal~~ pay a monthly fee, as established by Resolution on the basis of \$17.00 per container (32 gallons or equivalent), per month.
- (d) A commercial establishment located within the same building with a residential unit or with another commercial establishment, even though under the same ownership, shall not be considered a part of that residential unit or other commercial establishment, but shall be treated as a separate commercial establishment upon which a separate waste fee shall be due.

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 9.

ITEM: Consideration and Approval of the 2020-2023 Collective Bargaining Agreement between the Town and the Dade County Police Benevolent Association, Inc. (PBA). Enclosed is a copy of the Collective Bargaining Agreement.

DESCRIPTION:

Consideration and approval of the proposed Collective Bargaining Agreement between the Town and the Dade County Benevolent Association "PBA". Below is a summary of the proposed changes to the Agreement.

Term: The Agreement is for a three (3) year term. It expires on September 30, 2023.

* Wages and Longevity (Article 28): Please see below.

* COLA.

Officers, detectives, and sergeants shall be entitled to the following cost of living wage increases during the term of the Agreement:

4% -- effective January 1, 2021

3% -- effective October 1, 2021

3% -- effective October 1, 2022

Lieutenants shall be entitled to the following cost of living wage increases during the term of the Agreement:

4% -- effective January 1, 2021

2.5% -- effective October 1, 2021

2.5% -- effective October 1, 2022

*Call Back Pay. The parties have agreed to increase the amount hour of pay an employee is entitled to receive when he/she is required to return to work while off duty from two to three hours at the employee's overtime rate.

*Vacation Leave. The parties have agreed that employees may cash out up to 80 hours of unused vacation time each fiscal year. The parties have also agreed that employees will be entitled to a payout of all accrued and unused vacation upon separation.

*Sick Leave. The parties have agreed that employees may cash out up to 80 hours of unused sick time each fiscal year.

*Uniform Allowance. The parties have agreed that the annual clothing allowance for detectives is increased from \$600 to \$750 and for other bargaining members from \$400 to \$500.

*Off-Duty Employment. The parties have agreed that the Town can outsource the administration of off-duty details worked by sworn officers and sergeants.

Attached is a copy of the proposed Collective Bargaining Agreement.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

The Bay Harbor Islands Collective Bargaining Agreement with Police Department will bear no fiscal impact on current Fiscal Year 2020-2021 Budget passed by Town Council by Ordinance No. 1051 on September 14th, 2020. The Town has estimated increase in Police Department personnel expenditures during the Budgetary process for Fiscal Year 2020-2021.

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk
 Maria Lasday, Town Manager

ATTACHMENTS

1. 3ID6264-Memo Summarizing 2020-2023 PBA CBA-jenice
2. 2020-2023 BHI CBA FINAL with strikes (mb3.25.2021)
3. 2020-2023 BHI CBA FINAL Clean (ce3.31.2021)
4. PBA Pay Scales (contract years 21-23)
5. Unit Ratification Ltr BHI

Memo

DATE: April 14, 2021 Council Agenda

TO: Honorable Mayor and Members of the Town Council

FROM: Maria Lasday, Town Manager

RE: Town Council Providing for Ratification of the Collective Bargaining Agreement Between the Town and Dade County Police Benevolent Association.

RECOMMENDATION

It is recommended that the Town Council authorize and approve the ratification of the Collective Bargaining Agreement (the “Agreement”) between the Town of Bay Harbor Islands (the “Town”) and the Dade County Police Benevolent Association, for the bargaining unit that consists of the Village’s police officers, sergeants and lieutenants.

AGREEMENT HIGHLIGHTS AND SUMMARY

The Agreement is for a three (3) year term and expires on September 30, 2023. The following key sections of the Agreement have been summarized for the Council’s convenience:

- **Personnel Records (Article 8).** Employees will be notified as soon as reasonably possible of a public records request made on their file.
- **Disciplinary Matters (Article 10).** Addition of language allowing suspension when someone is formally charged with a felony or misdemeanor involving false statement by law enforcement.
- **Basic Workweek and Overtime (Article 11).** Addition of language that compensatory time use must be requested in writing.
 - (a) **11.5 - Call Back Pay.** The parties have agreed to increase the amount hour of pay an employee is entitled to receive when he/she is required to return to work while off duty from two to three hours at the employee’s overtime rate.
- **Vacation Leave (Article 13).** The parties have agreed that employees may cash out up to 80 hours of unused vacation time each fiscal year. The parties have also agreed that employees will be entitled to a payout of all accrued and unused vacation upon separation. All vacation leave requests shall be provided to HR.

(a) **13.5 – Personal Leave.** Issued Jan 1st and change of language from 12 hours to One day – use it within one year or lose it.

- **Holidays (Article 14).** Addition of Christmas Eve.
- **Sick and Bereavement Leave (Article 15).** The parties have agreed that employees may cash out up to 80 hours of unused sick time each fiscal year. Payment of 50% of the remaining sick leave balance at regular rate of pay upon separation in good standing.
- **Off Duty Employment (Article 24).** Town to use an outside company to administer / track off duty details. Town to have specific policies in place for off duty work.
- **Wages and Longevity (Article 28).**

(a) **28.1 - COLA.**

- Officers, detectives and sergeants shall be entitled to the following cost of living wage increases during the term of the Agreement:
 - 4% -- effective January 1, 2021
 - 3% -- effective October 1, 2021
 - 3% -- effective October 1, 2022
- Lieutenants shall be entitled to the following cost of living wage increases during the term of the Agreement:
 - 4% -- effective January 1, 2021
 - 2.5% -- effective October 1, 2021
 - 2.5% -- effective October 1, 2022

(b) **28.7 - Uniform Allowance.** The parties have agreed that the annual clothing allowance for detectives is increased from \$600 to \$750 and for other bargaining members from \$400 to \$500.

cc: Frank Simone, Esq.
John Cunill, Esq.
Brett J. Schneider, Esq.

~~2017~~ 2020 – ~~2020~~ ~~2021~~ 2023 COLLECTIVE BARGAINING
AGREEMENT BETWEEN
THE TOWN OF BAY HARBOR ISLANDS, FLORIDA AND
THE DADE COUNTY POLICE BENEVOLENT ASSOCIATION

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PURPOSE AND INTENT

The general purposes of this Agreement are to provide an Agreement for wages, hours and conditions of employment of the employees covered by this Agreement except as otherwise provided by Constitution, Statute, Charter and Ordinance, to prevent interruption of work and interference with the efficient operation of the Town and performance of Town operations and to provide orderly, prompt, peaceful and equitable procedures for the resolution of differences and the promotion of harmonious relations between the Town and the Association. Upon ratification, the provisions of this Agreement will supersede procedural and operational directives, the Town's policy manual, Administrative Orders and other rules and regulations in conflict herewith. The Town retains the right to establish through Directives, Administrative Orders, or Rules, practices and procedures which do not violate the provisions of this Agreement.

ARTICLE 1. AGREEMENT

1.1 This Agreement is entered into by the TOWN OF BAY HARBOR ISLANDS, hereinafter referred to as the "Town" or the "Employer", and the DADE COUNTY POLICE BENEVOLENT ASSOCIATION, INC., hereinafter referred to as the "PBA" or the "Association".

ARTICLE 2. RECOGNITION

2.1 The Town hereby recognizes the Association as the sole and exclusive bargaining representative for all employees in the following appropriate unit:

INCLUDED: All full-time Police Officers, Police Corporals, Police Sergeants and Police Lieutenants.

EXCLUDED: All other employees of the Town of Bay Harbor Islands.

2.2 Employees shall only be required to perform work within the scope of their official duties or duties related to official Town business.

2.3 The Chief of Police shall have the right to appoint individuals to the rank of Corporal. Such appointments shall be within the Chief's sole discretion. Individuals removed from the rank of Corporal shall not have the ability to use the grievance procedure to contest said removal, and/or grieve/contest the removal in any manner. Upon appointment, employees appointed to the rank of Corporal shall be compensated consistent with Article 28, Section 28.8 of this Agreement.

ARTICLE 3. MANAGEMENT RIGHTS

3.1 The Association and its members recognize and agree that the Town has the sole and exclusive right to manage and direct any and all of its operations. Accordingly, the Town specifically, but not by way of limitation, reserves the sole and exclusive right:

- 3.1.1 To determine the organization of municipal government;
- 3.1.2 To determine the purposes of each of its constituent agencies;
- 3.1.3 To exercise control and discretion over the organization and efficiency of Town operations;
- 3.1.4 To determine the standards of service, the scope of service and the method of service to be offered to the public;
- 3.1.5 To hire and/or otherwise determine the criteria and standards of selection for employment;
- 3.1.6 To fire, demote, suspend or otherwise discipline for just cause;
- 3.1.7 To promote and/or otherwise establish the criteria and/or procedure for promotions within and without the bargaining unit, subject to Article 12 herein;
- 3.1.8 To transfer employees from location to location and from time to time;
- 3.1.9 To lay off and/or relieve employees from duty due to lack of work or any other legitimate reason;
- 3.1.10 To rehire employees;
- 3.1.11 To determine the starting and quitting time and the number of hours and shifts to be worked, subject to Article 11 herein;
- 3.1.12 To determine the allocation and content of job classification;
- 3.1.13 To formulate and/or amend job descriptions;
- 3.1.14 To establish, change, amend or modify job duties, tasks, responsibilities or requirements;
- 3.1.15 To expand, reduce, alter, combine, assign or cease any job;
- 3.1.16 To establish, change, or modify the number, types and/or grades of positions of employees;
- 3.1.17 To insure that duties within departmental job descriptions, shall be performed by employees;

- 3.1.18 To merge, consolidate, expand, curtail or discontinue operations, temporarily permanently, in whole or in part, whenever in the sole discretion of the Town good business judgment makes such curtailment of discontinuance advisable;
- 3.1.19 To contract and/or subcontract any existing or future work;
- 3.1.20 To determine whether and to what extent the work required in its operation(s) shall be performed by employees covered by this Agreement;
- 3.1.21 To control the use of equipment and property of the Town;
- 3.1.22 To determine the number, location, and operation of headquarters, annexes, substations and/or divisions thereof;
- 3.1.23 To schedule and assign the work to the employees and determine the size and composition of the work force;
- 3.1.24 To determine the services to be provided to the public, and the maintenance procedures, materials, facilities, and equipment to be used, and to introduce new or improved services, maintenance procedures, materials facilities and equipment;
- 3.1.25 To take whatever action may be necessary to carry out the mission and responsibility of the Town in emergency situations;
- 3.1.26 Subject to Article 19, to formulate, amend, revise and implement policies, rules and regulations, provided however, that such formulation, amendment, revision and/or implementation is neither arbitrary nor capricious; and
- 3.1.27 To require employees to observe and obey the Town's policies, procedures, programs and rules and regulation.

3.2 The above rights of the Town are not all inclusive but indicate the type of matters or rights which belong to and are inherent in the Town in its general capacity as management.

3.3 If the Town fails to exercise any one or more of the above functions from time to time, this will not be deemed a waiver of the Town's right to exercise any or all of such functions.

3.4 The exercise of the above enumerated rights shall not preclude the raising of grievances should decisions on the above matters have the practical consequences of violating the terms and conditions of this Agreement or impact upon the present conditions of this Agreement or impact

upon the present conditions of employment, subject to the provisions of the Public Employees Relations Act.

3.5 The parties acknowledge that during the negotiations which preceded this Agreement each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter and that the understandings and agreements arrived at by the parties after the exercise of that right are set forth in this Agreement. This Agreement, including its supplements and exhibits attached hereto, concludes all collective bargaining between the parties during the term hereof, and constitutes the sole, entire and existing agreement between the parties hereto, and supersedes all prior agreements, oral and written, express or implied, or practices, between the Town and the Association or its employees, and expresses all obligations and restrictions imposed on each of the respective parties during its term.

ARTICLE 4. NON-DISCRIMINATION

4.1 No employee covered by this Agreement will be discriminated against by the Town or the Association with respect to any job benefits or other conditions of employment accruing from this Agreement because of Association activity, race, sex, national origin, religion, physical disability or age.

4.2 Employees shall use the grievance procedure provided in Article 18 for violations of this article prior to filing administrative complaints so long as such action does not prejudice the employee's rights.

ARTICLE 5. ASSOCIATION REPRESENTATIVES

5.1 The Town shall recognize up to two (2) members of the bargaining unit as authorized representatives of the bargaining unit for attendance at sessions to renegotiate an agreement.

5.2 Designation of these authorized representatives shall be made each year in conjunction with any request by the PBA to renegotiate an agreement.

5.3 Two (2) authorized representatives shall attend negotiating sessions without loss of pay and benefits if his/her attendance is required during regular duty hours, and if his/her attendance is specifically authorized by the Chief of Police or his designated representative after manpower availability and operational needs have been met.

5.4 The Town will recognize two (2) representatives from the bargaining unit whose duties shall be to process grievances for members of the bargaining unit who request such representation. These representatives may process such grievances on duty, without loss of pay or benefits, with the express permission of the Chief of Police or his designee, who shall take into account all manpower and service needs. This permission shall not be unreasonably withheld. If scheduling results in both of the representatives working the same shift, only one representative at a time shall be allowed to process grievances. The absence of a representative on any shift shall not be deemed a breach of this Agreement, and any grievance presented during such a shift shall be processed whenever a representative becomes available, either on-duty with approval of Chief of Police or his designee or off-duty.

5.5 Authorized representatives for negotiating sessions and grievance processing shall be appointed by the PBA, and shall be designated in writing to the Chief of Police.

5.6 Except for circumstances and situations mentioned above, authorized representatives and/or other bargaining unit members shall conduct PBA business, attend PBA functions, and otherwise participate in PBA activities on personal, off-duty time.

ARTICLE 6. ASSOCIATION INFORMATION

6.1 The Town will permit the Association to post official notices of the PBA on the existing bulletin board located in the roll call room of the Police Department. Neither the Association nor bargaining unit employees shall post items which might offend, demean, demoralize or in any way impugn the character of any Town employee, department head or elected official. The PBA is responsible for reasonable costs incident to the preparing and posting of Association materials and removing of Association materials from this bulletin board, and for maintaining such board in an orderly condition.

6.2 Upon receipt of a written authorization form from an employee, the Town agrees to deduct the regular Association dues of such employees from his/her pay and remit such deductions to the Association. However, such authorization is revocable at the employee's will upon thirty (30) days written notice to the Town of Bay Harbor Island and the Association.

ARTICLE 7. LEGAL ASSISTANCE

7.1 The Town will undertake the defense of a bargaining unit employee against civil damage suits providing that such suit arose out of actions by the employee in the line of duty. Moreover, in such instance the Town will file proper and appropriate countersuits if such action is in the Town's interests, or if not, the Town will notify the concerned officer that he/she may contact legal counsel regarding the filing of proper and appropriate countersuits.

7.2 Legal representation pursuant to this Article shall be provided for any act or omission of action arising out of the scope of the officer's employment, unless in the case of a tort action, the officer acted in bad faith, with malicious purpose, or in a manner exhibiting willful and wanton disregard of human rights, safety, or property.

ARTICLE 8. PERSONNEL RECORDS

8.1 The Town will maintain the confidentiality of personnel records of employees to the extent permitted by state law and prevailing statutes. Release of employees' records shall only be done by the Town's Records Custodian or designee. ~~Preferably, within 24 hours or as soon as reasonably possible, of a request for an employee's personnel file being made the affected employee will receive written notification of said request.~~ records being made, employees will receive written notification when their personnel and/or any other file, reports, and/or memorandum, radio communication(s), Body Worn Camera footage and/or GPS information or reports prepared by or related to the employee are reviewed, or requested pursuant to Chapter 119 Florida Statutes by persons or entities other than law enforcement agencies. As soon as reasonably possible of a request for an employee's personnel file and/or any other file, reports, and/or memorandum, radio communication(s), Body Worn Camera footage and/or GPS information or reports prepared by or related to the employee being made by any person or entity other than a law enforcement agency, the affected employee will receive written notification of said request.

8.2 At no time shall the news media be directly or indirectly furnished with the home address, telephone number, and photograph of active or former law enforcement personnel; the home address, telephone number, photograph, and place of employment of the spouse or children of active or former law enforcement personnel; and the name or location of schools attended by the children of active or former law enforcement personnel.

8.3 Except for routine administrative material no paperwork will be inserted in an employee's personnel file without a copy being provided to the employee. Placing a copy in the employee's departmental mailbox is sufficient to satisfy the requirements of this paragraph.

8.4 Upon request, any employee shall have the right to inspect his/her official personnel records wherever kept, during the hours of 9:00 A.M. and 5:00 P.M., Monday through Friday. Such inspection shall be conducted while the employee is off duty. The employee shall have the right to obtain from the Town duplicate copies, at the employee's expense, of this record for his/her use.

8.5 Employees shall have the right to add to their Personnel records written refutation of any document or information contained therein which is considered by the employee to be derogatory or to contain incorrect or insufficient information.

8.6 Upon request by the employee, documents in the categories listed below (a through c) shall be removed from an employee's official personnel file by the Town according to the following schedule:

(a) Disciplinary action reports involving suspensions, demotions, or other disciplinary action for similar types of conduct: Five (5) years from date received by employee.

(b) Disciplinary action reports involving suspensions, demotions, or other disciplinary action for dissimilar types of conduct: Five (5) years from date received by employee.

(c) Reprimands: Three (3) years from date received by employee if not followed by a similar action within one (1) year. If similar action does occur during that one year, records of reprimands shall be maintained for the five year period mentioned in (a).

(d) Formal Counseling: Up to three (3) years at the discretion of the Town.
Disputes concerning the time period specified in this paragraph will not be grievable.

NOTE: Removed documents shall be retained by the Town in a separate file. Removed documents may be used by the Town for any administrative action or any lawful purpose.

8.7 Upon request of the affected employee, complaints which are determined to be unfounded or not sustainable will not be inserted in an employee's official personnel file.

ARTICLE 9. INTERNAL INVESTIGATIONS

9.1 Whenever an employee covered by this Agreement has been advised by the Town that he/she is the subject of a formal investigation and thereafter is subject to a formal interrogation for reasons which could lead to disciplinary action, such interrogation will be conducted under the following conditions ~~and shall be consistent with Florida Statute 112.532 and 112.533, the Law Enforcement and Correctional Officers Bill of Rights~~ (NOTE: A formal investigation shall exist whenever a preliminary investigation, which may include questioning of the affected officer, indicated that disciplinary action is probable.)

- (a) The interrogation will be conducted at a reasonable hour, whenever possible at a time when the employee is on duty, unless of course the seriousness of the investigation is of such an important degree that immediate questioning is required;
- (b) The interrogation will take place at the Police Department or Town Hall, whenever possible and practical based upon the circumstances;
- (c) At the request of the officer who is subject to investigation and interrogation, he/she shall be afforded a reasonable period of time to have a representative of his/her own choice present during the questioning;
- (d) The employee who is subject of the investigation and interrogation will be informed of the name and rank of the person asking the questions and also will be advised of the names and ranks of all persons present during questioning. It is agreed that only one person will question the employee at any time;
- (e) The employee who is subject of the investigation and interrogation, prior to his/her being questioned, will be informed of the nature of the investigation (and the charges against him/her and he/she shall be informed of the name of all persons lodging a complaint against him, and witnesses if any;
- (f) No employee shall be forced to submit to an examination by a polygraph or other mechanical or electronic device (e.g., "PSE") to determine the truth of his/her statement. However, such employee may be asked and may consent to the taking of such an examination;
- (g) It is agreed that questioning sessions will be for reasonable periods of time and that break periods will be allowed for the employee to attend to "personal necessities" and rest periods

will be allowed when necessary;

(h) The employee under the formal investigation and interrogation will not be subject to offensive language;

(i) The formal interrogation of any employee, including all recess periods, may be recorded by either party;

(j) If the employee who is subject to the investigation is placed under arrest, or if it is likely that he/she will be placed under arrest as a result of the formal interrogation, it is agreed that he/she shall be completely advised of his/her rights prior to the beginning of the formal interrogation.

9.2 If a statement is taken or an interrogation is conducted in violation of the procedures contained in this Article, such violation shall only affect the admissibility of such statement and shall not automatically invalidate any action taken as a result of the statement.

9.3 The employee shall be given an exact copy of any written statement he/she may execute, at no cost to the employee. Upon conclusion of the investigation, the employee will be furnished with a copy of the findings.

9.4 No employee will be compelled to speak or testify before, or be questioned by, any non-governmental agency unless under proper court subpoena, or as directed by the Chief or his designee.

9.5 Whenever possible, the Town will request that citizen complaints be made in writing or that a recorded statement be obtained. An employee will not be disciplined based upon an anonymous complaint unless following a full and fair investigation supported by competent and substantial evidence, it is determined that the complaint is sustained.

ARTICLE 10. DISCIPLINARY MATTERS

10.1 Employees relieved of duty for alleged violations of the law and/or department rules will remain on full salary and allowances until final action is taken by the Town. Such final action shall be any determination by the Chief of Police or his designated representative to demote, suspend, terminate, or otherwise move to affect the pay and benefits of an officer. The Town, in its discretion, may suspend without pay any employee immediately upon the employee being formally charged with a felony or misdemeanor involving false statement by law enforcement, indicted by any grand jury or upon information being filed against him/her by any prosecuting, or law enforcement official. Such suspension shall continue until the employee is tried and acquitted, the information or indictment is quashed or dismissed, or a court of competent jurisdiction ~~places the employee in a pre-trial intervention program or withholds adjudication pending rehabilitation,~~ dismisses the criminal charge(s), whereupon the particular employee shall be reinstated and entitled to back pay for the period of suspension without pay less any pay withheld by the Town as a result of disciplinary action taken against the employee, and less any sums earned by the person in any other employment during the period of suspension. The Town may terminate the employee at any time it feels the relevant facts warrant such action. When such disciplinary action is taken the procedures in this Agreement shall prevail.

If an employee has been tried and found guilty of a felony or misdemeanor, involving moral turpitude, and his conviction is not reversed, he/she shall automatically forfeit his/her position with the Town and shall not thereafter be eligible for such employment. This rule applies regardless of whether the person is placed on probation or given a suspended sentence.

10.2 Employees shall not be dismissed or disciplined resulting in loss of pay or benefits except for just cause. Discipline shall be administered in accordance with Departmental Directives, as amended from time to time, which are hereby incorporated by reference. However, probationary police officers can be terminated and probationary police **sergeants** and police **lieutenants** can be demoted, without just cause and are not entitled to the procedures set forth in Article 10.4.

10.3 Probationary periods for employees shall be one year. This period may be extended by the Chief of Police at his/her discretion on a one-time basis for no more than ninety (90) days.

10.4 Any employee, other than those excluded under Article 10.2, who has been suspended for two (2) or more days, demoted or terminated for just cause may request arbitration no later than fourteen (14) calendar days after said action has been effectuated or the employee becomes aware of said action. Disciplinary actions with less than two (2) days suspension, including written warnings and reprimands, are not arbitrable and are final.

10.4.1 After giving notice of appeal to binding arbitration to the Town, the Association has thirty (30) days to request the names of seven arbitrators from the Federal Mediation and Conciliation Service ("FMCS"). The parties shall select an arbitrator from the list provided by method of alternate striking of names, with the Town striking first. The final name in the list shall be the arbitrator.

10.4.2 The fees for such arbitrator and his expenses will be split evenly between the parties. It is contemplated that the Town and the Association may be able to mutually agree in writing as to the statement of the matter to be arbitrated prior to the hearing, and if this is done, the arbitrator shall confine his decision to the particular matter thus specified. In the event of failure of the parties to so agree on a statement of issue(s) to be submitted, the Town and the Association shall submit a statement of issue(s) to the arbitrator. In the event of the failure of the parties to so agree, the arbitrator shall confine his consideration to the written statement and issue(s) raised.

10.4.3 The binding award shall be final and binding on both parties.

ARTICLE 11.BASIC WORKWEEK AND OVERTIME

11.1 For employees covered by this Agreement and who are on twelve (12) hour shifts, the basic work cycle shall consist of eighty (80) hours of duty within a fourteen (14) day period. Employees may be assigned to work a cycle which provides for regular work assignments which are more or less than eighty (80) hours within a fourteen (14) day period, provided that the assigned hours worked average eighty (80) hours per fourteen (14) day period over a reasonable period of time, not to exceed three (3) months. Officers who are assigned to a twelve (12) hour duty schedule will normally work seven (7) twelve (12) hour shifts in a two (2) week period. These officers will be given a twelve (12) hour shift off with pay every six (6) weeks. In the event the officer is required to work this shift, they shall be paid at one and one half (1 ½) times their current base rate of pay for all hours worked. The determination to implement a twelve (12), ten (10) and/or eight (8) hour work week rests solely in the discretion of the Chief of Police and is not grievable.

11.2 Those who are on ten (10) and eight (8) hour shifts, will have a work week consisting of seven (7) days and any hours worked in excess of forty (40) hours shall either be paid at one and one half (1 ½) times the employee's regular rate of pay or through compensatory time calculated in the same manner.

All paid leave except sick leave and funeral leave shall be considered hours worked. The choice as to Comp Time or pay shall be made by the employee. Comp Time may be earned and accrued up to a maximum of two hundred and fifty (250) hours per fiscal year. Comp Time may only be used with the prior approval of the Chief of Police or his designee requested through the officer's immediate supervisor in writing, email form or text message. At the end of each fiscal year all accumulated_Comp Time hours in excess of 250 hours will be paid to the employee at the rate such Comp Time was earned. Employees may request to be paid for up to fifty (50) hours of Comp Time. Nothing herein shall guarantee a minimum number of hours per day, per week or per month.

11.3 In consideration of the above overtime provisions and compensation at one and half (1 ½) times the employee's straight time rate of pay, it is agreed and understood that compensation for roll call and duty transfer time is included in the basic pay for any shift.

11.4 Except in cases of operational necessity officers will be entitled to at least eight (8) hours off-duty before returning to work.

11.5 When it is necessary for the Town to require an employee to return to work, not within his/her regularly assigned shift, the Town will compensate the employee a minimum of ~~two (2)~~ **three (3)** ~~four (4)~~ hours at the overtime rate of pay.

11.6 Employees shall be provided at least thirty (30) days written notice preceding a regularly scheduled shift rotation in order to make an orderly readjustment to their personal schedules. Employees will be provided reasonable notice based upon the circumstances of an interim temporary shift change required by operational necessity. Shifts shall not be adjusted (i.e., employee sent home early; told to come in late, given a day off) to avoid the payment of overtime already worked by an employee, or to avoid overtime based upon a court appearance. ~~Detectives while on duty, who are temporarily reassigned to patrol duty shall be compensated at one and one half (1 ½) times the employee's regular rate of pay.~~

11.7 Employees attending court related matters while off-duty and arising from their official duties and capacity shall be entitled to a minimum of four (4) hours overtime. Court minimums will only apply to those court appearances which occur more than one hour from the employee's regularly scheduled shift.

11.8 Employees shall receive travel reimbursement as provided by Florida Statutes.

11.9 Shifts shall be assigned approximately every four (4) months.

ARTICLE 12. PROMOTIONS

12.1 All promotional vacancies in the Sergeant and Lieutenant classifications shall be filled in accordance with the procedures set forth in this Article. Filling of such a vacancy remains in the discretion of the Town.

12.2 Whenever a budgeted promotional vacancy exists in a Sergeant or Lieutenant classification and there is no existing list, the Town agrees to arrange for the administration of a written examination to all qualified candidates. Filling of such a vacancy remains in the discretion of the Town.

12.3 The Employer will announce promotional examinations at least sixty (60) days in advance of said examinations. This announcement will list the areas which the examination will cover and the sources from which the examination questions are drawn as well as all such references and source material available to eligible candidates.

12.4 The Sergeant's examination shall be restricted to non-probationary employees with not less than three years service in sworn law enforcement at least two of which must be in this Department. The Lieutenant's examination shall be restricted to non-probationary employees, with not less than three (3) years service in sworn law enforcement, at least two of which must be in this Department.

12.5 At the time a new promotional examination is given, all eligible employees who wish to be on the new list must take the new examination. No employee will be placed on the new list as a result of previous test scores. The promotional eligibility list shall be of one (1) year duration unless there are fewer than four (4) candidates on such a list. Thereafter, a new promotional examination may be given at the discretion of the Town.

12.6 The promotional process shall consist of two (2) parts: a written examination worth forty percent (40%) of total cumulative score; an oral examination worth sixty percent (60%) of total score.

12.7 Following the successful completion of the written portion of the promotional exam each candidate shall be evaluated by an interview board composed of the Chief of Police, the Town Manager, and two additional representatives who shall be a Chief of Police and a Police Lieutenant mutually acceptable to the Town and the Association.

12.8 A list of eligible candidates shall be compiled in the order of their final cumulative score. If necessary, seniority by classification shall serve as a tie breaker in determining the final eligibility list. All employees shall be notified of their scores.

12.9 The Chief of Police shall be the final authority in determining which officers are to be promoted to Sergeant or Lieutenant; provided only that his choices shall be limited to the highest four (4) scoring candidates, as determined by a combination of scores.

12.10 When appropriate as determined by the Chief of Police, officers promoted to the next higher rank will receive appropriate training during the probationary period.

12.11 Police Officers and Police Sergeants who are promoted shall receive a minimum of a five percent (5%) pay increase at the time of such promotion.

12.12 Either party may request to reopen this article by sending written notice to the other party.

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ARTICLE 13. VACATION LEAVE

13.1 Bargaining unit employees shall be entitled to receive forty (40) hours of paid vacation after completing six (6) months of continuous service; eighty (80) additional hours after completion of their first year of service; one-hundred and twenty (120) hours per year of paid vacation each year thereafter; and a total of one-hundred and sixty (160) hours per year of paid vacation after completing ten (10) years of service. Effective October 1, 2002, employees shall receive two-hundred (200) hours per year of paid vacation after completing fifteen (15) years of service; and two-hundred and forty (240) hours per year of paid vacation after completing twenty (20) years of service. Employees will be permitted to ~~accrue~~ carry over up to but no more than 120 hours in a "Vacation Bank". The Vacation Bank hours may be carried over from year to year, arrangements should be made so that vacations are taken each year.

~~13.2 Employees are encouraged to take advantage of the benefits of a vacation leave each year. Vacation days may be carried over to a subsequent year only with the approval of the Town Manager and for a valid reason.~~

13.2 Employees will be allowed to cash out up to 80 hours of unused vacation time each fiscal year. Any employee wishing to cash out unused vacation time in accordance with this section must submit said request no later than June 1st of each year. The Town will make all cash out payments to employees in the subsequent fiscal year between October 1st and November 30th. For fiscal year October 1, 2020 to September 30, 2021, employees will be allowed to make a cash out request so long as said request is done within 30 days of the effective date of this agreement.

13.3 The dates of all vacation leaves must be approved by the Chief of Police and should be scheduled so as to create a minimum of hardship on the regular work schedule. A copy of all vacation request which have been approved must be submitted to the Human Resources department by the employee.

13.4 A vacation leave schedule shall be posted by February 1st of each calendar year.

13.5 On January 1st of each year ~~Each~~ bargaining unit member ~~on their anniversary date~~ shall be credited with ~~twelve (12) hours~~ one day of Personal Leave. The Personal Leave must be used within one (1) year of the date it was accrued and shall not be carried over to the next year.

13.6 Upon separation, a member shall receive 100% of their accrued vacation leave.

ARTICLE 14. HOLIDAYS

14.1. The Town recognizes the following eleven (11) official holidays and birthday holiday* for bargaining unit employees:

New Year's Day	January 1st
Martin Luther King's Birthday	3rd Monday in January
Washington's Birthday	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	1st Monday in September
Veteran's Day	November 11th
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving	4th Friday in November
<u>Christmas Eve</u>	<u>December 24th</u>
Christmas Day	December 25th

*Employee's Birthday: May be taken on another date agreed to by the employee and Chief of Police.

14.2. Subject to Article 14.3, ~~if~~ if an employee's shift begins on a holiday, he/she will be paid at a rate of ~~one and one-half (1 ½)~~ ~~two (2)~~ one and a half (1 ½) times his/her normal rate of pay for the time actually worked, in addition to being paid for the holiday as part of his/her normal work week.

14.3 If an employee's shift begins on Christmas ~~Day and/or Eve~~ or New Year's Day he/she will be paid at the rate of two (2) times his/her normal rate of pay for the time actually worked, in addition to being paid for the holiday as part of his/her normal work week.

14.4 If the employee's shift begins on a holiday, including Christmas ~~Day and/or Eve~~ or New Year's, and the employee calls in sick, is out of work pursuant to Article 23, or takes bereavement leave as described in Article 15, the provisions of paragraph 14.2 or 14.3 shall be inapplicable.

14.5 If a holiday falls on an employee's regular day off or within a vacation period, he/she shall receive one day's pay in lieu of the holiday or at the option of the Chief of Police and with the employee's consent, he/she may be granted an alternate day off for the holiday.

ARTICLE 15. SICK AND BEREAVEMENT LEAVE

15.1. Approval for sick and bereavement leave remains in the discretion of the Town, however, such approval will not be unreasonably denied.

15.2 Up to two (2) additional days of sick or bereavement leave may be granted for circumstances necessitating out of state travel.

15.3 The benefits of this article shall apply to an employee's immediate family. Immediate family shall be defined as spouse, children, grandchildren, mother, father, sister, brother, mother-in-law, father-in-law, grandfather or grandmother.

15.4 SICK LEAVE POLICY

- a. Sick leave will be accrued at 1 day per month (12 days per year) beginning on the first year of the policy. Every year thereafter days will be earned on a monthly basis.

Note: New bargaining unit members will be prorated by date of hire and will follow the regular schedule in new calendar year.

- b. Each bargaining unit members will have a sick bank of days based on the following formula: one day will be granted for each month of service with the department. All sick days utilized in the bargaining unit member's career will then be deducted from that total leaving that amount of days left to be the officer's sick bank.

Note: Any bargaining unit members in a negative position will be granted one day for each month left in the year from the signing date of the contract.

- c. Upon separation, bargaining unit members in good standing will be allowed to receive payment of half (50%) of their remaining sick leave balance up to a maximum of 90 day

payout for unused sick days. said payment will be made at the employees' regular rate of pay. (This payout will not be used for pension calculation).

- d. Employees will be allowed to cash out up to 80 hours of unused sick time each fiscal year. Any employees wishing to cash out sick time in accordance with this section must submit said request no later than June 1st of each year. The Town will make all cash out payments to employees in the subsequent fiscal year between October 1st, 2020 and November 30th. For fiscal year October 1, 2020 to September 30, 2021, employees will be allowed to make a cash out request so long as said request is done within the 30 days of the effective date of this agreement.

d.e. Medical Certification (doctor's note) required for 3 or more days of being out sick. Employees will be required to be at their residence during regular duty hours while on sick leave until they return to work.

- Bargaining unit members will notify Desk Officer/Dispatcher when leaving residence on sick leave during regular duty hours and give reason to Desk Officer/Dispatcher for documentation.

e. f. 3 or more incidents in 6 months period or 5 or more incidents in a 12 months period will result in a bargaining unit members being designated **Chronic Sick**. Sick Leave incidents shall not include Sick Leave used in connection with a child, family member or spouse's illness or injury.

Note: Incident defined as one of more days per sick occurrence.

- **Chronic Sick** designation will cause the following regulation to be enforced:
 1. Review of bargaining unit member's performance records.
 2. Elimination of discretionary OT and work assignments for 90 days upon 1st chronic Sick designation. Note: Full 8 months curtailment of OT on 2nd and/or additional Chronic Sick Designation.
 3. All tour change requests, requests for IVD will only be granted by the CO or XO.

4. Record of Chronic Sick designation will be placed in the Bargaining Unit Members permanent record file.
5. Chronic Sick designation will be considered when bargaining unit members is being considered for promotions, discretionary details/positions with the department.
6. Subject to Medical evaluation to determine fitness for duty by Town chosen physical.

16. EDUCATIONAL ASSISTANCE

16.1 The Town, in its efforts to encourage its bargaining unit members to acquire a greater knowledge in their field of employment during their personal time agrees to bear the cost of required tuition but not matriculation costs, laboratory fees, books and materials for job related educational courses. In order for an employee to be eligible for reimbursement for a particular course, prior approval for the course must have been received from the Town.

16.2 Reimbursement as provided in 16.1 (above) shall be made, in accordance with the following:

Grade A	100% Reimbursement
B	75% Reimbursement
C	50% Reimbursement
D	0% Reimbursement
F	0% Reimbursement
W	0% Reimbursement

16.3 Employees who voluntarily terminate employment or who are discharged from the Town within two (2) years from the end of a course for which reimbursement from the Town has been received shall reimburse the Town for the cost of the course pursuant to 16.4 (below). In the case of a termination no reimbursement shall be required until all appeals of the termination have been exhausted or until the time to take appeals has expired.

16.4 Reimbursement shall be made on a six (6) month pro rata basis rounded to the nearest six (6) month period. For example, if an employee leaves four (4) months after a course begun after October 1, 1996 ends, the employee will reimburse the Town for three-quarters (3/4) of tuition for that course (two (2) years is 100%; four (4) months rounded to the nearest six (6) month period is six (6) months; two (2) years minus six (6) months leaves three-quarters (3/4) of two (2) years). If an employee leaves one (1) year and one (1) month after the course terminates they

would reimburse the Town one half (1/2) tuition (one (1) year and one (1) month rounded to the nearest six (6) months is one (1) year; one (1) year is fifty percent (50%) half of two (2) years).

16.5 No employee shall be reimbursed for tuition in excess of two thousand (\$2,000) dollars in any fiscal year.

ARTICLE 17. DRUG AND ALCOHOL TESTING

17.1 The Town and the PBA recognize that employee drug and alcohol abuse has an adverse impact on Town government, the image of the Town employees, the general health, welfare and safety of the employees, and to the general public at large. Therefore, the parties agree that the Police Department shall have the right to require employees to submit to drug and alcohol testing designed to detect the presence of illegal drugs and alcohol.

17.2 Drug is defined as amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, or a metabolite of any of the above mentioned substances. Alcohol includes distilled spirits, wine, malt beverages, and intoxicating liquors.

17.3 The Department will require members of the bargaining unit to submit to drug and alcohol tests under the following circumstances:

17.3.1 The Department may require all members of the bargaining unit who suffer an injury in the line of duty and/or are involved in a car accident to submit to a drug and alcohol test immediately after the accident.

17.3.2 The Department will require all members of the bargaining unit to submit to a drug and/or alcohol test based on its belief that the employee to be tested is under the influence of or possibly using drugs and/or alcohol drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:

- (a) Observable phenomena while at work, such as direct observation of drug and/or alcohol usage or of the physical symptoms or manifestations of being under the influence of a drug and/or alcohol.
- (b) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
- (c) A report of drug and/or alcohol use, provided by a reliable and credible source, which has been independently corroborated.
- (d) Evidence that an individual has tampered with a drug and/or alcohol test during employment with the current employer.

- (e) Information that an employee has caused, or contributed to, an accident while at work.
- (f) Evidence that an employee 'has used, possessed, sold, solicited, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.

Inappropriate employee behavior as described above must be personally observed by a superior officer and witnessed by at least one other employee witness, who may or may not be a superior officer or a police officer.

When confronted by a superior officer, the employee under suspicion will be offered an opportunity to explain to the superior officer, prior to being ordered to take the drug and/or alcohol test, why the aberrant or unusual behavior is noticeable. Drug and/or alcohol testing based upon reasonable suspicion will be conducted only with either the consent of the Police Chief or his/her designee or the consent of the Town Manager or his/her designee. Such approval shall be memorialized in writing and indicate the subject matter of the test, why the test was ordered and listing the specific objective fact(s) constituting "reasonable suspicion." A copy of this written order will be provided to the employee as soon as it is practicable to do so.

Any refusal on the part of the suspected employee to immediately comply with a valid "reasonable suspicion" drug and/or alcohol testing order will result in the immediate causal termination of the employee.

17.3.3 The Department, as part of its medical examination process during pre-employment; during a fitness for duty examination, and during the annual physical examinations, will require the members of the bargaining unit to submit to a drug and alcohol test.

17.4 An employee required to submit to a mandatory test for the presence of drugs and/or alcohol shall be entitled to have a PBA or other employee representative present during the test. However, under no circumstances will the drug and/or alcohol test be delayed for more than one (1) hour to allow for the presence of a PBA or other employee representative.

17.5 The following procedures shall apply to the substance abuse testing administered to employees who meet the above stated conditions:

17.5.1 Analysis of specimens will be collected and performed only by laboratories, hospitals or clinics certified by the State of Florida, Agency for Health Care Administration (AHCA) or the Federal Substance Abuse and Mental Health Services Administration (SAMHSA), utilizing qualified sites and employing collectors trained to follow custodial collection protocols and properly maintain legal specimen chain-of-custody. Specimens may include urine, blood, and hair follicle samples.

17.5.2 Specimens shall be drawn or collected at a laboratory, hospital, doctor's office, certified medical facility or even on Town premises by a certified health care professional. If the Town or the collector requires an observer when the urine specimen is given, the observer shall be of the same sex as the employee being tested. All specimen containers and vials shall be sealed with evidence tape and labeled in the presence of the employee, and his/her witness should be in existence.

17.5.3 All drug and/or alcohol testing will be conducted using recognized technologies and recognized testing standards. The following standards shall be used to determine what level of detected substance shall constitute a **POSITIVE** test result for urine specimens:

Substance	Screening Test	Confirmation
Amphetamines	1000 ng/mL	500 ng/mL
Barbiturates	300 ng/mL	150 ng/mL
Benzodiazepines	300 ng/mL	150 ng/mL
Cocaine	300 ng/mL	150 ng/mL
Cannabinoids (Marijuana)	50 ng/mL	15 ng/mL
Methadone	300 ng/mL	150 ng/mL
Methaqualone	300 ng/mL	150 ng/mL
Opiates (Heroin, Morphine, Codeine)	2000 ng/mL	2000 ng/mL
Phencyclidine (PCP)	25 ng/mL	25 ng/mL
Propoxyphene	300 ng/mL	300 ng/mL
Alcohol (Ethanol)	0.02 g/dl	0.04 g/dl (blood specimen only)

17.5.4 Levels found below those set above shall be determined as negative indicators. Tests for other non-presented controlled substances will be in accordance with federal and state government screening and confirmation standards.

17.5.5 All positive initial tests shall be confirmed using gas chromatograph/mass spectrometry or an equivalent or more accurate scientifically accepted method approved by AHCA. The test must also use a different scientific principle from that of the initial test procedure.

17.5.6 A Certified Medical Review Officer (MRO) who will be a medical professional chosen by the Town will review all negative and confirmed positive laboratory results. The current MRO for the Town is Kenneth Kaplan, M.D. located at Mount Sinai Medical Center, 4304 Alton Road, First (1st) Floor, Occupational Health Department, Miami Beach, Fl 33140, telephone number, (305) 674-2312. Confirmed positive results will only be communicated to the Town's designated human resources professional after the MRO has ascertained that personal prescriptions or other legal substances do not account for the laboratory findings. Investigations may include, as appropriate, telephone contact with the employee and any prescribing physician. Employees may consult the Town appointed MRO concerning drugs and/or drug groups that may be tested for under this procedure.

17.5.7 Employees may contact the Town's MRO to ask questions concerning prescribed medications they are taking for clarification purposes involving fitness for duty assessments.

17.5.8 The following is a list of over the counter and prescription drugs which could alter or affect drug and alcohol test results. Due to the large number of obscure brand names and the constant marketing of new products, this list cannot be and is not intended to be all inclusive:

Alcohol: All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. As an example, Vick's Nyquil is 25% (50 proof) ethyl alcohol, Comtrex is 20% (40 proof), Contact Severe Cold Formula Night Strength is 25% (50 proof), and Listerine is 26.9% (54 proof).

Amphetamines: Obetrol, Biphedamine, Desoxyn, Dexedrine, Didrex, Ioanamine, Fastin, Vicks Nasal Inhalers.

Cannabinoids: Marinol (Dronabinol, THC).

Cocaine: Cocaine HCl topical solution (Roxanne).

Phencyclidine: Not legal by prescription

Opiates: Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guaiatuss AC, Novahistine DH, Novahistine Expectorant, Diluadid (Hydromorphone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, Tussiorganidin, etc.

Barbiturates: Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal,

Fioricet, Egic, Butisol, Mebaral, Butabarbital, Butalbital, Phrenilin, Triad, Etc.
Benzodiazepines: Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax, etc.

Methodone: Dolophine, Metodose, etc.

Propoxyphene: Darvocet, Darvon N. Dolene, etc.

17.6 Within five (5) working days after receipt of a positive confirmed test result from the testing laboratory, the Town will inform the employee or job applicant in writing of such positive test result, the consequences of such results, and the options available to the employee or job applicant. The Town shall provide to the employee or job applicant upon request, a copy of the test results. Within five (5) working days after receiving written notification of a confirmed positive test result, an employee or job applicant may submit information to the Town explaining or contesting the test results and why the results do not constitute a violation of the employer's policy. If the Town disagrees with the employee's position, within fifteen (15) days of receipt of a formal challenge of positive confirmed test results, the Town will respond to the employee. If the employee wishes to maintain the challenge, within thirty (30) days of receipt of the Town's written response, the employee may appeal to a Court of competent jurisdiction and/or a Judge of Compensation Claims (if a workplace injury has occurred). Upon initiating a challenge, it shall also be the employee's responsibility to notify the testing laboratory which must retain the specimen until the case is settled. Furthermore, any decision made or action taken which adversely affects the employee under this Article is subject to the grievance and arbitration procedure of this Agreement.

17.7 The results of all tests performed hereunder will be held confidential to the extent permitted by law.

17.8 Any specimens found or admitted to have been adulterated or substituted before, during or after the substance abuse test, will constitute immediate grounds for employee discharge from employment.

17.9 All job applicants and employees have a responsibility to notify the laboratory of any administrative or civil actions brought pursuant to the Drug - Free Workplace Act as found in section 112.0455 of the Florida Statutes.

17.10 The results of such tests shall be handled as if part of an internal affairs investigation, and the employee involved shall be afforded all the rights enumerated in Section 112.532 of the Florida Statutes. The taking of drug and/or alcohol tests from a member of the bargaining unit does not constitute an interrogation within the meaning of Section 112.532 of the Florida Statutes, unless questions are asked at the time the test is taken.

17.11 Disciplinary consequences for having a confirmed positive drug test is the immediate discharge of the employee for cause, and the potential denial of Unemployment Compensation as specified in Sections 440.101 and 440.102 of the Florida Statutes. An employee injured in the line of duty and/or involved in an automobile accident and subsequently confirmed positive for drug and/or alcohol abuse based upon post accident testing will also be terminated from employment and may lose Workers' Compensation benefits.

17.12 An employee who tests positive for alcohol and was not involved in an accident and/or did not suffer an injury in the line of duty while under the influence of alcohol must meet the following conditions to remain employed by the Department:

- (1) Completion of an Employee Assistance Program or Substance Abuse Program approved by the Town.
- (2) During the period the employee is out after a positive alcohol test result, he/she will be placed in a "no-pay" status or they may utilize their accrued vacation leave.
- (3) The employee who had a positive test result and is reinstated must sign a Last Chance Agreement that will specify immediate discharge on a second positive alcohol test.

17.13 Nothing in this Article shall prohibit an employee from voluntarily self-identifying as having a substance abuse problem to either his/her immediate supervisor, Department Head, or an Employee Services Representative, but may not do so just prior to being selected for a drug and/or alcohol test. Requests from employees for assistance in this regard shall remain confidential to the extent permitted by law and shall not be revealed to other employees or members of management without the employee's consent. Employees enrolled in substance

abuse programs as outpatients, shall be subject to all Town rules, regulations and job performance standards. The Department will not discharge, discipline, or discriminate against an employee solely upon the employee's voluntarily seeking treatment for a drug and/or alcohol related problem, while under the Department's employ if the employee has not entered an employee assistance program for drug/alcohol related problems, or entered a drug/alcohol rehabilitation program for related problems.

Drug and alcohol abuse are serious personal concerns for many individuals. The Town provides employees in such circumstances with the services of an Employee Assistance Program which may be called to obtain *free, confidential, professional referral assistance*. The program available to employees and utilized by the Town is Horizon Employee Assistance Program.

ARTICLE 18. GRIEVANCE AND ARBITRATION PROCEDURE

18.1 In a mutual effort to promote harmonious working relations between the parties of this Agreement, it is agreed to and understood by both parties that there shall be a procedure for the resolution of grievances or misunderstanding between the parties arising from the application and interpretation of this Agreement.

18.2 A grievance shall be defined as any dispute concerning the interpretation or application of this Agreement, excluding disciplinary action (i.e. suspension, demotion, termination) which will be handled in accordance with Article 10.

18.3 Grievances shall be processed in accordance with the following procedure:

Step 1:

The aggrieved employee shall discuss the grievance with his immediate supervisor within seven (7) calendar days of the occurrence which gave rise to this grievance. If the event(s) which gave rise to the grievance occurred at a time when the employee was on annual leave, sick leave, or other authorized leave, the seven (7) day period shall commence running immediately upon the employee's return from such authorized leave. The Association representative may be present to represent the employee. The immediate supervisor shall attempt to correct the problem and/or respond to the employee within ten (10) calendar days. Where a grievance is general in nature in that it applies to a number of employees having the same issue to be decided, it shall be presented directly at Step 2 of the grievance procedure within the time limits provided for the submission of the grievance at Step 1 and signed by the aggrieved employee(s) or the Association representative on their behalf. All grievances must be processed within the time limits provided unless extended by mutual agreement in writing. (In the event the Association representative signs said grievance, the employee's name will be listed on the grievance.)

Step 2:

If the grievance has not been satisfactorily resolved, the aggrieved employee and the Association representative, if so requested by the employee, shall reduce the grievance to writing and present such written grievance to the Chief of Police or his designee within seven calendar days from the time the supervisors response was due in Step 1. The written grievance shall include the

contractual provisions being grieved, facts surrounding the grievance, and the remedy requested. The Chief of Police or his designee may meet with the employee, and the Association representative. The Chief of Police or his designee shall respond in writing, ten (10) calendar days from receipt of the grievance.

Step 3:

If the grievance remains unresolved the aggrieved employee may present the written grievance to the Town Manager or his designee within seven (7) calendar days from the time the Chief of Police's response was due in Step 2. The Town Manager or his designee may meet with the employee and the Association representative. The Town Manager or his designee shall respond in writing, within twenty (20) calendar days from receipt of the grievance.

Step 4:

If a grievance, as defined in this Article, has not been satisfactorily resolved within the grievance procedure, the Town or the Association may request arbitration on behalf of the employee(s) no later than twenty (20) calendar days after the Town Manager's response is due in Step 3. The parties to this Agreement will mutually agree, or attempt to agree, on an independent arbitrator. If this cannot be done, the parties or their representatives shall jointly request the names of five (5) arbitrators from FMCS. The parties shall select an arbitrator from the list by the method as set forth by FMCS. That arbitration shall be conducted under the rules of the FMCS. Subject to the following, the arbitrator shall have the jurisdiction and authority to decide a grievance as defined in the article. It is contemplated that the Employer and the Association may be able to mutually agree in writing as to the statement of the matter to be arbitrated prior to the hearing, and if this is done the arbitrator shall confine his decision to the particular matter thus specified. In the event of failure of the parties to so agree on a statement of issue to be submitted, the Town and the Association shall submit a statement of the issues to the arbitrator.

Copies of the award of the arbitrator, made in accordance with the jurisdictional authority under this Agreement, shall be furnished to both parties within thirty (30) days of the hearing and shall be final and binding upon both parties. The Employer shall provide the hearing room. Each party shall bear the expenses of its own witnesses, and shall pay one-half the cost of the impartial arbitrator. Parties desiring copies of the transcript of such arbitration shall bear the expense.

Nothing in this article shall be construed to prevent any employee from presenting his own grievance, up to but not including a request for arbitration; however, the Association shall be given reasonable opportunity to be present at any meeting called for the resolution of grievances.

18.4 Any grievance not answered by management in the time limits provided above automatically advances to the next higher step of the grievance procedure. Any grievance not pursued by the employee within the time limits above will be considered abandoned.

ARTICLE 19. RULES AND REGULATIONS

19.1 It is agreed and understood that the Town and the Police Department currently have rules and regulations governing employment. The Association agrees that said rules and regulations shall be formulated, amended, revised and implemented in the sole and exclusive discretion of the Town, provided, however, that said formulation, amendment, revision and implementation will be neither arbitrary nor capricious.

19.2 It is agreed and understood that employees will be provided with copies of any rules and regulations which are new and/or which replace, update, and/or supersede the Town's or Department's present rules and regulations.

19.3 The Town shall give a copy of any newly adopted rule or regulation, as well as any amendment or revision to a rule or regulation, to the Association.

ARTICLE 20. SAVINGS CLAUSE

20.1 Should any provisions of this collective bargaining Agreement, or any part thereof, be rendered or declared invalid by reason of any existing or subsequently enacted legislation, or by any decree of a court of competent jurisdiction, all other articles and sections of this Agreement shall remain in full force and effect for the duration of this Agreement. Upon request by either party, both parties shall immediately enter into collective bargaining for the purpose of re- negotiating such Article or Section so affected.

ARTICLE 21. PREVAILING RIGHTS

21.1 All job benefits provided for in writing heretofore enjoyed by all the bargaining unit employees who are not specifically provided for or abridged by this Agreement shall continue. The Agreement will not deprive any employee of any benefits or protections granted by the laws of the State of Florida, Ordinances of the Town of Bay Harbor Islands, or the Rules and Regulations of the Bay Harbor Islands Police Department.

ARTICLE 22. SENIORITY

22.1 Seniority shall consist of continuous accumulated paid service by classification with The Town. Seniority shall be computed from the date of appointment to the classification and shall accumulate during paid absences because of illness, injury, vacation, military or other authorized leave. In the event bargaining unit employees have the same seniority by classification, seniority shall then be determined in the following descending order: Date of Hire by Department/Date of Hire by Town/Draw Lots.

22.2 Provided operational needs are met, seniority shall be used to determine the following:

- (a) Vacation leave.
- (b) Shift selection and squad which includes days off.
- (c) Off-duty employment rotation assignments.

22.3 Provided operational needs are met and qualifications for selection are equal, seniority shall be a tiebreaker for the following: (a) Assignment of department equipment (b) Vacancies in specialized units.

22.4 Vacancies in specialized units shall only be filled by non-probationary employees unless non-probationary employees are unqualified or decline the position.

ARTICLE 23. INJURIES IN THE LINE OF DUTY

23.1 If an employee is injured in the line of duty and is entitled as a matter of law to receive Worker's Compensation benefits under Florida's Workers' Compensation Act, the Town will supplement such compensation so that the employee will receive full pay, and he will continue to accrue seniority benefits, for up to ninety (90) calendar days resulting from time lost due to the injury. The ninety (90) day period may be extended for one or more additional periods of up to forty-five (45) calendar days by the Town Manager. The Manager's decision shall not be unreasonable. If the employee receives any other payments from social security, the Town's disability insurance plan, etc., the employee shall immediately report said amounts to the Town and the Town will reduce its supplemental payments to the employee by that amount. It is intended that no employee should ever receive more than his/her full pay.

23.2 If the employee is absent from work for more than one hundred eighty (180) calendar days, and the Town Manager determines that he wants to fill the employee's position he may place the employee on a medical leave of absence for the purpose of further rehabilitation or as a prelude to disability retirement. In that event, the employee will remain eligible for reinstatement to an available and open position for an eighteen (18) month period if, in the determination of the Town Manager, based upon reports of a physician designated by the Town, the employee becomes able to perform the job. The employee may also be examined by his/her own physician. If these physician opinions are different, then the employee would be examined by a third physician that would be selected by the first two physicians and whose determination regarding the employee's return to work capabilities shall be binding. Upon reinstatement, the employee will be returned to the pay step and seniority status in effect at the time full pay by the Town was terminated.

23.3 When so directed by the Town, any employee on disability leave shall present himself/herself to an examination at any reasonable time to any physician designated by the Town. The Town will bear the full expense of said examination. The refusal of any such employee to present himself/herself for an examination will operate to automatically terminate his/her disability leave.

23.4 Whenever an employee on disability leave becomes physically able to perform some useful light duty work for the Town, as approved by the employee's treating physician, he/she may be required to do so as a condition to receiving the benefits specified in paragraph 23.1.

ARTICLE 24 OFF-DUTY EMPLOYMENT

24.1 The Town agrees that employees working off-duty employment will receive compensation for off duty work according to a fee schedule set by committee comprised of one member appointed by the Chief, one representative of each shift and a PBA representative.

24.2 Personnel assigned to off-duty law enforcement jobs shall be fully protected in case of line of duty injury during such assignment by Workmen's Compensation and Town disability leave coverage.

24.3 When available, the Town will furnish a hand-held radio unit to an employee working an approved off-duty employment detail.

24.4 In addition to the amount paid the employee, the Town shall charge the permittee a surcharge of two dollars (\$2.00) per hour worked.

24.5 ~~The Town agrees to take the appropriate steps to implement and employ a private entity who will be in charge of the off-duty program, including but not limited to off-duty record keeping, financial tracking and the assignment of officers to off-duty employment. The Town agrees to as soon as practicable, prepare has prepared a detailed off-duty departmental policy delineating the responsibilities of employees and the coordinator(s) regarding off-duty employment. Said policy shall be subject to review and approval of the Association prior to its implementation. —with the appropriate software and infrastructure already in place, who will be in charge of the off-duty program, to facilitate off-duty record keeping, financial tracking and the assignment of officers to off-duty employment. The Town may utilize Off Duty Management Inc., a Texas Corporation, to be in charge of the off-duty program or any other company which provides equal services as Off Duty Management Inc. The Town will not be required to create the Town's own software or infrastructure to manage the off-duty program in the event said software is not already in existence. The Town has prepared a detailed off-duty departmental policy delineating the responsibilities of employees and the coordinator(s) regarding off-duty employment.~~

ARTICLE 25. UNIFORMS, SAFETY AND EQUIPMENT

25.1 All uniform and equipment benefits provided on a department wide basis shall remain in full force and effect. Employees shall receive replacement items as needed.

25.2 The parties acknowledge that law enforcement is, by its very nature, a hazardous occupation and employees understand that the nature of the job environment exposes them to hazardous conditions. The Town will make a reasonable effort to ensure that its equipment, working conditions and the job environment will not jeopardize the health or safety of employees. Nothing in this Article limits the management rights expressed in this Agreement. Employees will make a conscientious effort to maintain a safe working environment.

25.3 The Town will make a reasonable effort to ensure that equipment it purchases will not jeopardize the health or safety of bargaining unit employees and will be adequately maintained. Employees will make a conscientious effort to operate vehicles and maintain equipment in a safe and efficient manner, as well as to ensure equipment is inspected and not subject to abuse.

25.4 The Town will provide all bargaining unit employees with an approved bullet proof vest, which shall be worn by bargaining unit employees when performing patrol duties or as otherwise directed by the Chief of Police.

25.5 Except for instances involving employee negligence, if an employee's personal property is lost or damaged as a consequence of his official duties, (i.e., through physical violence, accident, or assault) and no other reimbursement source is available, the Town, upon approval by the Manager, will reimburse the employee for the replacement of property to a maximum of one hundred percent (100%) of replacement cost or one hundred fifty dollars (\$150.00), whichever is less.

25.6 Vehicles:

A. Upon ratification of this Agreement, the Town shall implement a Take Home Vehicle Program (hereafter referred to as "THVP"). The Chief of Police shall the right and authority to determine the assignment of vehicles. The removal of an assigned vehicle shall be at the Chief's discretion. Vehicle assignments are understood to be based on operational necessity and subject to the THVP policy guidelines and standards that shall be established by the Chief of Police as soon as practicable after (or prior to) the execution of this Agreement.

B. All police vehicles will be equipped with:

- (a) Surgical gloves
- (b) One way resuscitation device
- (c) Disinfectant
- (d) Bargaining unit members will be permitted to carry semi-automatic weapons while on duty and off duty under the following conditions:
 - 1) Those employees wishing to carry semi-automatic weapons will make their selection from a choice of types as determined by the Chief of Police, based upon the recommendation of the Firearms Committee.
 - 2) The weapon must be inspected and certified as safe by an expert designated by the Chief of Police.
 - 3) The employee must be able to disassemble and reassemble the weapon.
 - 4) The Town will provide ammunition for use in the approved semi-automatic weapons.

25.7 A Labor/Management Safety Committee will meet, as needed, to address issues involving employees' safety, accident prevention, etc. Labor Representatives shall not be considered on duty and thus are not entitled to compensation when attending such meetings.

25.8 Any bargaining unit member who retires from the Bay Harbor Police Department with twenty (20) years or more of service shall be presented with and receive his/her retiree badge and their service issued handgun.

ARTICLE 26. LAW ENFORCEMENT TRAINING

26.1 Every employee shall be provided mandatory in-service training as required by Florida Statute Section 943.135. Time spent at such training shall be treated as regular duty hours.

26.2 The Town agrees to schedule two (2) days per year for range qualification. The costs of ammunition and range fees are to be paid by the Town.

26.3 A bargaining unit employee assigned to range qualification on his/her days off shall be paid in accordance with Article 11, Basic Work Week and Overtime ~~eight (8) hours straight time at the time and half rate of pay~~ straight time unless such range qualification is assigned within (1) one hour or less of his/her regularly scheduled shift. In such cases, the employee shall be paid a minimum of three (3) hours at the overtime rate. An officer who is assigned to fire at the range on his/her regularly scheduled workday while not actively on duty will be paid a minimum of two (2) hours at the overtime rate of pay. Officers firing while working their regular shift (on duty) are not entitled to any extra compensation. If an officer is assigned to the range during his/her regularly scheduled day off and if such range qualification is not assigned within one hour or less of the end of the officer's scheduled shift, he/she shall be paid in accordance with Article 11, Basic Work Week and Overtime ~~receive eight (8) hours straight pay~~. If an officer is assigned to the range during his/her regularly scheduled day off within one (1) hour or less of his/her regular shift, the officer shall receive a minimum of three (3) hours at the overtime rate.

ARTICLE 27. INSURANCE BENEFITS

27.1 The Town shall provide health insurance for all bargaining unit members.

27.2 The Town shall pay the full coverage premium for each bargaining unit member.

27.3 The Town shall pay sixty-five percent (65%) of the premium toward dependent coverage for bargaining unit members who elect to subscribe to such coverage.

27.4 Employees who voluntarily opt out of the Town's health insurance coverage due to coverage eligibility elsewhere shall receive fifty percent (50%) of the monthly health insurance premium paid by the Town for individual HMO coverage. This will be paid to the employee on a monthly basis.

27.5 The Town shall pay three hundred and seventy-five dollars (\$375.00) per month for each bargaining unit member who retires after October 1, 2005 ("Retirees"), under the normal retirement criteria set forth in the police officers' pension plan until such time as the Retiree reaches age 65. These three hundred and seventy-five dollars (\$375.00) shall be used by the Retiree to pay for his/her health insurance premium. In order to qualify for this benefit, Retirees will be required to complete an annual affidavit certifying that they are not receiving other moneys to pay for their health insurance premiums.

27.6 The Town shall provide each bargaining unit member with fifty thousand dollars (\$50,000.00) in life insurance coverage. The Town shall pay the full cost of the premium.

ARTICLE 28. WAGES

28.1 Employees shall be paid as follows:

A. Covered employees in the rank of officers and detectives shall be paid as follows ~~a 4% pay increase~~ the first 1st year raise will be applied retroactive to January 1, 2021, September 30, 2021 2nd and third year pay raises are effective the first pay period following the beginning of each fiscal year (~~October 1, 2017, 2018, 2019 2020~~):

- ~~1st year (2017-2018) — 4% pay increase,~~
- ~~2nd year (2018-2019) — 4% pay increase,~~
- ~~3rd year (2019-2020) — 3% pay increase.~~
- 1st year (2021 – 2021) – 4% increase,
- 2nd year (October 1, 2021 – September 30, 2022) – 3% increase,
- 3rd year (October 1, 2022 – September 30, 2023) – 3% increase.

B. Covered employees in the ranks of Sergeants shall be paid as follows ~~a 4% pay~~ the first 1st year raise will be applied retroactive to January 1, 2021, September 30, 2021 2nd and third year pay raises are effective the first pay period following the beginning of each fiscal year (~~October 1, 2017, 2018, 2019 2020~~):

- ~~1st year (2017-2018) — 3.5% pay increase,~~
- ~~2nd year (2018-2019) — 3.5% pay increase,~~
- ~~3rd year (2019-2020) — 4% pay increase.~~
- 1st year (2021 – 2021) – 4% increase,
- 2nd year (October 1, 2021 – September 30, 2022) – 3% increase,
- 3rd year (October 1, 2022 – September 30, 2023) – 3% increase.

C. Covered employees in the ranks of Lieutenants shall be paid as follows ~~a 4% pay~~ the first 1st year raise will be applied retroactive to January 1, 2021, September 30, 2021 2nd and third year pay raises are effective the first pay period following the beginning of each fiscal year (~~October 1, 2017, 2018, 2019 2020~~):

- ~~1st year (2017-2018) — 3.5% pay increase,~~
- ~~2nd year (2018-2019) — 4% pay increase,~~
- ~~3rd year (2019-2020) — 4% pay increase.~~

- 1st year (2021 – 2021) – 4% increase,
- 2nd year (October 1, 2021 – September 30, 2022) – 2.5% increase.
- 3rd year (October 1, 2022 – September 30, 2023) – 2.5% increase.

28.2 Longevity Increases - After completing ten (10) years of uninterrupted police service with the Bay Harbor Islands' Police Department employees' base salaries shall be increased by five percent (5%). After completing twelve (12) years of uninterrupted police service with the Bay Harbor Islands' Police Department employees' base salaries shall be increased by five percent (5%). After completing fifteen (15) years of uninterrupted police service with the Bay Harbor Islands' Police Department employees' base salary shall be increased by another five percent (5%). After completing twenty (20) years of uninterrupted police service with the Bay Harbor Islands' Police Department employees' base salaries shall be increased by five percent (5%). After completing twenty-five (25) years of service employees' base salaries shall be increased by five percent (5%). After completing thirty (30) years of uninterrupted police service with the Bay Harbor Islands' Police Department employees' base salaries shall be increased by five percent (5%).

28.3 Employees assigned to a position of detective will receive an annual clothing allowance of ~~six hundred~~ seven hundred and fifty dollars (~~\$650.00~~ \$750) which will be paid on a quarterly basis.

28.4 Employees shall receive a twenty (\$20.00) dollar bi-weekly law enforcement allowance/reimbursement.

28.5 Employees who are assigned and work the twelve (12) hours of the second shift for more than thirty (30) consecutive days shall be paid a three percent (3%) night differential for the twelve (12) hours worked.

28.6 Employees assigned to work as detectives shall receive a five percent (5%) differential.

28.7 Employees not assigned to the position of detective shall receive an annual clothing allowance of ~~four hundred~~ five hundred dollars (~~\$400~~ \$500) annually to be paid in the last check of the calendar year.

28.8 Employees appointed to the rank of Corporal, upon appointment, shall receive an increase in base salary of three percent (3%).

28.9 Field Training Unit: Only CJSTC trained and Field Training Officer (“FTO”) certified shall receive an increase in base salary of five percent (5%) for the time the FTO is training a new officer. Officers who perform field training duties on a temporary basis are not eligible for FTO pay under this section; “temporary basis” is defined as time amounting to less than a work week. The Town’s payroll department shall be notified by the Chief of Police and/or the Chief’s designee of when the FTO assignment commences and when it concludes as to assure that the proper pay adjustments are made.

ARTICLE 29. PENSION

29.1 The town agrees to take the appropriate steps to implement the following benefits to the Police Officer Pension Plan ("Plan") as soon as practicable:

29.1.1 Effective October 1, 2005, employee contribution shall be seven percent (7%) of earnable compensation to the Plan and effective October 1, 2006, employee contribution shall be eight percent (8%) of earnable compensation to the Plan.

29.1.2 The pension multiplier for creditable service rendered on or after October 1, 2014 shall be equal to three point five percent (3.5%) of the monthly average final compensation multiplied by the number of years of creditable service. Bargaining unit employees who elect to receive this benefit shall be required to pay the full eight percent (8%) employee contribution for those years of service. The town agrees to allow the employee up to thirty-six (36) months to pay total eight percent (8%) contribution.

29.2 The employees' pension benefit shall be based on their best three (3) years of service.

29.3 Employees' shall fully vest in the pension plan after five (5) years of creditable service.

29.4 Upon ratification of this Agreement the Town agrees to take the appropriate steps to make the necessary changes to the Town's pension ordinance to include and implement a Deferred Retirement Option Program (hereafter referred to as "DROP") as soon as possible. Upon the execution of this Agreement a committee shall be established for the purpose of initiating a DROP. This committee shall consist of three (3) members: One (1) member to be designated by the Town, one (1) member to be designated by the PBA and one (1) member to be designated pursuant to the mutual agreement of the two initial members designated by the Town and the PBA.

A DROP shall be adopted and administered by the Retirement Board. Participation in the DROP shall be limited to five (5) years. The five (5) year participation period shall be measured from actual retirement of the Participant. Upon entering the DROP, a participant shall elect whether the earnings credited to the Participant's DROP account shall be the actual net investments return realized by the Plan (determined quarterly). Thereafter, on or before December 1st of each year, Participants shall make an annual irrevocable investment election for the following calendar year between the actual net investment return realized by the Plan.

Investment elections shall be in writing and submitted to the Retirement Board. If a Participant fails to timely submit a written investment election to the Retirement Board, the default investment election for the Participant's DROP account will be the prior year's selection. The DROP shall contain such other terms and conditions as the Retirement Board deems necessary and appropriate for proper administration of the DROP.

29.5 The Town further agrees to take the appropriate steps to modify the current plan to permit members to purchase up to four (4) years of prior police or military service. The members shall be responsible for the full cost of any years purchased.

Continuous employment shall also include credit for military service occurring prior to a Participant's employment with the Town as well as prior service as a police officer for some other employer as long as the Participant is not entitled to receive a benefit for such other prior service as a police officer provided that the Participant contributed to the Fund the sum that he would have contributed, based upon his salary and the employee contribution rate in effect at the time the service credit is requested, had he been a Participant of the Plan for the years or fractional parts of years for which he/she is requesting credit plus any amounts actuarially determined such that the crediting of service does not result in any cost to the Fund plus the payment of costs for all professional services rendered to the Board in connection with the purchase of years of service. Payment by the Participant of the required amount shall be made within six (6) months of his/her request for credit, but not later than the retirement date, and shall be made in one lump sum payment upon receipt of which service credit shall be given. Multiple requests to purchase service pursuant to this sub-section may be made at any time prior to retirement.

ARTICLE 30. TERM OF AGREEMENT

30.1. This Agreement shall become effective immediately after ratification by the Association and approval by the Town Council and shall remain in effect until September 30, 2020 ~~2021~~ 2023 or until a successor Agreement is ratified by the parties.

30.2 It is agreed and understood that this Agreement constitutes the whole Agreement between the Town and the Association, and that after a majority vote of those bargaining unit members voting on the question of ratification and, thereafter, upon the approval of the Town Council, shall become effective as indicated in 30.1 above.

30.3 Agreed to this day ____ of _____, 2017 ~~20~~ 2021, between the respective parties through an authorized representative(s) of the Town and the Association.

FOR THE TOWN OF BAY HARBOR ISLANDS:

Maria Lasday, Town Manager

FOR THE DADE COUNTY POLICE BENEVOLENT ASSOCIATION:

Steadman Stahl, President

Michael Braverman, Esq.
Counsel for DCPBA

Cristina Escobar, Esq.
Counsel for DCPBA

SCHEDULE A

**PAY PLAN EFFECTIVE FROM ~~OCTOBER 1, 2017-2020~~ JANUARY 1, 2021 THROUGH
SEPTEMBER 30, ~~2018-2021~~**

POLICE OFFICER SALARY SCHEDULE

Step	Salary
Step 1	
Step 2	
Step 3	
Step 4	
Step 5	
Step 6	
Step 7	

SERGEANT SALARY SCHEDULE

Step	Salary
Step 1	
Step 2	
Step 3	
Step 4	
Step 5	
Step 6	
Step 7	

LIEUTENANT SALARY SCHEDULE

Step	Salary
Step 1	
Step 2	
Step 3	
Step 4	
Step 5	
Step 6	
Step 7	

SCHEDULE B

PAY PLAN EFFECTIVE FROM OCTOBER 1, ~~2018~~ 2021 THROUGH SEPTEMBER 30, ~~2019-2022~~

POLICE OFFICER SALARY SCHEDULE

Step	Salary
Step 1	
Step 2	
Step 3	
Step 4	
Step 5	
Step 6	
Step 7	

SERGEANT SALARY SCHEDULE

Step	Salary
Step 1	
Step 2	
Step 3	
Step 4	
Step 5	
Step 6	
Step 7	

LIEUTENANT SALARY SCHEDULE

Step	Salary
Step 1	
Step 2	
Step 3	
Step 4	
Step 5	
Step 6	
Step 7	

SCHEDULE C

PAY PLAN EFFECTIVE FROM OCTOBER 1, ~~2019~~ 2022 THROUGH SEPTEMBER 30, ~~2020~~ 2023

POLICE OFFICER SALARY SCHEDULE

Step	Salary
Step 1	
Step 2	
Step 3	
Step 4	
Step 5	
Step 6	
Step 7	

SERGEANT SALARY SCHEDULE

Step	Salary
Step 1	
Step 2	
Step 3	
Step 4	
Step 5	
Step 6	
Step 7	

LIEUTENANT SALARY SCHEDULE

Step	Salary
Step 1	
Step 2	
Step 3	
Step 4	
Step 5	
Step 6	
Step 7	

2020 - 2023 COLLECTIVE BARGAINING AGREEMENT
BETWEEN
THE TOWN OF BAY HARBOR ISLANDS, FLORIDA AND
THE DADE COUNTY POLICE BENEVOLENT ASSOCIATION

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PURPOSE AND INTENT

The general purposes of this Agreement are to provide an Agreement for wages, hours and conditions of employment of the employees covered by this Agreement except as otherwise provided by Constitution, Statute, Charter and Ordinance, to prevent interruption of work and interference with the efficient operation of the Town and performance of Town operations and to provide orderly, prompt, peaceful and equitable procedures for the resolution of differences and the promotion of harmonious relations between the Town and the Association. Upon ratification, the provisions of this Agreement will supersede procedural and operational directives, the Town's policy manual, Administrative Orders and other rules and regulations in conflict herewith. The Town retains the right to establish through Directives, Administrative Orders, or Rules, practices and procedures which do not violate the provisions of this Agreement.

ARTICLE 1. AGREEMENT

1.1 This Agreement is entered into by the TOWN OF BAY HARBOR ISLANDS, hereinafter referred to as the "Town" or the "Employer", and the DADE COUNTY POLICE BENEVOLENT ASSOCIATION, INC., hereinafter referred to as the "PBA" or the "Association".

ARTICLE 2. RECOGNITION

2.1 The Town hereby recognizes the Association as the sole and exclusive bargaining representative for all employees in the following appropriate unit:

INCLUDED: All full-time Police Officers, Police Corporals, Police Sergeants and Police Lieutenants.

EXCLUDED: All other employees of the Town of Bay Harbor Islands.

2.2 Employees shall only be required to perform work within the scope of their official duties or duties related to official Town business.

2.3 The Chief of Police shall have the right to appoint individuals to the rank of Corporal. Such appointments shall be within the Chief's sole discretion. Individuals removed from the rank of Corporal shall not have the ability to use the grievance procedure to contest said removal, and/or grieve/contest the removal in any manner. Upon appointment, employees appointed to the rank of Corporal shall be compensated consistent with Article 28, Section 28.8 of this Agreement.

ARTICLE 3. MANAGEMENT RIGHTS

3.1 The Association and its members recognize and agree that the Town has the sole and exclusive right to manage and direct any and all of its operations. Accordingly, the Town specifically, but not by way of limitation, reserves the sole and exclusive right:

- 3.1.1 To determine the organization of municipal government;
- 3.1.2 To determine the purposes of each of its constituent agencies;
- 3.1.3 To exercise control and discretion over the organization and efficiency of Town operations;
- 3.1.4 To determine the standards of service, the scope of service and the method of service to be offered to the public;
- 3.1.5 To hire and/or otherwise determine the criteria and standards of selection for employment;
- 3.1.6 To fire, demote, suspend or otherwise discipline for just cause;
- 3.1.7 To promote and/or otherwise establish the criteria and/or procedure for promotions within and without the bargaining unit, subject to Article 12 herein;
- 3.1.8 To transfer employees from location to location and from time to time;
- 3.1.9 To lay off and/or relieve employees from duty due to lack of work or any other legitimate reason;
- 3.1.10 To rehire employees;
- 3.1.11 To determine the starting and quitting time and the number of hours and shifts to be worked, subject to Article 11 herein;
- 3.1.12 To determine the allocation and content of job classification;
- 3.1.13 To formulate and/or amend job descriptions;
- 3.1.14 To establish, change, amend or modify job duties, tasks, responsibilities or requirements;
- 3.1.15 To expand, reduce, alter, combine, assign or cease any job;
- 3.1.16 To establish, change, or modify the number, types and/or grades of positions of employees;
- 3.1.17 To insure that duties within departmental job descriptions, shall be performed by employees;

- 3.1.18 To merge, consolidate, expand, curtail or discontinue operations, temporarily permanently, in whole or in part, whenever in the sole discretion of the Town good business judgment makes such curtailment of discontinuance advisable;
- 3.1.19 To contract and/or subcontract any existing or future work;
- 3.1.20 To determine whether and to what extent the work required in its operation(s) shall be performed by employees covered by this Agreement;
- 3.1.21 To control the use of equipment and property of the Town;
- 3.1.22 To determine the number, location, and operation of headquarters, annexes, substations and/or divisions thereof;
- 3.1.23 To schedule and assign the work to the employees and determine the size and composition of the work force;
- 3.1.24 To determine the services to be provided to the public, and the maintenance procedures, materials, facilities, and equipment to be used, and to introduce new or improved services, maintenance procedures, materials facilities and equipment;
- 3.1.25 To take whatever action may be necessary to carry out the mission and responsibility of the Town in emergency situations;
- 3.1.26 Subject to Article 19, to formulate, amend, revise and implement policies, rules and regulations, provided however, that such formulation, amendment, revision and/or implementation is neither arbitrary nor capricious; and
- 3.1.27 To require employees to observe and obey the Town's policies, procedures, programs and rules and regulation.

3.2 The above rights of the Town are not all inclusive but indicate the type of matters or rights which belong to and are inherent in the Town in its general capacity as management.

3.3 If the Town fails to exercise any one or more of the above functions from time to time, this will not be deemed a waiver of the Town's right to exercise any or all of such functions.

3.4 The exercise of the above enumerated rights shall not preclude the raising of grievances should decisions on the above matters have the practical consequences of violating the terms and conditions of this Agreement or impact upon the present conditions of this Agreement or impact

upon the present conditions of employment, subject to the provisions of the Public Employees Relations Act.

3.5 The parties acknowledge that during the negotiations which preceded this Agreement each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter and that the understandings and agreements arrived at by the parties after the exercise of that right are set forth in this Agreement. This Agreement, including its supplements and exhibits attached hereto, concludes all collective bargaining between the parties during the term hereof, and constitutes the sole, entire and existing agreement between the parties hereto, and supersedes all prior agreements, oral and written, express or implied, or practices, between the Town and the Association or its employees, and expresses all obligations and restrictions imposed on each of the respective parties during its term.

ARTICLE 4. NON-DISCRIMINATION

4.1 No employee covered by this Agreement will be discriminated against by the Town or the Association with respect to any job benefits or other conditions of employment accruing from this Agreement because of Association activity, race, sex, national origin, religion, physical disability or age.

4.2 Employees shall use the grievance procedure provided in Article 18 for violations of this article prior to filing administrative complaints so long as such action does not prejudice the employee's rights.

ARTICLE 5. ASSOCIATION REPRESENTATIVES

5.1 The Town shall recognize up to two (2) members of the bargaining unit as authorized representatives of the bargaining unit for attendance at sessions to renegotiate an agreement.

5.2 Designation of these authorized representatives shall be made each year in conjunction with any request by the PBA to renegotiate an agreement.

5.3 Two (2) authorized representatives shall attend negotiating sessions without loss of pay and benefits if his/her attendance is required during regular duty hours, and if his/her attendance is specifically authorized by the Chief of Police or his designated representative after manpower availability and operational needs have been met.

5.4 The Town will recognize two (2) representatives from the bargaining unit whose duties shall be to process grievances for members of the bargaining unit who request such representation. These representatives may process such grievances on duty, without loss of pay or benefits, with the express permission of the Chief of Police or his designee, who shall take into account all manpower and service needs. This permission shall not be unreasonably withheld. If scheduling results in both of the representatives working the same shift, only one representative at a time shall be allowed to process grievances. The absence of a representative on any shift shall not be deemed a breach of this Agreement, and any grievance presented during such a shift shall be processed whenever a representative becomes available, either on-duty with approval of Chief of Police or his designee or off-duty.

5.5 Authorized representatives for negotiating sessions and grievance processing shall be appointed by the PBA, and shall be designated in writing to the Chief of Police.

5.6 Except for circumstances and situations mentioned above, authorized representatives and/or other bargaining unit members shall conduct PBA business, attend PBA functions, and otherwise participate in PBA activities on personal, off-duty time.

ARTICLE 6. ASSOCIATION INFORMATION

6.1 The Town will permit the Association to post official notices of the PBA on the existing bulletin board located in the roll call room of the Police Department. Neither the Association nor bargaining unit employees shall post items which might offend, demean, demoralize or in any way impugn the character of any Town employee, department head or elected official. The PBA is responsible for reasonable costs incident to the preparing and posting of Association materials and removing of Association materials from this bulletin board, and for maintaining such board in an orderly condition.

6.2 Upon receipt of a written authorization form from an employee, the Town agrees to deduct the regular Association dues of such employees from his/her pay and remit such deductions to the Association. However, such authorization is revocable at the employee's will upon thirty (30) days written notice to the Town of Bay Harbor Island and the Association.

ARTICLE 7. LEGAL ASSISTANCE

7.1 The Town will undertake the defense of a bargaining unit employee against civil damage suits providing that such suit arose out of actions by the employee in the line of duty. Moreover, in such instance the Town will file proper and appropriate countersuits if such action is in the Town's interests, or if not, the Town will notify the concerned officer that he/she may contact legal counsel regarding the filing of proper and appropriate countersuits.

7.2 Legal representation pursuant to this Article shall be provided for any act or omission of action arising out of the scope of the officer's employment, unless in the case of a tort action, the officer acted in bad faith, with malicious purpose, or in a manner exhibiting willful and wanton disregard of human rights, safety, or property.

ARTICLE 8. PERSONNEL RECORDS

8.1 The Town will maintain the confidentiality of personnel records of employees to the extent permitted by state law and prevailing statutes. Release of employees' records shall only be done by the Town's Records Custodian or designee. As soon as reasonably possible of a request for an employee's personnel file and/or any other file, reports, and/or memorandum, radio communication(s), Body Worn Camera footage and/or GPS information or reports prepared by or related to the employee being made by any person or entity other than a law enforcement agency, the affected employee will receive written notification of said request.

8.2 At no time shall the news media be directly or indirectly furnished with the home address, telephone number, and photograph of active or former law enforcement personnel; the home address, telephone number, photograph, and place of employment of the spouse or children of active or former law enforcement personnel; and the name or location of schools attended by the children of active or former law enforcement personnel.

8.3 Except for routine administrative material no paperwork will be inserted in an employee's personnel file without a copy being provided to the employee. Placing a copy in the employee's departmental mailbox is sufficient to satisfy the requirements of this paragraph.

8.4 Upon request, any employee shall have the right to inspect his/her official personnel records wherever kept, during the hours of 9:00 A.M. and 5:00 P.M., Monday through Friday. Such inspection shall be conducted while the employee is off duty. The employee shall have the right to obtain from the Town duplicate copies, at the employee's expense, of this record for his/her use.

8.5 Employees shall have the right to add to their Personnel records written refutation of any document or information contained therein which is considered by the employee to be derogatory or to contain incorrect or insufficient information.

8.6 Upon request by the employee, documents in the categories listed below (a through c) shall be removed from an employee's official personnel file by the Town according to the following schedule:

(a) Disciplinary action reports involving suspensions, demotions, or other disciplinary action for similar types of conduct: Five (5) years from date received by employee.

(b) Disciplinary action reports involving suspensions, demotions, or other disciplinary action for dissimilar types of conduct: Five (5) years from date received by employee.

(c) Reprimands: Three (3) years from date received by employee if not followed by a similar action within one (1) year. If similar action does occur during that one year, records of reprimands shall be maintained for the five year period mentioned in (a).

(d) Formal Counseling: Up to three (3) years at the discretion of the Town.

Disputes concerning the time period specified in this paragraph will not be grievable.

NOTE: Removed documents shall be retained by the Town in a separate file. Removed documents may be used by the Town for any administrative action or any lawful purpose.

8.7 Upon request of the affected employee, complaints which are determined to be unfounded or not sustainable will not be inserted in an employee's official personnel file.

ARTICLE 9. INTERNAL INVESTIGATIONS

9.1 Whenever an employee covered by this Agreement has been advised by the Town that he/she is the subject of a formal investigation and thereafter is subject to a formal interrogation for reasons which could lead to disciplinary action, such interrogation will be conducted under the following (NOTE: A formal investigation shall exist whenever a preliminary investigation, which may include questioning of the affected officer, indicated that disciplinary action is probable.)

- (a) The interrogation will be conducted at a reasonable hour, whenever possible at a time when the employee is on duty, unless of course the seriousness of the investigation is of such an important degree that immediate questioning is required;
- (b) The interrogation will take place at the Police Department or Town Hall, whenever possible and practical based upon the circumstances;
- (c) At the request of the officer who is subject to investigation and interrogation, he/she shall be afforded a reasonable period of time to have a representative of his/her own choice present during the questioning;
- (d) The employee who is subject of the investigation and interrogation will be informed of the name and rank of the person asking the questions and also will be advised of the names and ranks of all persons present during questioning. It is agreed that only one person will question the employee at any time;
- (e) The employee who is subject of the investigation and interrogation, prior to his/her being questioned, will be informed of the nature of the investigation (and the charges against him/her and he/she shall be informed of the name of all persons lodging a complaint against him, and witnesses if any;
- (f) No employee shall be forced to submit to an examination by a polygraph or other mechanical or electronic device (e.g., "PSE") to determine the truth of his/her statement. However, such employee may be asked and may consent to the taking of such an examination;
- (g) It is agreed that questioning sessions will be for reasonable periods of time and that break periods will be allowed for the employee to attend to "personal necessities" and rest periods will be allowed when necessary;

- (h) The employee under the formal investigation and interrogation will not be subject to offensive language;
- (i) The formal interrogation of any employee, including all recess periods, may be recorded by either party;
- (j) If the employee who is subject to the investigation is placed under arrest, or if it is likely that he/she will be placed under arrest as a result of the formal interrogation, it is agreed that he/she shall be completely advised of his/her rights prior to the beginning of the formal interrogation.

9.2 If a statement is taken or an interrogation is conducted in violation of the procedures contained in this Article, such violation shall only affect the admissibility of such statement and shall not automatically invalidate any action taken as a result of the statement.

9.3 The employee shall be given an exact copy of any written statement he/she may execute, at no cost to the employee. Upon conclusion of the investigation, the employee will be furnished with a copy of the findings.

9.4 No employee will be compelled to speak or testify before, or be questioned by, any non-governmental agency unless under proper court subpoena, or as directed by the Chief or his designee.

9.5 Whenever possible, the Town will request that citizen complaints be made in writing or that a recorded statement be obtained. An employee will not be disciplined based upon an anonymous complaint unless following a full and fair investigation supported by competent and substantial evidence, it is determined that the complaint is sustained.

ARTICLE 10. DISCIPLINARY MATTERS

10.1 Employees relieved of duty for alleged violations of the law and/or department rules will remain on full salary and allowances until final action is taken by the Town. Such final action shall be any determination by the Chief of Police or his designated representative to demote, suspend, terminate, or otherwise move to affect the pay and benefits of an officer. The Town, in its discretion, may suspend without pay any employee immediately upon the employee being formally charged with a felony or misdemeanor involving false statement by law enforcement, indicted by any grand jury or upon information being filed against him/her by any prosecuting, or law enforcement official. Such suspension shall continue until the employee is tried and acquitted, the information or indictment is quashed or dismissed, or a court of competent jurisdiction dismisses the criminal charge(s), whereupon the particular employee shall be reinstated and entitled to back pay for the period of suspension without pay less any pay withheld by the Town as a result of disciplinary action taken against the employee, and less any sums earned by the person in any other employment during the period of suspension. The Town may terminate the employee at any time it feels the relevant facts warrant such action. When such disciplinary action is taken the procedures in this Agreement shall prevail.

If an employee has been tried and found guilty of a felony or misdemeanor, involving moral turpitude, and his conviction is not reversed, he/she shall automatically forfeit his/her position with the Town and shall not thereafter be eligible for such employment. This rule applies regardless of whether the person is placed on probation or given a suspended sentence.

10.2 Employees shall not be dismissed or disciplined resulting in loss of pay or benefits except for just cause. Discipline shall be administered in accordance with Departmental Directives, as amended from time to time, which are hereby incorporated by reference. However, probationary police officers can be terminated and probationary police **sergeants** and police **lieutenants** can be demoted, without just cause and are not entitled to the procedures set forth in Article 10.4.

10.3 Probationary periods for employees shall be one year. This period may be extended by the Chief of Police at his/her discretion on a one-time basis for no more than ninety (90) days.

10.4 Any employee, other than those excluded under Article 10.2, who has been suspended for two (2) or more days, demoted or terminated for just cause may request arbitration no later than fourteen (14) calendar days after said action has been effectuated or the employee becomes aware of said action. Disciplinary actions with less than two (2) days suspension, including written warnings and reprimands, are not arbitrable and are final.

10.4.1 After giving notice of appeal to binding arbitration to the Town, the Association has thirty (30) days to request the names of seven arbitrators from the Federal Mediation and Conciliation Service ("FMCS"). The parties shall select an arbitrator from the list provided by method of alternate striking of names, with the Town striking first. The final name in the list shall be the arbitrator.

10.4.2 The fees for such arbitrator and his expenses will be split evenly between the parties. It is contemplated that the Town and the Association may be able to mutually agree in writing as to the statement of the matter to be arbitrated prior to the hearing, and if this is done, the arbitrator shall confine his decision to the particular matter thus specified. In the event of failure of the parties to so agree on a statement of issue(s) to be submitted, the Town and the Association shall submit a statement of issue(s) to the arbitrator. In the event of the failure of the parties to so agree, the arbitrator shall confine his consideration to the written statement and issue(s) raised.

10.4.3 The binding award shall be final and binding on both parties.

ARTICLE 11.BASIC WORKWEEK AND OVERTIME

11.1 For employees covered by this Agreement and who are on twelve (12) hour shifts, the basic work cycle shall consist of eighty (80) hours of duty within a fourteen (14) day period. Employees may be assigned to work a cycle which provides for regular work assignments which are more or less than eighty (80) hours within a fourteen (14) day period, provided that the assigned hours worked average eighty (80) hours per fourteen (14) day period over a reasonable period of time, not to exceed three (3) months. Officers who are assigned to a twelve (12) hour duty schedule will normally work seven (7) twelve (12) hour shifts in a two (2) week period. These officers will be given a twelve (12) hour shift off with pay every six (6) weeks. In the event the officer is required to work this shift, they shall be paid at one and one half (1 ½) times their current base rate of pay for all hours worked. The determination to implement a twelve (12), ten (10) and/or eight (8) hour work week rests solely in the discretion of the Chief of Police and is not grievable.

11.2 Those who are on ten (10) and eight (8) hour shifts, will have a work week consisting of seven (7) days and any hours worked in excess of forty (40) hours shall either be paid at one and one half (1 ½) times the employee's regular rate of pay or through compensatory time calculated in the same manner.

All paid leave except sick leave and funeral leave shall be considered hours worked. The choice as to Comp Time or pay shall be made by the employee. Comp Time may be earned and accrued up to a maximum of two hundred and fifty (250) hours per fiscal year. Comp Time may only be used with the prior approval of the Chief of Police or his designee requested through the officer's immediate supervisor in writing, email form or text message. At the end of each fiscal year all accumulated_Comp Time hours in excess of 250 hours will be paid to the employee at the rate such Comp Time was earned. Employees may request to be paid for up to fifty (50) hours of Comp Time. Nothing herein shall guarantee a minimum number of hours per day, per week or per month.

11.3 In consideration of the above overtime provisions and compensation at one and half (1 ½) times the employee's straight time rate of pay, it is agreed and understood that

compensation for roll call and duty transfer time is included in the basic pay for any shift.

11.4 Except in cases of operational necessity officers will be entitled to at least eight (8) hours off-duty before returning to work.

11.5 When it is necessary for the Town to require an employee to return to work, not within his/her regularly assigned shift, the Town will compensate the employee a minimum of three (3) hours at the overtime rate of pay.

11.6 Employees shall be provided at least thirty (30) days written notice preceding a regularly scheduled shift rotation in order to make an orderly readjustment to their personal schedules. Employees will be provided reasonable notice based upon the circumstances of an interim temporary shift change required by operational necessity. Shifts shall not be adjusted (i.e., employee sent home early; told to come in late, given a day off) to avoid the payment of overtime already worked by an employee, or to avoid overtime based upon a court appearance.

11.7 Employees attending court related matters while off-duty and arising from their official duties and capacity shall be entitled to a minimum of four (4) hours overtime. Court minimums will only apply to those court appearances which occur more than one hour from the employee's regularly scheduled shift.

11.8 Employees shall receive travel reimbursement as provided by Florida Statutes.

11.9 Shifts shall be assigned approximately every four (4) months.

ARTICLE 12. PROMOTIONS

12.1 All promotional vacancies in the Sergeant and Lieutenant classifications shall be filled in accordance with the procedures set forth in this Article. Filling of such a vacancy remains in the discretion of the Town.

12.2 Whenever a budgeted promotional vacancy exists in a Sergeant or Lieutenant classification and there is no existing list, the Town agrees to arrange for the administration of a written examination to all qualified candidates. Filling of such a vacancy remains in the discretion of the Town.

12.3 The Employer will announce promotional examinations at least sixty (60) days in advance of said examinations. This announcement will list the areas which the examination will cover and the sources from which the examination questions are drawn as well as all such references and source material available to eligible candidates.

12.4 The Sergeant's examination shall be restricted to non-probationary employees with not less than three years service in sworn law enforcement at least two of which must be in this Department. The Lieutenant's examination shall be restricted to non-probationary employees, with not less than three (3) years service in sworn law enforcement, at least two of which must be in this Department.

12.5 At the time a new promotional examination is given, all eligible employees who wish to be on the new list must take the new examination. No employee will be placed on the new list as a result of previous test scores. The promotional eligibility list shall be of one (1) year duration unless there are fewer than four (4) candidates on such a list. Thereafter, a new promotional examination may be given at the discretion of the Town.

12.6 The promotional process shall consist of two (2) parts: a written examination worth forty percent (40%) of total cumulative score; an oral examination worth sixty percent (60%) of total score.

12.7 Following the successful completion of the written portion of the promotional exam each candidate shall be evaluated by an interview board composed of the Chief of Police, the Town Manager, and two additional representatives who shall be a Chief of Police and a Police Lieutenant mutually acceptable to the Town and the Association.

12.8 A list of eligible candidates shall be compiled in the order of their final cumulative score. If necessary, seniority by classification shall serve as a tie breaker in determining the final eligibility list. All employees shall be notified of their scores.

12.9 The Chief of Police shall be the final authority in determining which officers are to be promoted to Sergeant or Lieutenant; provided only that his choices shall be limited to the highest four (4) scoring candidates, as determined by a combination of scores.

12.10 When appropriate as determined by the Chief of Police, officers promoted to the next higher rank will receive appropriate training during the probationary period.

12.11 Police Officers and Police Sergeants who are promoted shall receive a minimum of a five percent (5%) pay increase at the time of such promotion.

12.12 Either party may request to reopen this article by sending written notice to the other party.

ARTICLE 13. VACATION LEAVE

13.1 Bargaining unit employees shall be entitled to receive forty (40) hours of paid vacation after completing six (6) months of continuous service; eighty (80) additional hours after completion of their first year of service; one-hundred and twenty (120) hours per year of paid vacation each year thereafter; and a total of one-hundred and sixty (160) hours per year of paid vacation after completing ten (10) years of service. Effective October 1, 2002, employees shall receive two-hundred (200) hours per year of paid vacation after completing fifteen (15) years of service; and two-hundred and forty (240) hours per year of paid vacation after completing twenty (20) years of service. Employees will be permitted to carry over up to but no more than 120 hours in a "Vacation Bank". The Vacation Bank hours may be carried over from year to year, arrangements should be made so that vacations are taken each year.

13.2 Employees will be allowed to cash out up to 80 hours of unused vacation time each fiscal year. Any employee wishing to cash out unused vacation time in accordance with this section must submit said request no later than June 1st of each year. The Town will make all cash out payments to employees in the subsequent fiscal year between October 1st and November 30th. For fiscal year October 1, 2020 to September 30, 2021, employees will be allowed to make a cash out request so long as said request is done within 30 days of the effective date of this agreement.

13.3 The dates of all vacation leaves must be approved by the Chief of Police and should be scheduled so as to create a minimum of hardship on the regular work schedule. A copy of all vacation request which have been approved must be submitted to the Human Resources department by the employee.

13.4 A vacation leave schedule shall be posted by February 1st of each calendar year.

13.5 On January 1st of each year each bargaining unit member shall be credited with one day of Personal Leave. The Personal Leave must be used within one (1) year of the date it was accrued and shall not be carried over to the next year.

13.6 Upon separation, a member shall receive 100% of their accrued vacation leave.

ARTICLE 14. HOLIDAYS

14.1. The Town recognizes the following eleven (11) official holidays and birthday holiday* for bargaining unit employees:

New Year's Day	January 1st
Martin Luther King's Birthday	3rd Monday in January
Washington's Birthday	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	1st Monday in September
Veteran's Day	November 11th
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving	4th Friday in November
Christmas Eve	December 24th
Christmas Day	December 25th

*Employee's Birthday: May be taken on another date agreed to by the employee and Chief of Police.

14.2. Subject to Article 14.3, if an employee's shift begins on a holiday, he/she will be paid at a rate of one and a half (1 ½) times his/her normal rate of pay for the time actually worked, in addition to being paid for the holiday as part of his/her normal work week.

14.3 If an employee's shift begins on Christmas or New Year's Day he/she will be paid at the rate of two (2) times his/her normal rate of pay for the time actually worked, in addition to being paid for the holiday as part of his/her normal work week.

14.4 If the employee's shift begins on a holiday, including Christmas or New Year's, and the employee calls in sick, is out of work pursuant to Article 23, or takes bereavement leave as described in Article 15, the provisions of paragraph 14.2 or 14.3 shall be inapplicable.

14.5 If a holiday falls on an employee's regular day off or within a vacation period, he/she shall receive one day's pay in lieu of the holiday or at the option of the Chief of Police and with the employee's consent, he/she may be granted an alternate day off for the holiday.

ARTICLE 15. SICK AND BEREAVEMENT LEAVE

15.1. Approval for sick and bereavement leave remains in the discretion of the Town, however, such approval will not be unreasonably denied.

15.2 Up to two (2) additional days of sick or bereavement leave may be granted for circumstances necessitating out of state travel.

15.3 The benefits of this article shall apply to an employee's immediate family. Immediate family shall be defined as spouse, children, grandchildren, mother, father, sister, brother, mother-in-law, father-in-law, grandfather or grandmother.

15.4 SICK LEAVE POLICY

- a. Sick leave will be accrued at 1 day per month (12 days per year) beginning on the first year of the policy. Every year thereafter days will be earned on a monthly basis.

Note: New bargaining unit members will be prorated by date of hire and will follow the regular schedule in new calendar year.

- b. Each bargaining unit members will have a sick bank of days based on the following formula: one day will be granted for each month of service with the department. All sick days utilized in the bargaining unit member's career will then be deducted from that total leaving that amount of days left to be the officer's sick bank.

Note: Any bargaining unit members in a negative position will be granted one day for each month left in the year from the signing date of the contract.

- c. Upon separation, bargaining unit members in good standing will be allowed to receive payment of half (50%) of their remaining sick leave balance payout for unused sick days, said payment will be made at the employees' regular rate of pay. (This payout will not be used for pension calculation).

- d. Employees will be allowed to cash out up to 80 hours of unused sick time each fiscal year. Any employees wishing to cash out sick time in accordance with this section must submit said request no later than June 1st of each year. The Town will make all cash out payments to employees in the subsequent fiscal year between October 1st, 2020 and November 30th. For fiscal year October 1, 2020 to September 30, 2021, employees will be allowed to make a cash out request so long as said request is done within the 30 days of the effective date of this agreement.
- e. Medical Certification (doctor's note) required for 3 or more days of being out sick. Employees will be required to be at their residence during regular duty hours while on sick leave until they return to work.
- Bargaining unit members will notify Desk Officer/Dispatcher when leaving residence on sick leave during regular duty hours and give reason to Desk Officer/Dispatcher for documentation.
- f. 3 or more incidents in 6 months period or 5 or more incidents in a 12 months period will result in a bargaining unit members being designated ***Chronic Sick***. Sick Leave incidents shall not include Sick Leave used in connection with a child, family member or spouse's illness or injury.

Note: Incident defined as one of more days per sick occurrence.

- ***Chronic Sick*** designation will cause the following regulation to be enforced:
 1. Review of bargaining unit member's performance records.
 2. Elimination of discretionary OT and work assignments for 90 days upon 1st chronic Sick designation. Note: Full 8 months curtailment of OT on 2nd and/or additional Chronic Sick Designation.
 3. All tour change requests, requests for IVD will only be granted by the CO or XO.
 4. Record of Chronic Sick designation will be placed in the Bargaining Unit Members permanent record file.

5. Chronic Sick designation will be considered when bargaining unit members is being considered for promotions, discretionary details/positions with the department.
6. Subject to Medical evaluation to determine fitness for duty by Town chosen physical.

16. EDUCATIONAL ASSISTANCE

16.1 The Town, in its efforts to encourage its bargaining unit members to acquire a greater knowledge in their field of employment during their personal time agrees to bear the cost of required tuition but not matriculation costs, laboratory fees, books and materials for job related educational courses. In order for an employee to be eligible for reimbursement for a particular course, prior approval for the course must have been received from the Town.

16.2 Reimbursement as provided in 16.1 (above) shall be made, in accordance with the following:

Grade A	100% Reimbursement
B	75% Reimbursement
C	50% Reimbursement
D	0% Reimbursement
F	0% Reimbursement
W	0% Reimbursement

16.3 Employees who voluntarily terminate employment or who are discharged from the Town within two (2) years from the end of a course for which reimbursement from the Town has been received shall reimburse the Town for the cost of the course pursuant to 16.4 (below). In the case of a termination no reimbursement shall be required until all appeals of the termination have been exhausted or until the time to take appeals has expired.

16.4 Reimbursement shall be made on a six (6) month pro rata basis rounded to the nearest six (6) month period. For example, if an employee leaves four (4) months after a course begun after October 1, 1996 ends, the employee will reimburse the Town for three-quarters (3/4) of tuition for that course (two (2) years is 100%; four (4) months rounded to the nearest six (6) month period is six (6) months; two (2) years minus six (6) months leaves three-quarters (3/4) of two (2) years). If an employee leaves one (1) year and one (1) month after the course terminates they would reimburse the Town one half (1/2) tuition (one (1) year and one (1) month rounded to the nearest six (6) months is one (1) year; one (1) year is fifty percent (50%) half of two (2) years).

16.5 No employee shall be reimbursed for tuition in excess of two thousand (\$2,000) dollars in any fiscal year.

ARTICLE 17. DRUG AND ALCOHOL TESTING

17.1 The Town and the PBA recognize that employee drug and alcohol abuse has an adverse impact on Town government, the image of the Town employees, the general health, welfare and safety of the employees, and to the general public at large. Therefore, the parties agree that the Police Department shall have the right to require employees to submit to drug and alcohol testing designed to detect the presence of illegal drugs and alcohol.

17.2 Drug is defined as amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, or a metabolite of any of the above mentioned substances. Alcohol includes distilled spirits, wine, malt beverages, and intoxicating liquors.

17.3 The Department will require members of the bargaining unit to submit to drug and alcohol tests under the following circumstances:

17.3.1 The Department may require all members of the bargaining unit who suffer an injury in the line of duty and/or are involved in a car accident to submit to a drug and alcohol test immediately after the accident.

17.3.2 The Department will require all members of the bargaining unit to submit to a drug and/or alcohol test based on its belief that the employee to be tested is under the influence of or possibly using drugs and/or alcohol drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:

- (a) Observable phenomena while at work, such as direct observation of drug and/or alcohol usage or of the physical symptoms or manifestations of being under the influence of a drug and/or alcohol.
- (b) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
- (c) A report of drug and/or alcohol use, provided by a reliable and credible source, which has been independently corroborated.
- (d) Evidence that an individual has tampered with a drug and/or alcohol test during employment with the current employer.

- (e) Information that an employee has caused, or contributed to, an accident while at work.
- (f) Evidence that an employee 'has used, possessed, sold, solicited, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.

Inappropriate employee behavior as described above must be personally observed by a superior officer and witnessed by at least one other employee witness, who may or may not be a superior officer or a police officer.

When confronted by a superior officer, the employee under suspicion will be offered an opportunity to explain to the superior officer, prior to being ordered to take the drug and/or alcohol test, why the aberrant or unusual behavior is noticeable. Drug and/or alcohol testing based upon reasonable suspicion will be conducted only with either the consent of the Police Chief or his/her designee or the consent of the Town Manager or his/her designee. Such approval shall be memorialized in writing and indicate the subject matter of the test, why the test was ordered and listing the specific objective fact(s) constituting "reasonable suspicion." A copy of this written order will be provided to the employee as soon as it is practicable to do so.

Any refusal on the part of the suspected employee to immediately comply with a valid "reasonable suspicion" drug and/or alcohol testing order will result in the immediate causal termination of the employee.

17.3.3 The Department, as part of its medical examination process during pre-employment; during a fitness for duty examination, and during the annual physical examinations, will require the members of the bargaining unit to submit to a drug and alcohol test.

17.4 An employee required to submit to a mandatory test for the presence of drugs and/or alcohol shall be entitled to have a PBA or other employee representative present during the test. However, under no circumstances will the drug and/or alcohol test be delayed for more than one (1) hour to allow for the presence of a PBA or other employee representative.

17.5 The following procedures shall apply to the substance abuse testing administered to employees who meet the above stated conditions:

17.5.1 Analysis of specimens will be collected and performed only by laboratories, hospitals or clinics certified by the State of Florida, Agency for Health Care Administration (AHCA) or the Federal Substance Abuse and Mental Health Services Administration (SAMHSA), utilizing qualified sites and employing collectors trained to follow custodial collection protocols and properly maintain legal specimen chain-of-custody. Specimens may include urine, blood, and hair follicle samples.

17.5.2 Specimens shall be drawn or collected at a laboratory, hospital, doctor's office, certified medical facility or even on Town premises by a certified health care professional. If the Town or the collector requires an observer when the urine specimen is given, the observer shall be of the same sex as the employee being tested. All specimen containers and vials shall be sealed with evidence tape and labeled in the presence of the employee, and his/her witness should be in existence.

17.5.3 All drug and/or alcohol testing will be conducted using recognized technologies and recognized testing standards. The following standards shall be used to determine what level of detected substance shall constitute a **POSITIVE** test result for urine specimens:

Substance	Screening Test	Confirmation
Amphetamines	1000 ng/mL	500 ng/mL
Barbiturates	300 ng/mL	150 ng/mL
Benzodiazepines	300 ng/mL	150 ng/mL
Cocaine	300 ng/mL	150 ng/mL
Cannabinoids (Marijuana)	50 ng/mL	15 ng/mL
Methadone	300 ng/mL	150 ng/mL
Methaqualone	300 ng/mL	150 ng/mL
Opiates (Heroin, Morphine, Codeine)	2000 ng/mL	2000 ng/mL
Phencyclidine (PCP)	25 ng/mL	25 ng/mL
Propoxyphene	300 ng/mL	300 ng/mL
Alcohol (Ethanol)	0.02 g/dl	0.04 g/dl (blood specimen only)

17.5.4 Levels found below those set above shall be determined as negative indicators. Tests for other non-presented controlled substances will be in accordance with federal and state government screening and confirmation standards.

17.5.5 All positive initial tests shall be confirmed using gas chromatograph/mass spectrometry or an equivalent or more accurate scientifically accepted method approved by AHCA. The test must also use a different scientific principle from that of the initial test procedure.

17.5.6 A Certified Medical Review Officer (MRO) who will be a medical professional chosen by the Town will review all negative and confirmed positive laboratory results. The current MRO for the Town is Kenneth Kaplan, M.D. located at Mount Sinai Medical Center, 4304 Alton Road, First (1st) Floor, Occupational Health Department, Miami Beach, Fl 33140, telephone number, (305) 674-2312. Confirmed positive results will only be communicated to the Town's designated human resources professional after the MRO has ascertained that personal prescriptions or other legal substances do not account for the laboratory findings. Investigations may include, as appropriate, telephone contact with the employee and any prescribing physician. Employees may consult the Town appointed MRO concerning drugs and/or drug groups that may be tested for under this procedure.

17.5.7 Employees may contact the Town's MRO to ask questions concerning prescribed medications they are taking for clarification purposes involving fitness for duty assessments.

17.5.8 The following is a list of over the counter and prescription drugs which could alter or affect drug and alcohol test results. Due to the large number of obscure brand names and the constant marketing of new products, this list cannot be and is not intended to be all inclusive:

Alcohol: All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. As an example, Vick's Nyquil is 25% (50 proof) ethyl alcohol, Comtrex is 20% (40 proof), Contact Severe Cold Formula Night Strength is 25% (50 proof), and Listerine is 26.9% (54 proof).

Amphetamines: Obetrol, Biphedamine, Desoxyn, Dexedrine, Didrex, Ioanamine, Fastin, Vicks Nasal Inhalers.

Cannabinoids: Marinol (Dronabinol, THC).

Cocaine: Cocaine HCl topical solution (Roxanne).

Phencyclidine: Not legal by prescription

Opiates: Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guaiatuss AC, Novahistine DH, Novahistine Expectorant, Diluadid (Hydromorphone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, Tussiorganidin, etc.

Barbiturates: Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal,

Fioricet, Egic, Butisol, Mebaral, Butabarbital, Butalbital, Phrenilin, Triad, Etc.
Benzodiazepines: Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax, etc.

Methodone: Dolophine, Metodose, etc.

Propoxyphene: Darvocet, Darvon N. Dolene, etc.

17.6 Within five (5) working days after receipt of a positive confirmed test result from the testing laboratory, the Town will inform the employee or job applicant in writing of such positive test result, the consequences of such results, and the options available to the employee or job applicant. The Town shall provide to the employee or job applicant upon request, a copy of the test results. Within five (5) working days after receiving written notification of a confirmed positive test result, an employee or job applicant may submit information to the Town explaining or contesting the test results and why the results do not constitute a violation of the employer's policy. If the Town disagrees with the employee's position, within fifteen (15) days of receipt of a formal challenge of positive confirmed test results, the Town will respond to the employee. If the employee wishes to maintain the challenge, within thirty (30) days of receipt of the Town's written response, the employee may appeal to a Court of competent jurisdiction and/or a Judge of Compensation Claims (if a workplace injury has occurred). Upon initiating a challenge, it shall also be the employee's responsibility to notify the testing laboratory which must retain the specimen until the case is settled. Furthermore, any decision made or action taken which adversely affects the employee under this Article is subject to the grievance and arbitration procedure of this Agreement.

17.7 The results of all tests performed hereunder will be held confidential to the extent permitted by law.

17.8 Any specimens found or admitted to have been adulterated or substituted before, during or after the substance abuse test, will constitute immediate grounds for employee discharge from employment.

17.9 All job applicants and employees have a responsibility to notify the laboratory of any administrative or civil actions brought pursuant to the Drug - Free Workplace Act as found in section 112.0455 of the Florida Statutes.

17.10 The results of such tests shall be handled as if part of an internal affairs investigation, and the employee involved shall be afforded all the rights enumerated in Section 112.532 of the Florida Statutes. The taking of drug and/or alcohol tests from a member of the bargaining unit does not constitute an interrogation within the meaning of Section 112.532 of the Florida Statutes, unless questions are asked at the time the test is taken.

17.11 Disciplinary consequences for having a confirmed positive drug test is the immediate discharge of the employee for cause, and the potential denial of Unemployment Compensation as specified in Sections 440.101 and 440.102 of the Florida Statutes. An employee injured in the line of duty and/or involved in an automobile accident and subsequently confirmed positive for drug and/or alcohol abuse based upon post accident testing will also be terminated from employment and may lose Workers' Compensation benefits.

17.12 An employee who tests positive for alcohol and was not involved in an accident and/or did not suffer an injury in the line of duty while under the influence of alcohol must meet the following conditions to remain employed by the Department:

- (1) Completion of an Employee Assistance Program or Substance Abuse Program approved by the Town.
- (2) During the period the employee is out after a positive alcohol test result, he/she will be placed in a "no-pay" status or they may utilize their accrued vacation leave.
- (3) The employee who had a positive test result and is reinstated must sign a Last Chance Agreement that will specify immediate discharge on a second positive alcohol test.

17.13 Nothing in this Article shall prohibit an employee from voluntarily self-identifying as having a substance abuse problem to either his/her immediate supervisor, Department Head, or an Employee Services Representative, but may not do so just prior to being selected for a drug and/or alcohol test. Requests from employees for assistance in this regard shall remain confidential to the extent permitted by law and shall not be revealed to other employees or members of management without the employee's consent. Employees enrolled in substance

abuse programs as outpatients, shall be subject to all Town rules, regulations and job performance standards. The Department will not discharge, discipline, or discriminate against an employee solely upon the employee's voluntarily seeking treatment for a drug and/or alcohol related problem, while under the Department's employ if the employee has not entered an employee assistance program for drug/alcohol related problems, or entered a drug/alcohol rehabilitation program for related problems.

Drug and alcohol abuse are serious personal concerns for many individuals. The Town provides employees in such circumstances with the services of an Employee Assistance Program which may be called to obtain *free, confidential, professional referral assistance*. The program available to employees and utilized by the Town is Horizon Employee Assistance Program.

ARTICLE 18. GRIEVANCE AND ARBITRATION PROCEDURE

18.1 In a mutual effort to promote harmonious working relations between the parties of this Agreement, it is agreed to and understood by both parties that there shall be a procedure for the resolution of grievances or misunderstanding between the parties arising from the application and interpretation of this Agreement.

18.2 A grievance shall be defined as any dispute concerning the interpretation or application of this Agreement, excluding disciplinary action (i.e. suspension, demotion, termination) which will be handled in accordance with Article 10.

18.3 Grievances shall be processed in accordance with the following procedure:

Step 1:

The aggrieved employee shall discuss the grievance with his immediate supervisor within seven (7) calendar days of the occurrence which gave rise to this grievance. If the event(s) which gave rise to the grievance occurred at a time when the employee was on annual leave, sick leave, or other authorized leave, the seven (7) day period shall commence running immediately upon the employee's return from such authorized leave. The Association representative may be present to represent the employee. The immediate supervisor shall attempt to correct the problem and/or respond to the employee within ten (10) calendar days. Where a grievance is general in nature in that it applies to a number of employees having the same issue to be decided, it shall be presented directly at Step 2 of the grievance procedure within the time limits provided for the submission of the grievance at Step 1 and signed by the aggrieved employee(s) or the Association representative on their behalf. All grievances must be processed within the time limits provided unless extended by mutual agreement in writing. (In the event the Association representative signs said grievance, the employee's name will be listed on the grievance.)

Step 2:

If the grievance has not been satisfactorily resolved, the aggrieved employee and the Association representative, if so requested by the employee, shall reduce the grievance to writing and present such written grievance to the Chief of Police or his designee within seven calendar days from the time the supervisors response was due in Step 1. The written grievance shall include the

contractual provisions being grieved, facts surrounding the grievance, and the remedy requested. The Chief of Police or his designee may meet with the employee, and the Association representative. The Chief of Police or his designee shall respond in writing, ten (10) calendar days from receipt of the grievance.

Step 3:

If the grievance remains unresolved the aggrieved employee may present the written grievance to the Town Manager or his designee within seven (7) calendar days from the time the Chief of Police's response was due in Step 2. The Town Manager or his designee may meet with the employee and the Association representative. The Town Manager or his designee shall respond in writing, within twenty (20) calendar days from receipt of the grievance.

Step 4:

If a grievance, as defined in this Article, has not been satisfactorily resolved within the grievance procedure, the Town or the Association may request arbitration on behalf of the employee(s) no later than twenty (20) calendar days after the Town Manager's response is due in Step 3. The parties to this Agreement will mutually agree, or attempt to agree, on an independent arbitrator. If this cannot be done, the parties or their representatives shall jointly request the names of five (5) arbitrators from FMCS. The parties shall select an arbitrator from the list by the method as set forth by FMCS. That arbitration shall be conducted under the rules of the FMCS. Subject to the following, the arbitrator shall have the jurisdiction and authority to decide a grievance as defined in the article. It is contemplated that the Employer and the Association may be able to mutually agree in writing as to the statement of the matter to be arbitrated prior to the hearing, and if this is done the arbitrator shall confine his decision to the particular matter thus specified. In the event of failure of the parties to so agree on a statement of issue to be submitted, the Town and the Association shall submit a statement of the issues to the arbitrator.

Copies of the award of the arbitrator, made in accordance with the jurisdictional authority under this Agreement, shall be furnished to both parties within thirty (30) days of the hearing and shall be final and binding upon both parties. The Employer shall provide the hearing room. Each party shall bear the expenses of its own witnesses, and shall pay one-half the cost of the impartial arbitrator. Parties desiring copies of the transcript of such arbitration shall bear the expense.

Nothing in this article shall be construed to prevent any employee from presenting his own grievance, up to but not including a request for arbitration; however, the Association shall be given reasonable opportunity to be present at any meeting called for the resolution of grievances.

18.4 Any grievance not answered by management in the time limits provided above automatically advances to the next higher step of the grievance procedure. Any grievance not pursued by the employee within the time limits above will be considered abandoned.

ARTICLE 19. RULES AND REGULATIONS

19.1 It is agreed and understood that the Town and the Police Department currently have rules and regulations governing employment. The Association agrees that said rules and regulations shall be formulated, amended, revised and implemented in the sole and exclusive discretion of the Town, provided, however, that said formulation, amendment, revision and implementation will be neither arbitrary nor capricious.

19.2 It is agreed and understood that employees will be provided with copies of any rules and regulations which are new and/or which replace, update, and/or supersede the Town's or Department's present rules and regulations.

19.3 The Town shall give a copy of any newly adopted rule or regulation, as well as any amendment or revision to a rule or regulation, to the Association.

ARTICLE 20. SAVINGS CLAUSE

20.1 Should any provisions of this collective bargaining Agreement, or any part thereof, be rendered or declared invalid by reason of any existing or subsequently enacted legislation, or by any decree of a court of competent jurisdiction, all other articles and sections of this Agreement shall remain in full force and effect for the duration of this Agreement. Upon request by either party, both parties shall immediately enter into collective bargaining for the purpose of re- negotiating such Article or Section so affected.

ARTICLE 21. PREVAILING RIGHTS

21.1 All job benefits provided for in writing heretofore enjoyed by all the bargaining unit employees who are not specifically provided for or abridged by this Agreement shall continue. The Agreement will not deprive any employee of any benefits or protections granted by the laws of the State of Florida, Ordinances of the Town of Bay Harbor Islands, or the Rules and Regulations of the Bay Harbor Islands Police Department.

ARTICLE 22. SENIORITY

22.1 Seniority shall consist of continuous accumulated paid service by classification with The Town. Seniority shall be computed from the date of appointment to the classification and shall accumulate during paid absences because of illness, injury, vacation, military or other authorized leave. In the event bargaining unit employees have the same seniority by classification, seniority shall then be determined in the following descending order: Date of Hire by Department/Date of Hire by Town/Draw Lots.

22.2 Provided operational needs are met, seniority shall be used to determine the following:

- (a) Vacation leave.
- (b) Shift selection and squad which includes days off.
- (c) Off-duty employment rotation assignments.

22.3 Provided operational needs are met and qualifications for selection are equal, seniority shall be a tiebreaker for the following: (a) Assignment of department equipment (b) Vacancies in specialized units.

22.4 Vacancies in specialized units shall only be filled by non-probationary employees unless non-probationary employees are unqualified or decline the position.

ARTICLE 23. INJURIES IN THE LINE OF DUTY

23.1 If an employee is injured in the line of duty and is entitled as a matter of law to receive Worker's Compensation benefits under Florida's Workers' Compensation Act, the Town will supplement such compensation so that the employee will receive full pay, and he will continue to accrue seniority benefits, for up to ninety (90) calendar days resulting from time lost due to the injury. The ninety (90) day period may be extended for one or more additional periods of up to forty-five (45) calendar days by the Town Manager. The Manager's decision shall not be unreasonable. If the employee receives any other payments from social security, the Town's disability insurance plan, etc., the employee shall immediately report said amounts to the Town and the Town will reduce its supplemental payments to the employee by that amount. It is intended that no employee should ever receive more than his/her full pay.

23.2 If the employee is absent from work for more than one hundred eighty (180) calendar days, and the Town Manager determines that he wants to fill the employee's position he may place the employee on a medical leave of absence for the purpose of further rehabilitation or as a prelude to disability retirement. In that event, the employee will remain eligible for reinstatement to an available and open position for an eighteen (18) month period if, in the determination of the Town Manager, based upon reports of a physician designated by the Town, the employee becomes able to perform the job. The employee may also be examined by his/her own physician. If these physician opinions are different, then the employee would be examined by a third physician that would be selected by the first two physicians and whose determination regarding the employee's return to work capabilities shall be binding. Upon reinstatement, the employee will be returned to the pay step and seniority status in effect at the time full pay by the Town was terminated.

23.3 When so directed by the Town, any employee on disability leave shall present himself/herself to an examination at any reasonable time to any physician designated by the Town. The Town will bear the full expense of said examination. The refusal of any such employee to present himself/herself for an examination will operate to automatically terminate his/her disability leave.

23.4 Whenever an employee on disability leave becomes physically able to perform some useful light duty work for the Town, as approved by the employee's treating physician, he/she may be required to do so as a condition to receiving the benefits specified in paragraph 23.1.

ARTICLE 24 OFF-DUTY EMPLOYMENT

24.1 The Town agrees that employees working off-duty employment will receive compensation for off duty work according to a fee schedule set by committee comprised of one member appointed by the Chief, one representative of each shift and a PBA representative.

24.2 Personnel assigned to off-duty law enforcement jobs shall be fully protected in case of line of duty injury during such assignment by Workmen's Compensation and Town disability leave coverage.

24.3 When available, the Town will furnish a hand-held radio unit to an employee working an approved off-duty employment detail.

24.4 In addition to the amount paid the employee, the Town shall charge the permittee a surcharge of two dollars (\$2.00) per hour worked.

24.5 The Town agrees to take the appropriate steps to implement and employ a private entity with the appropriate software and infrastructure already in place, who will be in charge of the off-duty program, to facilitate off-duty record keeping, financial tracking and the assignment of officers to off duty employment. The Town may utilize Off Duty Management Inc., a Texas Corporation, to be in charge of the off-duty program or any other company which provides equal services as Off Duty Management Inc. The Town will not be required to create the Town's own software or infrastructure to manage the off-duty program in the event said software is not already in existence. The Town has prepared a detailed off-duty departmental policy delineating the responsibilities of employees and the coordinator(s) regarding off-duty employment.

ARTICLE 25. UNIFORMS, SAFETY AND EQUIPMENT

25.1 All uniform and equipment benefits provided on a department wide basis shall remain in full force and effect. Employees shall receive replacement items as needed.

25.2 The parties acknowledge that law enforcement is, by its very nature, a hazardous occupation and employees understand that the nature of the job environment exposes them to hazardous conditions. The Town will make a reasonable effort to ensure that its equipment, working conditions and the job environment will not jeopardize the health or safety of employees. Nothing in this Article limits the management rights expressed in this Agreement. Employees will make a conscientious effort to maintain a safe working environment.

25.3 The Town will make a reasonable effort to ensure that equipment it purchases will not jeopardize the health or safety of bargaining unit employees and will be adequately maintained. Employees will make a conscientious effort to operate vehicles and maintain equipment in a safe and efficient manner, as well as to ensure equipment is inspected and not subject to abuse.

25.4 The Town will provide all bargaining unit employees with an approved bullet proof vest, which shall be worn by bargaining unit employees when performing patrol duties or as otherwise directed by the Chief of Police.

25.5 Except for instances involving employee negligence, if an employee's personal property is lost or damaged as a consequence of his official duties, (i.e., through physical violence, accident, or assault) and no other reimbursement source is available, the Town, upon approval by the Manager, will reimburse the employee for the replacement of property to a maximum of one hundred percent (100%) of replacement cost or one hundred fifty dollars (\$150.00), whichever is less.

25.6 Vehicles:

A. Upon ratification of this Agreement, the Town shall implement a Take Home Vehicle Program (hereafter referred to as "THVP"). The Chief of Police shall the right and authority to determine the assignment of vehicles. The removal of an assigned vehicle shall be at the Chief's discretion. Vehicle assignments are understood to be based on operational necessity and subject to the THVP policy guidelines and standards that shall be established by the Chief of Police as soon as practicable after (or prior to) the execution of this Agreement.

B. All police vehicles will be equipped with:

(a) Surgical gloves

(b) One way resuscitation device

(c) Disinfectant

(d) Bargaining unit members will be permitted to carry semi-automatic weapons while on duty and off duty under the following conditions:

1) Those employees wishing to carry semi-automatic weapons will make their selection from a choice of types as determined by the Chief of Police, based upon the recommendation of the Firearms Committee.

2) The weapon must be inspected and certified as safe by an expert designated by the Chief of Police.

3) The employee must be able to disassemble and reassemble the weapon.

4) The Town will provide ammunition for use in the approved semi-automatic weapons.

25.7 A Labor/Management Safety Committee will meet, as needed, to address issues involving employees' safety, accident prevention, etc. Labor Representatives shall not be considered on duty and thus are not entitled to compensation when attending such meetings.

25.8 Any bargaining unit member who retires from the Bay Harbor Police Department with twenty (20) years or more of service shall be presented with and receive his/her retiree badge and their service issued handgun.

ARTICLE 26. LAW ENFORCEMENT TRAINING

26.1 Every employee shall be provided mandatory in-service training as required by Florida Statute Section 943.135. Time spent at such training shall be treated as regular duty hours.

26.2 The Town agrees to schedule two (2) days per year for range qualification. The costs of ammunition and range fees are to be paid by the Town.

26.3 When a bargaining unit employee assigned to range qualification outside of his/her regular schedule, the employee shall be paid a minimum of three (3) hours at the employee's overtime rate. An officer who is assigned to fire at the range on his/her regularly scheduled workday while not actively on duty will be paid a minimum of two (2) hours at the overtime rate of pay. Officers firing while working their regular shift (on duty) are not entitled to any extra compensation. If an officer is assigned to the range during his/her regularly scheduled day off and if such range qualification is not assigned within one hour or less of the end of the officer's scheduled shift, he/she shall be paid in accordance with Article 11, Basic Work Week and Overtime. If an officer is assigned to the range during his/her regularly scheduled day off within one (1) hour or less of his/her regular shift, the officer shall receive a minimum of three (3) hours at the overtime rate.

ARTICLE 27. INSURANCE BENEFITS

27.1 The Town shall provide health insurance for all bargaining unit members.

27.2 The Town shall pay the full coverage premium for each bargaining unit member.

27.3 The Town shall pay sixty-five percent (65%) of the premium toward dependent coverage for bargaining unit members who elect to subscribe to such coverage.

27.4 Employees who voluntarily opt out of the Town's health insurance coverage due to coverage eligibility elsewhere shall receive fifty percent (50%) of the monthly health insurance premium paid by the Town for individual HMO coverage. This will be paid to the employee on a monthly basis.

27.5 The Town shall pay three hundred and seventy-five dollars (\$375.00) per month for each bargaining unit member who retires after October 1, 2005 ("Retirees"), under the normal retirement criteria set forth in the police officers' pension plan until such time as the Retiree reaches age 65. These three hundred and seventy-five dollars (\$375.00) shall be used by the Retiree to pay for his/her health insurance premium. In order to qualify for this benefit, Retirees will be required to complete an annual affidavit certifying that they are not receiving other moneys to pay for their health insurance premiums.

27.6 The Town shall provide each bargaining unit member with fifty thousand dollars (\$50,000.00) in life insurance coverage. The Town shall pay the full cost of the premium.

ARTICLE 28. WAGES

28.1 Employees shall be paid as follows:

A. Covered employees in the rank of officers and detectives shall be paid as follows the first 1st year raise will be applied retroactive to January 1, 2021, September 30, 2021 2nd and third year pay raises are effective the first pay period following the beginning of each fiscal year:

- 1st year (2021 – 2021) – 4% increase,
- 2nd year (October 1, 2021 – September 30, 2022) – 3% increase,
- 3rd year (October 1, 2022 – September 30, 2023) – 3% increase.

B. Covered employees in the ranks of Sergeants shall be paid as follows the first 1st year raise will be applied retroactive to January 1, 2021, September 30, 2021 2nd and third year pay raises are effective the first pay period following the beginning of each fiscal year:

- 1st year (2021 – 2021) – 4% increase,
- 2nd year (October 1, 2021 – September 30, 2022) – 3% increase,
- 3rd year (October 1, 2022 – September 30, 2023) – 3% increase.

C. Covered employees in the ranks of Lieutenants shall be paid as follows the first 1st year raise will be applied retroactive to January 1, 2021, September 30, 2021 2nd and third year pay raises are effective the first pay period following the beginning of each fiscal year

- 1st year (2021 – 2021) – 4% increase,
- 2nd year (October 1, 2021 – September 30, 2022) – 2.5% increase,
- 3rd year (October 1, 2022 – September 30, 2023) – 2.5% increase.

28.2 Longevity Increases - After completing ten (10) years of uninterrupted police service with the Bay Harbor Islands' Police Department employees' base salaries shall be increased by five percent (5%). After completing twelve (12) years of uninterrupted police service with the Bay Harbor Islands' Police Department employees' base salaries shall be increased by five percent (5%). After completing fifteen (15) years of uninterrupted police service with the Bay Harbor Islands' Police Department employees' base salary shall

be increased by another five percent (5%). After completing twenty (20) years of uninterrupted police service with the Bay Harbor Islands' Police Department employees' base salaries shall be increased by five percent (5%). After completing twenty-five (25) years of service employees' base salaries shall be increased by five percent (5%). After completing thirty (30) years of uninterrupted police service with the Bay Harbor Islands' Police Department employees' base salaries shall be increased by five percent (5%).

28.3 Employees assigned to a position of detective will receive an annual clothing allowance of seven hundred and fifty dollars (\$750) which will be paid on a quarterly basis.

28.4 Employees shall receive a twenty (\$20.00) dollar bi-weekly law enforcement allowance/reimbursement.

28.5 Employees who are assigned and work the twelve (12) hours of the second shift for more than thirty (30) consecutive days shall be paid a three percent (3%) night differential for the twelve (12) hours worked.

28.6 Employees assigned to work as detectives shall receive a five percent (5%) differential.

28.7 Employees not assigned to the position of detective shall receive an annual clothing allowance of five hundred dollars (\$500) annually to be paid in the last check of the calendar year.

28.8 Employees appointed to the rank of Corporal, upon appointment, shall receive an increase in base salary of three percent (3%).

28.9 Field Training Unit: Only CJSTC trained and Field Training Officer ("FTO") certified shall receive an increase in base salary of five percent (5%) for the time the FTO is training a new officer. Officers who perform field training duties on a temporary basis are not eligible for FTO pay under this section; "temporary basis" is defined as time amounting to less than a work week. The Town's payroll department shall be notified by the Chief of Police and/or the Chief's

designee of when the FTO assignment commences and when it concludes as to assure that the proper pay adjustments are made.

ARTICLE 29. PENSION

29.1 The town agrees to take the appropriate steps to implement the following benefits to the Police Officer Pension Plan ("Plan") as soon as practicable:

29.1.1 Effective October 1, 2005, employee contribution shall be seven percent (7%) of earnable compensation to the Plan and effective October 1, 2006, employee contribution shall be eight percent (8%) of earnable compensation to the Plan.

29.1.2 The pension multiplier for creditable service rendered on or after October 1, 2014 shall be equal to three point five percent (3.5%) of the monthly average final compensation multiplied by the number of years of creditable service. Bargaining unit employees who elect to receive this benefit shall be required to pay the full eight percent (8%) employee contribution for those years of service. The town agrees to allow the employee up to thirty-six (36) months to pay total eight percent (8%) contribution.

29.2 The employees' pension benefit shall be based on their best three (3) years of service.

29.3 Employees' shall fully vest in the pension plan after five (5) years of creditable service.

29.4 Upon ratification of this Agreement the Town agrees to take the appropriate steps to make the necessary changes to the Town's pension ordinance to include and implement a Deferred Retirement Option Program (hereafter referred to as "DROP") as soon as possible. Upon the execution of this Agreement a committee shall be established for the purpose of initiating a DROP. This committee shall consist of three (3) members: One (1) member to be designated by the Town, one (1) member to be designated by the PBA and one (1) member to be designated pursuant to the mutual agreement of the two initial members designated by the Town and the PBA.

A DROP shall be adopted and administered by the Retirement Board. Participation in the DROP shall be limited to five (5) years. The five (5) year participation period shall be measured from actual retirement of the Participant. Upon entering the DROP, a participant shall elect whether the earnings credited to the Participant's DROP account shall be the actual net investments return realized by the Plan (determined quarterly). Thereafter, on or before December 1st of each year, Participants shall make an annual irrevocable investment election for

the following calendar year between the actual net investment return realized by the Plan. Investment elections shall be in writing and submitted to the Retirement Board. If a Participant fails to timely submit a written investment election to the Retirement Board, the default investment election for the Participant's DROP account will be the prior year's selection. The DROP shall contain such other terms and conditions as the Retirement Board deems necessary and appropriate for proper administration of the DROP.

29.5 The Town further agrees to take the appropriate steps to modify the current plan to permit members to purchase up to four (4) years of prior police or military service. The members shall be responsible for the full cost of any years purchased.

Continuous employment shall also include credit for military service occurring prior to a Participant's employment with the Town as well as prior service as a police officer for some other employer as long as the Participant is not entitled to receive a benefit for such other prior service as a police officer provided that the Participant contributed to the Fund the sum that he would have contributed, based upon his salary and the employee contribution rate in effect at the time the service credit is requested, had he been a Participant of the Plan for the years or fractional parts of years for which he/she is requesting credit plus any amounts actuarially determined such that the crediting of service does not result in any cost to the Fund plus the payment of costs for all professional services rendered to the Board in connection with the purchase of years of service. Payment by the Participant of the required amount shall be made within six (6) months of his/her request for credit, but not later than the retirement date, and shall be made in one lump sum payment upon receipt of which service credit shall be given. Multiple requests to purchase service pursuant to this sub-section may be made at any time prior to retirement.

ARTICLE 30. TERM OF AGREEMENT

30.1. This Agreement shall become effective immediately after ratification by the Association and approval by the Town Council and shall remain in effect until September 30, 2023 or until a successor Agreement is ratified by the parties.

30.2 It is agreed and understood that this Agreement constitutes the whole Agreement between the Town and the Association, and that after a majority vote of those bargaining unit members voting on the question of ratification and, thereafter, upon the approval of the Town Council, shall become effective as indicated in 30.1 above.

30.3 Agreed to this day ____ of _____, 2021, between the respective parties through an authorized representative(s) of the Town and the Association.

FOR THE TOWN OF BAY HARBOR ISLANDS:

Maria Lasday, Town Manager

FOR THE DADE COUNTY POLICE BENEVOLENT ASSOCIATION:

Steadman Stahl, President

Michael Braverman, Esq.
Counsel for DCPBA

Cristina Escobar, Esq.
Counsel for DCPBA

SCHEDULE A

PAY PLAN EFFECTIVE FROM JANUARY 1, 2021 THROUGH SEPTEMBER 30, 2021

POLICE OFFICER SALARY SCHEDULE

Step	Salary
Step 1	
Step 2	
Step 3	
Step 4	
Step 5	
Step 6	
Step 7	

SERGEANT SALARY SCHEDULE

Step	Salary
Step 1	
Step 2	
Step 3	
Step 4	
Step 5	
Step 6	
Step 7	

LIEUTENANT SALARY SCHEDULE

Step	Salary
Step 1	
Step 2	
Step 3	
Step 4	
Step 5	
Step 6	
Step 7	

SCHEDULE B

PAY PLAN EFFECTIVE FROM OCTOBER 1, 2021 THROUGH SEPTEMBER 30, 2022

POLICE OFFICER SALARY SCHEDULE

Step	Salary
Step 1	
Step 2	
Step 3	
Step 4	
Step 5	
Step 6	
Step 7	

SERGEANT SALARY SCHEDULE

Step	Salary
Step 1	
Step 2	
Step 3	
Step 4	
Step 5	
Step 6	
Step 7	

LIEUTENANT SALARY SCHEDULE

Step	Salary
Step 1	
Step 2	
Step 3	
Step 4	
Step 5	
Step 6	
Step 7	

SCHEDULE C

PAY PLAN EFFECTIVE FROM OCTOBER 1, 2022 THROUGH SEPTEMBER 30, 2023

POLICE OFFICER SALARY SCHEDULE

Step	Salary
Step 1	
Step 2	
Step 3	
Step 4	
Step 5	
Step 6	
Step 7	

SERGEANT SALARY SCHEDULE

Step	Salary
Step 1	
Step 2	
Step 3	
Step 4	
Step 5	
Step 6	
Step 7	

LIEUTENANT SALARY SCHEDULE

Step	Salary
Step 1	
Step 2	
Step 3	
Step 4	
Step 5	
Step 6	
Step 7	

PBA PAY SCALES

		Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
Officer Base Scale		\$ 28.82	\$ 30.26	\$ 31.78	\$ 33.36	\$ 35.03	\$ 36.78	\$ 38.62
		\$ 59,945.60	\$ 62,940.80	\$ 66,102.40	\$ 69,388.80	\$ 72,862.40	\$ 76,502.40	\$ 80,329.60
Officer FY 20-21	4%	\$ 29.97	\$ 31.47	\$ 33.05	\$ 34.69	\$ 36.43	\$ 38.25	\$ 40.16
		\$ 62,343.42	\$ 65,458.43	\$ 68,746.50	\$ 72,164.35	\$ 75,776.90	\$ 79,562.50	\$ 83,542.78
Officer FY 21-22	3%	\$ 30.87	\$ 32.41	\$ 34.04	\$ 35.74	\$ 37.52	\$ 39.40	\$ 41.37
		\$ 64,213.73	\$ 67,422.18	\$ 70,808.89	\$ 74,329.28	\$ 78,050.20	\$ 81,949.37	\$ 86,049.07
Officer FY 22-23	3%	\$ 31.80	\$ 33.39	\$ 35.06	\$ 36.81	\$ 38.65	\$ 40.58	\$ 42.61
		\$ 66,140.14	\$ 69,444.85	\$ 72,933.16	\$ 76,559.16	\$ 80,391.71	\$ 84,407.85	\$ 88,630.54
		Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
Sergeant Base Scale		\$ 31.17	\$ 32.72	\$ 34.36	\$ 36.07	\$ 37.88	\$ 39.77	\$ 41.76
		\$ 64,833.60	\$ 68,057.60	\$ 71,468.80	\$ 75,025.60	\$ 78,790.40	\$ 82,721.60	\$ 86,860.80
Sergeant FY 20-21	4%	\$ 32.42	\$ 34.03	\$ 35.73	\$ 37.51	\$ 39.40	\$ 41.36	\$ 43.43
		\$ 67,426.94	\$ 70,779.90	\$ 74,327.55	\$ 78,026.62	\$ 81,942.02	\$ 86,030.46	\$ 90,335.23
Sergeant FY 21-22	3%	\$ 33.39	\$ 35.05	\$ 36.81	\$ 38.64	\$ 40.58	\$ 42.60	\$ 44.73
		\$ 69,449.75	\$ 72,903.30	\$ 76,557.38	\$ 80,367.42	\$ 84,400.28	\$ 88,611.38	\$ 93,045.29
Sergeant FY 22-23	3%	\$ 34.39	\$ 36.10	\$ 37.91	\$ 39.80	\$ 41.79	\$ 43.88	\$ 46.08
		\$ 71,533.24	\$ 75,090.40	\$ 78,854.10	\$ 82,778.45	\$ 86,932.28	\$ 91,269.72	\$ 95,836.65

		Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
Lieutenant Base Scale		\$ 34.45	\$ 36.17	\$ 37.97	\$ 39.87	\$ 41.87	\$ 43.96	\$ 46.16
		\$ 71,656.00	\$ 75,233.60	\$ 78,977.60	\$ 82,929.60	\$ 87,089.60	\$ 91,436.80	\$ 96,012.80
Lieutenant FY 20-21	4%	\$ 35.83	\$ 37.62	\$ 39.49	\$ 41.46	\$ 43.54	\$ 45.72	\$ 48.01
		\$ 74,522.24	\$ 78,242.94	\$ 82,136.70	\$ 86,246.78	\$ 90,573.18	\$ 95,094.27	\$ 99,853.31
Lieutenant FY 21-22	2.5%	\$ 36.72	\$ 38.56	\$ 40.48	\$ 42.50	\$ 44.63	\$ 46.86	\$ 49.21
		\$ 76,385.30	\$ 80,199.02	\$ 84,190.12	\$ 88,402.95	\$ 92,837.51	\$ 97,471.63	\$ 102,349.64
Lieutenant FY 22-23	2.5%	\$ 37.64	\$ 39.52	\$ 41.49	\$ 43.56	\$ 45.75	\$ 48.03	\$ 50.44
		\$ 78,294.93	\$ 82,203.99	\$ 86,294.87	\$ 90,613.03	\$ 95,158.45	\$ 99,908.42	\$ 104,908.39



THE VOICE OF LAW ENFORCEMENT

SOUTH FLORIDA POLICE BENEVOLENT ASSOCIATION

April 1, 2021

Via E-Mail: MLasday@bayharborislands-fl.gov & U.S. Mail

Maria Lasday, Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

Re: Unit Ratification 2020-2023 Collective Bargaining Agreement

Dear Ms. Lasday:

This letter is written on behalf of the South Florida Police Benevolent Association ("PBA") and our clients, the Bay Harbor Islands' police collective bargaining unit. Please be advised that ratification vote sessions were held on Wednesday, March 31, 2021, pursuant to Notice, and I am pleased to announce that the contract was unanimously approved by the members of the bargaining unit.

I respectfully request that the agreement be placed at the next Town Council's meeting agenda for ratification. Once again, thank you for your time and for the professional and cordial manner in which you and your staff conducted our negotiations. It was a pleasure and we really appreciate it.

Sincerely,

Cristina Escobar
Assistant General Counsel

Cc: Jenice Rosado, Assistant Town Manager (via e-mail only)
Mike Braverman, Esquire/South Florida PBA (via e-mail only)
Raul M. Diaz, Chief of Police (via e-mail only)
John Cunill, Attorney for the Town (via e-mail only)
Brett Schneider, Attorney for the Town (via e-mail only)
Alan Castellanos, PBA Rep (via e-mail only)
Mark Klepser, PBA Rep (via e-mail only)

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 10.

ITEM: Consideration and Approval of a request by Miami Dade County League of Cities to designate a Director and an alternate Director to serve on the Board of Directors for a period of one year. Enclosed is a copy of the request by Miami Dade County League of Cities.

DESCRIPTION:

Miami Dade County League of Cities is requesting the Town Council consider the appointment of two Council Members to serve on the Board of Directors to represent the Town for a one year term.

At the March 9, 2020, Regular Council Meeting, the Town Council designated Council Member Robert Yaffe as the Director and Council Member Elizabeth Tricoche as alternate Director to serve on the Board of Directors.

Enclosed is correspondence received by Miami Dade County League of Cities.

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk

ATTACHMENTS

1. MDCLC Board appointment

From: [MDCLC](#)
To: [Stephanie Bruder](#)
Cc: [Alba Chang](#)
Subject: MDCLC Board appointment
Date: Thursday, March 11, 2021 3:51:56 PM
Attachments: [image001.png](#)
[image002.jpg](#)



Dear Mayor Bruder:

Allow me this opportunity to first thank you for your continued participation in and support of the Miami-Dade County League of Cities (MDCLC). President Keon Hardemon, and myself are well aware that MDCLC's success is a direct result of the hard work and dedication of its members. For this reason, we need your cooperation in making appointments to the Board.

Each member municipality designates one of its elected officials to serve as a **Director** and one as an **alternate Director** of the League for a period of one year. The term commences at the date of the Annual Meeting in the month of May, and runs until the following May.

Allow this letter to serve as a kind reminder that you are required to designate a Director and an alternate to represent your municipality on the MDCLC's Board preferably before **April 1st, 2021**. Please send us a note to the League office naming your appointments.

Thank you for your continued cooperation and support.

Sincerely,

Richard Kuper, Esq.
Executive Director
["Safer at Home"](#)
Miami-Dade County League of Cities
19 West Flagler Street, Ste. 707
Miami, FL 33130
(305) 416-4155
(305) 416-4157
mdclc@bellsouth.net
www.mdclc.org



Total Control Panel

[Login](#)

To: achang@bayharborislands-fl.gov [Remove](#) this sender from my allow list

From: mdclc@bellsouth.net

You received this message because the sender is on your allow list.

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 11.

ITEM: Consideration and appointment of one (1) Council Member to the Board of Trustees/ Retirement Board.

DESCRIPTION:

Pursuant to section 16-60 (b) of the Town Code, two members of the Town Council shall be appointed as members of the Board by the town council for three-year staggered terms and members may be successively reappointed and serve, provided they are at all times members of the Town Council.

The current members appointed to the Employees Retirement System, Board of Trustees are Council Member Kelly Reid and Council Member Isaac Salver. It is necessary that the Town Council consider the appointment of one Council Member to serve on the Board of Trustees to fill Council Member Reid' vacant seat for the term ending November 2023.

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk

ATTACHMENTS

None

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 12.

ITEM: Consideration and Approval of the Town's Fiscal Year 2021-2022 Strategic Plan.

Enclosed is a copy of the proposed Strategic Plan.

DESCRIPTION:

Below is the Town's Vision Statement, Mission Statement and guiding core values in which we, as staff, will maintain and uphold as an organization. Those values are:

Community – we foster an engaged community and strong partnerships through communication and participation amongst all constituents.

Innovation – we develop creative solutions and share leading practices that enhance the value of services provide to our residents.

Tradition – we value our history and wish to preserve our character.

Integrity – we conduct ourselves at all times in a manner that is ethical, legal, accountable, and professional with the highest degree of honesty, transparency, respect, and fairness.

Zoning & Economic Development – we encourage diverse employment opportunities through networking and collaboration and ensure the development is consistent with community character.

Efficiency and Excellence – we recognize the strength in team work to harness our energy, creativity and resources when designing and implementing programs and services.

Natural Settings – we value our natural open space and surrounding water through our commitment to responsible stewardship of the environment.

Service and Safety – we use education, prevention, and enforcement methods to protect life and property in the community and maintain our infrastructure and facilities to provide a safe environment in which to live, learn, work, shop, and play.

C. I. T. I. Z. E. N. S.

In addition to the core values, the Council also identified five (5) goals for staff to achieve in the next 5 years.

1. Develop and Maintain Quality Infrastructure
2. Ensure Long-Term Financial Stability
3. Enhance Programs, Services and Amenities to Meet the Evolving Needs of the Community
4. Foster and Productive and Engaged Workforce Committed to Providing Quality Service
5. Enhance Our Town Presence and Maintain our Town Identity

Staff recommends approval of the proposed 2021-2022 Fiscal Year Strategic Plan.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

Adoption of the strategic plan does not have an immediate fiscal impact on the Town, however, the projects and initiatives identified in the plan will be properly planned and budgeted for over the next five years.

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk

ATTACHMENTS

1. TBHI Bay Harbor Islands Strategic Plan FY 2021-2022. (2)
2. Pages from TBHI Strategic Planning FY 2021-2022 (002)

Town of Bay Harbor Islands Strategic Plan 2021-2022

Includes

Vision

Mission

Values

Goals

Strategies



March 2021



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Methodology



Bay Harbor Islands is a beautiful place with a strong sense of community, where neighbors are connected, police are involved, schools are highly rated, and Town leaders are accessible and work to service the community to the best of their ability.

Project Background

Bay Harbor Islands leaders initiated a strategic planning process in 2019 to identify a vision, mission, and values and establish goals that will guide the work of elected officials and professional staff over the next five years. The plan reflects a vision resulting from interviews with Town leaders and staff and a strategic planning workshop.

Interviews

The Mayor, Town Council, and Town Manager were interviewed to identify issues and potential goals for discussion during the workshop. They were also asked about Bay Harbor Islands' strengths, weaknesses, opportunities and threats. A focus group was held with Town department heads to hear their ideas about these issues as well.

Strategic Planning Workshop

Bay Harbor Islands Council Members, Town Manager, Assistant Manager/ Finance Director, and Town Clerk participated in a workshop on July 16, 2019 to articulate a vision and mission for the future of the Town, as well as to discuss values and identify goals and strategies for the next five years. This document presents the results of that session.

Strategic Plan Elements

This strategic plan contains major strategic elements. Each is described below.



The **vision** statement is an aspirational statement of what Town leaders intend Bay Harbor Islands to be in the future and serves as the guiding principle for the services and programs the Town provides.

The **mission** statement provides purpose. It identifies what the organization stands for and what it will do.

The **core values** drive the organizational culture and provide operating principles to govern the actions and behaviors of leaders and employees of the Town.

Goals are broad, high-level ideas that define the issues most important to address and the desired outcomes that will be achieved. Goals provide the “why” of the specific actions the Town takes.

For each goal, several **strategies** are identified that further define how the goal will be reached. Strategies are the means to achieve multi-year goals, and generally are focused on specific issues or needs. Many of the strategies will link directly to action plans or core services.

The broad steps to achieve the goals are identified in an **Implementation Action Plan**. The action plan provides key tasks, the person assigned responsible for carrying out the actions, resources required, milestones, and success measures. The implementation action plan spans five years, since some of the goals require long-term strategies.

Staff will **report** to the Mayor and Town Council on the status of strategy execution periodically, detailing progress and seeking further direction as needed.



Vision



*The vision describes where
the Town wants to be in the future.*

Bay Harbor Islands is a unique,
small-town community that provides
residents with a neighborhood feel while
delivering large-town amenities.



Mission



The mission describes the purpose of the organization.

Bay Harbor Islands is committed to serving its community by providing the highest level of service through a transparent and ethical government that enhances the quality of life for current and future generations.



Core Values



Core values establish the operating principles of the organization. They govern the actions and behaviors of policy makers and employees.

Community

We foster an engaged community and strong partnerships through communication and participation amongst all constituents.

Innovation

We develop creative solutions and share leading practices that enhance the value of services provide to our residents.

Tradition

We value our history and wish to preserve our character.

Integrity

We conduct ourselves at all times in a manner that is ethical, legal, accountable, and professional with the highest degree of honesty, transparency, respect, and fairness.

Zoning & Economic Development

We encourage diverse employment opportunities through networking and collaboration and ensure the development is consistent with community character.

Efficiency and Excellence

We recognize the strength in team work to harness our energy, creativity and resources when designing and implementing programs and services.

Natural Settings

We value our natural open space and surrounding water through our commitment to responsible stewardship of the environment.

Service and Safety

We use education, prevention, and enforcement methods to protect life and property in the community and maintain our infrastructure and facilities to provide a safe environment in which to live, learn, work, shop, and play.

C. I. T. I. Z. E. N. S.



Goal A. Develop and Maintain Quality Infrastructure



Strategies

1. Develop a realistic five-year Capital Improvement Plan.
2. Develop a Street Tree Master Plan that includes streetscape improvements and enhancements.
3. Update the Stormwater Master Plan to include sea level rise.
4. Improve the physical appearance of Town Hall and Council Chambers.
5. Create checklists for conducting park maintenance and general infrastructure maintenance throughout the Town.



Goal B. Ensure Long-Term Financial Stability



Strategies

1. Develop a comprehensive fiscal sustainability plan that allows for the lowest possible tax rate.
2. Explore opportunities for new or increased revenues and diversify revenue sources beyond property taxes.

Goal C. Enhance Programs, Services and Amenities to Meet the Evolving Needs of the Community



Strategies

1. Assess and explore opportunities for expanded recreational activities (e.g., music series, summer movie nights, life skills classes, community service tasks for kids, specialty camps).
2. Provide more programs and events (e.g., car show, pre-teen/teen nights/events, food-oriented events).
3. Identify options for increasing green space (e.g., pocket parks and a waterfront park).
4. Develop meaningful outcome-based performance measures that relate to the delivery of important services.

Goal D. Foster a Productive and Engaged Workforce Committed to Providing Quality Service



Strategies

1. Develop a plan to modify the office environment to encourage more efficient work.
2. Collaborate with schools to provide training for staff on topics such as anti-bullying, suicide prevention, and substance abuse to better serve the community.
3. Identify funding to provide professional development training and support staffs' development (e.g., professional association memberships).

Goal E. Enhance Our Town Presence and Maintain Our Town Identity



Strategies

1. Examine options for welcome signage on Causeway Island.
2. Explore ways to rebrand Bay Harbor Islands, including developing a marketing strategy and refreshing the logo.



Conclusion



This Strategic Plan provides a clear direction to realize a long-range vision of sustainability for Bay Harbor Islands. Throughout the next five years, staff, with guidance from the Town Council, will work to implement the goals and strategies in the plan in accordance with annual budget development and capital planning.

After adoption of the Strategic Plan by Council, Management Partners will prepare an Implementation Action Plan with priorities. Staff can then provide progress reports periodically to Council members and residents. The progress reports can document what has been achieved and the status of strategies that are underway.

ELECTED OFFICIALS

Stephanie Bruder, Mayor

Joshua D. Fuller, Vice Mayor

Jordan W. Leonard, Council Member

Kelly Reid, Council Member

Isaac Salver, Council Member

Elizabeth Tricoche, Council Member

Robert Yaffe, Council Member





COMMUNITY



INNOVATION



TRADITION



INTEGRITY



ZONING & ECONOMIC
DEVELOPMENT



EFFICIENCY & EXCELLENCE



NATURAL SETTINGS



SERVICE & SAFETY

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 13.

ITEM: Consideration and Approval to piggyback off a General Services Administration contract, pursuant to Section 2-1.2(6) of the Town Code, with Samsara. The Samsara Automatic Vehicle Locating Service (AVL) purchase is in the amount of \$24,414.50 for the first year and beginning year two an annual payment of \$24,043.50 for a total of sixty (60) months. The AVL system will service fifty (50) Town owned vehicles. Enclosed is a Memorandum provided by Chief Raul Diaz and other supporting documents.

DESCRIPTION:

In early 2021, the Town staff began researching the many service providers for automatic locating service (AVL) for all of the Town owned vehicles.

Among the several options reviewed by staff was AT&T, Track Star and Samsara. After further review, staff concluded that Samsara provides the best services suited for the Town's needs which would include real time satellite tracking and vehicle driving behaviors. The Town will piggyback off a General Services Administration (GSA) contract with Samsara pursuant to Section 2-1.2(6) of the Town Code.

Enclosed is a copy of Chief Diaz's summary of the proposed services and other supporting documents. Presentation will be conducted by IT Manager, Roberto Gonzalez and Chief Diaz.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

-First year cost \$24,414.50
-Beginning year two cost will be \$24,043.50 annually for the remaining forty-eight months.

The quote provided includes a sixty (60) month licensing term for fifty (50) vehicles, twenty-eight (28) of which are law enforcement vehicles and the remaining twenty-two (22) are Town vehicles. Wi-Fi, hardware upgrades, and equipment are included on the attached quote.

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk
Raul Diaz, Chief of Police
Maria Lasday, Town Manager

ATTACHMENTS

1. AVL MEMO
2. GSA- Samsara Contract
3. BHI Executive Summary



Bay Harbor Islands Police Department

Interoffice Memorandum

To: Town Council

Date: March 25, 2021

From: Raul M. Diaz
Chief of Police

Subject: Consideration and approval for Automatic
Vehicle Location (AVL) licensing and
equipment

In February 2021, the IT Department began looking at fleet management solutions for all town-owned vehicles. After investigating a range of competitive products, which include Samsara, AT&T and Trackstar, we feel confident that the Samsara AVL gateway is the optimal choice for the Town. This conclusion was based on the following criteria:

- 1) Reliable technology
- 2) Customizability (reports, alerts, and notifications)
- 3) Price
- 4) Ease of use (with respect to both installation and GUI)
- 5) The option for cooperative purchasing

Samsara provides us with a second-by-second ping rate which allows real time tracking of vehicles over a satellite map. These features have been tested over the past month on several of our town vehicles and have been found to be very reliable. In its tracking management, Samsara employs a form of software-defined networking that allows it to automatically select wireless communication providers, depending on which service is offering the best bandwidth at any given time of the day. Additional helpful features include a smartphone app (which reads a vehicle's VIN # and activates the hardware in seconds), and a consolidated platform. Samsara has the ability to track, and report driving behaviors, monitor vehicle diagnostics data, and obtain engine performance information. Under testing, the equipment performed effectively, and the interface of the online monitoring system is intuitive and easy to use.

Samsara is an existing service provider under the General Services Administration (GSA). As provided for in Sec. 2-1.2(6) of the Town's Code, it allows for and facilitates contracting with a service provider (Samsara) which has been secured by another government entity (GSA) "piggyback contract".

The quote provided below includes 60-month licensing term for fifty (50) vehicles, twenty-eight (28) of which are law enforcement vehicles and the remaining twenty-two (22) are Town vehicles. Wi-Fi, hardware upgrades, and equipment are included on the attached quote.



Samsara Networks Inc
444 De Haro St Suite 101
San Francisco, CA 94107
www.samsara.com

QUOTE #Q-80584

Issued 04-14-2021

Expires 04-23-2021

Prepared For:

Town of Bay Harbor Islands
9665 Bay Harbor Ter
Bay Harbor Islands, Florida
33154

Prepared By:

Luke Keller
luke.keller@samsara.com

Quote Summary

Subtotal

Hardware and Accessories

\$0.00

Licenses

License Term – 60
Months

Shipping and Handling \$371.00

Upfront Hardware Sales Tax \$0.00

Annual License Sales Tax \$0.00

First Year Payment \$24,414.50

Payments Beginning Year Two \$24,043.50

If shipping is "Pending" - Amount is pending due to size of order; Shipping and Handling subject to change.
If Sales tax is "Pending" – Final amount will be provided prior to payment
*3% fee charged on non-ACH charges (Canada Exempt)
*Sales tax subject to change



Samsara Networks Inc
444 De Haro St Suite 101
San Francisco, CA 94107
www.samsara.com

SHIP TO Greg Panos
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida, 33154
United States

Hardware and Accessories	Quantity	Net Unit Price	Total Price
VG34 OBDII J1962 L-mount cable CBL-VG-BOBDII-Y1	50	\$0.00	\$0.00
Hardware Due			\$0.00

Licenses	Quantity	Annual Unit Price	Total Annual Price
WiFi Hotspot - 2GB Total Data LIC-2GB-WIFI-DATA	50	\$201.60	\$10,080.00
Annual License Due			\$10,080.00

Bundles	Quantity	Annual Unit Price	Total Annual Price
VG-34 Bundle - Public Sector LIC-VG-ENT	50	\$279.27	\$13,963.50
Annual License Due			\$13,963.50



Samsara Networks Inc
444 De Haro St Suite 101
San Francisco, CA 94107
www.samsara.com

Thank you for considering Samsara for your fleet.

Samsara provides real-time visibility, business- relevant tools, and powerful analytics that enable customers to increase the productivity of their fleets and reduce operating costs. A solution for your fleet is proposed below.

What is included?

Samsara fleet tracking solution include cellular gateways, hardware accessories, and a per-gateway license. Gateway licenses provide all ongoing elements of the service, including:

- Real-time location and vehicle telematics
- Cellular data connectivity
- Dashboard access with unlimited administrator accounts
- Driver App for iOS and Android devices with unlimited driver accounts
- WiFi hotspot connectivity (VG34 gateways, 500 MB/mo capacity)
- Over-the-air software feature upgrades
- API access as it relates to safety features for integration with 3rd party systems
- Maintenance and phone support

Samsara does not charge per-feature license fees, or other hidden costs.



Samsara Networks Inc
444 De Haro St Suite 101
San Francisco, CA 94107
www.samsara.com

Payment Terms

This order form includes a one-time fee of hardware cost to be paid upfront and a Service License cost to be paid annually. The annual fees are payable by recurring wire transfer. All transfers are subject to a 3% processing fee unless the wire transfer is initiated by Samsara via ACH, in which case the 3% processing fee will be waived. Late payments are subject to a 1.5% per month late fee. If license payments are delinquent by 60 days, Samsara may suspend the Service until late payments are remitted.

License Term

The license term begins on the day your Samsara hardware ships. If you wish to continue using the service when your license term ends, you may renew your license. Samsara hardware requires a valid license to function.

Support and Warranty

Samsara stands behind its Products. Hardware Products that require a valid license to function come with a warranty that lasts as long as you maintain a valid license for such Hardware. All other Hardware Products, such as accessories, come with a one-year warranty, unless otherwise specified on the relevant Samsara data sheet. During the warranty period, Hardware exhibiting material defects will be replaced. For more information, see our Hardware Warranty & RMA policy at www.samsara.com/support/hardware-warranty. Additional support information can be found at www.samsara.com/support.

Terms

Unless otherwise set forth herein, your use and access of the Hardware, Products, and Services specified herein are governed by Samsara's terms of service found at <https://www.samsara.com/terms-of-service>, unless the Parties have entered into a separate terms of service agreement and/or a separate terms of service agreement is attached to this Order Form, in which case such separate terms of service agreement shall govern (the 'Terms of Service'). You agree to be bound by the Terms of Service, and any capitalized terms not defined herein shall have the meaning set forth in the Terms of Service. You further agree that any other Order Forms you enter into for the purchase of Products shall also be governed by the Terms of Service unless otherwise set forth in the applicable Order Form. For clarity, unless otherwise agreed by the Parties or approved by Samsara, the pricing and payment terms under this Order Form shall not apply to any such other Order Forms.



Samsara Networks Inc
444 De Haro St Suite 101
San Francisco, CA 94107
www.samsara.com

Notification of Confidentiality

You agree that the pricing and payment terms specified in this Order Form shall (i) be held in strict confidence; (ii) not be disclosed to any Samsara competitor or other entity, except as approved in writing by the Samsara; and (iii) not be used except to evaluate the suitability of the Samsara Products for your business. You will immediately notify Samsara in the event of any unauthorized use or disclosure under these terms. Violation of these obligations will cause irreparable harm to Samsara for which Samsara may obtain compensatory and timely injunctive relief from a court, as well as any other remedies that may be available, including recovery of all reasonable attorney's fees and costs incurred in seeking such remedies. Your obligations specified herein shall last until the pricing and payment terms herein are, through no fault or action by you, public. This Order Form is a legally binding agreement between Customer and Samsara Networks Inc. ("Samsara"). IN WITNESS WHEREOF, Customer has caused this Order Form to be executed by its duly authorized representative.

Please confirm acceptance of this Order Form by signing below:

Signature

Print Name:

Date:



GENERAL SERVICES ADMINISTRATION
FEDERAL SUPPLY SERVICE
AUTHORIZED FEDERAL SUPPLY SCHEDULE CATALOG/PRICE LIST

On-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic delivery order is available through GSA *Advantage!*, a menu-driven database system. The INTERNET address for GSA *Advantage!* is <http://www.gsaadvantage.gov>

SCHEDULE TITLE: IT Schedule 70

CONTRACT NUMBER: GS-35F-327GA

CONTRACT PERIOD: MARCH 28, 2017 TO MARCH 27, 2022

For more information on ordering from Federal Supply Schedules click on the FSS Schedules button at www.fss.gsa.gov

CONTRACTOR: Samsara Networks, Inc
444 De Haro St
San Francisco, CA 94107

CONTRACTOR'S ADMINISTRATION SOURCE: orders@samsara.com

BUSINESS SIZE: Small

CUSTOMER INFORMATION:

1. TABLE OF AWARDED SPECIAL ITEM NUMBERS (SINs)

SIN	DESCRIPTION
132-8	Purchase of New Equipment
132-40	Cloud Computing Services

2. MAXIMUM ORDER*:

132-8	\$500,000; per order
132-40	\$500,000; per order

*If the best value selection places your order over the Maximum Order identified in this catalog/price list, you have an opportunity to obtain a better schedule contract price. Before placing your order, contact the aforementioned contractor for a better price. The contractor may (1) offer a new price for this requirement (2) offer the lowest price available under this contract or (3) decline the order. A delivery order that exceeds the maximum order may be placed under the schedule contract in accordance with FAR 8.404.

3. MINIMUM ORDER: \$100

4. GEOGRAPHIC COVERAGE: Domestic, 50 States, DC, Puerto Rico and US Territories.

5. POINT(S) OF PRODUCTION: USA, Taiwan

6. DISCOUNT FROM LIST PRICES: 5-40% DEPENDING ON SKU

For calculation of the GSA Schedule price (price paid by customers ordering from the GSA Schedule, and the price to be loaded into GSA Advantage), the contractor should deduct the appropriate basic discount from the list price and add the prevailing IFF rate to the negotiated discounted price (Net GSA price). Current IFF rate is 0.75%.

7. QUANTITY DISCOUNT(S): None

8. PROMPT PAYMENT TERMS: None

9.a. Government Purchase Cards are accepted at or below the micro-purchase threshold.

9.b. Government Purchase Cards are accepted above the micro-purchase threshold.

10. FOREIGN ITEMS: None.

11a. TIME OF DELIVERY: 30 DAYS

11b. EXPEDITED DELIVERY: CONTACT COMPANY ADMINISTRATOR

11c. OVERNIGHT AND 2-DAY DELIVERY: CONTACT COMPANY ADMINISTRATOR

11d. URGENT REQUIREMENTS: CONTACT COMPANY ADMINISTRATOR

12. FOB POINT: Destination

13a. ORDERING ADDRESS: Same as Contractor's address.

13b. ORDERING PROCEDURES: For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPA's) are found in Federal Acquisition Regulation (FAR) 8.405-3.

14. PAYMENT ADDRESS: Same as Contractor's address.

15. WARRANTY PROVISION: Standard Commercial Warranty. Customer should contact contractor for a copy of the warranty.

16. EXPORT PACKING CHARGES: Not applicable.

17. TERMS AND CONDITIONS OF GOVERNMENT PURCHASE CARD ACCEPTANCE: Accepted at or below and above the micro-purchase level.

18. TERMS AND CONDITIONS OF RENTAL, MAINTENANCE, AND REPAIR (IF APPLICABLE): N/A

19. TERMS AND CONDITIONS OF INSTALLATION (IF APPLICABLE): N/A
20. TERMS AND CONDITIONS OF REPAIR PARTS INDICATING DATE OF PARTS PRICE LISTS AND ANY DISCOUNTS FROM LIST PRICES (IF AVAILABLE): N/A
- 20a. TERMS AND CONDITIONS FOR ANY OTHER SERVICES (IF APPLICABLE): N/A
21. LIST OF SERVICE AND DISTRIBUTION POINTS (IF APPLICABLE): N/A
22. LIST OF PARTICIPATING DEALERS (IF APPLICABLE): N/A
23. PREVENTIVE MAINTENANCE (IF APPLICABLE): N/A
- 24a. SPECIAL ATTRIBUTES SUCH AS ENVIRONMENTAL ATTRIBUTES (e.g. recycled content, energy efficiency, and/or reduced pollutants): N/A
- 24b. Section 508 Compliance for EIT: N/A
25. DUNS NUMBER: 079893767
26. NOTIFICATION REGARDING REGISTRATION IN SYSTEM FOR AWARD MANAGEMENT: Contractor has an active registration in SAM.

**TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL PURPOSE
COMMERCIAL INFORMATION TECHNOLOGY NEW
EQUIPMENT(SPECIAL ITEM NUMBER 132-8)**

1. MATERIAL AND WORKMANSHIP

All equipment furnished hereunder must satisfactorily perform the function for which it is intended.

2. ORDER

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPA) agreements shall be the basis for purchase in accordance with the provisions of this contract. If time of delivery extends beyond the expiration date of the contract, the Contractor will be obligated to meet the delivery and installation date specified in the original order. For credit card orders and BPAs, telephone orders are permissible.

3. TRANSPORTATION OF EQUIPMENT

FOB DESTINATION. Prices cover equipment delivery to destination, for any location within the geographic scope of this contract.

4. INSTALLATION AND TECHNICAL SERVICES

- a. **INSTALLATION.** Unless specified otherwise in this contract, the Contractor's standard commercial warranty as stated in the contract's commercial pricelist will apply to this contract.

The equipment provided under this contract is self-installable. Installation guides are included with each Samsara purchase or can be found at <https://www.samsara.com/products/models>.

- b. **INSTALLATION, DEINSTALLATION, REINSTALLATION.** The Davis-Bacon Act (40 U.S.C. 276a-276a-7) provides that contracts in excess of \$2,000 to which the United States or the District of Columbia is a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works with the United States, shall contain a clause that no laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing wage rates as determined by the Secretary of Labor. The requirements of the Davis-Bacon Act do not apply if the construction work is incidental to the furnishing of supplies, equipment, or services. For example, the requirements do not apply to simple installation or alteration of a public building or public work that is incidental to furnishing supplies or equipment under a supply contract. However, if the construction, alteration or repair is segregable and exceeds \$2,000, then the requirements of the Davis-Bacon Act applies.

The ordering activity issuing the task order against this contract will be responsible for proper administration and enforcement of the Federal labor standards covered by the Davis-Bacon Act. The proper Davis-Bacon wage determination will be issued by the ordering activity at the time a request for quotations is made for applicable construction classified installation, de-installation, and reinstallation services under SIN 132-8 or SIN 132-9.

- b. OPERATING AND MAINTENANCE MANUALS. The Contractor shall furnish the ordering activity with one (1) copy of all operating and maintenance manuals which are normally provided with the equipment being purchased.
- c.

5. INSPECTION/ACCEPTANCE

The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The ordering activity reserves the right to inspect or test any equipment that has been tendered for acceptance. The ordering activity may require repair or replacement of nonconforming equipment at no increase in contract price. The ordering activity must exercise its post acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

6. WARRANTY

a. If you are experiencing technical issues, please contact Samsara support. Contact information can be found at www.samsara.com/support. Samsara stands behind its products. VG and GW series gateways, and CM series Camera Modules, come with a five year warranty. Other hardware products come with a one year warranty, unless otherwise specified on the relevant Samsara data sheet. During the warranty period, hardware exhibiting material defects will be replaced. To request a return materials authorization (RMA), please contact Samsara support. If your RMA request is approved, Samsara will email you an RMA number and a return shipping label free of charge. We will ship replacement units within five business days of receiving your defective units. If no trouble is found, we will contact you before taking further action.

b. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

c. Limitation of Liability. Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

d. If inspection and repair of defective equipment under this warranty will be performed at the Contractor's plant, the address is as follows:

7. PURCHASE PRICE FOR ORDERED EQUIPMENT

The purchase price that the ordering activity will be charged will be the ordering activity purchase price in effect at the time of order placement, or the ordering activity purchase price in effect on the installation date (or delivery date when installation is not applicable), whichever is less.

8. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City or otherwise) covering work of this character, and shall include all costs, if any, of such compliance in the prices quoted in this offer.

9. TRADE-IN OF INFORMATION TECHNOLOGY EQUIPMENT

When an ordering activity determines that Information Technology equipment will be replaced, the ordering activity shall follow the contracting policies and procedures in the

Federal Acquisition Regulation (FAR), the policies and procedures regarding disposition of information technology excess personal property in the Federal Property Management Regulations (FPMR) (41 CFR 101-43.6), and the policies and procedures on exchange/sale contained in the FPMR (41 CFR part 101-46).

<u>SIN</u>	<u>MFR PART NO</u>	<u>PRODUCT NAME</u>	<u>GSA OFFER PRICE</u>
132-8	ACC-2A12-WW	Worldwide 12V AC/DC Adapter	\$27.55
132-8	ACC-AGPS	External GPS antenna	\$27.55
132-8	ACC-BJ1708-Y1	J1708 diagnostics harness with type 1 Y-splitting cable	\$46.55
132-8	ACC-BJ1939-2Y1	J1939-2 diagnostics Y-splitting harness with screw mount (201	\$46.55
132-8	ACC-BJ1939-2Y2	J1939-2 diagnostics Y-splitting harness with jam mount (2016+)	\$46.55
132-8	ACC-BJ1939-VM	J1939 diagnostics Y-splitting harness for Volvo OBDII Connector	\$46.55
132-8	ACC-BJ1939-Y1	J1939 diagnostics harness with type 1 Y-splitting cable	\$46.55
132-8	ACC-BJ1939-Y2	J1939 diagnostics harness with type 2 Y-splitting cable	\$46.55
132-8	ACC-BOBDII-Y1	OBD II (J1962) diagnostics harness with type 1 Y-splitting cable	\$46.55
132-8	ACC-BOBDII-Y2	OBD II (J1962) diagnostics harness with type 2 Y-splitting cable	\$46.55
132-8	ACC-BPC	Direct-wire non-diagnostic power cable	\$46.55
132-8	ACC-CT-1500A	1500 Amp Current Transformer	\$379.05
132-8	ACC-CT-200A	200 Amp Current Transformer	\$46.55
132-8	ACC-CT-3000A	3000 Amp Current Transformer	\$474.05
132-8	ACC-CT-400A	400 Amp Current Transformer	\$94.05
132-8	ACC-CT-800A	800 Amp Current Transformer	\$189.05
132-8	ACC-DRIVERID	Driver ID Token	\$9.49
132-8	ACC-NONDIAG	Non-Diagnostic Vehicle Cable	\$46.55
132-8	CBL-AG-A7WY	AG 7- Way Trailer Cable Harness	\$46.55
132-8	CBL-AG-APWR	AG Non-Trailer Power Cable Harness	\$46.55
132-8	CBL-AG-ARFR	AG Reefer Trailer Cable Harness	\$236.55
132-8	HW-AG15	Trailer Tracking Asset Gateway	\$235.83
132-8	HW-AG24	Asset Gateway	\$236.55
132-8	HW-AG41	Unpowered Asset Gateway	122.55
132-8	HW-CM12	Internet-Connected Front Facing Dash Camera	\$189.05
132-8	HW-CM22	Internet-Connected Dual Facing Dash Camera	\$331.55
132-8	HW-EM21	Wireless Environmental Monitor	\$94.05
132-8	HW-EM22	Wireless Monitor with Temperature Probe	\$132.05
132-8	HW-GW22	Industrial IoT Gateway	\$472.60
132-8	HW-IM31	4-20mA Analog Input Module	\$94.05
132-8	HW-IM32	0-30V Analog Input Module	\$94.05
132-8	HW-IM33	Discrete Voltage-Sensing Input Module	\$94.05
132-8	HW-VG34	Vehicle IoT Gateway	\$94.05
132-8	HW-IG11	Industrial IoT Gateway	\$1,899.05

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF CLOUD COMPUTING SERVICES (SPECIAL ITEM NUMBER 132-40)

NOTE: This new SIN presents a clear way for Contractors to provide cloud computing services according to NIST definitions and principles within the scope of today's technology and standards with a secondary goal of accommodating ongoing technical advances in cloud computing.

The prices, terms and conditions stated under Special Item Number (SIN) 132-40 Cloud Computing Services apply exclusively to Cloud Computing Services within the scope of this Information Technology Schedule.

This SIN provides ordering activities with access to technical services that run in cloud environments and meet the NIST Definition of Cloud Computing Essential Characteristics. Services relating to or impinging on cloud that do not meet all NIST essential characteristics should be listed in other SINs.

The scope of this SIN is limited to cloud capabilities provided entirely as a service. Hardware, software and other artifacts supporting the physical construction of a private or other cloud are out of scope for this SIN. Currently, an Ordering Activity can procure the hardware and software needed to build on premise cloud functionality, through combining different services on other IT Schedule 70 SINs (e.g. 132-51).

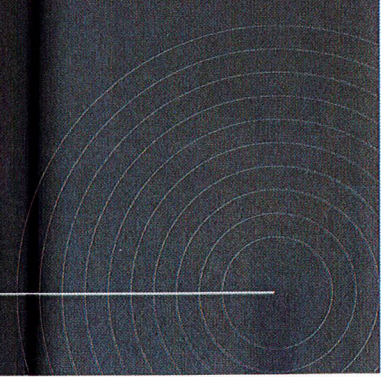
132-40	LIC-AG2-ENT	1-Month License for Asset Gateways	\$14.25
132-40	LIC-AG4-ENT	1-Month License for Unpowered Asset Gateways	\$8.55
132-40	LIC-EM-ENT	1-Month License for Environmental Monitors	\$4.75
132-40	LIC-IG-ENT	1-Month License for Industrial IoT Gateways	\$15.83
132-40	LIC-HM-ENT	1-Month License for Input Modules	\$4.75
132-40	LIC-VG-ENT	1-Month License for Vehicle IoT Gateways	\$31.67
132-40	LIC-CM2-ENT	1-Month License for Dual-Camera Dash Cam	\$47.50
132-40	LIC-CM1-ENT	1-Month License for Front Facing Dash Cam	\$31.67



The Leader in Industrial IoT

Samsara for Bay Harbor Islands

04.14.2021



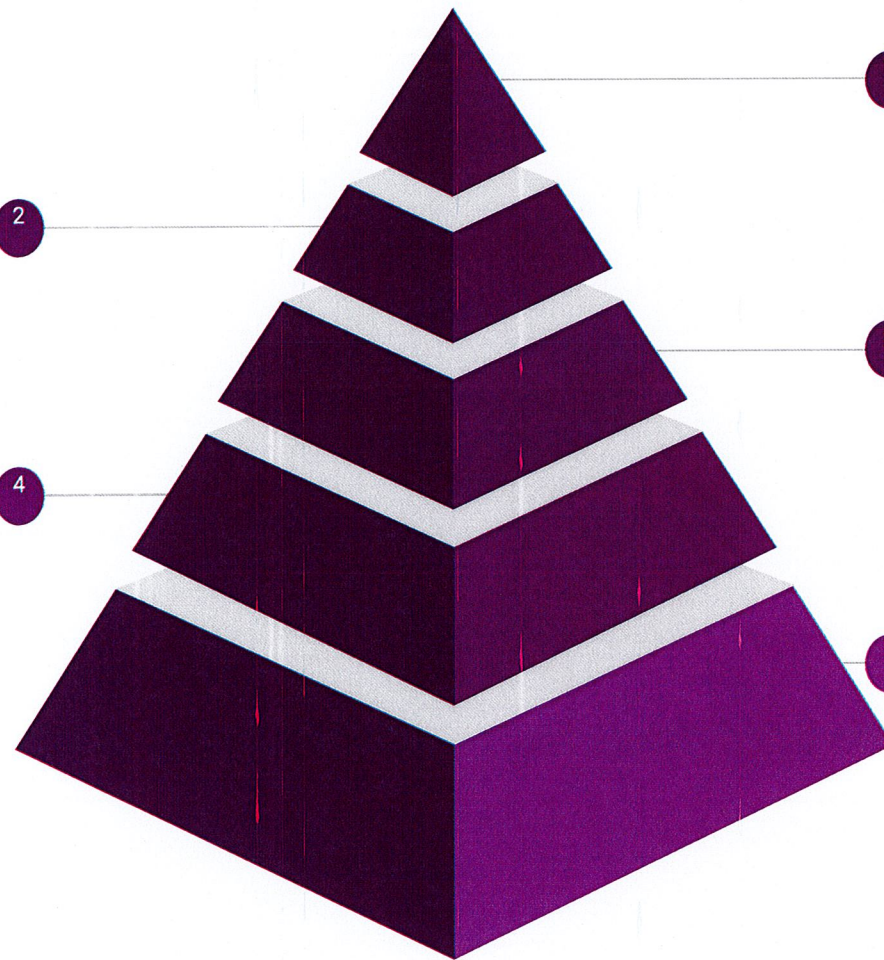
1 Plan for Bay Harbor Islands

Improve Community Safety

Safe drivers, in safe vehicles, more capable of responding to concerns and emergencies within the community.

Improve Driver Safety

Protect drivers from dangerous road conditions, while also providing valuable coaching experience to prevent future incidents



Improve Citizen Experience

A safe and responsive government that is able to meet and exceed citizens' needs while responsibly putting tax dollars to work where they're needed most.

Improve Fleet Awareness

Accurate and real-time visibility into locations and utilization helps identify priorities within the fleet that can most effectively benefit the community, while maintaining accountability.

Improve Vehicle Safety

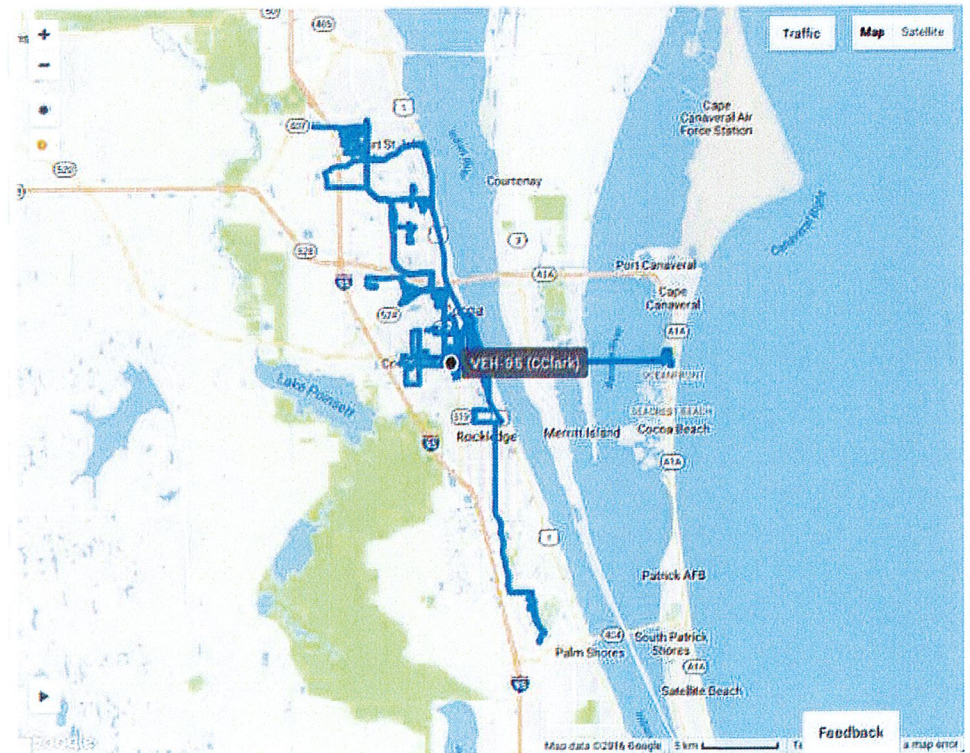
Properly maintain vehicles, in a timely manner to assure city isn't exposing it's employees and citizens to hazardous conditions

Full Fleet Visibility & Improved Service

Jessica, the City of Cocoa's (FL) Utility Customer Service Manager, uses Samsara to better respond to customer inquiries.



- Whether a customer is calling about a power outage or a low water pressure, Jessica uses Samsara's dispatch tool to find the nearest driver (even factoring in live traffic).
- If Jessica gets a complaint about a speeding city vehicle, she can determine if it actually was one of the city's vehicles, and if so, communicate with the driver about improving their safety.



SAMSARA'S IMPACT ON MAINTENANCE

Decrease Idling and Vehicle Downtime

- **Robust reporting and live engine fault code alerts** streamline fleet maintenance to reduce idling by 20% and decrease vehicle downtime by 28%.



CITY OF FORT LAUDERDALE

"With Samsara we're able to identify fuel usage, speeding, harsh events, and power take-off. There are so many things we can capture in one system."

SANDY LEONARD *Program Manager of Fleet Services,
City of Fort Lauderdale*



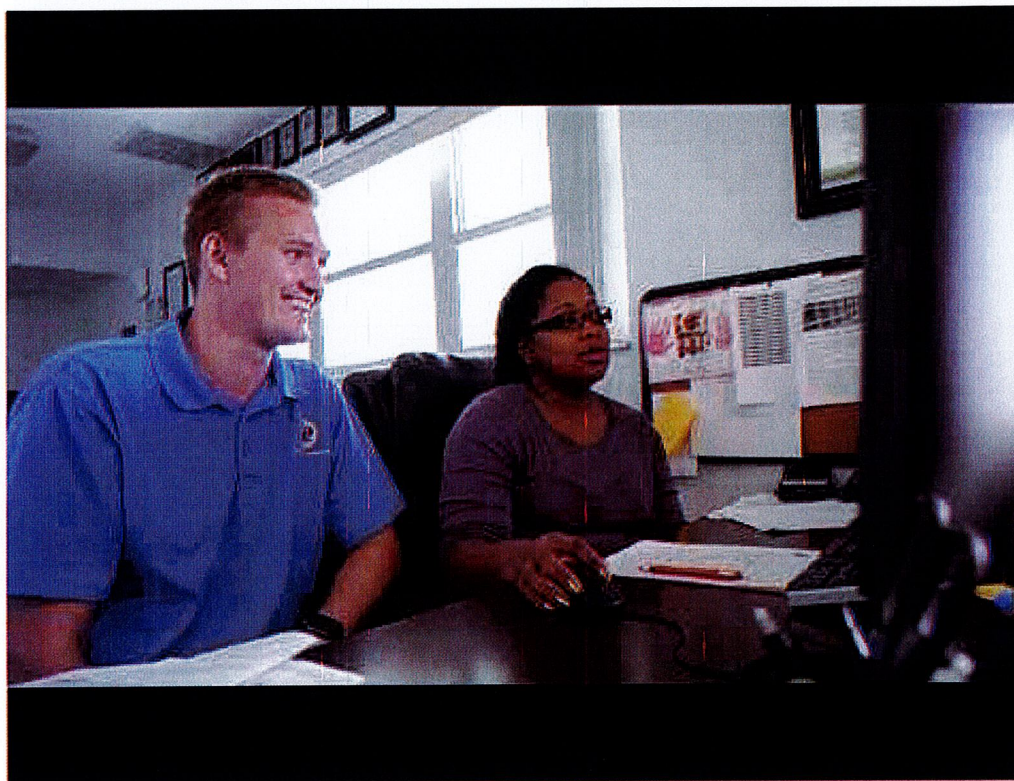
20%

reduction of idling

28%

decrease vehicle
downtime

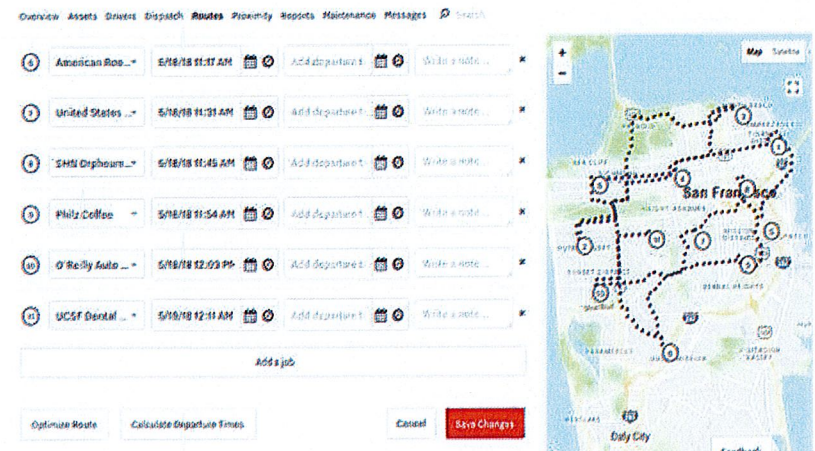
Case Study - City of Fort Lauderdale



How We Stack Up

	Competitor 1	Competitor 2	Samsara
ELD Compliance & HOS	✓	✓	✓
Fleet Coaching & Safety	✓	✗	✓
IFTA Fuel Tax Reporting	✗	✗	✓
Vehicle Utilization & Diagnostics	✓	✗	✓
System Consolidation	✗	✗	✓
24/7 in-house U.S. based support (< 5 min avg. wait time)	✗	✗	✓
Real-time GPS tracking	✗	✗	✓
Preventative Maintenance Scheduling	✓	✗	✓
Unlimited feature updates	✗	✗	✓
Coterminous Contract Agreements	✗	✗	✓

6 Real time GPS increases visibility and efficiency



↗ Improve Fleet Productivity

Rich reports and visualizations enable fleets to complete more jobs in fewer hours and with fewer miles, while dispatch tools, real-time traffic, and route analytics help operators increase output

↘ Reduce Labor & Fuel Costs

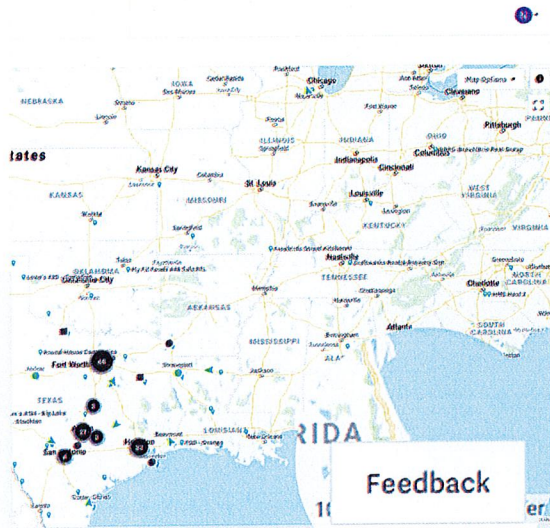
On-demand reports and real-time alerts identify and correct fuel waste, while route analytics help reduce unnecessary miles, saving both fuel and labor

🔧 Streamline Maintenance

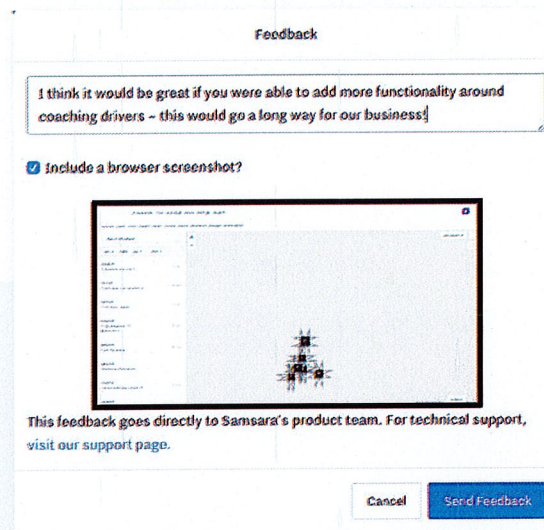
Over-the-air vehicle diagnostics, engine utilization reports, and real-time fault code alerts enable maintenance departments to prevent breakdowns and automate routine inspections

7 How we innovate using customer feedback

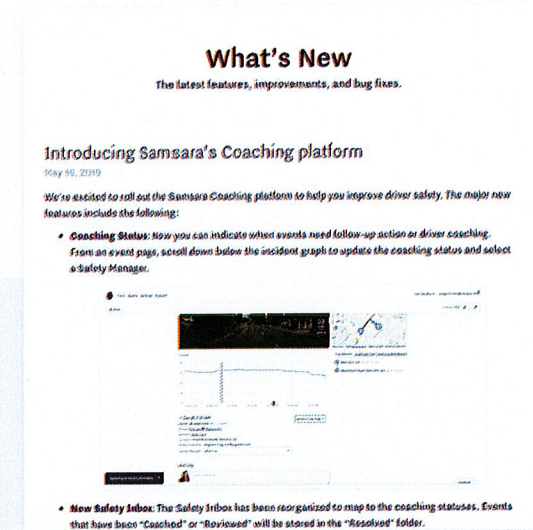
01



02



03



Recent Updates

samsara

Tachograph

Documents

Computer Vision

Fuel Data

Coaching

Distracted Driving

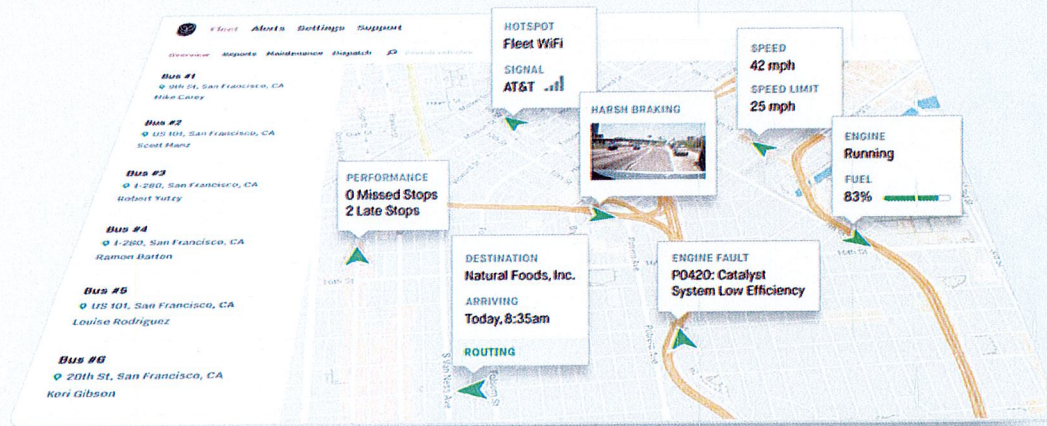
Utilization

Messaging

Wake on Motion

8 Our Solution

Our solution integrates cutting-edge sensor technology with a cloud-based dashboard to manage your entire fleet from a single pane-of-glass.



Cellular Gateways

Real-time telematics solution with GPS tracking, WiFi and diagnostics.



Driver Mobile App

Pre-Trip Inspections, routing, messaging, and forms with any Android or iOS device.



Wireless Sensors

Live and historical temperature, cargo, and equipment monitoring.

Our Proposal

This section outlines our recommendation, including pricing options and comparative analysis



10 The Solution

Quantity : 50



VG34 Vehicle IoT Gateway

- Precise GPS tracking with real-time location and analytics
- Provides complete visibility over vehicles, drivers, and operations
- A platform for location, dash cams, and more
- High-speed 4G LTE Cellular Connectivity
- Secure and easy to install with y-splitting cables and tamper alerts

Check our [Product Page](#) for more info.

Gateway-only Option | Annual Payment

Free Hardware & License Discount

60 Month Term - Includes Non-Appropriation of funds clause -

Product	Quantity	Hardware	License	Upfront Hardware Cost	Annual Payment
VG34 Vehicle Gateway	50	\$129.00 FREE	\$37.50 \$23.27	\$6,837 FREE	\$13,964
2 GB- Wifi	50	FREE	\$30 \$16.80	FREE	\$10,080

Total Savings **\$24,282**

Upfront Hardware **\$0**

Annual Payment **\$24,044**

12 What's Included | Our Commitment to You

Best In Class Customer Support

Samsara has 24-hour US based support with average wait times of less than 5 minutes.

Free Updates and Upgrades for Life

Samsara is future-proofed with regular, over-the-air updates at no added cost. Free upgraded hardware upon renewal.

Easy Installation

Our system is plug-and-play; cut down on third-party installation costs.

#1 Reliability in Industry

99.99% service uptime guarantee (here's our hardware and software SLA)

Dedicated Teams

We assign dedicated customer support, onboarding, and custer success teams.

Built to Last

All Samsara products come with a full warranty and express RMA.

Building the data platform for connected operations

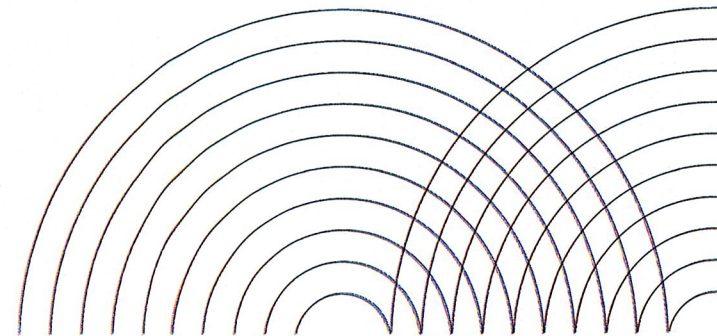
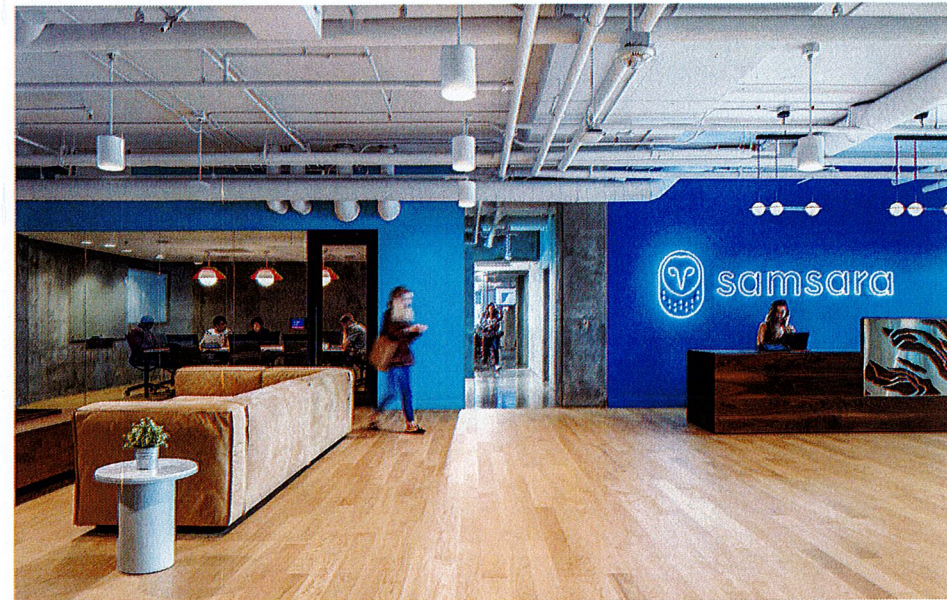


Company background

MISSION: To improve the safety, efficiency, and sustainability of the operations that power our communities

CULTURE OF INNOVATION: Advancing real-time data, artificial intelligence, and open APIs

BUILDING FOR THE LONG TERM:
World-class team developing new product features and supporting customers



Samsara is growing

15,000+ fleet customers across government, education, construction, energy, transportation and logistics, and field services

Product expansion from cameras and AI to workflows, integrations, and more

Investing in our customers with onboarding, technical support, and monthly feature updates

Locally serving: Atlanta, Athens-Clarke County, Barrow County, many more





samsara



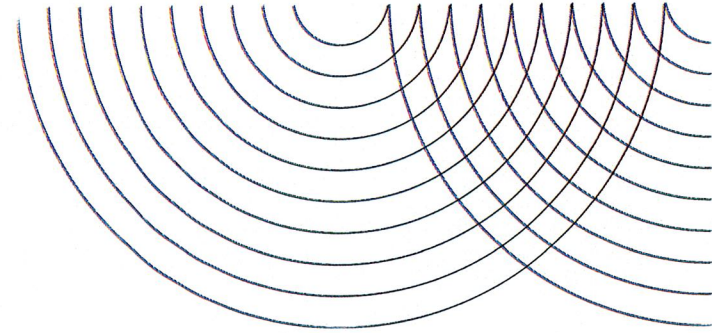
samsara

Appendix & Additional Information

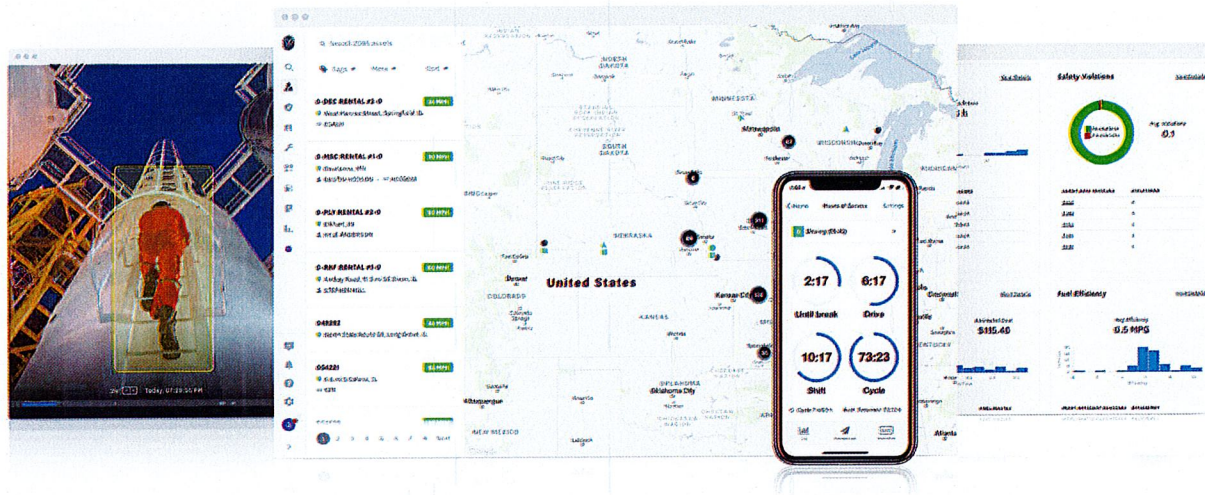
Luke Keller

SAMSARA SITE VISIBILITY

Solution Overview



Transformation Through Smarter Operations



AI SAFETY PROGRAMS

Video technology powered by AI to keep your team safe



REAL-TIME VISIBILITY

Gain visibility across facilities, fleets, and equipment



WORKFLOWS & REPORTING

Streamline workflows and make data-driven decisions



ECOSYSTEM

Run your business with one integrated platform

Basic Security

- Secure system
- User Permissioning
- Historical Video Playback
- Live Streaming
- Sharing footage

50%

Fewer instances of forced entries when security cameras are present

\$46,000

Average **cost of stolen equipment** for municipalities



Designed for Government Operations



SECURITY

Real-time alerts for unusual activity. Reduces investigation time from hours to seconds.

Use Cases

- After hours person detection
- AI-enabled incident investigation
- Easy-to-share footage
- 24/7 Remote visibility

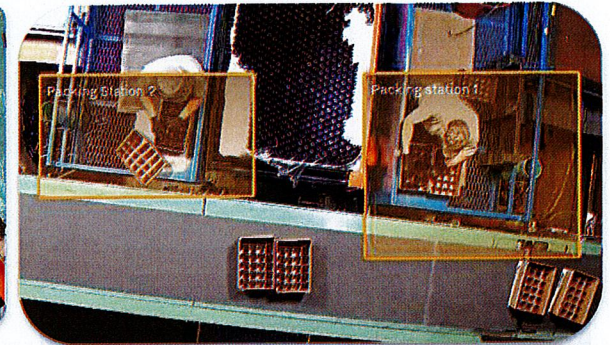


SAFETY

Leverage **intelligent detection** and **powerful search** to identify workplace hazards.

Use Cases

- PPE Enforcement
- Hazard or damage investigation
- Person/object track and tracing
- Video-based coaching



EFFICIENCY

Identify process or **operational inefficiencies** with powerful AI insights and proactive alerts.

Use Cases

- Virtual audits and co-location
- Vendor/platform consolidation
- Ease of onboarding & expansion

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 14.

ITEM: Consideration and Approval of a public Transfer of Development Rights (TDR) transaction for fifteen (15) dwelling units from the Town to Island Club Towers, LLC (9161 & 9201 East Bay Harbor Drive). Enclosed find a copy of the application, contract, site plans, and supporting documents.

DESCRIPTION:

The Town Clerk's office received a Transfer of Development Rights (TDR) Application from Island Club Towers, LLC for a public Transfer of Development Rights (TDR) transaction of fifteen (15) dwelling units.

Donor Site: Town TDR Pool

Receiving Site: 9161 & 9201 East Bay Harbor Drive (Island House aka Island Club Towers)

Number of TDR units: 15

Price per unit: \$75,000

Total amount due to the Town: \$1,125,000

On July 16, 2013, the receiving site (Island Club Towers, LLC) was granted a revised site plan approval to construct a seven story multi-family residential development consisting of 87 units.

All required information was submitted as required by Section 23-22.2 of the Town Code. Staff recommends that if any TDR transaction is approved by the Town Council, the Town Attorney prepare a resolution setting forth the Town Council approval and recommendations.

Enclosed is a copy of the application, staff report and other supporting documents.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk

ATTACHMENTS

1. TDR Application -rev

2. BHI TDR Staff Report Island House 15 DU Apr 7 2021
3. Island House - site plans 9161-9201ebhd
4. 1170 - A Island House PZ Approval (1)



March 3, 2021

VIA EMAIL: MLASDAY@BAYHARBORISLANDS-FL.GOV
AND ACHANGE@BAYHARBORISLANDS-FL.GOV

Ms. Maria Lasday, Town Manager
Ms. Alba Chang, Town Clerk
TOWN OF BAY HARBOR ISLANDS
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154

RE: Purchase of Transfer of Development Rights

Dear Ms. Lasday and Ms. Chang,

Pursuant to our conversation this week, attached herewith please find our completed, signed and notarized application (originals and Application Fee for \$500.00 are being overnighted for receipt tomorrow) to purchase 15 Transfer of Development Rights from the Town of Bay Harbor Islands. We have also included a survey as required. I am aware the survey must be dated within six month of application, and we will provide an updated one within the next few days.

As you may remember, we previously purchased 27 TDRs from private sellers. We have exhausted any other potential private sales and thus are requesting to purchase the remaining 15 units required from the Town of Bay Harbor Islands. Furthermore, per Exhibit A of Resolution 2171, we understand the current price of each TDR is \$75,000.00 and therefore the total purchase price will be \$1,125,000.00.

We respectfully ask to be heard at the special council meeting scheduled for April 14, 2021.

I thank you both in advance for your kind consideration. Please contact me should you have any questions or require additional information.

Kind regards,

A handwritten signature in blue ink, appearing to read 'Laura Tauber', written over the printed name and title.

Laura Tauber
Principal

Enclosures



Application Fee: \$1,000 Private Transaction - \$500 Town Owned Units

(For official use only)

DATE RECEIVED: _____ TDR UNIT COST: \$ _____
TDR UNITS REQUESTED _____ PROJECT TOTAL UNITS _____
APPROVAL DATE: _____ APPROVED BY: _____

TOWN OF BAY HARBOR ISLANDS APPLICATION FORM TRANSFER OF DEVELOPMENT RIGHTS

APPLICANT INFORMATION

Name Island Club Towers, LLC		
Phone (305) 861-8181	e-mail ltauber@taubco.com	Fax (305) 861-9736
Address 1801 NE 123 rd Street, Suite 300		
City and State North Miami, Florida		Zip Code 33181
Relationship to Property: Owner		

RECEIVER SITE INFORMATION

Owner's Name Irwin Tauber, Manager of Island Club Towers, LLC		
Phone (305) 861-8181	e-mail ltauber@taubco.com	Fax (305) 861-8181
Address 1801 NE 123 rd Street, Suite 300		
City and State North Miami, Florida		Zip Code 33181
Property Address/Location 9161 & 9201 East Bay Harbor Drive		
Legal Description: LOT(S) 19, 20, 21 & 22 BLOCK 1		
Folio Number(s) 13-2227-001-0170 / 13-2227-001-0180		Current Zoning RM-1
Property Size 1 acre (1.03)		Purchase date 11/01/2001
Existing use of the property Vacant Land (previously 37 residential units)		
Describe Existing Structure on Property Vacant Land (previously 2-story buildings)		
Dwelling units to be received		15
Total Dwelling units including TDR		TDR 86

HAS SITE PLAN FOR RECEIVING PROPERTY BEEN APPROVED?

Yes ☒ No ☐

If Yes, then provide date of approval 07/16/2013

If Not, then attach preliminary site plan.

ARE TDRs BEING REQUESTED FROM THE TOWN? Yes X No

If Yes, skip the donor site portion

If Not, then fill in the donor site portion.

DONOR SITE INFORMATION, IF APPLICABLE

Owner's Name		
Phone ()	e-mail	Fax ()
Address		
City and State		Zip Code
Property Address/Location		
Legal Description: LOT(S) BLOCK		
Folio Number	Current Zoning	Year built
Property size	Purchase date	
Existing use of the property		
Describe Existing Structure on Property		
Dwelling units to be transferred to TDR Bank		
Units permitted		

APPRAISAL INFORMATION - IF APPLICABLE

(Appraiser must be approved by the Town)

(Only fill this portion out if purchasing TDRs from the Town and if the amount set by the Town is not accepted by you.)

Name:		
Phone ()	e-mail	Fax ()
Address		
City and State		Zip Code
Date of Appraisal / /	Appraisal Value of TDR unit \$	
Proposed TDR Unit Value \$		

SURVEY COMPANY INFORMATION - (provide survey's for both receiver and donor sites)

Survey must be current (no more than 6 months old)

Name of Surveyor Blanco Surveyors, Inc.		
Address 555 North Shore Drive		
Phone (305) 865-1200	e-mail: blancosurveyorsinc@yahoo.com	Fax ()

Name of Surveyor		
Address		
Phone ()	e-mail	Fax ()

PROPERTY CODE INSPECTION RESULTS - (Donor Site)

The Town requires, as a condition of permitting any transfer or development rights, that the donor parcel and/or receiving parcel improve the site to meet as many current day code requirements as possible, as determined by the Town. This may include the Town's land development code such as zoning, landscaping, signage and property maintenance. It may also include Building Code and Life Safety Code improvements.

Building must have obtained 40 or 50 Year Certification - If Applicable**Outstanding Liens or Code Violations must be cured and/or paid - If Applicable**

Other inspections to be performed may include, but are not limited to, the following items:

Exterior paint	Windows	Doors	Elevators
Steps	Railings	Landscaping	Parking area
Pool/Recreation facilities		Fences/Walls	Plumbing
Electrical System	A/C equipment	Roof mounted equipment/screening	
Roofing			

I hereby certify that:

- 1) The information furnished on this application and the attachments is true.
- 2) I am the owner(s) of record of the property described in this application.
- 3) If the application, as modified or amended during the review and approval process, is granted, I agree, in consideration therefore, to indemnify and hold harmless, and promise not to sue, the Town of Bay Harbor Islands, include its officers and employees, in connection with any claims or other actions arising out of said review and approval.

A Contract for Sale and Purchase of Development Rights and Deed of Transfer of Development Rights shall be required as part of the approval of a TDR transfer. The deed transferring the development rights shall be recorded in the public records prior to the issuance of a development permit.

RECEIVER SITE

Signature of Owner (Applicant)

MARCH 3, 2021

Date

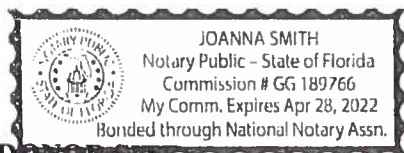
Signature of Owner (Co-Applicant)

Date

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 3 day of March, 2021,
by Irwin Tauber on behalf of
Island Club Towers LLC, a Florida (corporation) (partnership) (Other:
.) He/She is personally known to me or has produced
(type of identification produced) as identification and did take
an oath.

My Commission Expires:



DONOR SITE

Joanna Smith

Notary Public, State of Florida

Print Name: Joanna Smith

Signature of Owner (Applicant)

Date

Signature of Owner (Co-Applicant)

Date

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this ____ day of _____, 20____,
by _____ on behalf of
_____, a Florida (corporation) (partnership) (Other:
.) He/She is personally known to me or has produced
(type of identification produced) as identification and did take
an oath.

My Commission Expires:

Notary Public, State of Florida

Print Name: _____

L01000009464

Florida Department of State
Division of Corporations
Public Access System
Katherine Harris, Secretary of State

Electronic Filing Cover Sheet

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

((H01000078467 2)))

Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.

To: Division of Corporations
Fax Number : (850) 205-0363

From: Account Name : JAM MARK LIMITED
Account Number : I20000000112
Phone : (305) 788-7758
Fax Number : (305) 789-7799

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

01 JUN 13 AM 8:43

FILED

AL 1

LIMITED LIABILITY COMPANY

ISLAND CLUB TOWERS LLC

Certificate of Status	1
Certified Copy	1
Page Count	04
Estimated Charge	\$180.00

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

01 JUN 13 PM 2:10

RECEIVED

Electronic Filing Menu

Corporate Filing

Public Access Help

**ARTICLES OF ORGANIZATION
OF
ISLAND CLUB TOWERS LLC**

The undersigned, being a duly authorized representative of a member, desiring to form a limited liability company under and pursuant to the Florida Limited Liability Company Act, Chapter 608, Florida Statutes, does hereby adopt the following Articles of Organization:

ARTICLE I

NAME

The name of the limited liability company is ISLAND CLUB TOWERS LLC (the "Company").

ARTICLE II

ADDRESS

The principal office and mailing address of the Company is:

701 Brickell Ave.
Suite 3000
Miami, Florida 33131

ARTICLE III

REGISTERED AGENT AND OFFICE

The Company designates 701 Brickell Ave., Suite 3000, Miami, Florida 33131 as the street address of the initial registered office of the Company and names Intrastate Registered Agent Corporation as the Company's initial registered agent at that address to accept service of process within this state.

ARTICLE IV

MANAGEMENT

The Company shall be conducted, carried on, and managed by at least one (1) Manager. The Manager(s) shall also have the rights and responsibilities described in the Operating Agreement of the Company. The Manager(s) shall serve in such capacity until their successor(s) are duly elected and qualified.

FILED
01 JUN 13 AM 8:43
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLE V. DURATION AND CONTINUATION

The period of the Company's duration shall commence with the filing of these Articles of Organization with the Secretary of State, and shall continue perpetually, unless terminated (i) in accordance with the Company's Operating Agreement, or (ii) by the written agreement of a majority of ownership interest.

ARTICLE VI. PURPOSE

The purpose for which the Company is being formed is to engage in any activity or business permitted under the laws of the United States and the State of Florida.

ARTICLE VII. ADDITIONAL MEMBERS

Additional Members may be admitted upon the approval of a majority of the ownership interest of the Company, upon the written application of such new Member, in the manner set forth in the Operating Agreement of the Company.

ARTICLE VIII. OPERATING AGREEMENT

The power to adopt, alter, amend, or repeal the Operating Agreement of the Company shall be vested in the Members of the Company in the manner set forth in the Operating Agreement of the Company.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand and seal this 13th day of June, 2001.


Bernard Jacobson
Duly Authorized Representative of a
Member

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

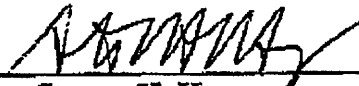
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FILED

ACCEPTANCE OF REGISTERED AGENT

The undersigned agrees to act as registered agent for ISLAND CLUB TOWERS LLC to accept service of process at the place designated in these Articles of Organization, and to comply with the provisions of Chapter 608, Florida Statutes, and acknowledge that the undersigned is familiar with, and accepts, the obligations of such position on this 13th day of June, 2001.

INTRASTATE REGISTERED AGENT CORPORATION

By: 
Name: Steven H. Hagen
Title: Vice President

MLA1 #1046920 v1

FILED
01 JUN 13 AM 8:43
STATE OF FLORIDA
TALLAHASSEE, FLORIDA

OFF. REC. CL.

20136PG4124

This Instrument Prepared by,
Record and Return to:
Mark I. Aronson, Esq.
Holland & Knight LLP
701 Brickell Avenue, Suite 3000
Miami, Florida 33131

02R022023 2002 JAN 11 14:52

WARRANTY DEED

DEED 13,800.00 SURTX 12,600.00
HARVEY RUVIN, CLERK DADE COUNTY, FL

This Warranty Deed is made by Gator Bay Harbor I, L.C., a Florida limited liability company ("Grantor"), whose address is 1595 N.E. 163rd Street, North Miami Beach, Florida 33162, to Island Club Towers LLC, a Florida limited liability company ("Grantee"), whose address is 9700 Collins Avenue, Suite 303, Bal Harbor, Florida 33154 and whose tax I.D. number is 65-1116302.

Grantor, for and in consideration of the sum of Ten And No/100 Dollars (\$10.00) and other good and valuable consideration paid to Grantor by Grantee, the receipt and sufficiency of which are hereby acknowledged, grants, bargains, sells and conveys to Grantee, Grantee's heirs, successors and assigns forever, the following described land, situate, lying and being in Miami-Dade County, Florida:

Lots 19 and 20 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

Folio No. 13 2227 01 0170

Together With all easements, tenements, hereditaments and appurtenances belonging to the land; and

Together With all buildings and other improvements now or hereafter located on the land; and

Together With all of Grantor's right, title and interest, if any, in and to the streets, avenues, roads, ways, alleys, waterways and canals, open and proposed, in front of or adjoining the land;

To Have And To Hold the same in fee simple forever.

This conveyance is made subject to:

429

20136-4124

19+20

20136PG4125

- (a) Taxes for the year 2002 and subsequent years;
- (b) Applicable zoning ordinances;
- (c) Conditions, restrictions, limitations and easements of record, which are not reimposed by this instrument;

Grantor covenants that at the time of delivery of this deed, except as described above, Grantor is lawfully seized in fee simple of the property described above; that Grantor has good right, title and lawful authority to sell and convey said property; the property is free of any encumbrances; the Grantee will have peaceable and quiet possession of the property; and Grantor fully warrants the title to the property and will defend it against the lawful claims and demands of all persons whomsoever.

Grantor has duly executed this instrument on the 5 day of November, 2001.

Signed, sealed and delivered
in the presence of:

GATOR BAY HARBOR I, L.C.,
a Florida limited liability Company

Horst Schmidt
Name: Horst Schmidt

By: [Signature]
Name: Kurt Dohle
Its: _____

Harold Hische
Name: Harold Hische

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

The foregoing instrument was acknowledged before me this 5th day of November, 2001 by Kurt Dohle of Gator Bay Harbor I, L.C., a Florida limited liability company, on behalf of the limited liability company. He/she is personally known to me or has produced _____ as identification.

Notary Public: [Signature]
Name: Dr. Heiko Jackschath
Commission No.: _____
Notary Public

My commission expires:
MIA1 #1081906 v1



AGREEMENT FOR PURCHASE AND SALE OF
TRANSFERABLE DEVELOPMENT RIGHTS

THIS AGREEMENT FOR PURCHASE AND SALE OF TRANSFERABLE DEVELOPMENT RIGHTS (the "Agreement") is made and entered into as of the 31 day of March, 2021 (the "Effective Date") by and between the TOWN OF BAY HARBOR ISLANDS (the "Town" or "Seller") and ISLAND CLUB TOWERS, LLC, (the "Buyer"). Buyer and Seller are referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS:

A. Buyer 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 purchase fifteen (15) transferable development rights (collectively, the "TDRs") from Seller for and in connection with the development and construction of the Project (defined below) on the Property.

B. Buyer has submitted a Site Development Plan to the Town for the approval of a Project known as Island House having 86 units 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 1170-A (the "Resolution").

D. The Resolution contains certain conditions for approval of the Project including, but not limited to, the number of TDRs required for the Project and the period of time in which Buyer must obtain the building permit for the Project.

E. Seller has agreed to sell the TDRs to Buyer, and Buyer has agreed to purchase the TDRs from Seller, upon the terms and conditions contained hereinafter.

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 this reference.

2. Agreement to Sell and Purchase. Seller hereby agrees to sell to Buyer, and Buyer hereby agrees to purchase from Seller, upon the terms and conditions set forth herein, fifteen (15) TDRs. In the event that the number of units in the Project or the density of the Project decrease prior to the Closing Date and, thus, the Project requires less TDRs, the number of TDRs sold by the Town to the Buyer shall be decreased accordingly -- as the Town shall sell Buyer only the number of TDRs that are necessary to construct the Project.

3. Purchase Price; Deposit.

(a) Subject to the credits set forth in this Agreement, Buyer shall pay Seller \$75,000.00, per TDR -- for a total purchase price of \$1,125,000.00 (the "Purchase Price") for the TDRs at "Closing" (as hereinafter defined) in good and immediately available United States funds by wire transfer to an account designated by Seller.



Buyer

(b) Buyer shall deliver to Frank Simone, P.A. (the "Escrow Agent"), within three (3) business days after the Effective Date, a "Deposit" in the amount equal to 40% of the Purchase Price to be held in escrow by the Escrow Agent. The Escrow Agent shall hold and disburse the Deposit in and from escrow pursuant to the terms and provisions of this Agreement. Provided this Agreement is not earlier terminated, the Escrow Agent shall hold the Deposit in escrow until Closing, and at Closing: (i) the Escrow Agent shall deliver the Deposit to Seller in good and immediately available United States funds by wire transfer to an account designated by Seller; and (B) Buyer shall receive a credit against the Purchase Price in the amount of the Deposit.

4. Fees, Costs, Expenses, Credits and Prorations. The Parties agree that:

(a) Seller shall pay all fees, costs, expenses and other charges payable to the consultants, attorneys and other third parties retained by Seller in connection with the transaction contemplated by this Agreement.

(b) Buyer shall pay: (i) all fees, costs, expenses and other charges payable to the consultants, attorneys and other third parties retained by Buyer in connection with the transaction contemplated by this Agreement; and (ii) the cost of all documentary stamp tax, surtaxes and other governmental impositions due on the "Deed" (as hereinafter defined), including the cost to record the Deed.

5. As-Is, Where-Is; No Representations. Buyer acknowledges that it is purchasing the TDRs in their "AS-IS, WHERE-IS" condition. Buyer also acknowledges that, except only for the specific representations, warranties, covenants, statements and agreements expressly made by Seller in this Agreement and in the documents executed and delivered by it at Closing, Seller has not made, does not make, and specifically negates and disclaims any and all other representations, warranties, covenants, statements and agreements of any kind, nature or character whatsoever, whether express or implied, oral or written, concerning or relating to the TDRs.

6. Representations, Warranties, Covenants and Agreements of Seller. Seller hereby represents, warrants, covenants, agrees and states to and with Buyer as follows:

(a) Seller shall convey to Buyer good and marketable fee simple title to the TDRs free and clear of any and all claims, liens, mortgages, security agreements, financing statements and other encumbrances.

(b) Seller has the full right, power, and authority to enter into and perform under this Agreement and to consummate the transaction contemplated herein. Upon approval of this Agreement, by the Town Council, Seller does not need any further consent, joinder or other authorization from any governmental/quasi-governmental entity or authority, court, corporation, partnership, company, entity, trust, person or individual to: (i) execute and deliver this Agreement or any agreement, document or instrument executed or to be executed in connection herewith; or (ii) perform any of its obligations under this Agreement or any agreement, document or instrument executed or to be executed in connection herewith. 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 and such other agreements, documents and instruments shall be valid, binding and enforceable against Seller.



Buyer

(c) Neither the entering into of this Agreement, nor the performance any obligation under this Agreement, nor the consummation of the transaction contemplated herein, will: (i) constitute a violation or breach by Seller of (A) any agreement, document or instrument to which Seller is a party or by which Seller or the TDRs is subject or bound, or (B) any judgment, order, writ, injunction or decree issued against or imposed upon Seller or the TDRs; or (ii) result in the violation of any law, rule, regulation, ordinance, code or order promulgated or issued by any governmental/quasi-governmental entity or authority or court of competent jurisdiction that is applicable to Seller or the TDRs.

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" (as hereinafter defined) and shall survive Closing.

7. Representations, Warranties, Covenants and Agreements of Buyer. Buyer hereby represents, warrants, covenants, agrees and states to and with Seller as follows:

(a) Buyer is a validly formed business entity in good standing in the state of its formation and is duly authorized to conduct and transact business in the State of Florida. Buyer has the full right, power and authority to enter into and perform under this Agreement and consummate the transaction contemplated herein. Buyer does not need any further consent, joinder or other authorization from any governmental/quasi-governmental entity or authority, court, corporation, partnership, company, entity, trust, person or individual to: (i) execute and deliver this Agreement or any agreement, document or instrument executed or to be executed in connection herewith; or (ii) perform any of its obligations under this Agreement or any agreement, document or instrument executed or to be executed in connection herewith. The person executing this Agreement on behalf of Buyer is duly authorized to execute and bind Buyer 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 and such other agreements, documents and instruments shall be valid, binding and enforceable against Buyer.

(b) Neither the entering into of this Agreement, nor the performance any obligation under this Agreement, nor the consummation of the transaction contemplated herein, will: (i) constitute a violation or breach by Buyer of (A) any agreement, document or instrument to which Buyer is a party or by which Buyer is subject or bound, or (B) any judgment, order, writ, injunction or decree issued against or imposed upon Buyer; or (ii) result in the violation of any law, rule, regulation, ordinance or order promulgated or issued by any governmental/quasi-governmental entity or authority or court of competent jurisdiction that is applicable to Buyer.

(c) Buyer understands and agrees that this Agreement shall not become effective until it is ratified and approved by the Town Council, and the Town Council has the sole and exclusive right to approve or deny the approval of this Agreement and the TDRs contemplated in this Agreement in its sole and absolute discretion.

(d) Buyer understands and agrees to comply with all conditions set forth in the Resolution including, but not limited to, timely obtaining a building permit for the Project.

All of the representations, warranties, covenants, agreements and statements of Buyer set forth in this Section shall be true and correct at all times from the Effective Date through and including the Closing Date and shall survive Closing.



Buyer

8. Closing Conditions. Notwithstanding anything to the contrary contained in this Agreement, it shall be a condition precedent (each, a "Condition Precedent") to the Parties' obligation to close on the transaction contemplated by this Agreement that as of the "Closing Date" (as hereinafter defined): (i) the Town Council approves the instant Agreement and adopts a resolution approving this Agreement and the transaction contemplated herein (the "TDR Approval"), which TDR Approval shall be held by the Escrow Agent subject to Closing; and (ii) Buyer complies with all conditions set forth in the Resolution including, but not limited to, timely obtaining a building permit for the Project.

9. Documents to be Delivered at Closing. At Closing: (a) Seller shall execute and deliver to Buyer a Warranty Deed for Transfer of Development Rights (the "Deed"), in recordable form, conveying the TDRs to Buyer in fee simple free and clear of any and all claims, liens, mortgages, security agreements, financing statements and other encumbrances. The Deed shall be approved by the Town Attorney and shall restrict the future use of both the donor and receiving lands; and (b) Seller shall execute and deliver to Buyer a resolution evidencing its authority to execute and deliver the Deed.

10. Closing. The "Closing" subject to the terms and provisions of this Agreement, shall take place within ten (10) business of the date of written notice from the Town to the Buyer that the Town is able to issue the building permit for vertical construction of the Project (the "Closing Date"). However, notwithstanding anything set forth above or below, in no event shall the Closing Date occur more than one (1) year from the Effective Date of this Agreement, unless Buyer receives a six (6) month Closing Date extension from the Town (the "Closing Date Extension"). In order to receive a Closing Date Extension from the Town, Buyer shall execute an Addendum (in the form approved by the Town Attorney) to this Agreement prior to one (1) year from the Effective Date of this Agreement wherein the Buyer agrees upon execution of the Addendum to:

a) pay the Town 5% of the Purchase Price each month until the Closing as a Closing Date Extension Fee; and b) pay the balance of the Purchase Price into escrow. In the event that Buyer does not Close on this Agreement within one (1) year from the Effective Date of this Agreement or before the expiration of the Closing Date Extension (if applicable), Buyer shall be in Default of this Agreement and Seller shall retain the Deposit and all TDRs contemplated for sale by this Agreement.

11. Default.

(a) If Buyer defaults on any term, covenant, condition or other provision of this Agreement and the Resolution, then Seller shall have as its sole and exclusive remedy for such default the right to terminate this Agreement by giving a written notice of termination to Buyer and retain the Deposit as full and agreed upon liquidated damages in full and final settlement of any and all claims for damages Seller has or may have against Buyer and, upon the giving of such termination notice and the delivery of the Deposit to Seller, this Agreement shall terminate and the Parties shall be released from all terms, provisions, obligations and liabilities of this Agreement, except from those that expressly survive its termination. The Parties acknowledge and agree that this provision for liquidated damages is a fair and reasonable measure of the damages to be suffered by Seller in the event of Buyer's default under this Agreement based on the fact that the exact amount of damages that Seller may incur is incapable of ascertainment. Notwithstanding the foregoing, Buyer shall not be in default under this Agreement unless (i) Seller shall have first provided written notice of the default to Buyer, and (ii) Buyer shall have failed to cure the default within fourteen (14) days of the date of the notice of such default.


Buyer

(b) If Seller defaults on any material term, covenant, condition or other provision of this Agreement, then Buyer shall have the following remedies: (i) to terminate this Agreement by giving a written notice of termination to Seller and receive the return of the Deposit, and upon the giving of such termination notice and the delivery of the Deposit to Buyer, this Agreement shall terminate and the Parties shall be released from all terms, provisions, obligations and liabilities of this Agreement, except from those that expressly survive its termination; and/or (ii) to commence an action for specific performance against Seller to compel Seller to perform in accordance with the terms and provisions of this Agreement. Notwithstanding the foregoing, Seller shall not be in default under this Agreement unless (1) Buyer shall have first provided written notice of the default to Seller, and (2) Seller shall have failed to cure the default within a period of sixty (60) days after receiving notice of such default.

12. 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 1801 NE 123rd Street, Suite 300, North Miami, Florida 33181 Attn: Irwin Tauber; Phone No. 305-861-8181, email address: itauber@taubco.com; together with a copy to Bilzin Sumberg Baena Price & Axelrod, LLP, Attn: Suzanne Amaducci-Adams, Esq.; 1450 Brickell Avenue, 23rd Floor, Miami, Florida 33131; Phone No. (305) 374-7580, email address: samaducci@bilzin.com.

Notices to Seller shall be sent to 9665 Bay Harbor Terrace, Bay Harbor Islands, Florida 33154, Attn: Maria Lasday, Phone No. (305) 866-6241, email address mlasday@bayharborislands-fl.gov with a copy to frank@franksimone.com

Notices to Escrow Agent shall be sent to Frank Simone, P.A., 701 Brickell Ave, Suite 1550, Miami, Florida 33131 Attn: Frank C. Simone, Esq., Phone No. (305) 221-8000, email address frank@franksimone.com; together with a copy to the other Party and any person designated by such other Party to receive notice on its behalf.

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.

13. Broker. Each Party represents and warrants to the other that there are and have been no real estate brokers, agents or finders involved with respect to this Agreement or the transaction contemplated herein. Each Party (the "Indemnifying Party") shall indemnify, defend and hold the other Party (the "Indemnified Party") harmless from and against any claim, cause of action, loss, damage, liability, fee, cost or expense incurred by the Indemnified Party (including reasonable attorneys' fees and costs through all trial, appellate and post-judgment levels and proceedings) as a result of any breach by the Indemnifying Party of the foregoing representation and warranty. This Section shall survive Closing or any earlier termination of this Agreement.



Buyer

14. 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 Deposit in a non-interest bearing escrow account with any financial institution having branches in Miami-Dade County, Broward County and/or Palm Beach County. The Escrow Agent shall not be liable for any actions taken by it in good faith, but only for its gross negligence or willful misconduct. Each Party 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 gross 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. Seller hereby acknowledges that the Escrow Agent represents Buyer in the transaction contemplated by this Agreement and hereby consents to and approves of such representation.

15. 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 Closing or any earlier 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 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.



Buyer

(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; provided, however (i) any reference in this Agreement to a time period of less than six (6) days shall, in the computation thereof, exclude Saturdays, Sundays and legal holidays, (ii) any reference in this Agreement to a time period of six (6) days or more shall, in computation thereof, include Saturdays, Sundays and legal holidays, and (iii) if the last day of any time period is a Saturday, Sunday or legal holiday, then such period shall be extended to 5:00 PM. Eastern Standard Time on the next day that is not a Saturday, Sunday or legal holiday.

(f) Buyer may not assign this Agreement without prior written approval from Seller, which approval shall be in Seller's sole and absolute discretion. Notwithstanding the foregoing, Seller's approval shall not be withheld for an assignment to a successor-in-interest to the Property for which the TDRs attach. This Section shall survive Closing.

(g) 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.

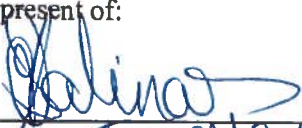
(i) This Agreement may be executed in multiple counterparts, each of which individually shall be deemed an original, but when taken together shall be deemed to be one and the same Agreement. The signature of any Party on copies of this Agreement (or any exhibit or amendment hereto) may be signed by electronic 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.

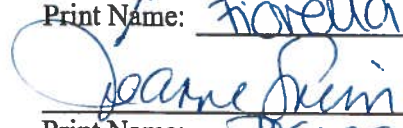


Buyer

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:



Print Name: Fiorella Salinas


Print Name: Joanne Smith

BUYER:

ISLAND CLUB TOWERS, LLC

By:  _____

Sign Name

Irwin Tauber

Print Name

SELLER:

TOWN OF BAY HARBOR ISLANDS

By: _____

Name: _____

Title: _____

Date: _____

Print Name: _____

Print Name: _____



Buyer

Town

EXHIBIT "A"

The Legal Description of the Property

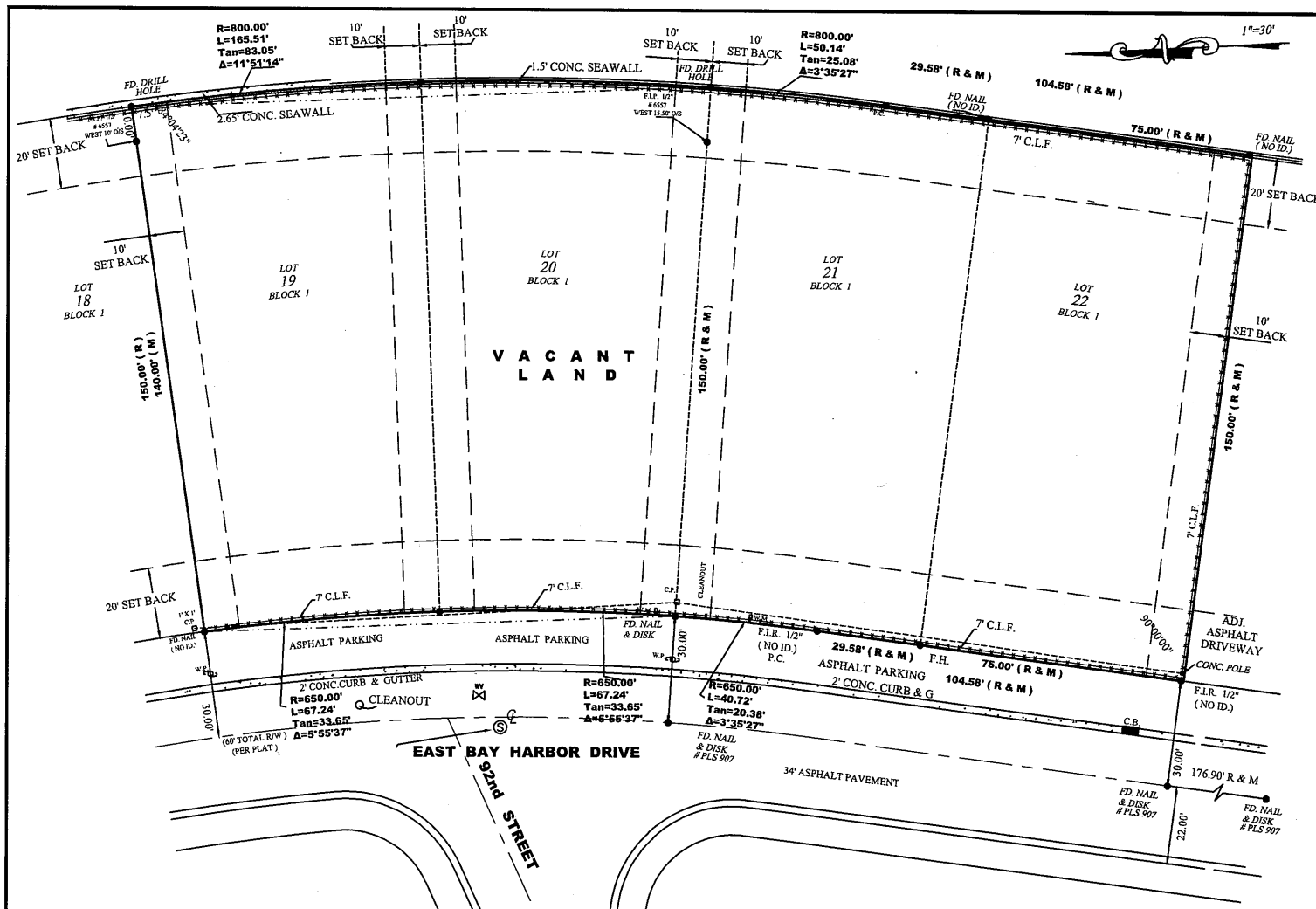
BAY HARBOR ISLAND PB 46-5 LOTS 21 & 22 LESS WLY11FT FOR ST
BLK 1 LOT SIZE 20850 SQ FT FAU 13 2227 064 0001 FKA BAY ISLE CONDO

and

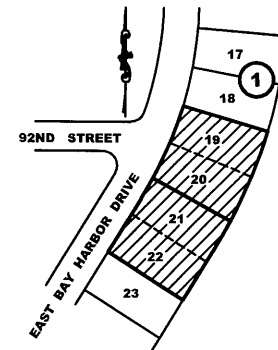
26-27-34-35 52 42 BAY HARBOR ISLAND PB 46-5 LOTS 19 & 20 BLK 1
LOT SIZE 155.270 X 150 OR 20136-4124 1101 6



Buyer



LOCATION MAP
NOT TO SCALE



BOUNDARY SURVEY

PROPERTY ADDRESS: 9161, 9201 & 9221 E. BAY HARBOR DR., BAY HARBOR ISLANDS, FL 33154.

LEGAL DESCRIPTION:
PARCEL 2: LOTS 19 AND 20, BLOCK 1, OF BAY HARBOR ISLAND, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 46, PAGE 5, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. (FOLIO# 13-2227-001-0170)

PARCEL 3: LOTS 21 AND 22, BLOCK 1, OF BAY HARBOR ISLAND, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 46, PAGE 5, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. (FOLIO# 13-2227-001-0180)

AKA
CONDOMINIUM UNITS 1A, 1B, 2A, 3A, 3B, 4A, 4B, 5A, 5B, 6A, 6B, 7A, 7B, 8A, 8B, AND 9B, OF BAY ISLE CONDOMINIUM, A CONDOMINIUM ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF, AS RECORDED IN OFFICIAL RECORDS BOOK 10335, PAGE 262, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, AND ANY AMENDMENTS THERETO, TOGETHER WITH ITS UNDIVIDED SHARE IN THE COMMON ELEMENTS.

- SURVEYOR'S NOTES:
- 1) OWNERSHIP SUBJECT TO OPINION OF TITLE.
 - 2) NOT VALID WITHOUT THE SIGNATURE AND RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
 - 3) THE SURVEY DEPICTED HERE IS NOT COVERED BY PROFESSIONAL LIABILITY INSURANCE.
 - 4) LEGAL DESCRIPTION PROVIDED BY CLIENT.
 - 5) UNDERGROUND ENCROACHMENTS NOT LOCATED.
 - 6) ELEVATIONS ARE BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1929.
 - 7) OWNERSHIP OF FENCES ARE UNKNOWN.
 - 8) THERE MAY BE ADDITIONAL RESTRICTIONS NOT SHOWN ON THIS SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.
 - 9) CONTACT THE APPROPRIATE AUTHORITY PRIOR TO ANY DESIGN WORK FOR BUILDING AND ZONING INFORMATION.
 - 10) EXAMINATION OF THE ABSTRACT OF TITLE WILL HAVE TO BE MADE TO DETERMINE RECORDED INSTRUMENTS, IF ANY, AFFECTING THIS PROPERTY.
 - 11) ELEVATIONS BASED OFF OF BMH N/A

ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
BEARINGS WHEN SHOWN ARE REFERRED TO AN ASSUMED VALUE OF SAID PG: 5

LEGEND & ABBREVIATIONS:

CONCRETE	B.C. = BLOCK CORNER	U.E. = UTILITY EASEMENT	P.R.C. = POINT OF REVERSE CURVE
CONC. BLOCK WALL	P. = PROPERTY LINE	A.E. = ANCHOR EASEMENT	CH = CHORD
WOOD DECK	C. = CENTER LINE	D.E. = DRAINAGE EASEMENT	CH. BRG. = CHORD BEARING
COVERED AREA	M. = MONUMENT LINE	ENCR. = ENCROACHMENT	B.M. = BENCH MARK
ASPHALT	CALC. = CALCULATED	F.F. ELEV. = FINISHED FLOOR ELEVATION	B.R. = BEARING REFERENCE
CHAIN LINK FENCE (CLF)	F. = FIELD MEASURED	N.T.S. = NOT TO SCALE	P.O.C. = POINT OF COMMENCEMENT
WOOD FENCE (WF)	P. = PER PLAT	P.B. = PLAT BOOK	P.O.B. = POINT OF BEGINNING
IRON FENCE (IF)	TYP. = TYPICAL	O.R.B. = OFFICIAL RECORD BOOK	T.B.M. = TEMPORARY BENCH MARK
ARC DISTANCE	P.P.M. = PERMANENT REFERENCE MONUMENT	M.H. = MAN HOLE	FD. IR. = FOUND IRON REBAR
LENGTH	P.C.P. = PERMANENT CONTROL POINT	C.B.S. = CONCRETE BLOCK STRUCTURE	FD. P.K.NAIL = FOUND PARKER-KALON NAIL
CENTRAL ANGLE / DELTA	FD. NAIL = FOUND NAIL	B.L.C. = BUILDING OVERHEAD UTILITY LINES	FD. P.S.M. = PROFESSIONAL SURVEYOR AND MAPPER
RADIUS	FD. D/H = FOUND DRILL HOLE	TEL. = TELEPHONE FACILITIES	A/C = AIR CONDITIONER PAD
TANGENT	FD. 1/2" I.P. = FOUND IRON PIPE 1/2" DIAMETER		T.X. = TRANSFORMER
POINT OF TANGENCY	C.M. = CONCRETE MONUMENT		P.P. = POWER POLE
POINT OF CURVATURE	W.M. = WATER METER		D.M.E. = DRAINAGE & MAINTENANCE EASEMENT
POINT OF COMPOUND CURVE	R/W = RIGHT OF WAY		+ 0.0' = EXISTING ELEVATION
CATCH BASIN			
CABLE UTILITY BOX			

I HEREBY CERTIFY THAT THE SURVEY REPRESENTED THEREON MEETS THE MINIMUM TECHNICAL REQUIREMENTS ADOPTED BY THE STATE OF FLORIDA BOARD OF LAND SURVEYORS PURSUANT TO SECTION 472.027 FLORIDA STATUTES THERE ARE NO ENCROACHMENTS, OVERLAPS, EASEMENTS APPEARING ON THE PLAT OR VISIBLE EASEMENTS OTHER THAN AS SHOWN HEREON.

ADIS NUNEZ

ADIS N. NUNEZ
REGISTERED LAND SURVEYOR
STATE OF FLORIDA #5824

Digitally signed by ADIS NUNEZ
DN: cn=ADIS NUNEZ, o=BLANCO SURVEYORS INC., email=adn@blancosurveyorsinc.com, c=US

SINCE 1987

BLANCO SURVEYORS INC.

Engineers • Land Surveyors • Planners • LB # 0007059
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(305) 865-1200

Email: blancosurveyorsinc@yahoo.com

Fax: (305) 865-7810

FLOOD ZONE: AE
PANEL: 0144

DATE: 4/1/21

SCALE: 1" = 30'

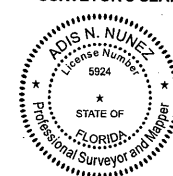
SUFFIX: L
COMMUNITY # 120637

DWN. BY: R.BELLO

FEMA DATE: 09/11/09
BASE: 9' & 10'

JOB No. 21-230

SURVEYOR'S SEAL



**TOWN OF BAY HARBOR ISLANDS
COMMUNITY DEVELOPMENT
MEMORANDUM**

To: Alba Chang, CMC - Town Clerk
Town of Bay Harbor Islands

CC: Maria Lasday – Town Manager
Joseph Geller, Esq. – Town Attorney

From: Michael J. Miller, AICP 
Consultant Town Planner

Date: April 7th, 2021

Subject: Island Club Towers – 86 DU Multi-Family Residence
9201 East Bay Harbor Drive
TDR Donor Request – From Town-Owned “Pool”
Bay Harbor Islands Acct. No. BP2016-34
MMPA Acct. No. 01-0702-0961

ISSUE

On July 16th, 2013 a revised Site Development Plan approval was granted by the Town's Planning and Zoning Board for an 87 DU multiple-family complex (Res. No 1170-A). The current request indicates an intent to build 86 DU. The allowable base zoning density of 34 DUA would allow 35 DU on the receiving site (1.03 acres X 34 DUA = 35.02 or 35 DU). Since the proposed project now includes 86 total dwelling units, this requires the acquisition of 51 TDR units. The developer of the receiving site (Island House) has been contracting with other nearby privately-owned / fully developed sites (Trio Commons / 9300 WBHD Condo in August / September 2014; 9201 WBH Townhomes in September 2015; Habitat / 1175 101 Street in October 2015; Sereno East & Anchorage Condo in February 2016) to acquire 27 TDR units to date. Therefore, the applicant must still acquire 24 TDR units prior to construction. In September 2016 the developer filed a request with the Town to acquire 20 public Town TDR units. The application form filed in 2016 stated an intent to build only 82 DU and building permit plans were eventually filed for 82 DU. If that acquisition was completed, they would have had enough base / TDR units to proceed (82 DU – 35 Base DU – 27 Private TDR DU - 20 Town TDR DU). On October 17th, 2016 the Town Council adopted Resolution No. 2104 to sell 20 public TDR units from the Town “pool” to the developer for \$1,400,000 (\$70,000 per DU). A condition of the Resolution required the developer to execute and close on the Agreement for Purchase and Sale within 10 business days. These actions (execute agreement / close) never occurred; therefore, the TDR sale was not finalized. As of 2021 it now appears the developer is seeking to build 86 DU which would require more TDR units than in 2016 (24 TDR required).

**Bay Harbor Islands
Island Club Towers – Public TDR Request
Town Council Staff Report
April 7th, 2021
Page 2**

On March 3rd, 2021 the Town received a new TDR application to acquire the remaining 24 public TDR units. Since that time the applicant has submitted revised TDR applications for 20 TDR units and now 15 TDR units have been received. **If the Town agrees to the latest TDR sale application, the developer will still need to acquire an additional 9 TDR units to build 86 total DU.**

The applicant is aware that the Town Council has adopted the 50% “public TDR” rule by Resolution and is requesting that the Town Council approve their request to purchase 15 TDR units (29.4% of total TDR DU needed) from the Town-owned “pool”. The latest letter submitted by the applicant (still dated 3/03/21) indicates that the intent of the developer is to request only 15 TDR units from the Town-owned “pool”.

OPTIONS / ACTIONS

Review the contents of this staff report and, if the Town Council agrees to the request, favorably consider the applicant’s offer to acquire fifteen (15) TDR units from the Town-owned “pool” of TDR units for \$75,000 per TDR unit (\$1,125,000). If the Town Council does not like the project and/or does not want to allocate all or portions of Town-owned TDR units, deny the request. In this instance the applicant will need to acquire the additional TDR units from private property owners.

The applicant has offered to acquire the TDR units for the current Town per-unit value (\$75,000) for a waterfront development. Section 23-22.2(d) allows the Town Council to “set the value of any public development rights. The Council may use current market value to set the price or develop an alternative value method consistent with the goals, objectives and vision of the Town including but not limited to capital or land contributions for parks, open space and parking.”

BACKGROUND

The Town established its Transfer of Development Rights (TDR) program in 2004-05 via the adoption of the Phase I EAR-Based Comprehensive Plan to the Future Land Use Element. This system was necessary and required by the State (DCA) to ensure a method was in place to regulate the equitable allocation of dwellings units to individual building sites in the Town. The Town’s original 1988 Comprehensive Plan included major errors in calculating existing residential densities by utilizing an “average” block-by-block analysis (34 DUA overall average), even though individual project densities ranged from 7 DUA (duplex) to over 70 per acre (midrise).

Over one third of the older existing developments have densities over 34 DUA. Conversely, many properties are “underdeveloped” with villas / duplexes / triplexes / etc., and while 8-9 DU could be built, the original developers chose not to build that many DU. However, those properties are entitled to build more DU if they desire to redevelop their sites. The Town’s TDR system ensures that all property owners have the right to build to at least the base density – 34 DUA. If a developer desires to build to a higher residential density than 34 DUA, and they can meet all the Town’s land development criteria, the Planning and Zoning Board approves the site design, and the Town Council likes the design and approves TDR allocations, which occur on a case-by-case basis, the project can be built to include additional DU.

On November 12th, 2013, the Town Council amended the Zoning Code to established maximum multifamily residential density limits per Zoning District. Lots zoned RM-1 Multiple Family Residential District (Waterfront lots) now allow for a maximum overall density (includes base density / TDR units) of 70 dwelling units per acre. Lots zoned RM-2 Multiple Family Residential District (non-waterfront lots) now allow for a maximum overall density (includes base density / TDR units) of 60 dwelling units per acre. Lots zoned RM-3 Multiple Family Residential District now allow for a maximum overall density (includes base density / TDR units) of 80 dwelling units per acre. If the Town approves a development in the RM-3 Zoning District with a height exceeding 75 feet in accordance with the Town Charter / Code provisions, the maximum density is determined at the time of Site Development Plan / TDR approval. The Island House project was approved prior to the Town establishing maximum density limits. Applying the current 70 DUA criteria, this site if requested to be approved today (2021) would only be allowed to include 72 DU. With 86 DU as proposed the project density would be 83 DUA. The 2013 PZB Site Development Plan approval has been kept "alive" by a series of extensions granted either by the Town Manager (6 months) or Florida State Statute / Governor's Executive Orders. The current project expiration date has been extended to June 7th, 2022.

At the April 7th, 2014 Town Council meeting a Resolution was adopted setting a 50% "rule" (50% private TDRs first / 50% public TDR second) for TDR units assigned to projects. This was meant to reserve the few remaining Town-owned TDR units over a longer period of time, since there is a large number of privately owned TDR units. As previously stated, the applicant is aware that the Town Council has adopted the 50% rule Resolution and is requesting to purchase 15 TDR units (29.4%) from the Town-owned "pool".

In the earlier years of the Town's TDR program (2004-06+/-) about 40% of the 30+/- new redevelopment projects requested some TDR units. The initial price of publically-owned TDR units was \$75,000 for waterfront sites and \$45,000 for non-waterfront sites, which was based on actual real estate sales at that time. However, due to the real estate market collapse (2006-11) only two (2) TDR allocations were consummated from that time period (total of 13 TDR units). Both TDR transactions were done via private sales for values just below \$70,000 per DU. Both were for waterfront locations and only one was built (Millennium West / Riva).

Due to development inactivity and the cost of appraisal updates the Town did not update the TDR values for several years. In April 2011 due to a perceived increase in development activity the Town requested the original appraiser (Quinlivan) to update the TDR values of publically-owned TDR units. Several price adjustments have been adopted since April 2011. **The current Town-owned TDR values set by Resolution No. 2171 on March 11th, 2019 are \$75,000 for waterfront sites and \$65,000 for non-waterfront sites.**

Between 2011-2016 there have been numerous Town-owned TDR allocations approved by the Town Council. However, no Town-owned TDR requests have been received / consummated since 2016. Our records note the Town has now sold 250 of the 330 available Town-owned TDR units (East Island multi-family area). As of April 2021, there are only 80 Town-owned TDR units remaining. Of the contracts to sell the TDR units, 165 TDR units are for waterfront sites and 85 are for non-waterfront sites. There have also been several "sales" of TDR units approved by the Town from private property owners. Our records reflect these private "sales" total 263 TDR units from private parties to date. Some have been approved by the Town but not closed as yet. If the Town approves this request (15 Town-owned TDR units) there will be only 65 Town-owned TDR units remaining.

SUMMARY

On July 16th, 2013 a revised Site Development Plan approval was granted by the Town's Planning and Zoning Board for an 87 DU multiple-family complex (Res. No 1170-A). The current request indicates an intent to build 86 DU. The allowable base zoning density of 34 DUA would allow 35 DU on the receiving site (1.03 acres X 34 DUA = 35.02 or 35 DU). Since the proposed project now includes 86 total dwelling units, this requires the acquisition of 51 TDR units. The developer of the receiving site (Island House) has been contracting with other privately-owned / fully developed sites (Trio Commons / 9300 WBHD Condo in August / September 2014; 9201 WBH Townhomes in September 2015; Habitat / 1175 101 Street in October 2015; Sereno East & Anchorage Condo in February 2016) to acquire 27 TDR units to date. Therefore, the applicant must still acquire 24 TDR units prior to construction.

In September 2016 the developer filed a request with the Town to acquire 20 public Town TDR units. The application form filed in 2016 stated an intent to build only 82 DU and building permit plans were eventually filed for 82 DU. If that acquisition was completed, they would have had enough base / TDR units to proceed (82 DU – 35 Base DU – 27 Private TDR DU - 20 Town TDR DU). On October 17th, 2016 the Town Council adopted Resolution No. 2104 to sell 20 public TDR units from the Town "pool" to the developer for \$1,400,000 (\$70,000 per DU). A condition of the Resolution required the developer to execute and close on the Agreement for Purchase and Sale within 10 business days. These actions (execute agreement / close) never occurred; therefore, the TDR sale was not finalized.

As of 2021 it now appears the developer is again seeking to build 86 DU which would require more TDR units than in 2016 (24 TDR remaining to be acquired). The latest revised request is to purchase 15 TDR units from the Town-owned "pool". If the Town Council agrees to this request, the developer will still need to acquire an additional nine (9) TDR units to build 86 total DU.

The Code allows the Town Council to set the current price or use an alternative method to determine the TDR values. The applicant's current offer of \$75,000 per DU matches the current value for waterfront sites set by the Town Council. If the Town Council likes the redevelopment project, favorably consider the applicant's offer to acquire fifteen (15) TDR units from the Town-owned "pool" of TDR units. If the Town Council does not like the project and/or does not want to allocate Town-owned TDR units, deny the request current request. In this instance the applicant will need to acquire all or more of the additional 24 TDR units from private property owners. The Town's 50% rule is met in this instance as this request is for 29.4% of the required TDR units.

If the Town Council approves the request of allocating 15 TDR units at \$75,000 each, the total value would be \$1,125,000.

Suggested Condition - TDR allocations are meant for site specific allocations for the actual number of DU being developed and the intention is the development will move forward. TDR units cannot be "banked" by a party. Once a site plan is approved by the Town a building permit must be requested by a time certain (1 year) and extensions may be granted. MMPA suggests the sales contract include a "reverter" clause that provides that if the project does not proceed within the specified time period, all of the TDR units (or DU not needed) revert back to the Town-owned "pool".

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A-006	SITEPLAN - CONTEXT
A-100	SITEPLAN
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A-502	E-W SECTION

ISLAND HOUSE

ARCHITECT
REVUELTA ARCHITECTURE INTERNATIONAL
2950 SW 27TH AVENUE
SUITE No 110
MIAMI, FLORIDA 33133

CONSULTANT ARCHITECT
FRANKEL BENAYOUN ARCHITECTS
1177 KANE CONCOURSE
BAY HARBOR ISLANDS, FLORIDA 33154

SITE PLAN APPROVAL REVISION

9201 EAST BAY HARBOR DR.

Island House_Units Breakdown

Level	Type	No. Bedrooms	No. of the type per Level	Area per Unit (net sq ft)	Sub-Total Area
Second Level	A-1	3	2	1,542	3,084
	B-1	2	2	1,215	2,430
	B-2	2	2	1,289	2,578
	B-3	2	2	1,318	2,636
	B-4	2	2	1,319	2,638
Total Level 2			10		13,366

Level	Type	No. Bedrooms	No. of the type per Level	Area per Unit (net sq ft)	Sub-Total Area
Third to Sixth Level	A-1	3	2	1,542	3,084
	B-1	2	2	1,215	2,430
	B-2	2	2	1,289	2,578
	B-3	2	2	1,318	2,636
	B-4	2	2	1,264	2,528
C-1		1	2	1,014	2,028
Total Level 3-6			12		15,284
Total x4 Levels			48		61,136

Level	Type	No. Bedrooms	No. of the type per Level	Area per Unit (net sq ft)	Sub-Total Area
Seventh Level	A-1	3	2	1,542	3,084
	A-2	3	2	1,771	3,542
	B-1	2	2	1,215	2,430
	B-2	2	2	1,289	2,578
	B-3	2	2	1,318	2,636
	B-4	2	2	1,264	2,528
C-1		1	2	1,014	2,028
Total Level 7			14		18,826

Level	Type	No. Bedrooms	No. of the type per Level	Area per Unit (net sq ft)	Sub-Total Area
Eighth Level	A-1	3	2	1,428	2,856
	A-2	3	2	1,373	2,746
	B-1	2	2	1,215	2,430
	B-2	2	2	1,289	2,578
	B-3	2	2	1,318	2,636
	B-4	2	2	1,264	2,528
C-1		1	2	1,014	2,028
Total Level 8			14		17,802

Total Number of Units			86		
Total Net Area				111,130	
Total Number of Parking Spaces Provided				172	

LOCATION



Zoning Summary

revuelta architecture international p.a.

9201 EAST BAY HARBOR DRIVE

Lot Area	SF 45,000	Acres 1.03
Legal Description Lot 19, 20, 21 and 22, Block 1 of 'Bay Harbor Island', According to the plat thereof, as recorded in Plat Book 46, at Page 5 of the Public Records of Dade County, Florida.		
Flood Elevation This property appears to be located in Flood Zone AE, with a BFE of 10'-0" N.G.V.D.* Grade Level (Crown of the road) 4'-10" N.G.V.D.		
Zoning Classification RM1 - MULTIPLE FAMILY RESIDENTIAL DISTRICT (WATERFRONT LOTS)		
FLR (Determined by the setbacks)	Allowable N/A	Proposed 86
Maximum Density 34 units per net Acre	34	1.03
Proposed Density	35	84.5 (units/acre)
Setbacks Principal Frontage (E. Bay Harbor Dr.) Buildings less than 30 feet in height. 20 feet Buildings less than 45 feet in height. 25 feet Buildings less than 75 feet in height. 30 feet Side Setback Buildings less than 30 feet in height. 10 feet maximum setback shall be 25 feet Rear Setback (Waterfront) 20'-0"		
Flex Setback (side only) maximum allowed 1/3 of length of building	side building length 107	Allowable (Feet) 35.67 Proposed (Feet) 32.67
Maximum Height Maximum Building Height	Allowable 75 feet above BFE	Proposed 75'-0" above BFE
Open Space Requirements 20% of Lot Area Minimum	45,000 0.20	Required 9,000 SF Proposed 10,500 SF (23%)
Roof Deck Landscape Requirements 15% of Roof Area Minimum	8,000 0.15	Required 1,200 SF Proposed 6,000 SF (75%)
Lot Coverage (Perimeter determined by the setbacks)	Allowable Determined by Setbacks	Proposed 27,850 SF
Building Length The maximum overall length of any single building in a linear shape with no breaks or angles greater than 15 degrees shall not exceed 205 feet	≤ 205 feet without breaks ≥ 205 feet with breaks	53'-0" gap/trake in the middle of the building.
Breezeway A building may exceed 120 feet in length if breezeways divide such building. Such breezeways shall have a minimum unobstructed width, completely through the building, of 20 feet.		53'-0" feet breezeway is provided
Parking Space Requirements Residential - 2 per Dwelling Unit Minimum Guest Parking	86 2.0	Required 172 4 Proposed 172 4 176
Total Parking Spaces (including 4 handicap spaces)		86
Storage Requirements A minimum of 25 SF of area with at least seven feet of headroom must be added for each apartment and shall be located outside the apartment		86

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AR 0007972
PROJECT

ISLAND HOUSE

9201 EAST BAY HARBOR DR.
BAY HARBOR ISLAND, CITY OF FLORIDA

OWNER
TAUBCO
T

SCHEMATIC
DESIGN

Permit Revisions
Site Plan Approval Revision
May 30th, 2013

CONSULTANT
ARCHITECT
FRANKEL BENAYOUN
ARCHITECTS INC
FRANKEL BENAYOUN ARCHITECTS
11774 SW 40th Ave, Suite 100
BAY HARBOR ISLAND, FLORIDA
33154

Date

08/15/2013

Drawing

SP - CV

Check by

SP

Scale

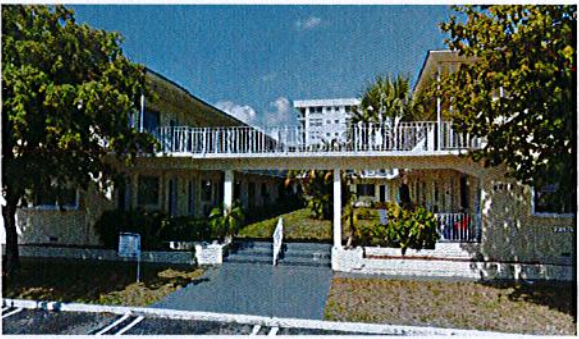
As Shown

Project No.

1216

A-001

MULTI-FAMILY, RM-2
FLUM: MEDIUM HIGH DENSITY
2 STORY



DUPLEX, RM-2
FLUM: MEDIUM HIGH DENSITY
2 STORY



RECREATIONAL PARK, RM-2
FLUM: MEDIUM HIGH DENSITY



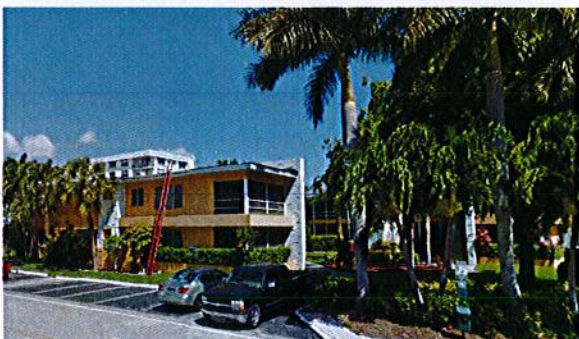
MULTI-FAMILY, RM-2
FLUM: MEDIUM HIGH DENSITY
7 STORY



MULTI-FAMILY, RM-1
FLUM: MEDIUM HIGH DENSITY
5 STORY



MULTI-FAMILY, RM-2
FLUM: MEDIUM HIGH DENSITY
2 STORY



MULTI-FAMILY, RM-1
FLUM: MEDIUM HIGH DENSITY
7 STORY



MULTI-FAMILY, TRACT DISTRICT
FLUM: MEDIUM HIGH DENSITY
10 STORY



1 LAND USE PLAN DESIGNATION
NOT TO SCALE

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File: G:\Projects\11216_ROYAL ISLAND HOUSE SITE PLAN REVIEW 2.dgn - By: adamsd - Date: 8/15/2013

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PROJECT

ISLAND HOUSE
3901 EAST BAY-HARBOR DR.
BAY HARBOR ISLAND, 33154, FLORIDA

OWNER
TAUBCO
TT

SCHEMATIC
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Permit Revisions
Site Plan Approval Revision
May 30th, 2013

CONSULTANT
ARCHITECT
FRANKEL BENAYOUN
ARCHITECTS INC

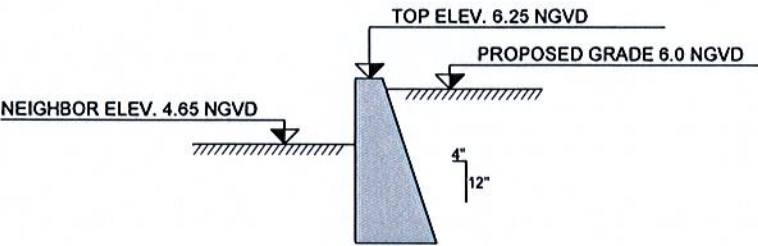
FRANKEL BENAYOUN ARCHITECTS
1177 JADE CONDOUR
BAY HARBOR ISLAND, FLORIDA
33154

Date
08/15/2013
Drawing
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Scale
As Shown
Project No.
1216

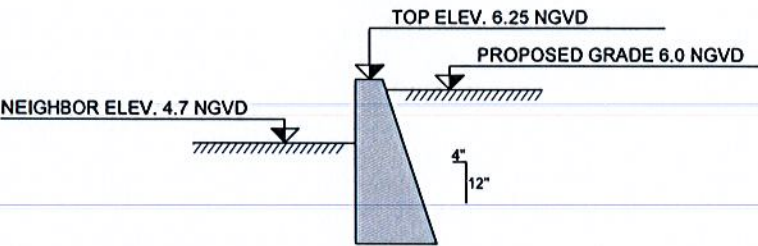
A-002

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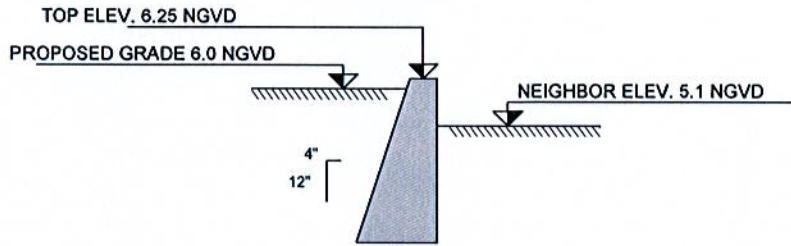
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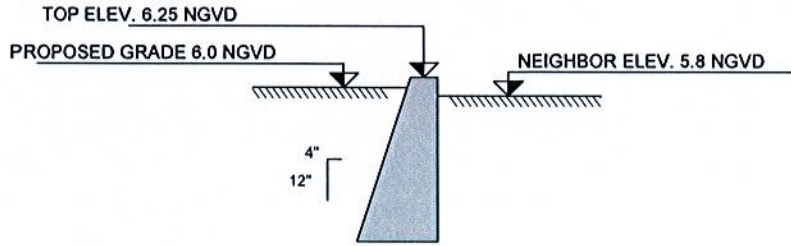
SECTION B-B



SECTION C-C



SECTION D-D



SECTIONS
GRAVITY WALL ALONG THE PERIMETER

1

NOT TO SCALE

NOTE:
FOR GRAVITY WALL DETAIL REFER TO SHEET C-4

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DESIGN BY

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PROJECT

ISLAND HOUSE
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BAY HARBOR ISLANDS, ST. LEO, FLORIDA

OWNER
TAUBCO

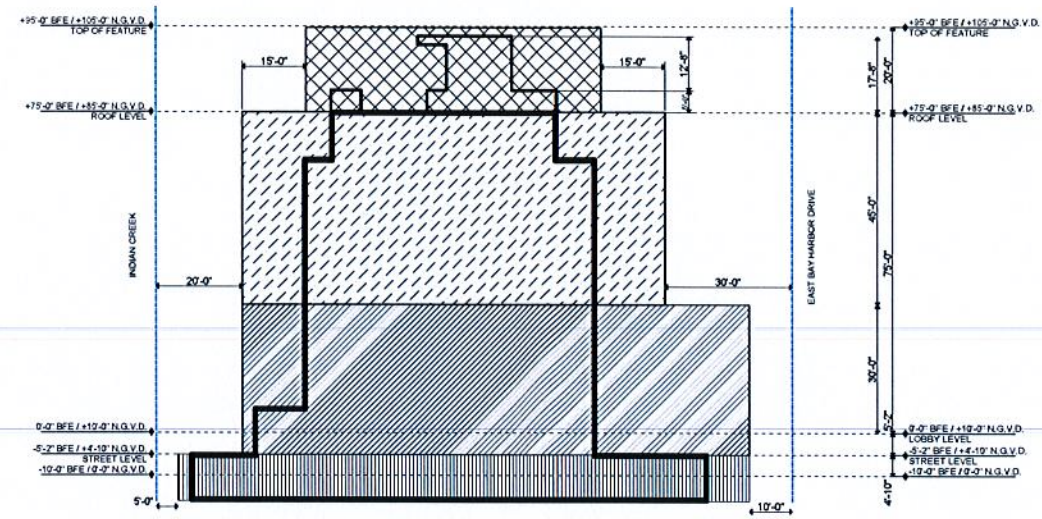
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FRANKEL BENAYOUN
ARCHITECTS INC.
FRANKEL BENAYOUN ARCHITECTS
1177 KANE CONDOUR
BAY HARBOR ISLANDS
FLORIDA
33154

Date
08/15/2013
Drawing
BP-CV
Check by
BP
Scale
As Shown
Project No.
1216

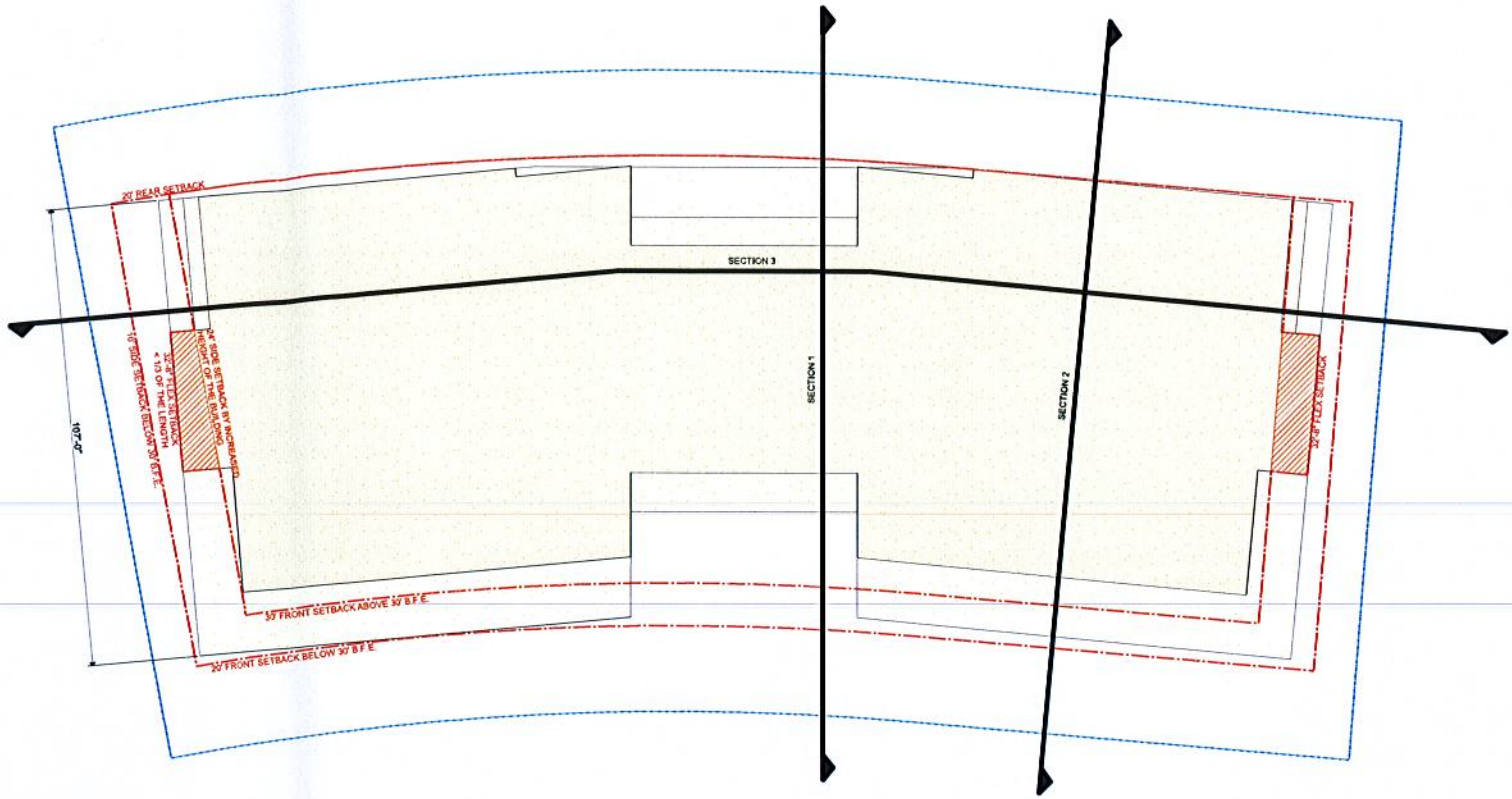
A-003



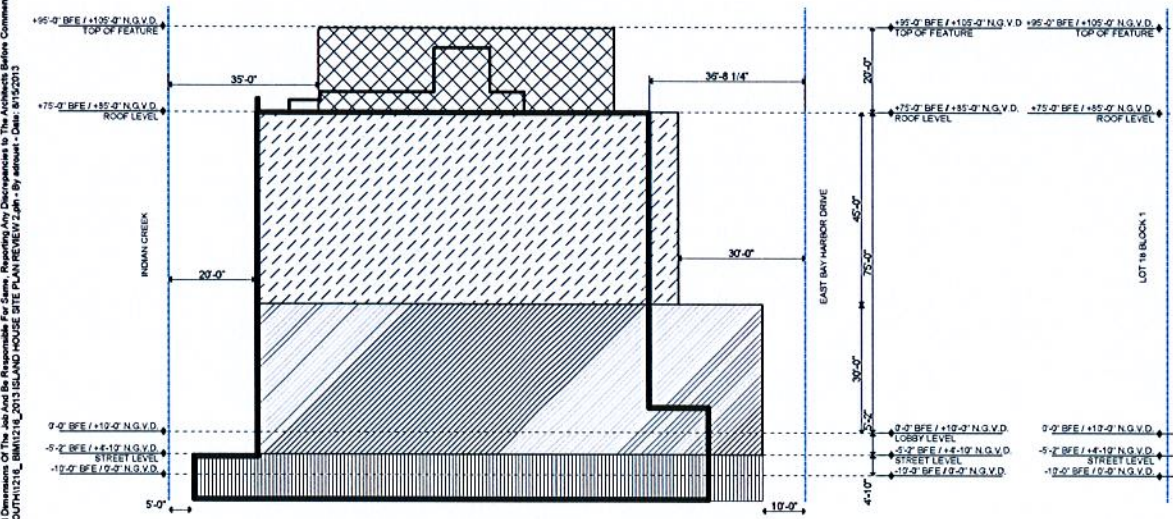
2 SECTION 1
SCALE: 1" = 20"

NOTES:

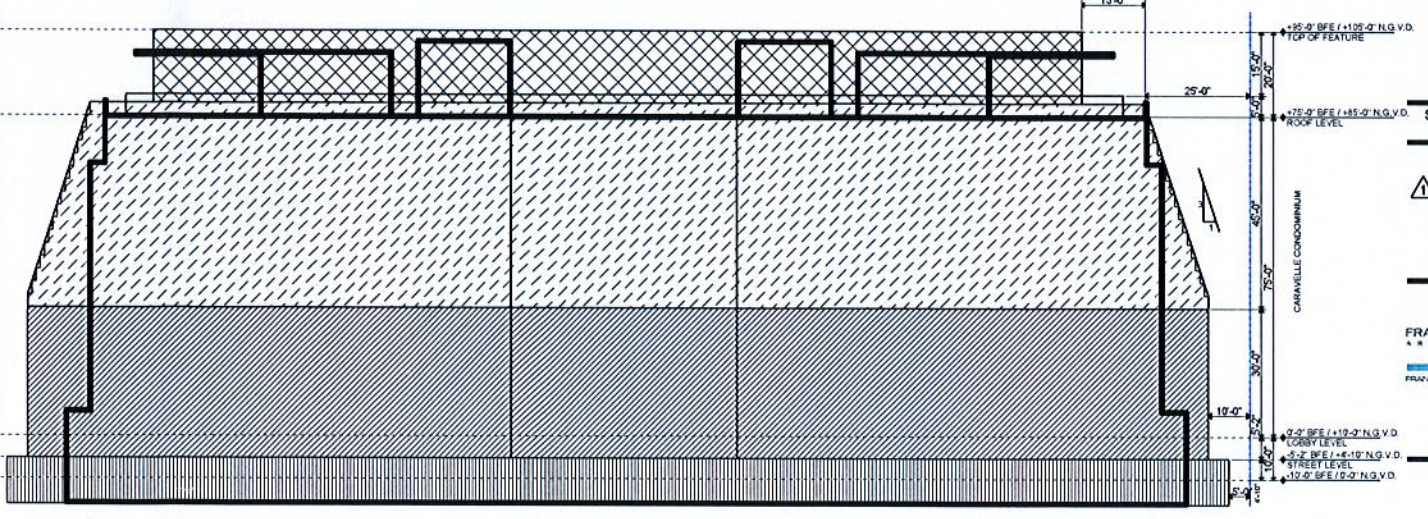
- ROOF DECK SETBACKS
- SETBACKS ABOVE 30'-0" h. B.F.E.
- SETBACKS BELOW 30'-0" h. B.F.E.
- PARKING SETBACK BELOW GRADE AS PER SECTION 23-24, D, 2-4



1 SETBACKS SCHEME
SCALE: 1" = 20"

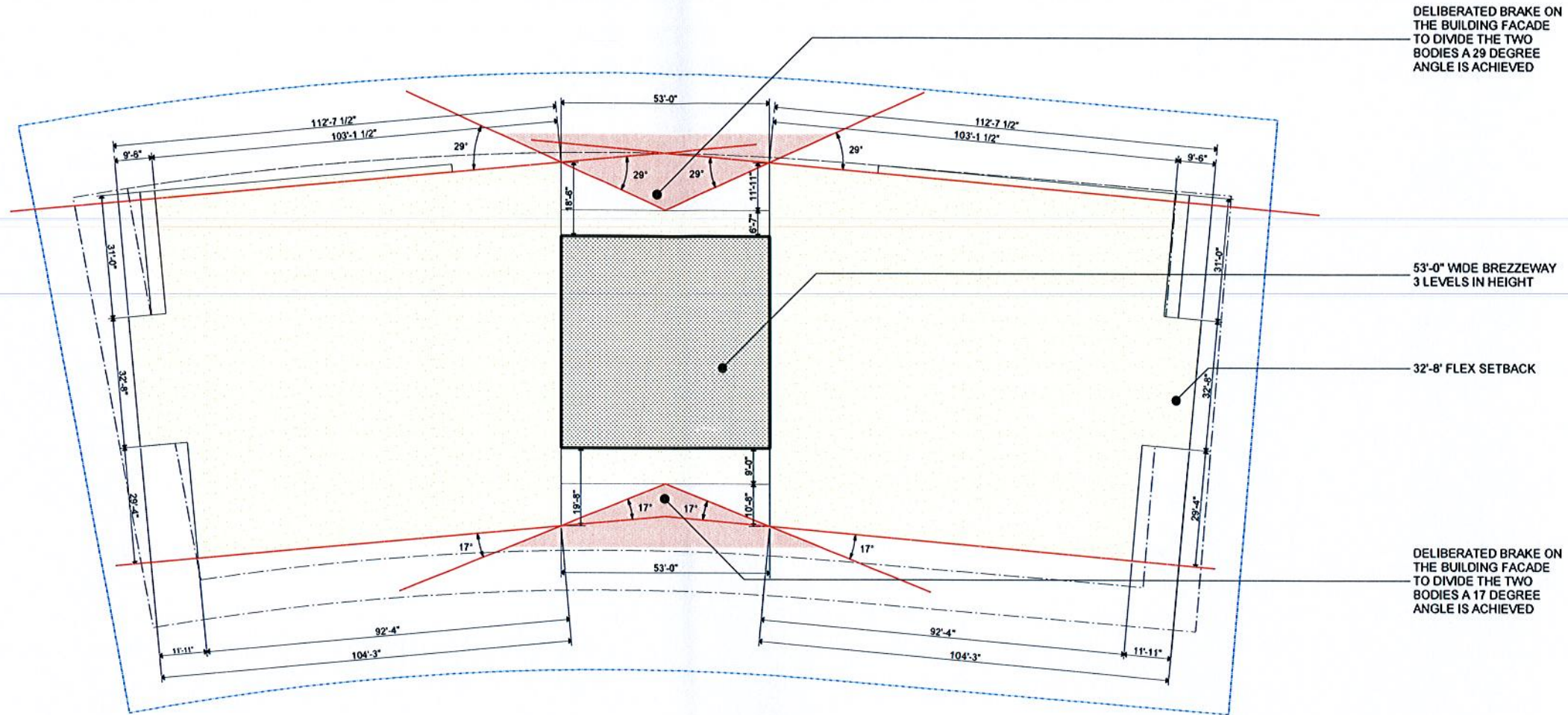


3 SECTION 2
SCALE: 1" = 20"



4 SECTION 3
SCALE: 1" = 20"

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File: G:\Projects\1216_ROYAL ISLAND SOUTH\1216_BM1216_1216 ISLAND HOUSE SITE PLAN REVIEW.dgn - By email - Date: 8/15/2013



1 BUILDING ARTICULATION SCHEME

CODE REQUIREMENTS_
Building Length:
- The maximum overall length of any single building in a linear shape with no breaks or angles greater than 15 degrees shall not exceed 205 feet

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SUITE 110
MIAMI, FL 33133
T: 305.590.5000
F: 305.590.5000

DELIBERATED BRAKE ON
THE BUILDING FACADE
TO DIVIDE THE TWO
BODIES A 29 DEGREE
ANGLE IS ACHIEVED

DESIGN BY

Luis O. Revuelta
AR 0007972

PROJECT

53'-0" WIDE BREZZEWAY
3 LEVELS IN HEIGHT

32'-8" FLEX SETBACK

DELIBERATED BRAKE ON
THE BUILDING FACADE
TO DIVIDE THE TWO
BODIES A 17 DEGREE
ANGLE IS ACHIEVED

ISLAND HOUSE
3301 EAST BAY HARBOR CBL
BAY HARBOR ISLAND, 33154, FLORIDA

OWNER
TAUBCO
TT

SCHEMATIC
DESIGN

Permit Revisions
Site Plan Approval Revision
May 30th, 2013

CONSULTANT
ARCHITECT
FRANKEL BENAYOUN
ARCHITECTS INC
FRANKEL BENAYOUN ARCHITECTS
1177 KALE COP COURSE
BAY HARBOR ISLAND
FLORIDA
33154

Date
08/15/2013
Drawing
BP - CV
Check by
BP
Scale
As Shown
Project No.
1216

A-005

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File: G:\Projects\1216_ROYAL ISLAND SOUTH\1216_1216 ISLAND HOUSE SITE PLAN REVIEW 2.dwg - By: daniel - Date: 8/15/2013



1 SITEPLAN - CONTEXT
NOT TO SCALE

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international

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revuelta-architecture.com

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MIAMI, FL 33135
T: 305.593.5000
F: 305.593.5040

DESIGN BY

Luis O. Revuelta
AR 0007972

PROJECT

ISLAND HOUSE

3301 EAST BAY HARBOR DRIVE
BAY HARBOR BLVD, 33154 FLORIDA

OWNER
TAUBCO
TT

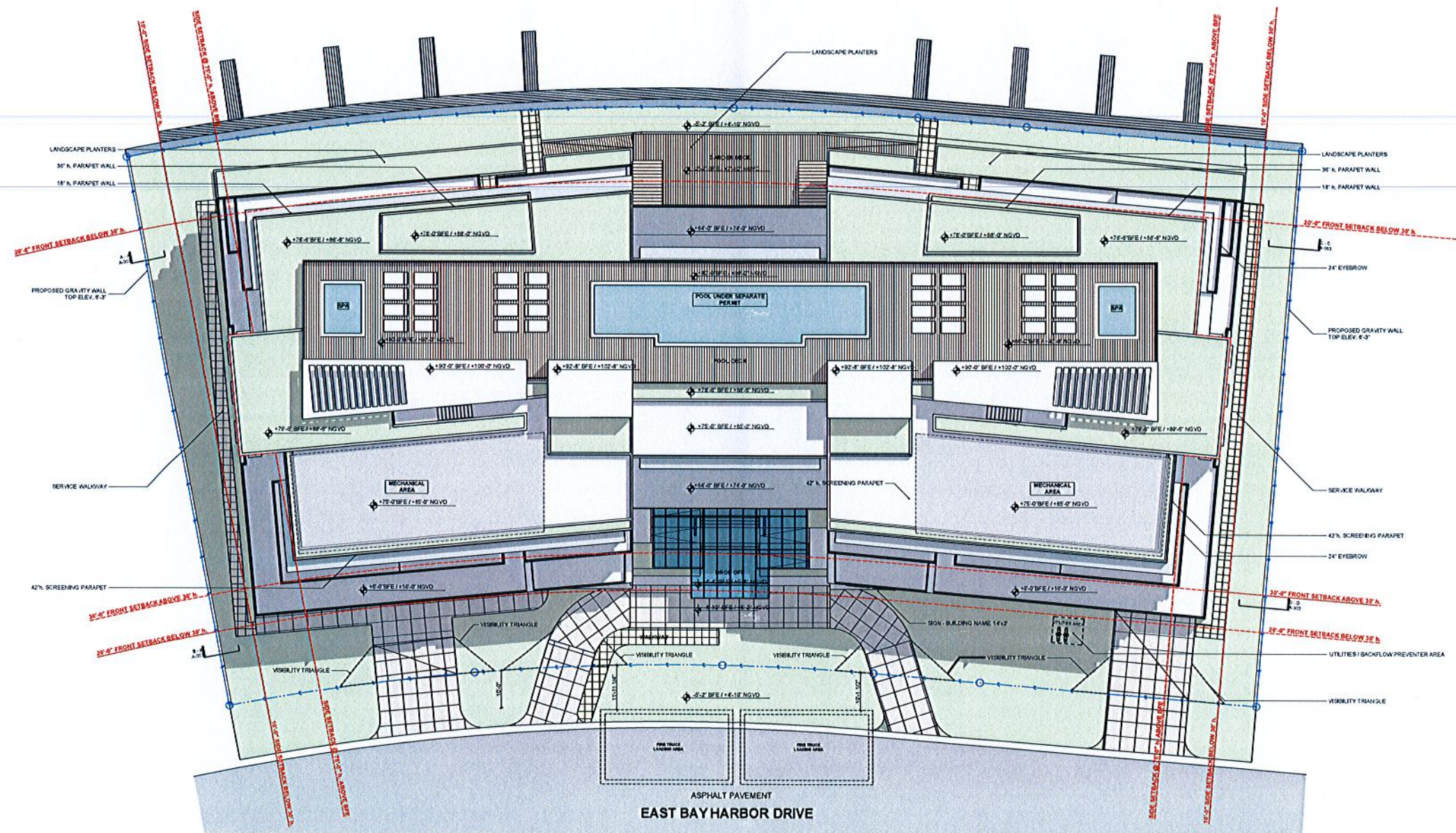
SCHEMATIC
DESIGN

Permit Revisions
Site Plan Approval/Revision
May 30th, 2013

CONSULTANT
ARCHITECT
FRANKEL BENAYOUN
ARCHITECTS INC.
FRANKEL BENAYOUN ARCHITECTS
1177 KANE CONDOUR
BAY HARBOR BLVD
FLORIDA
33154

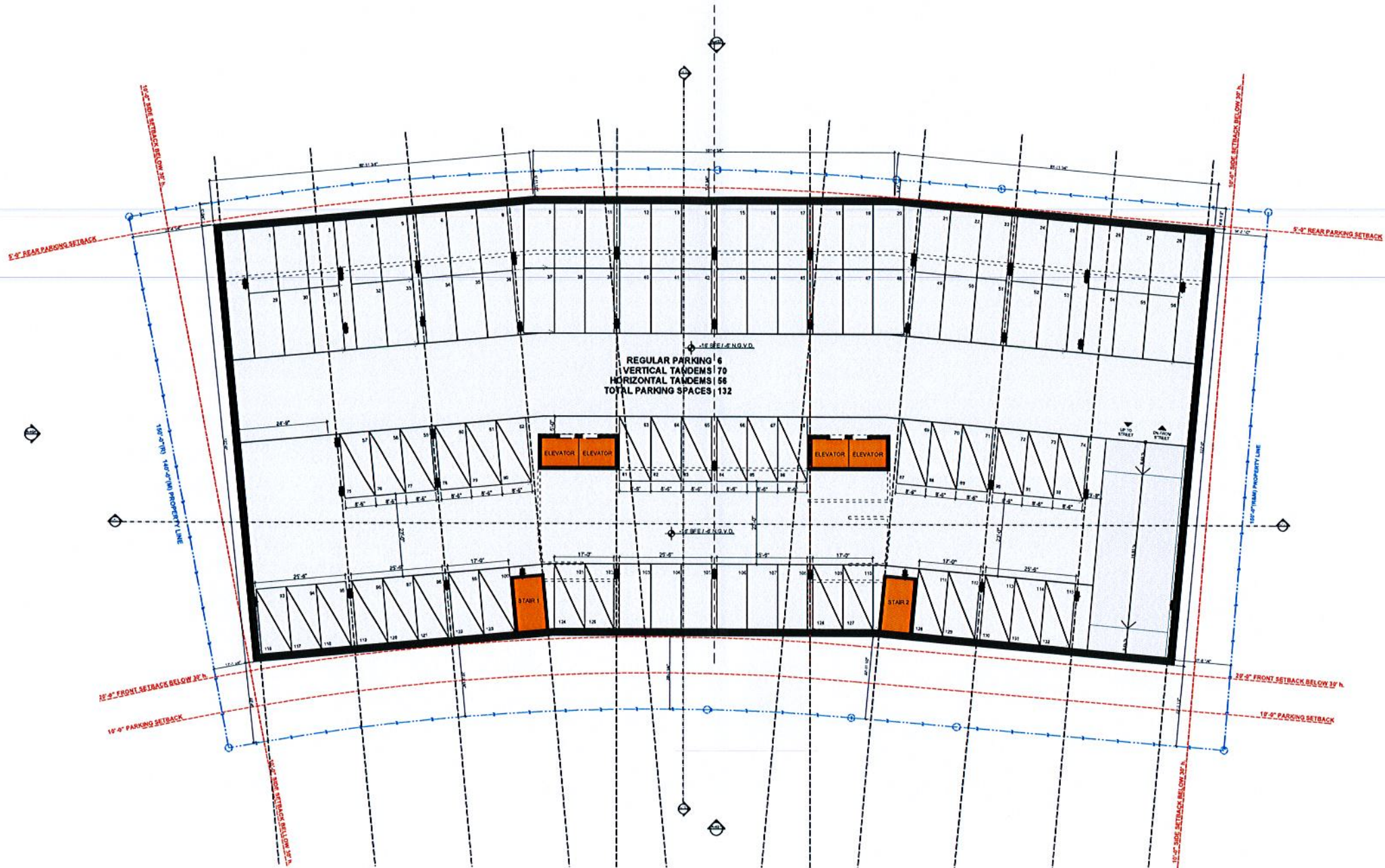
Date
08/15/2013
Drawing
BP-CV
Check by
BP
Scale
As Shown
Project No.
1216

A-006



ISLAND HOUSE
SITE PLAN
SCALE: 1/16" = 1'-0"
0 5' 10' 30'

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1

ISLAND HOUSE
PARKING LEVEL -1

SCALE: 1/16" = 1'-0"

ISLAND HOUSE

9801 EAST BAY HARBOUR DRIVE
BAY HARBOR BLVD. 33154, FLORIDA



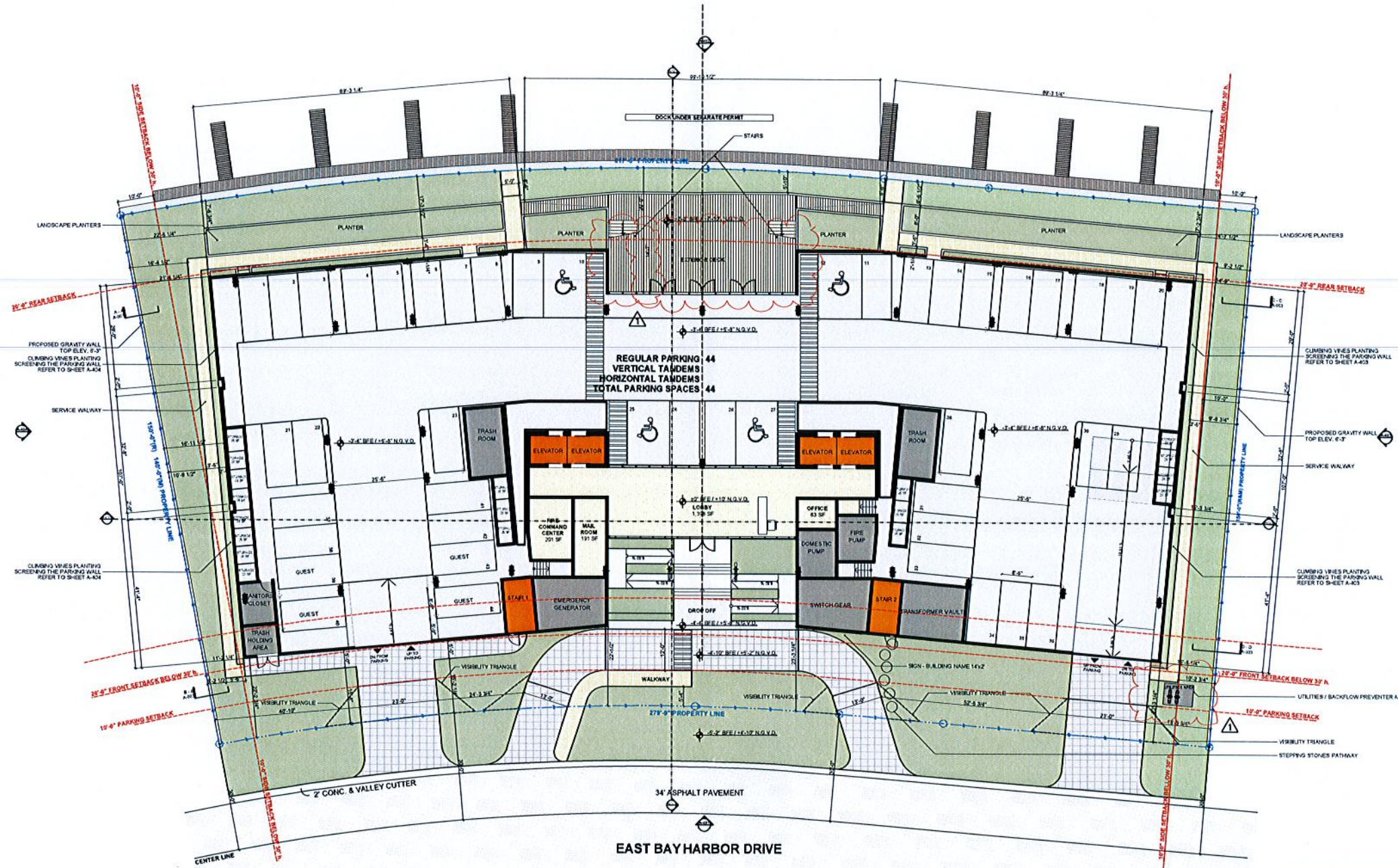
SCHEMATIC
DESIGN

Planning Revisions
Site Plan Approval Revision
May 20A, 2013

CONSULTANT
ARCHITECT
FRANKEL BENAYOUN
ARCHITECTS
FRANKEL BENAYOUN ARCHITECTS
1177 KANE CONDOURSE
BAY HARBOR BLVD. 33154
FLORIDA
33154

Date
08/15/2013
Drawing
BP - CV
Check by
BP
Scale
As Shown
Project No.
1216

A-102



NOTE
MINIMUM BREEZEWAY WIDTH 20'-0" PER CODE
PROPOSED BREEZEWAY WIDTH 53'-0"



1

ISLAND HOUSE
FIRST LEVEL

SCALE: 1/16" = 1'-0"



1

ISLAND HOUSE
SECOND LEVEL

SCALE 1/16" = 1'-0"



ISLAND HOUSE

10001 EAST BAY HARBOR DR.
BAY HARBOR ISLAND, SE 15A, FLORIDA



SCHEMATIC
DESIGN

Permit Revisions
Site Plan Approval Revision
May 30, 2013

CONSULTANT
ARCHITECT
FRANKEL BENAYOUN
ARCHITECTS INC
FRANKEL BENAYOUN ARCHITECTS
1177 KANE CONDOUR
BAY HARBOR ISLAND
FLORIDA
33154

Date
08/15/2013
Drawing
BP-CV
Check by
BP
Scale
As Shown
Project No.
1216

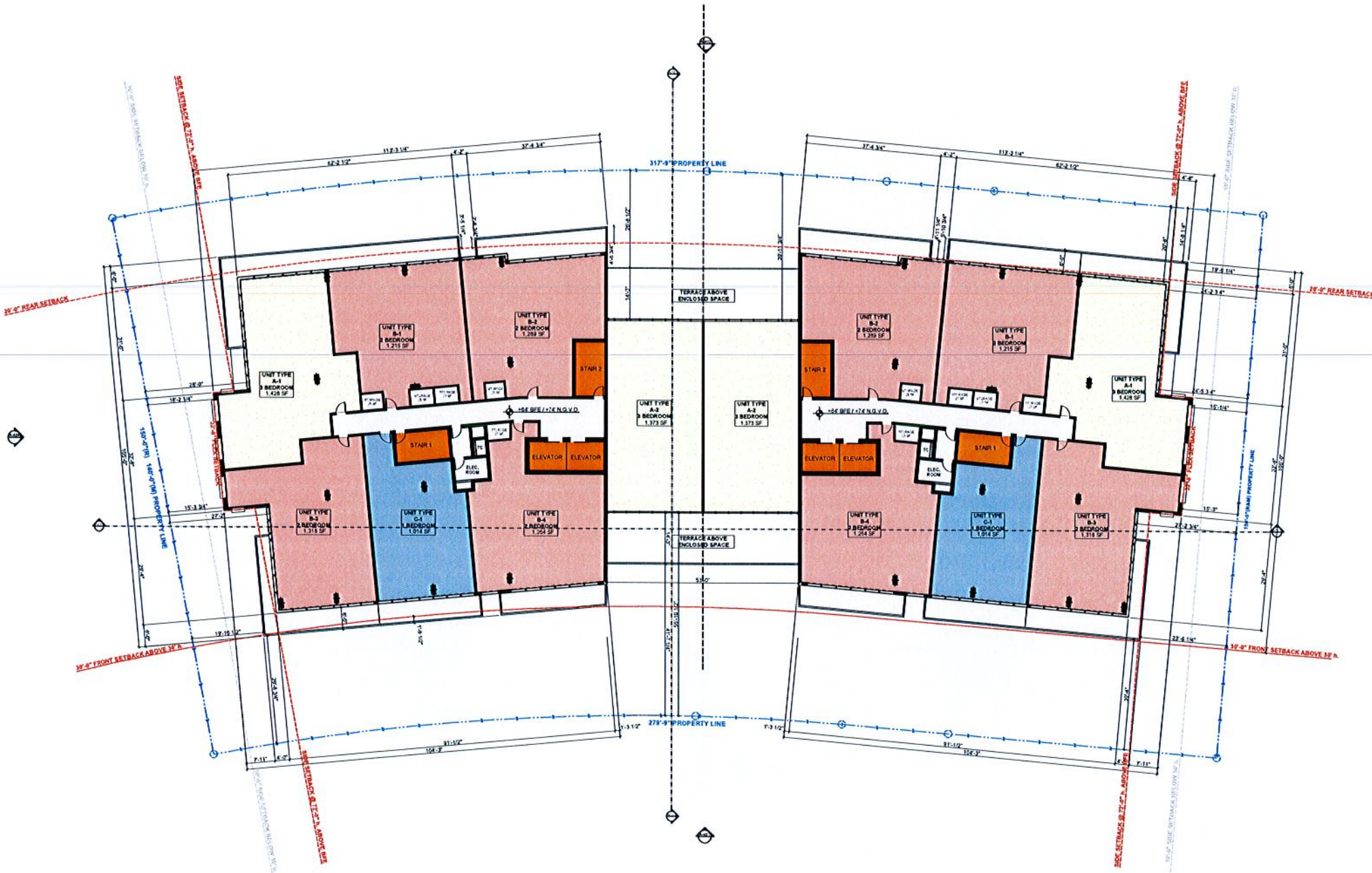
A-105



1

ISLAND HOUSE
SEVENTH LEVEL

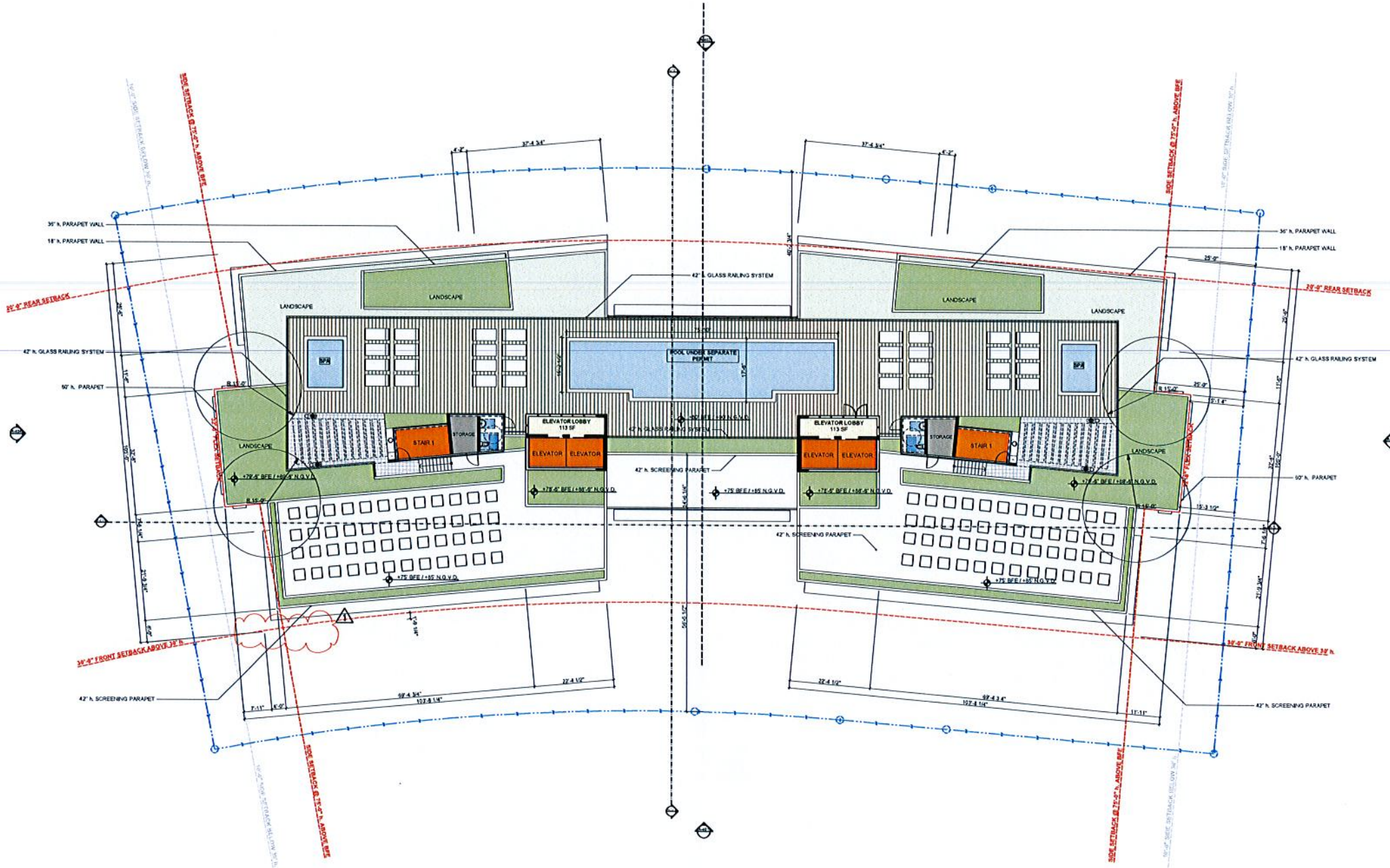
SCALE: 1/16" = 1'-0"



1

ISLAND HOUSE
EIGHTH LEVEL

SCALE 1/16" = 1'-0"

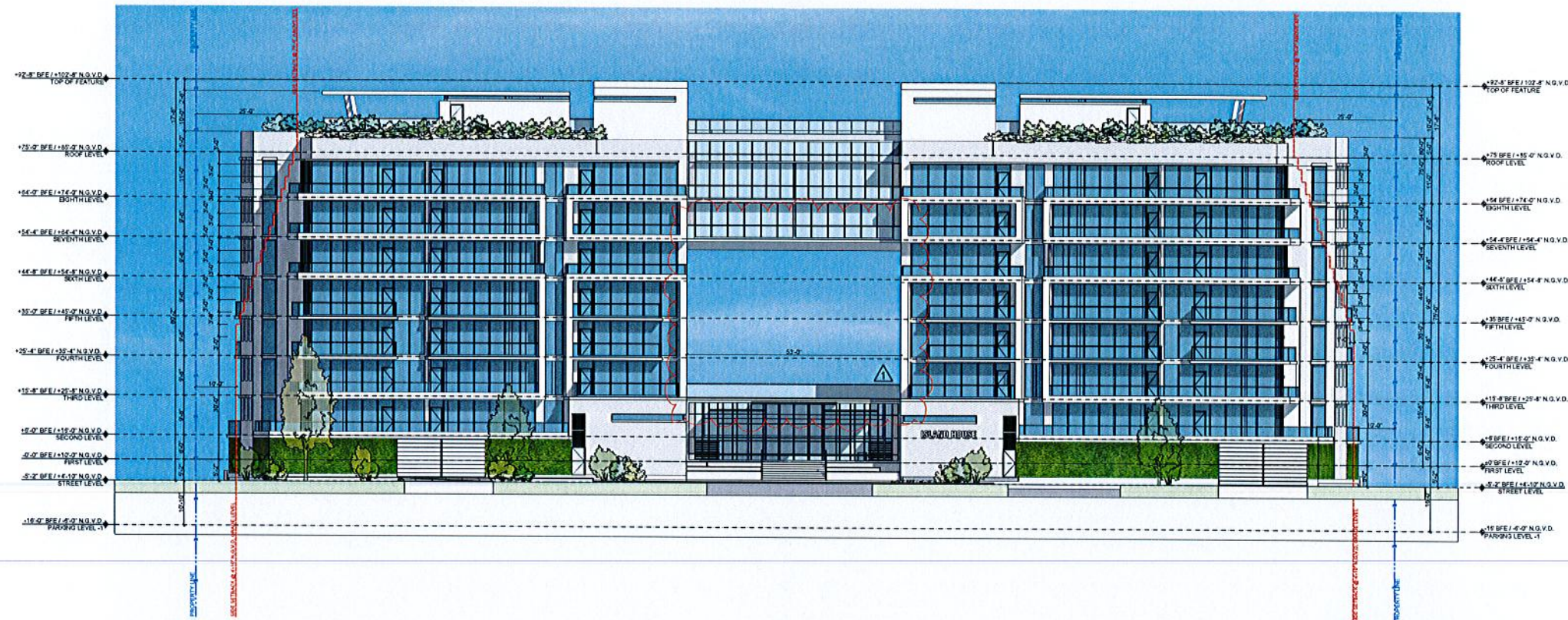


1

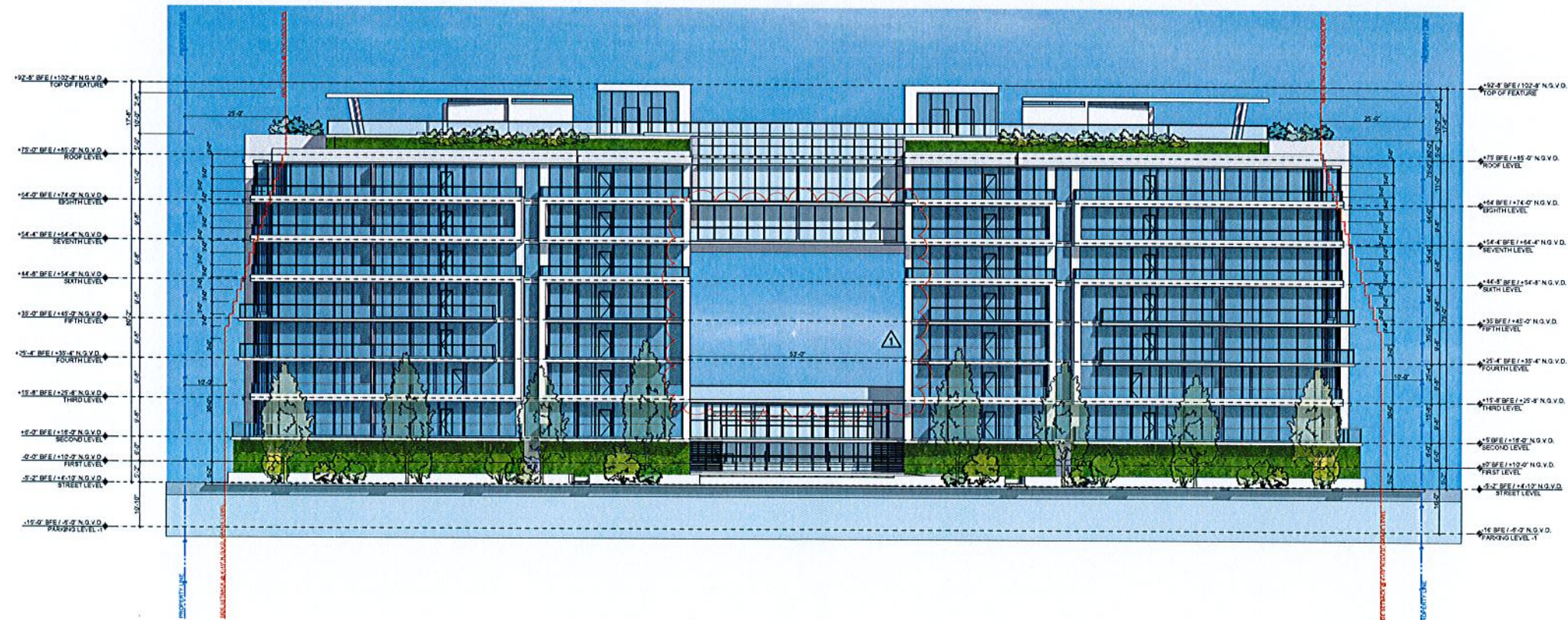
ISLAND HOUSE
ROOF LEVEL

SCALE: 1/16" = 1'-0"
ROOF LEVEL +75'-0" BFE / +85'-0" N.G.V.D.

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1 WEST ELEVATION
SCALE 1/16" = 1'-0"



2 EAST ELEVATION
SCALE 1/16" = 1'-0"

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F: 305.590.5040

DESIGN BY

Luis O. Revuelta
AR 0007972

PROJECT

ISLAND HOUSE

3301 EAST BAY HARBOR DRIVE
BAY HARBOR ISLAND, 33154, FLORIDA

OWNER
TAUBCO

SCHEMATIC
DESIGN

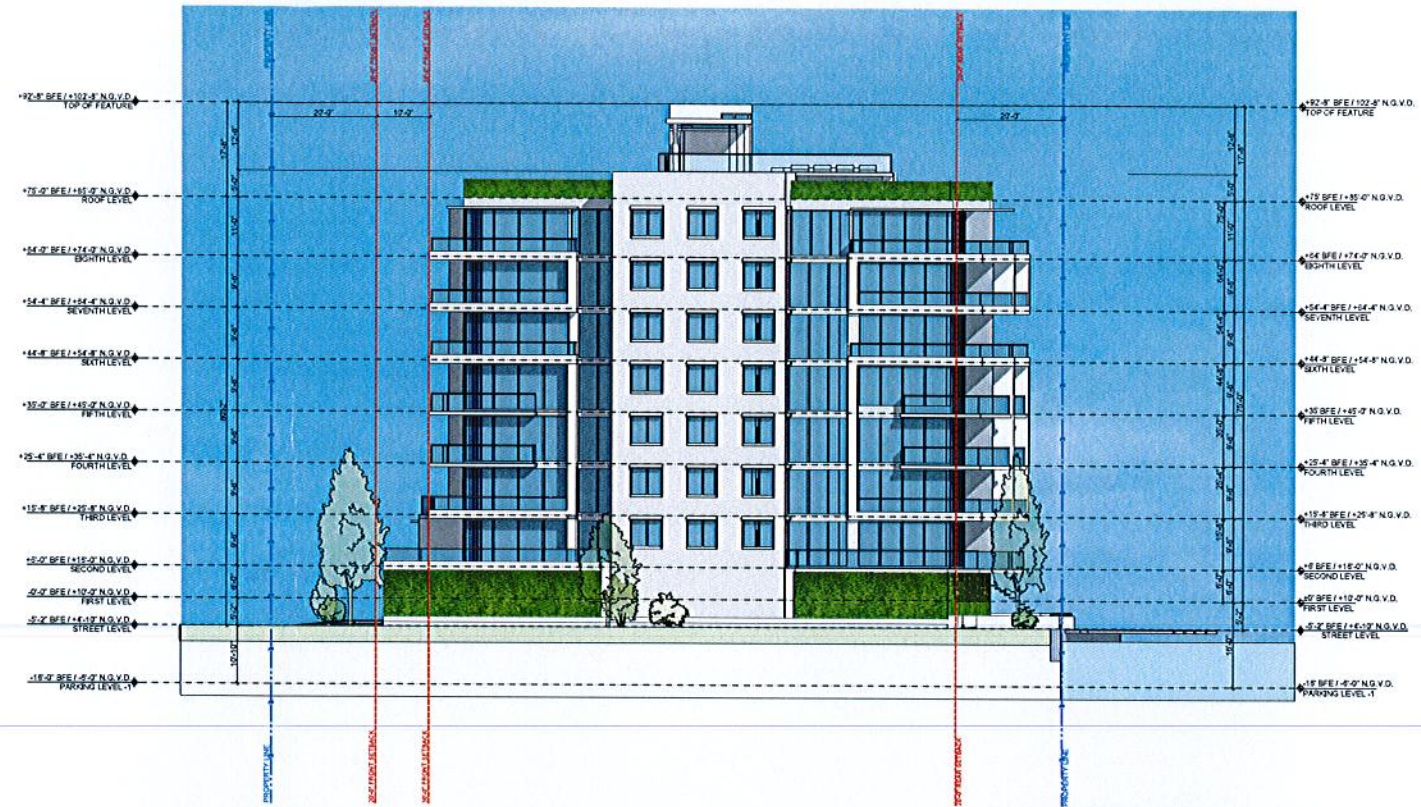
Permit Revisions
Site Plan Approval Revision
May 30th, 2013

CONSULTANT
ARCHITECT
FRANKEL BENAYOUN
ARCHITECTS INC
FRANKEL BENAYOUN AND ASSOCIATES
1177 MAE CONDOURSE
BAY HARBOR ISLAND
FLORIDA
33154

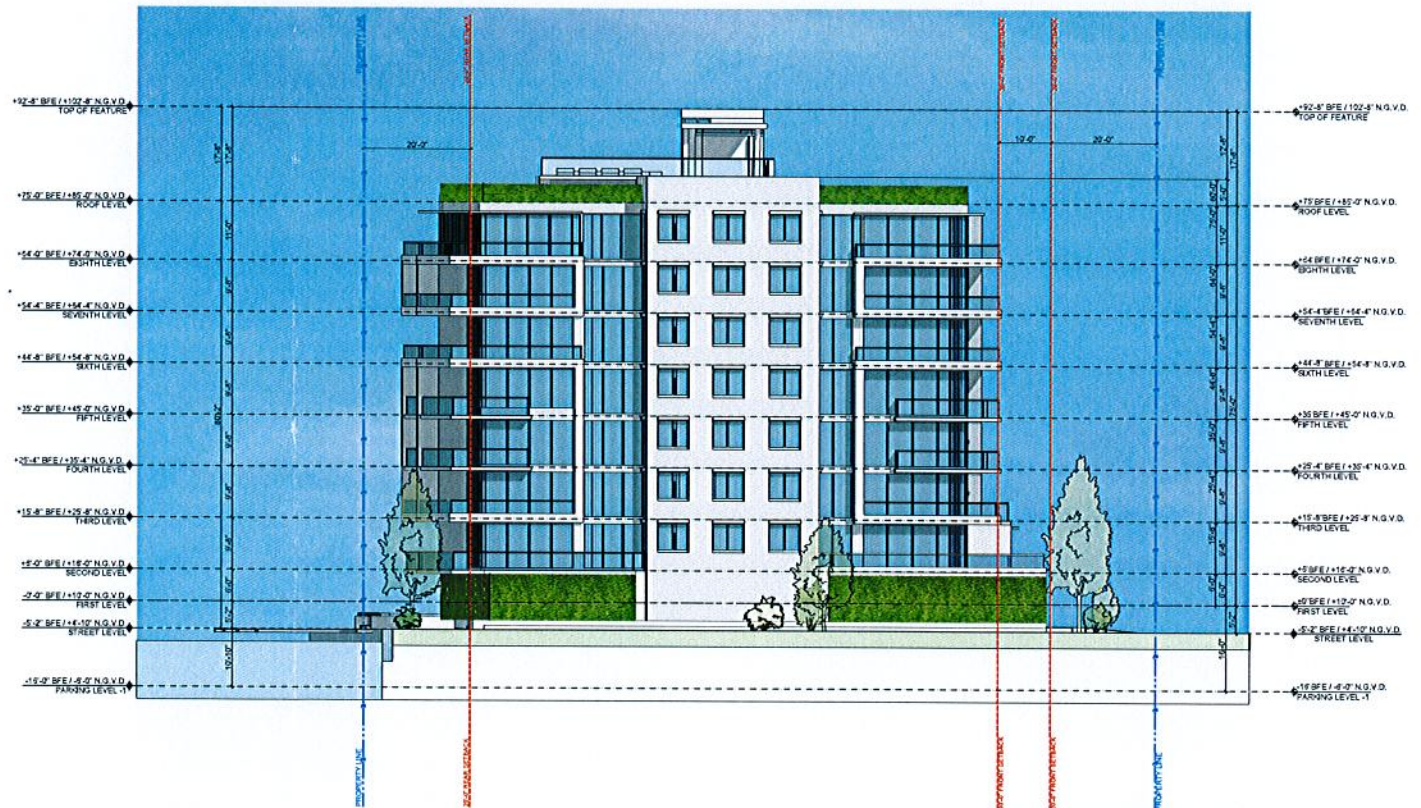
Date
08/15/2013
Drawing
BP - CV
Check by
BP
Scale
As Shown
Project No.
1216

A-401

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1 SOUTH ELEVATION
SCALE 1/16" = 1'-0"



2 NORTH ELEVATION
SCALE 1/16" = 1'-0"

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MIAMI, FL 33135
T: 305.590.5000
F: 305.590.5040

DESIGN BY

Luis O. Revuelta
AR 0007972

PROJECT

ISLAND HOUSE

3801 EAST BAY HARBOUR DR.
BAY HARBOR ISLAND, 33154 FLORIDA

OWNER
TAUBCO
TR

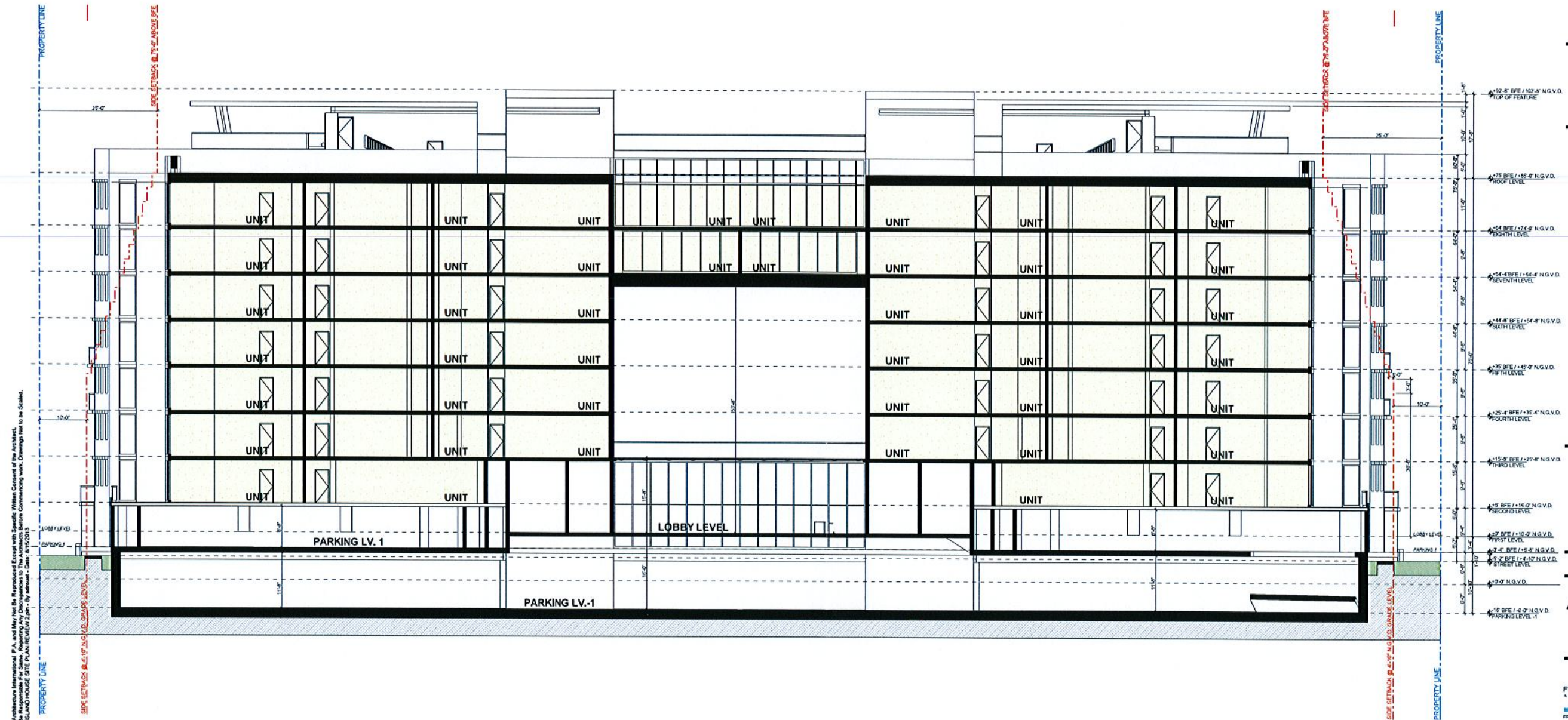
SCHEMATIC
DESIGN

Permit Revisions
Site Plan Approval Revision
May 30, 2013

CONSULTANT
ARCHITECT
FRANKEL BENAYOUN
ARCHITECTS INC.
FRANKEL BENAYOUN ARCHITECTS
1177 KANE CONOURSE
BAY HARBOR ISLAND
FLORIDA
33154

Date
08/15/2013
Drawing
BP - CIV
Check by
BP
Scale
As Shown
Project No.
1216

A-402



1 N-S SECTION
SCALE: 3/32" = 1'-0"

NOTE:
MINIMUM BREEZEWAY WIDTH 20'-0" PER CODE
PROPOSED BREEZEWAY WIDTH 53'-0"

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DESIGN BY

Luis O. Revuelta
AR 0007972

PROJECT

ISLAND HOUSE

9201 EAST BAY HARBOUR DR.
BAY HARBOUR ISLANDS, 33154, FLORIDA

OWNER



SCHEMATIC
DESIGN

Permit Revisions

1	Site Plan Approval Revision May 30th, 2013
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CONSULTANT

ARCHITECT
RANKEL BENAYOUN
ARCHITECTS INC.

HANKEL BENAYON ARCHITECTS
1177 KANE CONCOURSE
BAY HARBOR BLVD
FLORIDA
33154

Date _____

08/15/2013

Drawing
RD, CM

Check by

BP

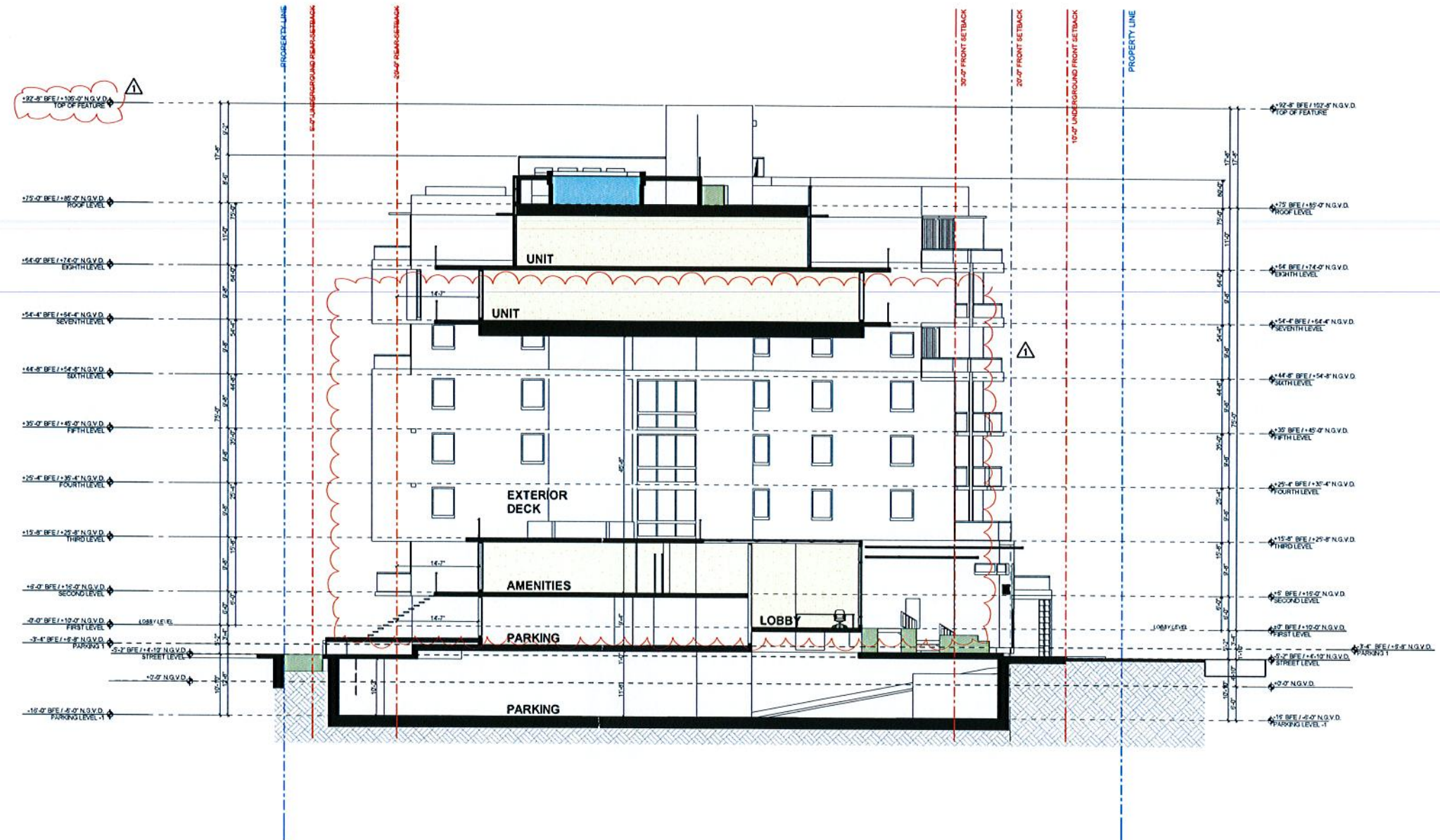
Bone

As Shown

Project No.
1216

1218

A-502



1 N-S SECTION
SCALE: 3/32" = 1'-0"







RESOLUTION NO. 1170 - A

A RESOLUTION OF THE PLANNING AND ZONING BOARD OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, APPROVING THE SITE DEVELOPMENT PLAN APPLICATION FOR THE ISLAND HOUSE PROJECT.

WHEREAS, on December 11, 2012, Island Club Towers, LLC ("Applicant"), filed an initial application and, thereafter, filed revised Site Development Plans on April 26, 2013, May 15, 2013, and May 30, 2013, for Site Plan approval for a 87-unit condominium building, with two (2) levels of parking including subterranean parking, and seven (7) stories of habitable units on top of the parking (the "ISLAND HOUSE") located at 9201 East Bay Harbor Drive, Bay Harbor Islands, Florida, and legally described as:

Lots 19, 20, 21 and 22 of Block 1, "Bay Harbor Island" Subdivision according to the plat thereof, as recorded in Plat Book 46, at Page 5 of the Public Records of Miami-Dade County; and

WHEREAS, a site plan for new construction requires approval by the Planning and Zoning Board pursuant to Section 5-23.1(a) of the Town of Bay Harbor Islands' Code of Ordinances; and

WHEREAS, on July 16, 2013, the Town's Planning and Zoning Board approved the Site Plan for the ISLAND HOUSE Project, pursuant to Sections 5-23.1(a) and 23-11(B1)(6) of the Town's Code of Ordinances with the conditions set forth below.

NOW THEREFORE, be it resolved that:

1. Recitals. The foregoing recitals are hereby ratified as true and correct and incorporated herein by reference.
2. Finding. The Planning and Zoning Board finds that the ISLAND HOUSE Project is consistent with the criteria in Sections 5-23.1 and 23-11(B1)(6) and approves the site plan titled "ISLAND HOUSE" on July 16, 2013, subject to the conditions set forth below for approval.
3. Effective Date. This Resolution shall take effect upon the date of its adoption (the "Effective Date").
4. Conditions of Approval.
 - A. Approval is based on the Site Development Plans dated May 30, 2013. Any changes thereto shall require separate approvals from the Town staff and/or the Planning and Zoning Board as specified in the Town Code.
 - B. Any existing overhead power lines adjoining the site must be placed underground during the redevelopment of the site at the sole expense of the developer.
 - C. The Applicant shall coordinate with the Miami-Dade County School Board staff through the Town staff (Building Dept.) to provide calculations and address any deficiencies at public schools that serve the Town. If mitigation is required an agreement/payment must be finalized prior to the issuance of building permits.
 - D. The ISLAND HOUSE Project is required to obtain 51 additional TDR dwelling units and receive approval from Town Council to utilize such TDRs for the ISLAND HOUSE Project prior to the issuance of a building permit.
 - E. The ISLAND HOUSE Project shall be reviewed by the Miami-Dade County Fire Department. When the Miami-Dade Fire Department formally reviews the Project, if any substantial site design changes are required, further approval of the Site Development Plan may be required by the Town.
 - F. A unity of title joining Lots 19, 20, 21, and 22, acceptable in form by the Town Attorney, shall be prepared by the Applicant and recorded in the Miami-Dade Public Records.
 - G. The Applicant shall make the following revisions to the site plan and such revisions shall be reviewed and approved by the Town's staff:
 1. Applicant shall make the Third Level (above the lobby and within the breezeway) useable space with railings and acceptable landscaping.
 2. Applicant shall further articulate the Parking Garage on the rear of the building (first level) and the second level (referred to as the East Elevation on Page A-

401 of the Site Plan), by the indentation of 14'7" from the rear set back to align with the breezeway units on the upper floors and to encase the articulation (indentation) with glass (this articulation may cause a loss of two (2) parking spaces).

3. Applicant shall further articulate (break up) the balconies on the West Elevation (referred to as the West Elevation on Page A-401 of the Site Plan) similar to the balconies on the East Elevation (referred to as the East Elevation on Page A-401 of the Site Plan).
4. Applicant shall eliminate both units referred to as A-2 on the sixth (6th) level on page A-105 of the Site Plan (located above the breezeway). Applicant may, however, convert the Penthouse Unit on the eighth (8th) level (referred to as PH Unit on the Page A-106 of the Site Plan) into two (2) units.
5. Applicant shall move the back flow preventer to the side of the building.
6. Applicant shall add fenestration to the units facing the breezeway.

H. The Applicant shall submit final working plans within 180 days after the Effective date of this Resolution, unless extended by the Town Manager, or his designee, for up to 180 days. The Applicant shall obtain a building permit within 90 days after the approval of final working plans, unless extended by the Town Manager, or his designee, for up to 90 days. Failure to obtain a building permit within the prescribed time shall result in the invalidation of the site plan, except and unless this Resolution is extended pursuant to the Town's Code of Ordinances or other valid extension as prescribed by Florida law.

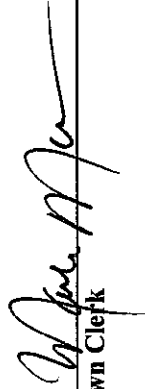
5. Severability. If any provision, section, phrase or word of this Resolution is declared invalid or unenforceable by a court of competent jurisdiction, the remaining provisions, sections, phrases or words of this Resolution shall remain in full force and effect.

6. Effective Date. This Resolution shall become effective immediately upon its adoption, unless a timely appeal is filed with the Town Council.

PASSED and ADOPTED this 16th day of July, 2013.

**PLANNING AND ZONING BOARD
TOWN OF BAY HARBOR ISLANDS**

ATTEST:


Town Clerk

By: 
Chair Person

APPROVED AS TO FORM:


Town Attorney

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 15.

ITEM: Discussion requested by Council Member Bruder regarding the preliminary changes to the flood elevation requirements provided by the Federal Emergency Management Agency (FEMA). Enclosed are the proposed flood maps and other supporting documents.

DESCRIPTION:

The Federal Emergency Management Agency (FEMA) recently drafted preliminary changes to the flood elevation requirements for Miami Dade County which will impact the Town. The proposed changes will require minimum building finished floor elevation to be uniform at a level of approximately 9.68 ft. NGVD.

Currently, there are three (3) different flood zones ranging from 8 feet to 10 feet.

* AE 10.0' N.G.V.D. Eastern side of the East Island, East Bay Harbor Dr. to the center of the East Island

* AE 9.0' N.G.V.D. the rest of the East Island and

* AE 8.0' N.G.V.D. All Plus 1' F.B.C. Freeboard. the whole West Island

The new preliminary maps AE 7.0' N.A.V.D. plus 1' F.B.C. Freeboard and N.A.V.D. / N.G.V.D. conversion factor of 1.68' approximate = 9.67' N.G.V.D. for the entire Town (to include the East, West and Causeway Islands).

The proposed change is currently in discussion with Miami Dade County and FEMA, the date of its adoption is not yet known. FEMA has advised that once the official determination of elevation is made they will host community outreach meetings for all who are interested to attend.

Any projects submitted in the interim will be required to be in compliance with the proposed 9.68 ft. NGVD.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk
Stephanie Bruder, Mayor

ATTACHMENTS

1. FEMA LETTER 2-2-2021
2. BHI TC Staff Report 2021 FEMA FIRM Update
3. BHI FEMA 2021 FIRM Update Exhibits
4. FEMA 2021 FIRM Draft 12086C0144M
5. Preliminary Maps-Process



FEMA

February 25, 2021

Ms. Maria Lasday
Town Manager, Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154

Prelim-EAP
Community Name: Town of Bay Harbor Islands,
Miami-Dade County,
Florida
Community No.: 120637

Dear Ms. Lasday:

We are pleased to present your community with Preliminary copies of the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report for Miami-Dade County, Florida and Incorporated Areas for your review and comment. The enclosed FIS report for Miami-Dade County describes the flood hazard information updates made to the FIRM and FIS report and the source information used in making the updates. We have revised only those FIRM panels with updated flood hazard information.

We are sending the Preliminary copies at this time to give your community an opportunity to review them. Additionally, in an effort to assist you in circulating the information, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) has posted digital copies of the revised FIRM and FIS report material and supporting database on the following page of the Map Service Center: <https://www.fema.gov/preliminaryfloodhazarddata>.

We will contact you shortly to schedule a formal Consultation Coordination Officer (CCO) meeting to discuss the revised flood hazard information, ordinance adoption, and other frequently asked questions and concerns. **CCO Meetings are normally scheduled 30-45 days after preliminary issuance. However, due to Coronavirus COVID-19 CCO meetings may be delayed or held as a virtual Web-Ex type meeting instead of an in person meeting.** In the meantime, we encourage you to circulate the enclosed copies as widely as possible among elected officials, staff, and other individuals or organizations in the community that would have an interest in the FIRM and FIS report so that they will have the opportunity to review them thoroughly before the formal community coordination meeting. The review period provides community officials and citizens in the affected communities with an opportunity to identify changes or corrections to non-technical information, such as corporate limits, road names, and stream names on the FIRM or in the FIS report. Comments may be sent to the Mapping Partner:

Mapping Partner
c/o Michael Taylor
AECOM
1360 Peachtree Street Northeast, Suite 500
Atlanta, Georgia 30309

Please submit comments (digital format such as shapefiles preferred) no later than 30 days from the date of this letter. All comments and changes received during this review period will be incorporated, as appropriate, before the FIRM and FIS report become effective.

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions (SOMA) to document previous Letters of Map Change (LOMCs) (i.e., Letters of Map Amendment [LOMAs], Letters of Map Revision [LOMRs]) that will be superseded when the FIRM becomes effective. Information on LOMCs is presented in the following four categories: (1) LOMCs for which results have been included on the FIRM; (2) LOMCs for which results could not be shown on the FIRM because of scale limitations or because the LOMC issued had determined that the lots or structures involved were outside the Special Flood Hazard Areas (SFHA) as shown on the FIRM; (3) LOMCs for which results have not been included on the FIRM because the flood hazard information on which the original determinations were based is being superseded by new flood hazard information; and (4) LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures cannot be revalidated through an administrative process like the LOMCs in Category 2 above.

LOMCs in Category 2 will be revalidated through a single letter that reaffirms the validity of a previously issued LOMC; the letter will be sent to your community shortly before the effective date of the FIRM and will become effective one day after the FIRM becomes effective.

For the LOMCs listed in Category 4, we will review the data previously submitted for the LOMA or LOMR request and issue a new determination for the affected properties after the FIRM becomes effective upon request.

Your community should be aware that recently approved LOMCs, specifically LOMRs, may have been issued for your community. The LOMR process is dynamic and FEMA is reviewing LOMR applications regularly. To complete production of the Preliminary FIRMs which includes incorporating the effects of “mappable” LOMRs issued since the last map effective date, a specific cutoff was established. FEMA will address any approved LOMRs issued after the cutoff date when the final SOMA is distributed. If your community has concerns regarding a specific case, please submit the LOMR case number, as well as any appropriate documentation, to our FEMA Regional Office at 3005 Chamblee Tucker Road, Atlanta, Georgia 30341 before the end of the comment or appeal periods discussed below to assist us in keeping the map up to date.

After the CCO Meeting, we will initiate a statutory 90-day appeal period for certain communities within Miami-Dade County. A statutory 90-day appeal period is required when FEMA adds or modifies Base (1-percent-annual-chance) Flood Elevations, base flood depths, SFHAs, flood zone designations, or regulatory floodways within a community, as shown on the Preliminary FIRM. If your community is identified as requiring an appeal period, we will send you a letter approximately 2 weeks before the start of the 90-day appeal period to detail the appeal process. The letter will forward information regarding notifications to be published in the *Federal Register* and local newspaper(s) and will provide the first and second publication dates. The appeal period will start on the second newspaper publication date. Additional information concerning the 90-day appeal period will be provided during the CCO Meeting.

After the review and appeal periods have ended and we have addressed all comments/appeals, we will initiate final preparation of the FIRM and FIS report. The new FIRM and FIS report for your community will become effective approximately 7 to 10 months later. Before the effective date, you will be notified in writing of the official FIRM and FIS report effective date and asked to adopt floodplain ordinances or modify existing ordinances as necessary that correspond with the new FIRM or FIS report. If you or other community officials have any questions regarding floodplain ordinances, you may raise them with our FEMA Regional Office or you may discuss those issues with your State National Flood Insurance Program (NFIP) Coordinator. Several months before the effective date, we will mail one set of printed copies of the finalized FIRM and FIS report and digital copies of the map and report products.

Your community's comments on the Preliminary FIRM panels and FIS report are an important part of our review process, and we will consider them carefully before we publish the FIRM and FIS report in their final form. If you have any questions regarding the Preliminary copies of the FIRM and FIS report, please contact the Mitigation Division of FEMA in Region IV at 770-220-3174 and ask for the Regional Project Officer assigned to your community, for assistance. If you have general questions about mapping issues, please call our FEMA Mapping and Insurance eXchange (FMIX) Customer Care Center, toll free, at (877) 336-2627 (877-FEMA MAP) or e-mail our FMIX staff at FEMA-FMIX@fema.dhs.gov.

Sincerely,



Kristen M. Martinenza, P.E., CFM, Chief
Risk Analysis Branch
FEMA Region IV

Enclosures:

Preliminary FIS Report
Preliminary FIRMs
Preliminary SOMA

cc: Conn H. Cole, Interim State NFIP Coordinator
The Honorable Stephanie Bruder, Mayor, Town of Bay Harbor Islands
Eliezer Palacio, Chief Building Official, Town of Bay Harbor Islands

**TOWN OF BAY HARBOR ISLANDS
COMMUNITY DEVELOPMENT
MEMORANDUM**

To: Mayor and Town Council Members
Town of Bay Harbor Islands

CC: Maria Lasday - Town Manager
Alba Chang, CMC - Town Clerk

From: Eliezer Palacio – Building Official & Director
Michael J. Miller, AICP - Consultant Town Planner *WJL*

Date: March 29th, 2021

Subject: Town of Bay Harbor Islands, Florida
Federal Emergency Management Agency (FEMA)
Flood Insurance Rate Map (FIRM) Update 2021
Explanation / Schedule / Community Impact
MMPA Acct. No. 01-0702-0500

ISSUE / ANALYSIS:

In 1968 the Federal government adopted the National Flood Insurance Act (NFIA) which created the National Flood Insurance Program (NFIP). The Federal laws have been periodically updated over the years, as have the Flood Insurance Rate Maps (FIRM). The NFIP is aimed at identifying flood-prone areas, surveying and mapping such areas, restricting development to avoid repetitive flooding, and administering the NFIP. The Federal Emergency Management Agency (FEMA) is charged with administering the NFIP. There are also state / local flood programs and restrictions. Throughout the United States much of the earliest development occurred along rivers & streams, lakes, and oceans due to easy access and their scenic beauty. However, periodic flooding can occur due to storms. In recent years, global warming has apparently caused ocean water levels to rise in general, and severe storms (hurricanes / tropical storms / other) have appeared to gain more strength and their frequency has increased. The entire Florida peninsula is surrounded by water and the land elevations, particularly in South Florida are flat and low-lying. Many of the older low-lying areas in Southeast Florida are near the Atlantic Ocean and connecting waterways (Biscayne Bay / Intracoastal Water / Everglades / SFWMD canals / etc.). Much of the original drainage infrastructure (1940s) in the Town and surrounding areas was minimal to handle (simply discharge) typical storm events (no water quality treatment); however, it is not uncommon today for typical storm events to flood roadways, let alone monthly / seasonal high-tide events. Some drainage improvements have been accomplished (injection well / replace inlets & pipes / install outfall flap valves), but more is needed now and in the future.

The Town was recently (2020) notified by FEMA that new more accurate / detailed land surveying had been completed and new FIRM maps would be adopted in 2021 for Miami-Dade County. One important change will be to utilize a 1988 land survey datum (NAVD-88) versus the previous 1929 datum (NGVD-29). As one can imagine the technology of land surveying has changed dramatically since 1929. When the 1929 NGVD land elevations were established by the government there was only hand-calculated measurements and most of the land was not developed. As the lands have been developed land topography was modified in many cases. For example, the lands within the Town were originally just small undeveloped islands in Biscayne Bay. The developer sea-walled the islands and filled the land areas (quality of fill not good). The 1940s land elevations for the lots were originally established about 5.50' – 6.50' NGVD (some as low as 3.50' NGVD near seawalls). However, the land elevations of the roadways are only about 4.20' – 4.50' NGVD at the crown of the roadways and 3.75' - 4.00' NGVD at the curbs. Due to the poor soil quality and increased Base Flood Elevation (BFE) requirements all modern land development is built on pilings and beam foundations.

When flood regulations began the typical criteria was to build the lowest habitable floor at 18 inches above the average adjoining crown of road. A great majority of the Town was developed under those guidelines. As redevelopment has occurred over the years (more recently) the new development has had to meet the latest higher flood criteria. When the FIRM maps were published all new development had to meet the BFE elevation noted on the maps. In some instances, the FIRM maps have changed over the years as better survey information was obtained or as land was developed with modern stormwater retention systems (ex. - change of land use from farming to single-family subdivision).

The current FIRM maps being used by the Town today were adopted on September 11th, 2009. That FIRM map shows three (3) flood zones in the Town measured using the NGVD-1929 criteria (see attached Complan map). The entire West Island is currently AE 8.0' NGVD. A majority of the East Island is AE 9.0' NGVD with the far eastern portion adjoining the Indian Creek at AE 10.0' NGVD. In 2014 the Florida Building Code (FBC) "Building Volume" was modified to require an additional one foot of "freeboard" elevation to the BFE elevations statewide. Then under the 2017 FBC update both "Building" Volume and "Residential Volume" required one-foot of "freeboard" elevation to the BFE elevation statewide for all construction as per reference standard A.S.C.E. 24 (West Island @ 8.0' NGVD + 1' = 9.0' NGVD / East Island @ 9.0' NGVD + 1' = 10' NGVD or 10.0' NGVD + 1' = 11' NGVD).

FEMA 2021 IMPACT TO NEW DEVELOPMENT - As stated above, the new 2021 FIRM maps will utilize NAVD-88 elevation nomenclature. When the new map takes effect later this year the entire Town will have mostly one common BFE elevation designated as AE 7.0' NAVD. A few properties located directly on Biscayne Bay / Indian Creek show a VE (Velocity Zone) designation due to potential high-water / wave action (see attached new FIRM map). The VE designation may have severe impacts on the use of those waterfront sites. Staff suggests the Town notify FEMA (letter / Resolution) to reconsider the placement of VE zone to the seawalls. However, the FBC will still require 1' of additional freeboard. The conversion factor between NGVD-29 & NAVD-88 is 1.68' (in the Town) which results in a common new lowest habitable floor elevation of 9.67' NGVD (to make the change understandable) throughout the Town. The impact on all new single-family development

will be a .67' increase to the BFE. For the former AE 9.0' areas the impact will be a .33' decrease. For the former AE 10.0' areas the impact will be a 1.33' decrease to the BFE.

IMPACT TO BUILDING HEIGHT MEASUREMENT – One of the earliest Zoning Code updates MMPA assisted the Town with during the 2004-05 Code updates was where building height should be measured from. Prior to those updates building height was measured from the average crown of road abutting the site. The 2004-05 Code amendments changed the building height measure to the Base Flood Elevation (BFE). Because the road elevations are so low, and the newer FIRM elevations are so high, there is often a considerable elevation difference between new development FFE and the street grades / adjoining sites. This was severely restricting the interior vertical space designs of single-family homes and other types of redevelopment, as several feet of interior height was being lost. The change to measuring building height from BFE cured that, until recently. However, when the 2014 FBC and 2017 FBC changes were made to "Building Volume" and Residential Volume" requirements an additional 1' of freeboard height increase occurred, but one foot of interior building height was lost again. The Zoning Code has a generic definition of "Height of Building or Structure" and each Zoning District has individual building height restrictions that should be updated to address the FIRM changes and to address the FBC 1' freeboard issue. As a matter of information, Bal Harbour Village residents recently voted to amend their Charter / Zoning Code as to building height measurement for single-family homes to address this situation. See the attached draft Text amendments for discussion purposes.

IMPACT TO BUILDING STREET APPEARANCE & ADJOINING SITES – When the Town's original development occurred in the 1940s - 1950s most of the development appeared as about 2' above the crown of the adjoining roadways. Most of the original single-family homes were also one-story. Adjoining homes / lot grades / neighborhoods appeared similar in scale. As the FEMA maps were implemented in the 1970s and beyond new redevelopment had to increase the lowest floor elevations 2'+/-. And more and more homes added or were rebuilt with 2nd stories. This combination changed the appearance / scale of similar development and the site plans had to accommodate the grade changes. For example, in a typical 25' front yard setback (plus swale) a driveway has to change in elevation from 4.0'+/- NGVD at the street curb to now 9.67' NGVD or about 5 feet in grade change. Within side yards (10') or rear yards (15') the same grade change situation must occur. To avoid building steep unusable yard areas most new redevelopment sites are building short retaining walls (2'-3') with a decorative fence on top. The exterior facade of the retaining wall is required to be finished on the side facing adjoining sites to not affect the neighbor. Obviously, the lot grades are different on each side of the retaining wall and the home scale is different – but the new home must comply with the new flood elevations. Retaining walls to raise lot grades are currently optional in the Town. Raising older seawalls to the listed elevations (5.50' – 6.0' on BB) is also currently optional in the Town. As a comparison in the Town of Golden Beach, which was built in 1929 and has much lower original lot / roadway elevations (3.0' - 3.5' NGVD), if one rebuilds, a retaining wall system / lot filling to set elevation standards is mandatory, as is raising the seawall elevation – which has helped their flooding situation for homes (street still have some problems). The Town Council should discuss this issue and others to address current and future flooding, including possible Code amendments.



NOTICE TO CONGRESS: MONTHLY UPDATE ON FLOOD MAPPING

Biggert-Waters Flood Insurance Reform Act of 2012 and Homeowner
Flood Insurance Affordability Act of 2014

December 2020



FEMA

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1. INTRODUCTION

Flooding is a serious risk to life and property in the United States, but flood risk changes over time. The FEMA Risk Mapping, Assessment, and Planning (Risk MAP) program helps communities understand and prepare for changing flood risks by updating flood maps. These updated flood maps help communities make decisions about building codes and other standards that make residents, homes and businesses safer from flooding.

By law, FEMA must look at community flood maps every 5 years and decide whether to update or change them. FEMA must also tell Congress every month about any planned changes to community flood maps. This Notice to Congress includes information about:

- Communities that (in the next 3 months) are scheduled to receive updated draft maps from FEMA (called preliminary maps and revised preliminary maps).
- Communities that have received preliminary or revised preliminary maps from FEMA.
- The period of time during which community notices will be published about the release of the maps and the appeals period.
- Communities that have received Letters of Final Determination (LFDs) about their updated maps.
- Communities where revised flood maps are considered final (called effective maps).

This monthly Notice to Congress will also include updates on the Risk MAP program, news on how communities are protecting themselves against flood risks, and other topics.

Risk MAP Vision

"The vision for Risk MAP is to deliver quality data that increases public awareness and leads to action that reduces risk to life and property."



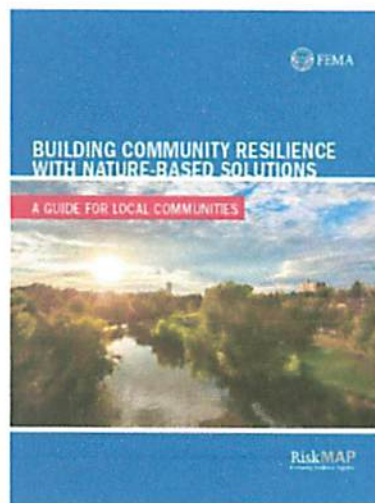
2. RISK MAP NEWS

Building Community Resilience with Nature-Based Solutions

Flooding, high wind, drought, landslides and other natural hazards threaten communities across the United States. Reducing risk to lives, properties and the economy is a top priority—but local officials or staff may not know where to start when it comes to using nature to reduce risk.

Enter the new “Building Community Resilience with Nature-Based Solutions: A Guide for Local Communities.” The guide aims to help communities—along with state, tribal and territorial governments—make the business case for nature-based solutions; set planning policies that support nature-based solutions; determine public and private resources; and understand federal funding opportunities.

Resilience experts from FEMA’s Risk Management Directorate and the National Oceanic and Atmospheric Administration (NOAA) worked together to create this new guide. NOAA’s expertise strengthened the guide’s content, and additional collaboration with FEMA’s Building Resilient Infrastructure and Communities (BRIC) team confirmed alignment with their priority of advancing nature-based solutions. The result represents multiple perspectives, all working towards risk reduction.



The new guide is currently highlighted on the BRIC website or can be accessed directly on [FEMA.gov](https://www.fema.gov).



A look inside the new *Building Community Resilience with Nature-Based Solutions: A Guide for Local Communities* with illustrations of floodplain restoration, green streets and a waterfront park.

3. NOTIFICATION

The following table shows preliminary and revised preliminary flood mapping studies that are expected to be released in the current month and the next two months. An additional table shows the studies where FEMA took action by issuing preliminary or revised maps; starting an appeal period; releasing an LFD or effective maps. All tables show the FEMA region, state, and county where the action will take or has taken place. The tables also provide details on the flood mapping study status and estimated or actual dates.

3.1. ESTIMATED RELEASE OF PRELIMINARY MAPS

Some communities within the counties listed below have been studied to measure their flood risk. This flood hazard is shown in the Preliminary Flood Insurance Rate Maps (FIRMs) and Flood Insurance Study (FIS) report. The table identifies the month that FEMA plans to deliver the preliminary FIRM and FIS report to the designated community officials.

The column called "Estimated Schedule of Community Meeting" shows which quarter of the calendar year a community meeting to discuss the FIS and preliminary FIRM might be scheduled. In some cases, several meetings are needed to cover all communities that were studied.

Finally, the column named "Estimated Public Notice and Starting Appeal Period" shows which quarter of the calendar year an appeal period starts in a study area. The appeals period starts after the second notice is placed in the local newspaper. In study areas that cover a number of communities, notices will have to be put in several local papers, which means each community in a study could have a different publication date.

Region	State	County Name	Estimated Preliminary Issuance	Estimated Schedule of Community Meetings	Estimated Public Notice and Starting Appeal Period
1	MA	Essex County	January 2021	Quarter 1, 2021	Quarter 2, 2021
1	MA	Middlesex County	January 2021	Quarter 1, 2021	Quarter 2, 2021
1	MA	Worcester County	January 2021	Quarter 1, 2021	Quarter 2, 2021
2	NY	Cayuga County	January 2021	Quarter 1, 2021	Quarter 2, 2021
2	NY	Oswego County	January 2021	Quarter 1, 2021	Quarter 2, 2021
3	VA	Colonial Heights City	January 2021	Quarter 1, 2021	Quarter 2, 2021
3	VA	Hopewell City	January 2021	Quarter 1, 2021	Quarter 2, 2021
3	VA	Petersburg City	January 2021	Quarter 1, 2021	Quarter 2, 2021
3	VA	Prince Edward County	February 2021	Quarter 2, 2021	Quarter 3, 2021
3	VA	Prince George County	January 2021	Quarter 1, 2021	Quarter 2, 2021
4	AL	Colbert County	January 2021	Quarter 2, 2021	Quarter 3, 2021
4	AL	Franklin County	January 2021	Quarter 2, 2021	Quarter 3, 2021
4	AL	Lauderdale County	January 2021	Quarter 2, 2021	Quarter 3, 2021
4	AL	Lawrence County	January 2021	Quarter 2, 2021	Quarter 3, 2021
4	FL	Miami-Dade County	February 2021	Quarter 2, 2021	Quarter 3, 2021



Region	State	County Name	Estimated Preliminary Issuance	Estimated Schedule of Community Meetings	Estimated Public Notice and Starting Appeal Period
4	GA	Brooks County	February 2021	Quarter 2, 2021	Quarter 3, 2021
4	GA	Colquitt County	February 2021	Quarter 2, 2021	Quarter 3, 2021
4	GA	Cook County	February 2021	Quarter 2, 2021	Quarter 3, 2021
4	GA	Lowndes County	February 2021	Quarter 2, 2021	Quarter 3, 2021
4	GA	Thomas County	February 2021	Quarter 2, 2021	Quarter 3, 2021
4	MS	Washington County	December 2020	Quarter 1, 2021	Quarter 2, 2021
4	SC	Allendale County	January 2021	Quarter 2, 2021	Quarter 3, 2021
4	SC	Bamberg County	January 2021	Quarter 2, 2021	Quarter 3, 2021
4	SC	Barnwell County	January 2021	Quarter 2, 2021	Quarter 3, 2021
4	SC	Hampton County	February 2021	Quarter 2, 2021	Quarter 3, 2021
5	MN	Lincoln County	February 2021	Quarter 2, 2021	Quarter 3, 2021
5	MN	Pipestone County	February 2021	Quarter 2, 2021	Quarter 3, 2021
5	MN	Rock County	February 2021	Quarter 2, 2021	Quarter 3, 2021
5	OH	Allen County	December 2020	Quarter 1, 2021	Quarter 2, 2021
5	OH	Clermont County	February 2021	Quarter 2, 2021	Quarter 3, 2021
5	OH	Hamilton County	January 2021	Quarter 1, 2021	Quarter 2, 2021
5	OH	Warren County	January 2021	Quarter 1, 2021	Quarter 2, 2021
5	WI	Washington County	February 2021	Quarter 2, 2021	Quarter 3, 2021
5	WI	Waukesha County	February 2021	Quarter 2, 2021	Quarter 3, 2021
6	AR	Washington County	December 2020	Quarter 1, 2021	Quarter 1, 2021
6	OK	Haskell County	February 2021	Quarter 1, 2021	Quarter 2, 2021
6	TX	Bastrop County	February 2021	Quarter 1, 2021	Quarter 2, 2021
6	TX	Collin County	February 2021	Quarter 1, 2021	Quarter 2, 2021
7	IA	Cerro Gordo County	February 2021	Quarter 1, 2021	Quarter 2, 2021
7	IA	Clayton County	December 2020	Quarter 1, 2021	Quarter 2, 2021
7	IA	Fayette County	December 2020	Quarter 1, 2021	Quarter 2, 2021
7	IA	Hancock County	December 2020	Quarter 1, 2021	Quarter 2, 2021
7	IA	Winnebago County	January 2021	Quarter 1, 2021	Quarter 2, 2021
7	KS	Brown County	December 2020	Quarter 1, 2021	Quarter 2, 2021
7	KS	Doniphan County	February 2021	Quarter 1, 2021	Quarter 2, 2021
7	KS	Morris County	December 2020	Quarter 1, 2021	Quarter 2, 2021
7	MO	St. Louis County	February 2021	Quarter 1, 2021	Quarter 2, 2021
7	NE	Wayne County	February 2021	Quarter 1, 2021	Quarter 2, 2021
8	CO	Archuleta County	December 2020	Quarter 1, 2021	Quarter 3, 2021
8	CO	Costilla County	February 2021	Quarter 2, 2021	Quarter 4, 2021
8	CO	La Plata County	January 2021	Quarter 1, 2021	Quarter 3, 2021
8	CO	Larimer County	January 2021	Quarter 1, 2021	Quarter 3, 2021
8	CO	San Juan County	December 2020	Quarter 1, 2021	Quarter 3, 2021
8	MT	Mineral County	January 2021	Quarter 2, 2021	Quarter 4, 2021
8	MT	Missoula County	January 2021	Quarter 2, 2021	Quarter 4, 2021
9	NV	Elko County	January 2021	Quarter 1, 2021	Quarter 2, 2021

3.2. ESTIMATED RELEASE OF REVISED PRELIMINARY MAPS

In some cases, FEMA may decide to issue a revised preliminary map to address changes to preliminary flood hazard determinations, or to address changes to a non-technical issue. The table below shows the



studies for which FEMA plans to release revised preliminary maps. The actual release dates are scheduled in coordination with the state and/or local governments.

The table below shows an estimate for the month the revised maps will be released. Community meetings, notices in local papers, and dates of appeal periods are not shown because these are often not needed for revised preliminary maps.

Region	State	County Name	Estimated Revised Preliminary Issuance
3	MD	Frederick County	December 2020
3	PA	Cumberland County	December 2020
4	FL	Broward County	February 2021
4	NC	Carteret County	February 2021
5	IN	Bartholomew County	February 2021
5	MI	Cheboygan County	December 2020
5	OH	Ottawa County	December 2020
9	AZ	Maricopa County	February 2021
9	CA	Mendocino County	February 2021

3.3. ACTIONS TAKEN BY FEMA

The table below shows the counties where FEMA released a preliminary FIRM and FIS report, began a 90-day appeal period, released a revised preliminary FIRM and FIS report, or sent LFDs in the previous month. It also identifies counties where FIRMs and FIS reports became effective during the previous month.

Region	State	County Name	Action Taken	Date
1	MA	Hampshire County	Appeal Start	11/27/2020
1	ME	Penobscot County	Preliminary	11/12/2020
2	NY	Clinton County	Appeal Start	11/6/2020
2	NY	Niagara County	LFD Issued	11/4/2020
3	PA	Schuylkill County	LFD Issued	11/18/2020
3	VA	Middlesex County	Appeal Start	11/19/2020
3	WV	Webster County	Appeal Start	11/12/2020
4	KY	Daviess County	Preliminary	11/12/2020
4	KY	Knox County	LFD Issued	11/18/2020
4	KY	McLean County	Preliminary	11/12/2020
4	KY	Ohio County	Preliminary	11/12/2020
4	KY	Webster County	Preliminary	11/12/2020
4	KY	Whitley County	LFD Issued	11/18/2020
4	MS	Forrest County	Appeal Start	11/20/2020
4	MS	Greene County	Appeal Start	11/19/2020
4	MS	Jones County	Appeal Start	11/19/2020



Region	State	County Name	Action Taken	Date
4	MS	Marshall County	LFD Issued	11/4/2020
4	MS	Perry County	Appeal Start	11/18/2020
4	MS	Quitman County	LFD Issued	11/4/2020
4	MS	Rankin County	Revised Preliminary	11/18/2020
4	MS	Tate County	LFD Issued	11/4/2020
4	MS	Tunica County	LFD Issued	11/4/2020
4	SC	Greenville County	LFD Issued	11/4/2020
4	SC	Spartanburg County	LFD Issued	11/4/2020
4	SC	Union County	LFD Issued	11/4/2020
5	OH	Van Wert County	Preliminary	11/13/2020
5	MI	Kent County	Preliminary	11/16/2020
5	WI	Florence County	Preliminary	11/16/2020
5	WI	Brown County	Preliminary	11/18/2020
5	MN	Itasca County	Preliminary	11/20/2020
5	OH	Montgomery County	Preliminary	11/30/2020
5	MI	Allegan County	Revised Preliminary	11/30/2020
5	OH	Lake County	LFD Issued	11/4/2020
6	OK	Roger Mills County	LFD Issued	11/18/2020
6	TX	Dallas County	Preliminary	11/13/2020
6	TX	Tarrant County	Preliminary	11/13/2020
7	IA	Buena Vista County	Appeal Start	11/20/2020
7	IA	Fayette County	LFD Issued	11/18/2020
7	IA	Jackson County	Appeal Start	11/5/2020
7	IA	Louisa County	Appeal Start	11/19/2020
7	KS	Nemaha County	Preliminary	11/10/2020
8	CO	Logan County	LFD Issued	11/4/2020
8	CO	Morgan County	LFD Issued	11/18/2020
8	CO	Sedgwick County	LFD Issued	11/18/2020
8	CO	Washington County	LFD Issued	11/18/2020
9	CA	Shasta County	Appeal Start	11/19/2020

Information on "Preliminary and Revised Preliminary" Actions

For the flood risk studies shown above, FEMA gave copies of either the initial or the revised FIRM and FIS report to all communities involved. Copies are also online at <https://msc.fema.gov/portal/search> and <https://msc.fema.gov/fmfv>.

FEMA encourages local officials to widely share their copies with residents, business owners, elected officials, and others in the community. This helps in adding to or correcting non-technical information such as layout and labeling of roads, bridges, and streams, and other features. Requests to change such information can be made during the community review period, at a community meeting, and during the 90-day appeal period. Approved changes will be shown on the final FIRM and in the final FIS report.



Information on “Appeal Start” Actions

Under the National Flood Insurance Act, there are limited rights to appeal findings in the preliminary FIRM and FIS reports. Appeals can be made by owners or renters of real property within a community who believe that their property rights are adversely affected, and/or by an affected community.

Important information on the process can be found in the document called “Guidance for Flood Risk Analysis and Mapping: Appeal and Comment Processing,” which can be found at

https://www.fema.gov/sites/default/files/2020-02/Appeal_Comment_Processing_Guidance_Feb_2019.pdf.

Information on “LFD Issued” Actions

A statutory 90-day appeal period was held, and FEMA resolved any appeals or comments received during that period. FEMA has sent the LFD to the chief executive officer of all affected communities, all individual appellants, and the state coordinating agency and will publish the final flood hazard information in the *Federal Register*. The updated FIRM panels will become effective 6 months from the date of the LFD. Final FIRM and FIS reports will officially be archived on the Flood Map Service Center (MSC) website at <https://msc.fema.gov>.

Property owners’ flood insurance rates may be affected once a FIRM becomes effective. Resources are available to help homeowners understand the importance of flood insurance and the steps they can take to reduce their rates. For additional information about flood insurance, visit

<https://www.fema.gov/flood-insurance>.

To view upcoming map changes, please visit the Flood Map Changes Viewer at

<https://msc.fema.gov/fmfv>.

Information on “Maps Effective” Actions

The updated FIRM and FIS report issued by FEMA have become effective. Effective FIRMs are used by communities to administer floodplain management regulations and mitigate flood damage. Local citizens use them to determine the flood zone for their property or structure. Lending institutions use them to determine whether flood insurance is required. Insurance rates may be affected for property owners once a FIRM becomes effective. To view the effective FIRMs, please visit the Map Service Center at <https://msc.fema.gov/portal/search>.

Additional flood mapping information and resources can be found on the FEMA website at

<https://www.fema.gov/flood-maps>. In addition, the FEMA Map Information and Insurance eXchange (FMIX) is available to answer questions by telephone, toll free, at 1-877-336-2627 (FEMA MAP) or by email at FEMAMapSpecialist@riskmapcds.com. A list of additional resources for information can be found in *Appendix B* of this Notice to Congress. If you have any questions or concerns regarding the information in this document, please contact the appropriate FEMA Regional External Affairs staff listed below.

FEMA Regional External Affairs Contact List

FEMA Region	Name	Telephone Number	Email Address
1	Dennis Pinkham	617-956-7547	Dennis.Pinkham@fema.dhs.gov
2	Kevin Sullivan	202-480-1053	Kevin.Sullivan@fema.dhs.gov
3	Nicholas Morici	267-546-6419	Nicholas.Morici@fema.dhs.gov
4	Hallie Anderson	202-826-3190	Hallie.Anderson@fema.dhs.gov
5	Dan Shulman	312-408-4427	Dan.Shulman@fema.dhs.gov
6	Juan Ayala	940-898-5105	Juan.Ayala@fema.dhs.gov
7	Luis Zenteno	202-875-3473	Luis.Zenteno@fema.dhs.gov
8	Megan Floyd	303-235-4638	Megan.Floyd@fema.dhs.gov
9	Frank Mansell	510-627-7068	Frank.Mansell@fema.dhs.gov
10	Cam Rossie	425-487-4651	Camilla.Rossie@fema.dhs.gov



4. LEGAL REQUIREMENTS

The Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters), as amended by the Homeowner Flood Insurance Affordability Act of 2014, directs FEMA to notify Members of Congress when constituents in their districts will be affected by a flood mapping update. Public Law 112-141, div. F, title II, §100216, July 6, 2012, 126 Stat. 927; Pub. L. 113-89, §§27, 30, Mar. 21, 2014, 128 Stat. 1033, 1034; 42 U.S.C. §4101b (d) (1)(G)(i) and (H) (2014). Under Biggert-Waters:

- The Administrator shall, not less than 30 days before issuance of any preliminary map, notify the Senators for each State affected and each Member of the House of Representatives for each congressional district affected by the preliminary map in writing of the estimated schedule for:
 - Community meetings regarding the preliminary map
 - Publication of notices regarding the preliminary map in local newspapers
 - The commencement of the appeals process regarding the map

See Biggert-Waters, as amended, at 42 U.S.C. §4101b (d)(1)(G)(i).¹

Biggert-Waters also states:

- The Administrator shall, upon the issuance of any proposed map and any notice of an opportunity to make an appeal relating to the proposed map, notify the Senators for each State affected and each Member of the House of Representatives for each congressional district affected by the proposed map of any action taken by the Administrator, with respect to the proposed map or an appeal relating to the proposed map.

See Biggert-Waters, as amended, at 42 U.S.C. §4101b (d)(1)(H).

In accordance with these requirements, this document serves as notification to Congress and provides details on studies with an estimated issuance of preliminary or revised preliminary flood maps in the current month and the next 2 months, and studies for which preliminary or revised preliminary flood maps and/or LFDs were issued last month.² LFDs are the actions taken by FEMA to finalize the flood hazard data shown on a preliminary FIRM. This document also provides details on statutory administrative appeal periods³ that were initiated and maps that went effective last month.

¹ FEMA is working to develop the additional administrative process required to implement 42 U.S.C. §4101b (d)(1)(G)(ii) and will update this Notice as appropriate.

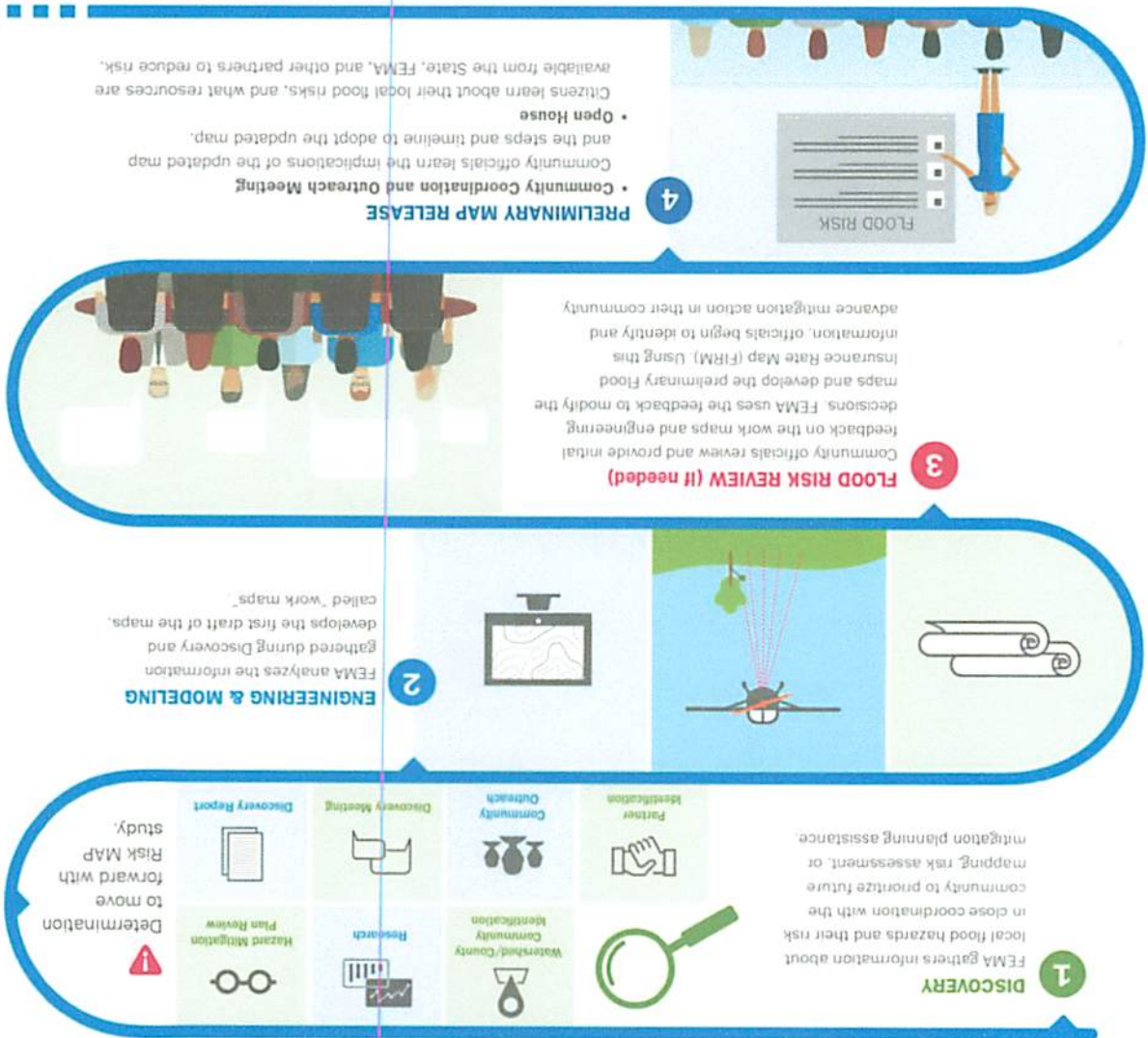
² For definitions of flood map, LFD, and other terms, please refer to Appendix B.

³ For more details, see "Information on 'Appeal Start' Actions" in Section 4.3.

APPENDIX A: RISK MAP PROCESS GRAPHIC

The information graphic below shows the process for flood map creation and updates.

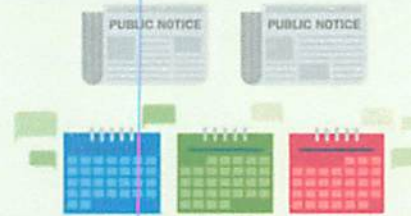
FEMA Risk MAP Process



Risk MAP Process Continued

5 90-DAY APPEAL AND COMMENT PERIOD

Following two public notices, community members can submit technical data to support a request to revise the FIRM through the 90-day appeals process. All appeals, including all supporting documentation, must be submitted through the appropriate community official.



7 ADOPTION & COMPLIANCE

Communities participating in the NFIP must adopt a compliant floodplain management ordinance by the map effective date to remain in good standing as an NFIP participant.



6 LETTER OF FINAL DETERMINATION

After all appeals are resolved, FEMA sends a Letter of Final Determination, kicking off a six-month period for communities to adopt the new flood maps.



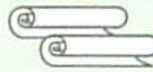
8 RESILIENCE MEETING

FEMA, State and local officials, and partners work to identify and review resilience strategies, planning options, and potential actions to reduce risk.



9 EFFECTIVE MAPS

Once effective, new maps and products are available through FEMA's Flood Map Service Center. The new data will inform flood insurance decisions and local building regulations. Community members can submit data to amend or revise the FIRM as part of a Letter of Map Change (LOMC) process.



RiskMAP
Increasing Resilience Together



FEMA

APPENDIX B: RESOURCES

The following additional resources provide a better understanding of key elements of this report.

Implementation of the Biggert-Waters Flood Insurance Reform Act of 2012 and the Homeowner Flood Insurance Affordability Act

Website	http://www.fema.gov/flood-insurance/rules-legislation/laws
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National Flood Insurance Program

Website	http://www.fema.gov/flood-insurance
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Phone	888-379-9531 (toll free)
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E-mail	floodsmart@fema.dhs.gov
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Risk MAP Program

Website	http://www.fema.gov/flood-maps/tools-resources/risk-map
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Phone	877-336-2627 (toll free)
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E-mail	FEMAMapSpecialist@riskmapcds.com
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Understanding your flood map

To identify a community's flood risk, the Federal Emergency Management Agency (FEMA) conducts a Flood Insurance Study. The study includes information on canal and stream flows, storm tides, hydrologic/hydraulic analyses, and rainfall and topographic surveys. FEMA uses this data to create the flood hazard maps - the Digital Flood Insurance Rate Maps (DFIRMs) that outline your community's different flood risk areas. FEMA periodically updates those maps and it is currently updating the map for Miami-Dade County. Below are the definitions for all the flood zone designations shown in Miami-Dade County's DFIRMs.

■ ZONE AE (Moderate to High Flooding Risk)

This is the flood insurance rate zone that corresponds with flood depths greater than three feet. Mandatory flood insurance purchase requirements apply.

■ ZONE AH (Moderate to High Flooding Risk)

This is the flood insurance rate zone that corresponds to areas of shallow flooding with average depths between one and three feet. Mandatory flood insurance purchase requirements apply.

■ ZONE VE (High Flooding Risk)

This is the flood insurance rate zone that corresponds to coastal areas that have additional hazards associated with storm waves. There is at least a one-in-four chance of flooding during a 30-year mortgage. Mandatory flood insurance requirements apply.

■ Zone A (unnumbered) (High Flooding Risk)

Because detailed analyses are not performed for such areas, no depths or base flood elevations are shown within these zones. There is at least a one-in-four chance of flooding during a 30-year mortgage. Mandatory flood insurance requirements also apply.

■ Zone D Areas with possible but undetermined flood hazards.

No flood hazard analysis has been conducted. Flood insurance rates are commensurate with the uncertainty of the flood risk. In Miami-Dade County, most of these areas fall within Everglades National Park.

In moderate-to-low-risk areas, the chance of being flooded is reduced but not completely removed. These areas submit more than 20 percent of the NFIP claims and receive one-third of all disaster assistance for flooding. Flood insurance isn't federally required in moderate-to-low areas, but it is recommended for all property owners and renters. They are shown on flood maps as zones labeled with the letter X (or a shaded X).

The Water Cycle

Precipitation falls from clouds to the earth as rain, snow or ice. An average of 52 inches of rain falls on South Florida each year. Excess water, called runoff, flows from land into ponds, lakes, or canals. In South Florida, the water also flows into wetlands, marshes or estuaries and into the Atlantic Ocean or Gulf of Mexico.

Some rainfall slowly seeps, or percolates, into the ground to recharge, or refill, the underground layer of sand, gravel or rock. These layers, called aquifers, hold water. In South Florida, wells are drilled into some aquifers to pump out water needed for

people, businesses and farms. Water can also flow through aquifers to refill lakes and rivers and sometimes bubble out of the ground as freshwater springs.

The sun heats up the earth's surface, causing water to turn to vapor as it evaporates. Plants release water through transpiration. Together, all the water rising into the air is called evapotranspiration. The warm vapor continues to rise until it reaches cooler air; it condenses into very small droplets or ice crystals, forming clouds.



It is all connected!

Make sure that only rain gets into the drainage system by correctly disposing of trash and landscape debris. It is ILLEGAL to throw away or discharge anything into the rivers, canals, lakes, bays or any waters in Miami-Dade County. By law, nothing but rainwater is allowed to be discharged into the storm drains. If you witness dumping of any liquid or materials into storm drains or waters of the County, please call the 24-hour Environmental Emergency Hot-Line at 305-372-6955, or Miami-Dade Crime Stoppers at 305-471-TIPS (8477).

Wetlands are our friends

Did you know that rainfall is an important part of the ecology of South Florida? Rainfall drains into floodplains such as the Everglades and our many wetlands, filters through these areas, and is eventually stored underground. Underground water is the only source of drinking and domestic water supply in South Florida. It is important that we protect and maintain these drainage areas; the quality of our drinking water depends on it!



Questions about flood maps?

Call the Miami-Dade County Flood Zone Hot Line at 305-372-6466, Monday through Friday, from 8 a.m. to 5 p.m.

Call the FEMA Map Assistance Center at 1-877-FEMA-MAP (1-877-336-2627), Monday through Friday, 8 a.m. to 6:30 p.m., for information and assistance on how to obtain flood maps.

You can also view the maps online at gisweb.miamidade.gov/floodzone.

To view printed copies of the maps, please visit the following locations:

Miami-Dade RER, Water Management Division
701 NW 1 Court,
Suite 500
Miami, FL 33136
305-372-6529

Miami-Dade RER, Downtown Environmental Plan Review Office
701 NW 1 Court,
Suite 200
Miami, FL 33136
305-372-6899

Miami-Dade RER, West Dade Environmental Plan Review Office
11805 SW 26 Street
Miami, FL 33175
786-315-2800

Questions about flood insurance?

Visit www.floodsmart.gov or speak with your insurance agent. For information on coverage and rates call 1-800-427-4661.

For a copy of this publication in an accessible format, please call 305-372-6466 or send an e-mail to Ana.Jiron@miamidade.gov.

Para obtener una copia de este folleto en español o en formato accesible, llame al 305-372-6466 o envíe un correo electrónico a Ana.Jiron@miamidade.gov.

Pou jwenn yon kopi bwochi sa an kreyòl oubyen nan foma aksesib, rele 305-372-6466 oubyen lèt elektwonik Ana.Jiron@miamidade.gov.



123.01-1 2/20

PEPC PROJECT 01-10

Do You Know Your Flood Zone?



Important new developments for you to know

FEMA is working on updating the flood zone maps for Miami-Dade County. The publication of the preliminary maps is scheduled for 2021.

Why do floods occur?

Because Miami-Dade County is located in a unique geographical area, it is particularly susceptible to flooding from major rain events and storm surge. The County is surrounded by major water bodies, the Atlantic Ocean, Biscayne Bay, and many rivers, lakes and canals. Miami-Dade County lies close to sea level and its underground water supply is just below the ground surface. Therefore, major rain events sometimes leave rainwater nowhere to drain, causing occasional flooding in some areas of the County.

Know your flood risk

If you are not sure where your property is located on the map, please call Miami-Dade County's 311 Contact Center or Flood Zone Hotline at 305-372-6466 and your exact flood zone designation will be confirmed.

You can also find the flood zone for your property, using the website: gisweb.miamidade.gov/floodzone.

You can also visit the FEMA Map Service Center Website to download a copy of the maps at msc.fema.gov.

The Stormwater Utility Section also provides flood protection assistance to citizens. In the form of site visits and advice on how to protect your property from flooding. Please call Miami-Dade County's 311 Contact Center or 305-372-6688 to report any unusual flooding in your area or to request a site visit for your property.

Additional floodplain information

The hotline also provides additional information about your flood risk, such as location of coastal high hazard areas, flood depths at your property, historical flood maps, newly mapped flood prone areas, special rules for building in the floodplain, and future sea level vulnerability.

For information about natural conservation areas, and other protected areas, visit our Environmental Considerations tool at www.miamidade.gov/environmental-gis.asp or call the Flood Zone Hotline.

Get an Elevation Certificate

Once you have determined that your house lies in a flood zone, an Elevation Certificate can then tell you how high your house was built in relation to that flood zone. These Certificates are required for all new construction, as well as for construction projects that involve making substantial improvements to a structure. An Elevation Certificate is an important document that every homeowner should have, and in case of a disaster, would demonstrate to County authorities that your house is at or above the required elevation. If the Certificate shows that your house is lower than the required elevation, then the so-called "50% rule" would apply to your house. This rule means that if your house is in a flood zone and is damaged and/or improved to an amount greater than 50% of its market value, it will have to be raised to meet the current elevation requirement. Miami-Dade County has kept records of these Certificates on file since the County began participating in the Community Rating System (CRS). For more information about the 50% rule or Elevation Certificates, please call Miami-Dade County's 311 Contact Center or the Flood Zone Hotline at 305-372-6466.

Insure your home

Flood insurance is required for any federally backed mortgage in a Special Flood Hazard Area. PLEASE NOTE: when purchasing flood insurance, the policy does not go into effect until 30 days after purchase. Please visit www.floodsmart.gov for the most current information on flood insurance premiums and to locate a flood insurance agent in your area.

Because of Miami-Dade County's rating under the National Flood Insurance Program's (NFIP) Community Rating System, Miami-Dade County policy holders who live in a flood zone have enjoyed a 25% discount on their flood insurance premiums since October 1, 2003. A 10% discount on flood insurance is also available for those who live outside of flood zones, except on preferred risk policies.

Protect your home

There are things you can do to minimize or eliminate property damage before a flood event occurs. Grading your property, elevating and securing electrical appliances, placing all low-lying electrical fixtures on separate electrical circuits, and using flood-resistant materials on exterior surfaces are some ways you can help yourself. Under emergency conditions, sand bags can be used to protect structures from flood waters, and elevating or covering furniture and valuables can help minimize damage.

Retrofitting your home

All construction in Miami-Dade County requires the issuance of building permits prior to construction. Building permits are obtained after submittal and approval of building plans. An important part of the review process is the requirement that structures be built high enough and use proper design to protect against flood damage. If you plan to construct an addition to your house, build a new house, or for any other type of development, call Miami-Dade County's Department of Regulatory and Economic Resources (DER) at 786-315-2000 for information on how to obtain the necessary permits. If you see construction taking place in Miami-Dade County without the proper permits, please call the Miami-Dade County's 311 Contact Center or the Code Enforcement Office at 786-315-2424 to report it. To obtain information on how to select a contractor to repair your home after a flood or other natural disaster, or to conduct a search to find out if a complaint has been filed on a contractor working in Miami-Dade County, please visit www.miamidade.gov/building/contractor-inquiry-search.asp.



If you live in a condo

If you live in a condominium, private community with an association, or if your place of business is located in a commercial property such as a warehouse or shopping mall, then you should become familiar with the drainage system in your private community and/or place of business. Specifically, you should be aware of the location, condition and operation of the on-site drainage system that your homeowner's association or place of business is responsible for maintaining. It is also a good idea to develop a list of important contact persons/phone numbers associated with the maintenance of the drainage system BEFORE an emergency arises.

Be aware

When an Emergency Flood Warning Notice is issued for your area, take safety precautions immediately:

- Do not walk or drive through flowing or standing water. Unseen obstructions or hazards may harm you or your vehicle. Also, sewage from overflowing sewer lines may be present in the water.
- Avoid downed power lines and electrical wires. These lines can cause shock and electrocution.
- Turn off the power in your house. This should include electrical power as well as all propane gas tanks and lines.
- Watch your step in flooded areas. Slip-and-fall accidents are common in wet, slippery areas.
- Be alert for small animals that are flushed out by flooding conditions. Under stress, animals may react by biting when disturbed.
- Be aware of gas leaks in the house. Do not smoke, nor use candles or open flames, until you are sure no leaks exist; ventilate enclosed areas if you think gas is present.

For more information, please visit the Red Cross website at www.redcross.org/get-help/how-to-prepare-for-emergencies/types-of-emergencies/flood.html.

Repetitive losses

A Repetitive Loss (RL) property is any insurable building for which two or more claims of more than \$1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling ten-year period, since 1978. A RL property may or may not be currently insured by the NFIP. Currently there are over 122,000 RL properties nationwide. To find out more about repetitive loss properties, visit our website at: www.miamidade.gov/environment/repetitive-losses.asp.

Weather warnings / watches.

The National Weather Service monitors local weather conditions. If flooding from rain is anticipated, the Service will broadcast Flood Warning Notices through television, radio and wire services. These notices are intended to make you aware and help you prepare for possible flooding. If an Emergency Flood Warning Notice is issued, the National Weather Service will broadcast this warning through the Emergency Alert System, and through TV and radio stations. For more information visit www.miamidade.gov/fire/alerts-and-notifications.asp.



Your opinion counts

Miami-Dade County is constantly updating its Floodplain Management Plan. To reduce street flooding, the County's Stormwater Utility is in the process of identifying, prioritizing and implementing local drainage projects throughout the County. We would like to hear from you to be sure we are meeting your needs. Please see the following questions and respond by calling our Flood Complaints Hotline, from 8 a.m. to 5 p.m., Monday through Friday, at 305-372-6688.

We would like to know:

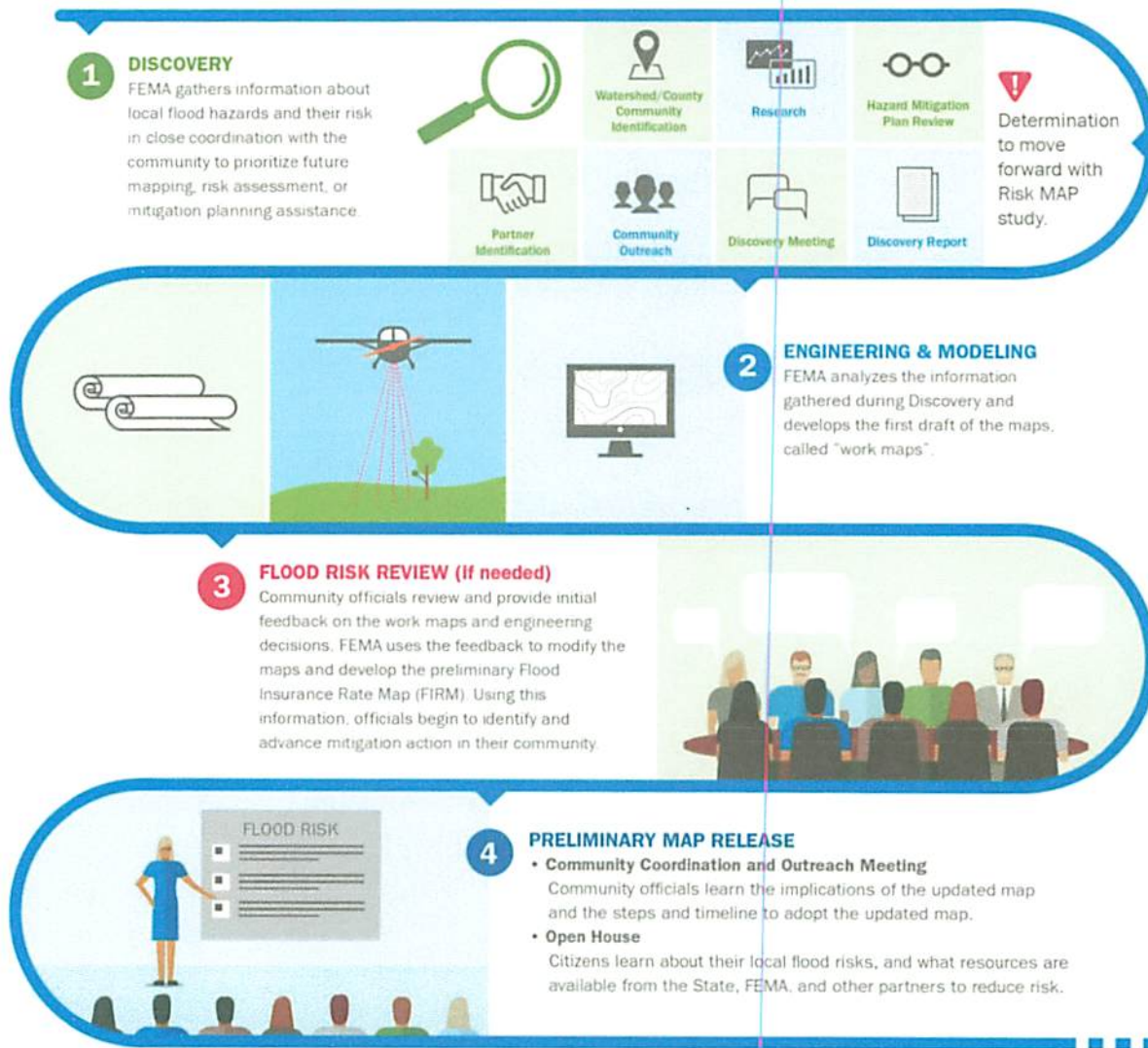
Do you have flooding problems in your neighborhood or at your place of business? If so, have you notified the County and if you did, was our response satisfactory?

Have you noticed the drainage improvements being constructed by Miami-Dade County? Have they helped reduce flooding in your local community?

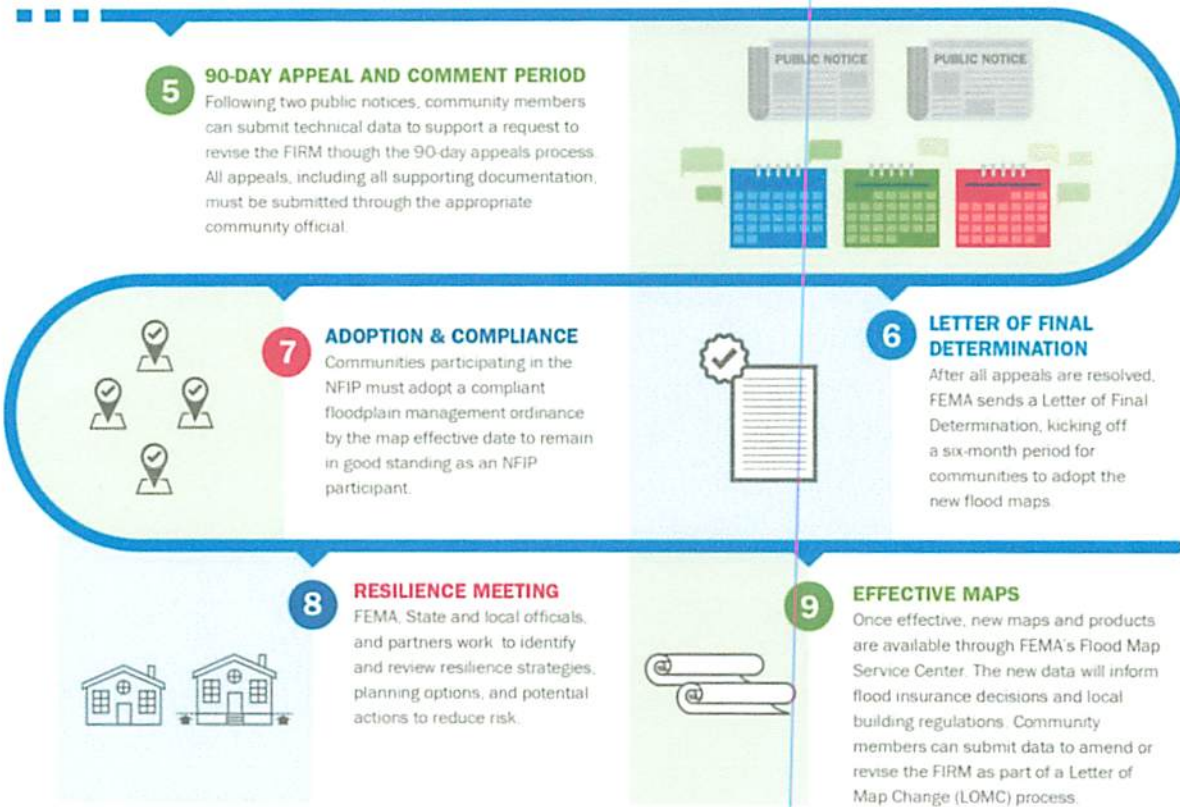
APPENDIX A: RISK MAP PROCESS GRAPHIC

The information graphic below shows the process for flood map creation and updates.

FEMA Risk MAP Process



Risk MAP Process Continued



RiskMAP
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FEMA



FEMA

Vertical Datum

Water Level Measuring Standard Undergoing Upgrade

Reducing the risk of flooding and protecting South Florida's water supply depend on knowing how much water must be moved from one elevation to another. This requires a precise measurement of elevations in lakes, canals and other water bodies connected to the water control system.

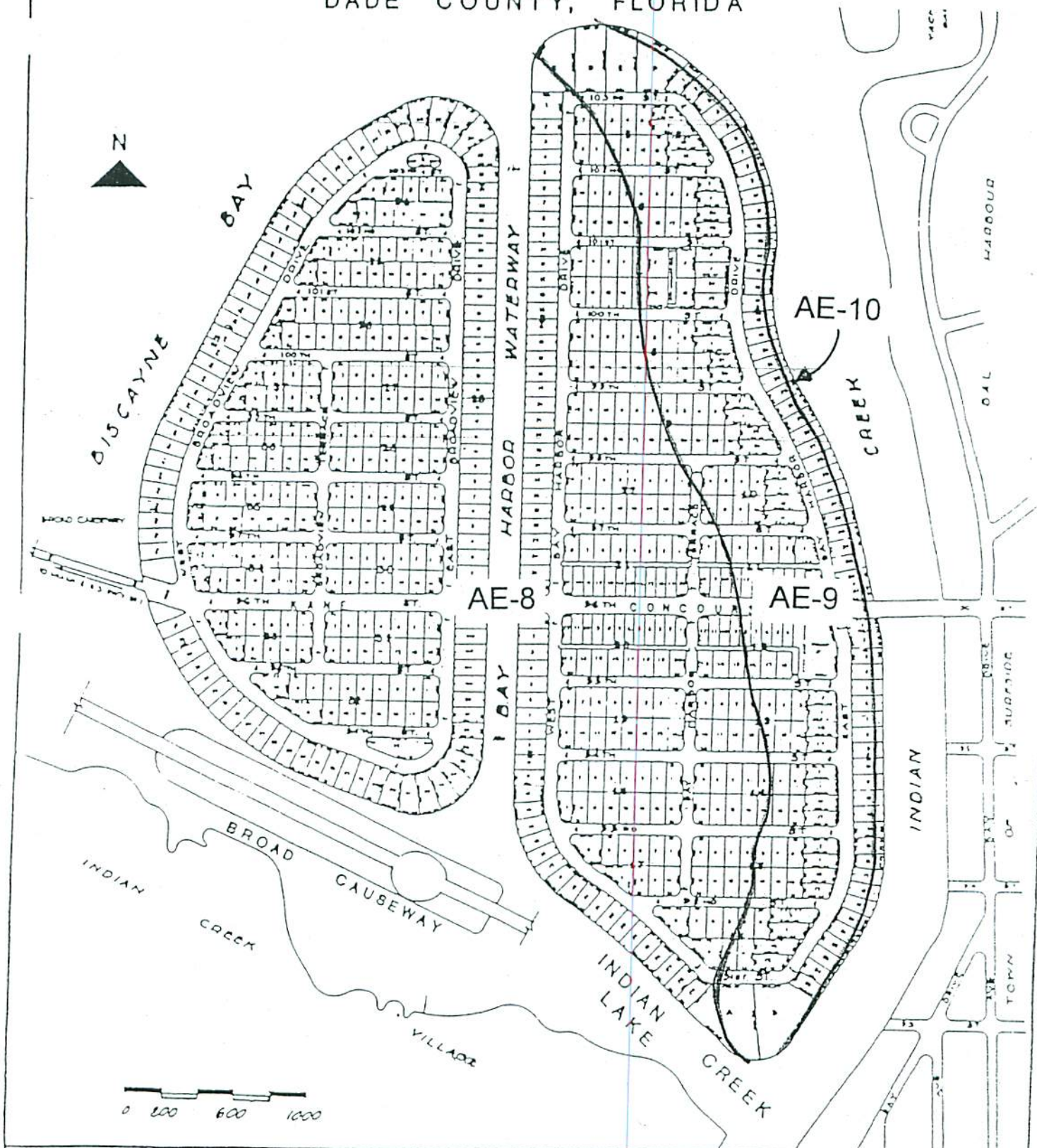
To improve data accuracy, the SFWMD is upgrading the standard used to measure water levels. Elevations determined using the North American Vertical Datum 88 (NAVD 88) standard are replacing measurements based on the National Geodetic Vertical Datum 29 (NGVD 29).

The upgrade to NAVD 88 means that the values we associate with the height of water – what many people think of as mean sea level will change. Within the SFWMD boundaries, measurements of water levels in NAVD 88 will be approximately -0.6 feet to -1.8 feet lower than they are in NGVD 29, as elevation difference varies by geographic location.

During the transition period from NGVD 29 to NAVD 88, water levels and other data will be published in both standards. When NAVD 88 is fully implemented, the District will stop publishing measurements in NGVD 29.

TOWN OF BAY HARBOR ISLANDS

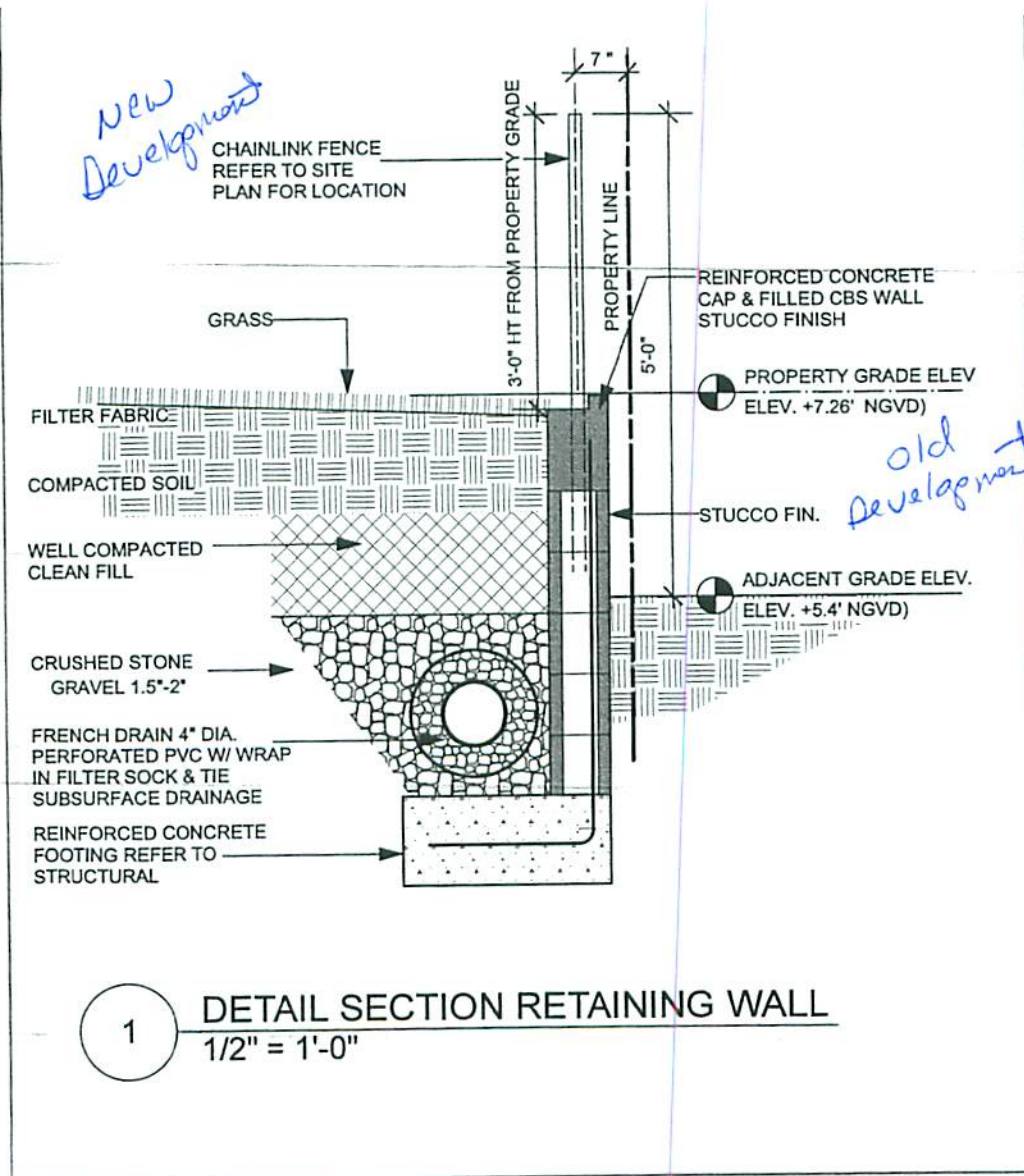
DADE COUNTY, FLORIDA



The boundaries of the FEMA Flood Zones depicted on this map are for illustration purposes only. For detailed information, contact the Town of Bay Harbor Islands Building Department.

FEMA FLOOD ZONES

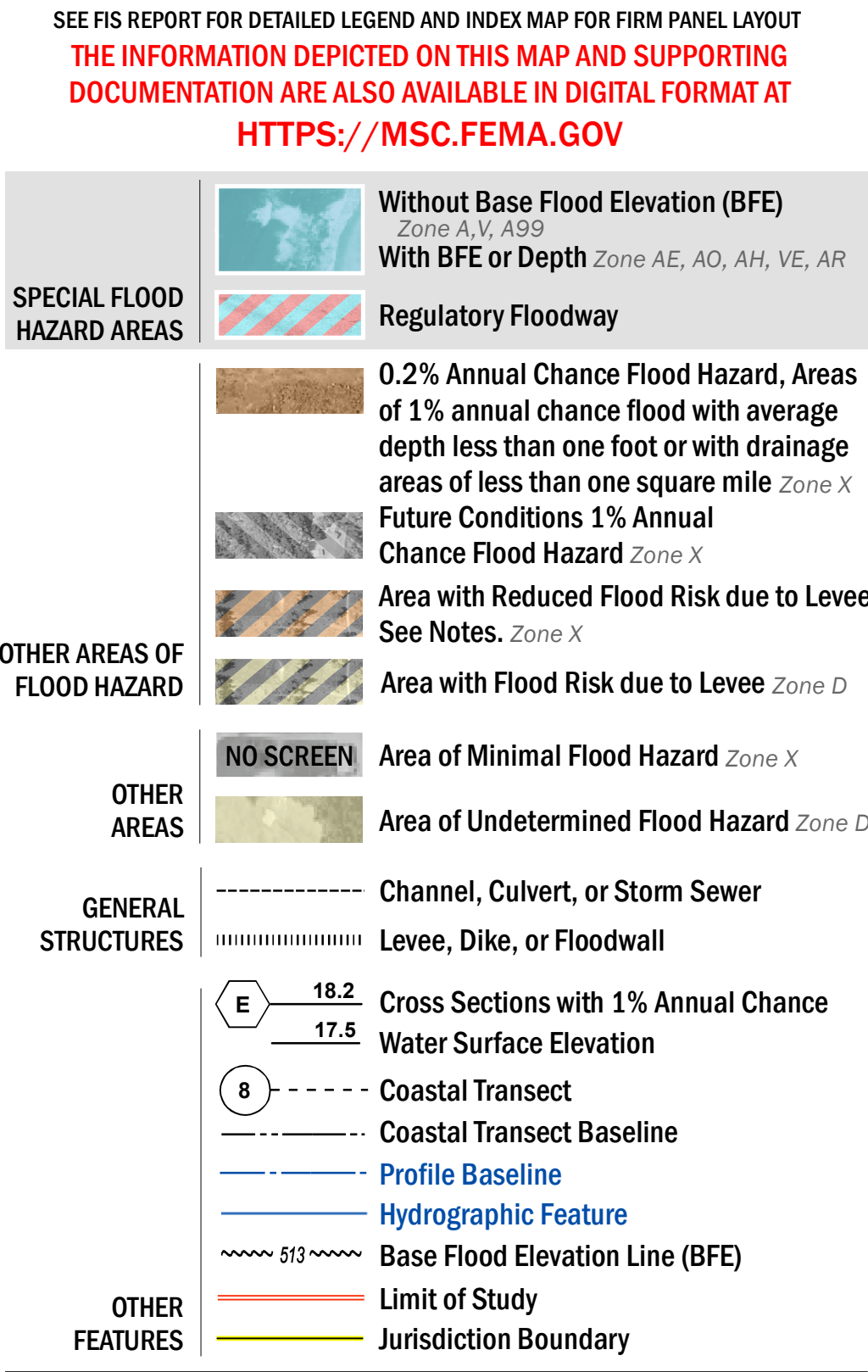
Figure L-9



Example



FLOOD HAZARD INFORMATION



NOTES TO USERS

For information and questions about this Flood Insurance Rate Map (FIRM), available products associated with this FIRM, including historic versions, the current map date for each FIRM panel, how to order products, or the National Flood Insurance Program (NFIP) in general, please call the FEMA Mapping and Insurance eXchange at 1-877-FEMA-MAP (1-877-336-2627) or visit the FEMA Flood Map Service Center website at <https://msc.fema.gov>. Available products may include previously issued Letters of Map Change, a Flood Insurance Study Report, and/or digital versions of this map. Many of these products can be ordered or obtained directly from the website.

Communities annexing land on adjacent FIRM panels must obtain a current copy of the adjacent panel as well as the current FIRM Index. These may be ordered directly from the Flood Map Service Center at the number listed above.

For community and countywide map dates refer to the Flood Insurance Study Report for this jurisdiction.

To determine if flood insurance is available in this community, contact your insurance agent or call the National Flood Insurance Program at 1-800-638-6620.

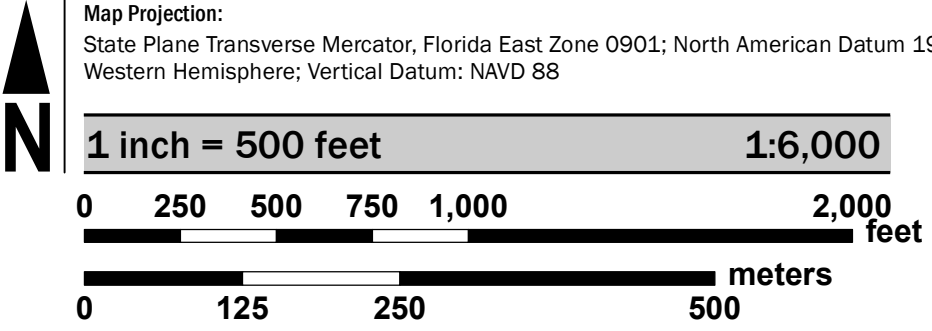
Base map information shown on this FIRM was provided in digital format by Miami-Dade County, dated 2001, 2016 and 2019; the South Florida Water Management District, dated 2003; the U.S. Army Corps of Engineers, dated 2020; and the U.S. Department of Agriculture, dated 2020.

LIMIT OF MODERATE WAVE ACTION: Zone AE has been divided by a Limit of Moderate Wave Action (LiMWA). The LiMWA represents the approximate landward limit of the 1.5-foot breaking wave. The effects of wave hazards between Zone VE and the LiMWA (or between the shoreline and the LiMWA for areas where Zone VE is not identified) will be similar to, but less severe than, those in the Zone VE.

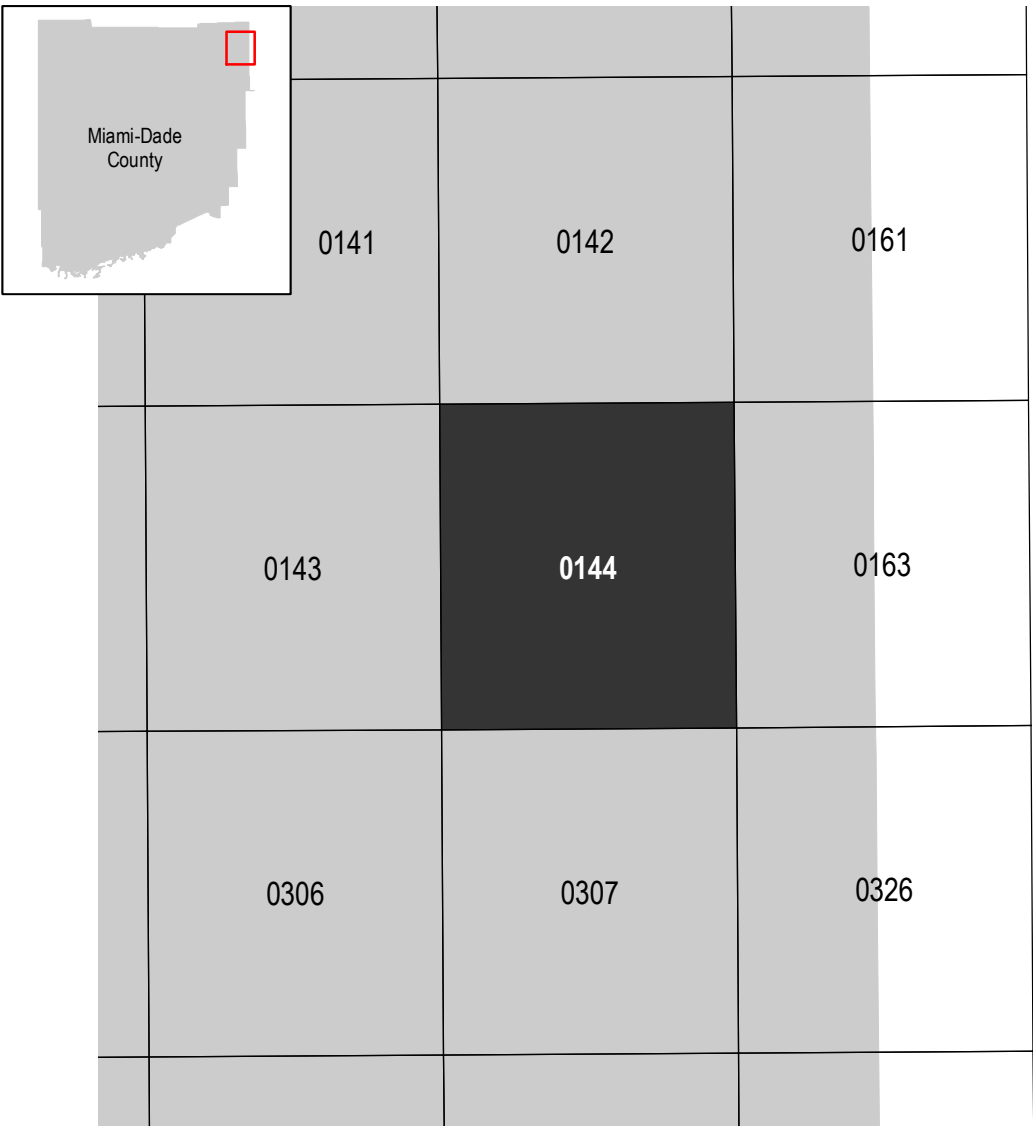
Limit of Moderate Wave Action (LiMWA)

Coastal Barrier Resources System (CBRS) areas and "otherwise protected areas" (OPAs) are no longer shown on this map panel, but still may be present in this community. Current information on these areas is provided by the U.S. Fish & Wildlife Service (FWS). NFIP flood insurance is not available within CBRS areas for structures that are built or substantially improved on or after the dates indicated by FWS. Users should reference the most up-to-date information provided by FWS to determine NFIP insurance eligibility. The official maps and additional information regarding CBRS areas are provided on the FWS website at: www.fws.gov/cbrs. FEMA also includes the official boundaries from FWS on our interactive and dynamic flood maps available through the FEMA Map Service Center.

SCALE



PANEL LOCATOR



NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP			
MIAMI-DADE COUNTY, FLORIDA and Incorporated Areas			
Panel 144 of 1031			
Panel Contains:			
COMMUNITY	NUMBER	PANEL	SUFFIX
BAL HARBOUR VILLAGE,	120636	0144	M
VILLAGE OF BAY HARBOR ISLANDS,	120637	0144	M
TOWN OF INDIAN CREEK VILLAGE,	120646	0144	M
VILLAGE OF MIAMI-DADE COUNTY	120635	0144	M
NORTH MIAMI BEACH, CITY OF	120656	0144	M
NORTH MIAMI, CITY OF	120655	0144	M
SURFSIDE, TOWN OF	120659	0144	M

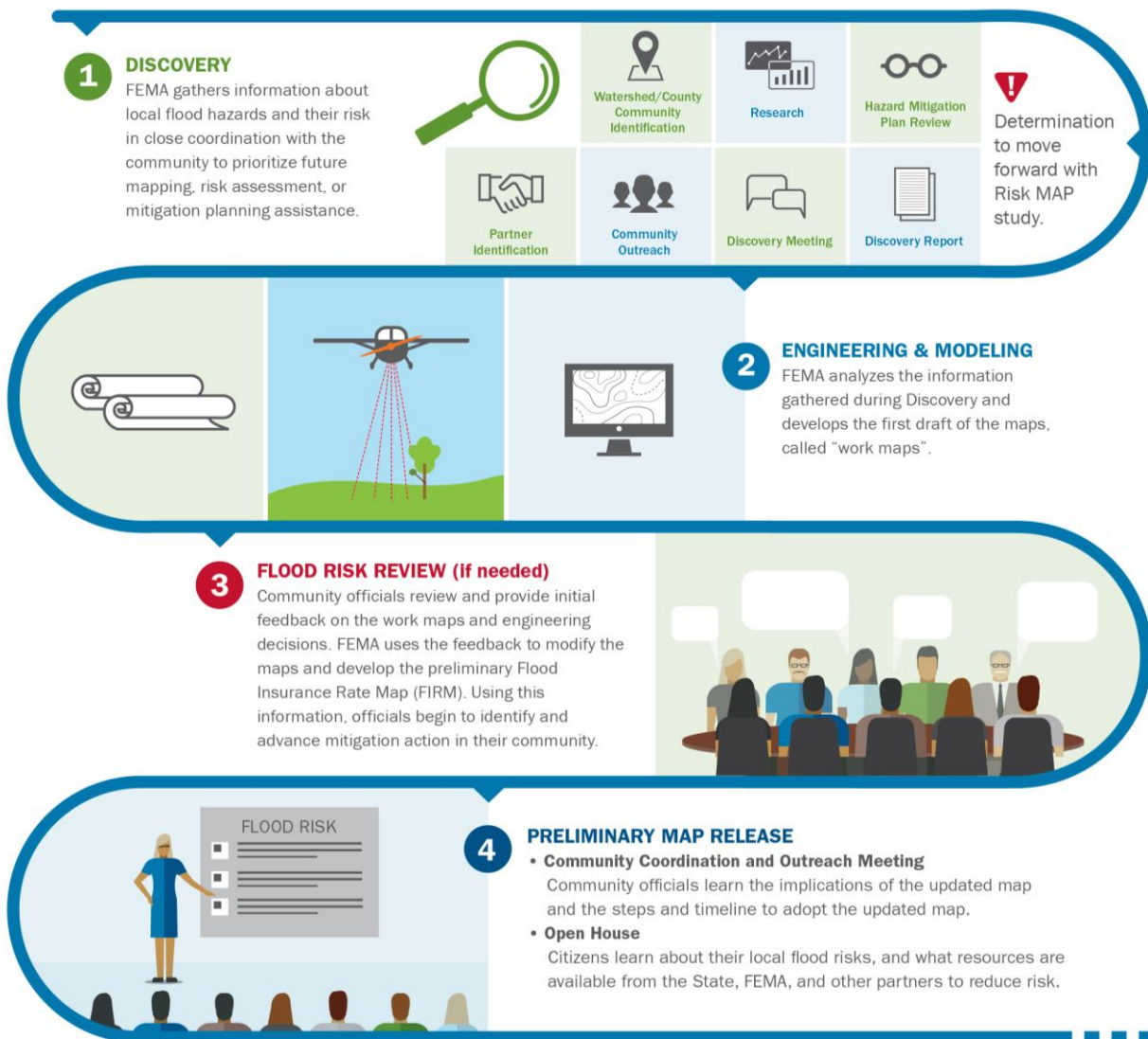
PRELIMINARY
2/25/2021

VERSION NUMBER
2.6.3.5
MAP NUMBER
12086C0144M
MAP REVISED

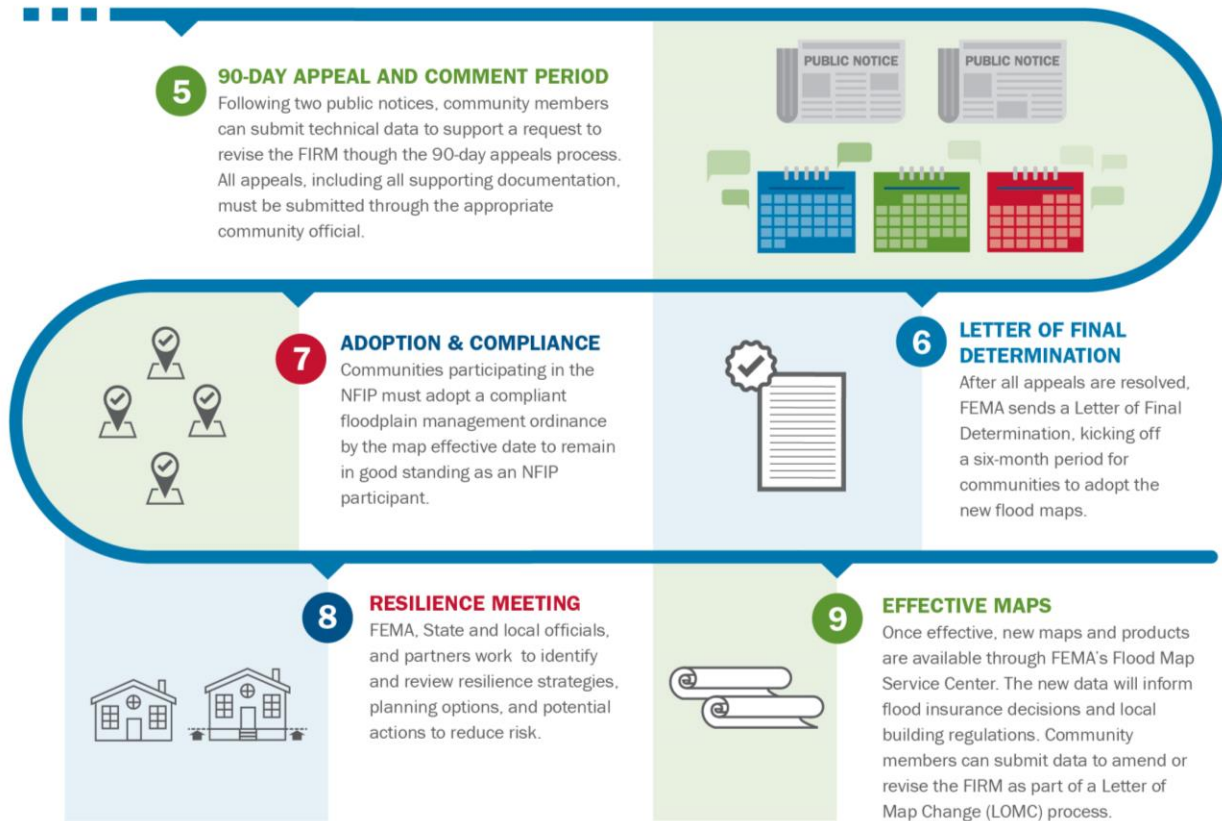
APPENDIX A: RISK MAP PROCESS GRAPHIC

The information graphic below shows the process for flood map creation and updates.

FEMA Risk MAP Process



Risk MAP Process Continued



RiskMAP
Increasing Resilience Together



FEMA

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 16.

ITEM: Discussion and possible action requested by Council Member Bruder regarding the 2021 Meetings Calendar and deadlines. Enclosed are the Meeting Dates and Deadlines for 2021.

DESCRIPTION:

Mayor Bruder asks for the Town Council re-consideration and discussion of the 2021 Meeting Calendar and agenda deadlines. At the January 13th, Regular Council Meeting, the Town Council approved the 2021 Meeting Calendar which changed the Regular Council Meetings to be held on the Second Wednesday of the month. Along with the 2021 Meeting calendar is also the Agenda Items deadlines.

Enclosed is a copy of the 2021 Meeting Calendar.

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk
Stephanie Bruder, Mayor

ATTACHMENTS

1. 2021 meeting dates-TC Wednesdays-04.2021
2. 2021 meeting dates- TC- Mondays 04.2021



**REGULAR COUNCIL MEETING
DATES AND DEADLINES - 2021**
(second Wednesday of each month)

DEADLINE DATES

Deadline for Agenda Items	Council Meeting Dates
Friday, April 23	Wednesday, May 12th
Friday, May 21	Wednesday, June 9th
Friday, July 23	Wednesday, August 11th
Friday, August 20	Thursday, September 9th
Friday, September 24	Wednesday, October 13th
Friday, October 22	Wednesday, November 10th

All deadlines are at 5:00 p.m., unless otherwise noted. Items needing considerable staff review might need to be turned in earlier.

* Rosh Hashanah – September 6 –8, 2021



**REGULAR COUNCIL MEETING
MEETING DATES - 2021
(second Monday of each month)**

DEADLINE DATES

Deadline for Agenda Items	Council Meeting Dates
Friday, April 23	Monday, May 10th
Friday, May 28th	Monday, June 14th
Friday, July 30th	Monday, August 9th
Friday, August 27th	Monday, September 13th
Friday, September 24th	Tuesday, October 12th *
Friday, October 22nd	Monday, November 8th

* Columbus Day – Monday, October 11th, 2021

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 17.

ITEM: Discussion requested by Council Member Leonard on the feasibility of converting the overhead electrical distribution system within the Town to an underground system. Enclosed is a copy of the preliminary estimate provided by Florida Power & Light (FP&L).

DESCRIPTION:

At the February 10th, Regular Council Meeting, Council Member Leonard requested this item to be considered and discussed by the Town Council. Staff requested a "Ballpark" cost estimate to convert the overhead electrical distribution to an underground system within the Town.

Enclosed is a copy of the estimate provided by Florida Power & Light.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk
Jordan W. Leonard, Council Member

ATTACHMENTS

1. Town of Bay Harbor Islands Undergrounding Estimate 25MAR21



March 25, 2021

Douglas Armstrong
Public Works Director
Town of Bay Harbor Islands
9665 Bay Harbor TE
Bay Harbor Islands, FL 33154

**Re: City of Bay Harbor Islands
Electric Facilities Conversion – Ballpark Estimate
Town Limits Bay Harbor Islands
WR # 10380848**

Dear Douglas,

FPL welcomes the opportunity to assist you in examining the feasibility of converting from overhead electric distribution facilities to an underground system at the following location:

Bay Harbor Islands Town Limits in Bay Harbor Island, Florida

As per your request, the non-binding "ballpark" estimate to complete this conversion is \$8,414,542. This estimate is provided strictly to assist you in preliminary decision making and it does not include the conversion of the existing streetlight system. It is not an offer from FPL to perform the requested conversion and should not be construed or used as such for detailed planning purposes. This represents an "order of magnitude" figure based on previous FPL experience and reflects the CIAC payment that the City would ultimately need to make to FPL if the conversion were performed at this point in time. It is our experience that conversions in developed areas are the most complex and challenging types of construction. As such, this estimate likely will not precisely represent the City's ultimate actual cost to convert, but can assist the City in preliminary decision-making.

FPL estimates include only estimated charges to be paid by the City to FPL. The costs of the following items are not included with the estimate and are the responsibility of the City / residents. These potential costs should be included in future planning of the project:

- Site restoration (sod, landscaping, pavement, sidewalks, etc)
- Rearrangement of customer electric service entrances (requires electrician) from overhead to underground. Also, additional customer expense if local inspecting authorities require customer wiring to be brought to current codes.
- Replacement street and security lighting currently attached to be poles being removed
- Trenching/backfilling for service laterals.
- Removal and undergrounding of other utilities (e.g. telecom, CATV, etc.)
- Acquiring, describing, securing and recording of easements for underground facilities. In underground systems, major components formerly attached to poles must now occupy "at grade" appurtenances, e.g., ground level pad mounted transformers and switch cabinets. Facilities of an underground distribution system will not be placed in road right-of-way, with the exception of cables required for crossings. (See special note below)

Note: Obtaining easements is typically the most difficult aspect of the conversion process; the time required to secure the easements may even exceed the 180 day binding estimate timeframe. FPL strongly suggests that all easements required for the conversion be described and secured prior to requesting the detailed cost estimate.

In 2007, the Public Service Commission approved FPL's 25% Governmental Adjustment Factor (G.A.F.) waiver for local government sponsored projects. In order to be eligible for the G.A.F. waiver a project must meet a series of criteria (see Attachment). Based on the preliminary information you provided for the proposed conversion area, this request would qualify for the G.A.F. waiver.

After reviewing the "ballpark" estimate, if you decide to move forward with the conversion project, you may request a detailed and "binding" estimate. Due to the complexity and time required to estimate such a conversion, a non-refundable engineering deposit is required prior to beginning the estimating process, as set forth in the Florida Administrative Code 25-6.115. For this conversion project the amount of the required engineering deposit is \$56,727. If you decide to proceed with the work contained in the estimate, the amount of this deposit would be applied toward the estimated amount owed to FPL for the conversion. The work must commence within 180 days of the date the binding estimate is provided.

The request for the binding estimate must be in writing, and must describe in detail the facilities to be converted. Binding estimates are valid for 180 days, and would be subject to change in the event of a work scope change. Should actual FPL costs exceed the binding estimate amount, the customer may be responsible for those additional costs up to a maximum of 10% of the binding estimate amount. Payment of customer costs, easements (with opinion of title and recorded), agreements from other utilities/pole licensees, and execution of a Conversion Agreement would be required before commencement of construction.

If you have any questions or wish to consider a binding cost estimate, please call me at (954) 327-3124.

Sincerely,

A handwritten signature in black ink, appearing to read 'Theresa Miller', with a long horizontal line extending to the right.

Theresa Miller
Project Manager
CMC - Feeder Conversion Program
FPL

Attachments

cc: Mr. Hau Tran - FPL
Mr. Jerry Cook - FPL
Mr. Jose Triana - FPL

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 18.

ITEM: Discussion requested by Council Member Yaffe regarding the hours of operation for the Town parks. Enclosed is a copy of the Ordinance No. 1048 as it relates to the park hours.

DESCRIPTION:

At the February 10th, Regular Council Meeting, Council Member Yaffe requested a discussion item as it relates to the Town park hours.

Section 15-1 Rule 22 of the Town Code was amended as follow:

Park hours of operation

All parks shall open at sunrise and close at sunset or 8:00 p.m., which ever is later, unless otherwise approved by the town. Trespassing during closing hours is prohibited.

Enclosed is a copy of Ordinance No. 1048 relating to park hours of operation.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk
Robert Yaffe, Council Member

ATTACHMENTS

1. 1048 - Park Hours

ORDINANCE NO. 1048

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 15 OF THE TOWN'S ADOPTED CODE OF ORDINANCES ENTITLED PARKS AND RECREATION, BY AMENDING RULE 22 HOURS OF OPERATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

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

Section 1: That Rule 22 of Chapter 15 of the Town of Bay Harbor Islands Code of Ordinances is hereby amended as 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.

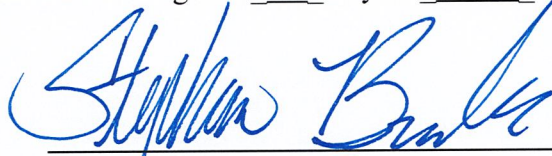
Section 3: That it is the intention of the Town Council of the Town of Bay Harbor Islands, Florida, and it is therefore ordained, that the provisions of the Ordinance shall become and be made a part of the Town of Bay Harbor Islands' Code of Ordinances, that sections of this Ordinance may be re-numbered 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 upon its passage and adoption.

PASSED on First Reading this 18th day of February 2020.

PASSED AND ADOPTED on Second Reading this 9th day of March 2020.



STEPHANIE BRUDER
MAYOR

ATTEST:


MARLENE M. SIEGEL
TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



FRANK C. SIMONE, ESQ.
TOWN ATTORNEY

EXHIBIT "A"

Sec. 15-1. - Parks and recreation rules and regulations.

...

Rule 22. Hours of operations.

All parks shall open at sunrise and close at sunset or 8:00 p.m., which ever is later, unless otherwise approved by the town. Trespassing during closing hours is prohibited.

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: 19.

ITEM: Discussion and possible action concerning Block 11, including but not limited to parking leases, private parking and possible easement to traverse the alley. Enclosed is a detailed map of the Block 11 parking area and other supporting documents.

DESCRIPTION:

At the March 10th, Regular Council Meeting, as a result of several complaints to Town staff and Elected Officials and in accordance with Section 13-7 of the Town Code, the Town Council revoked a Business Tax Receipt to Smart Park, LLC for the management of the parking spaces for the property located at 1025-1045 Kane Concourse. Following the notification, the property owners (Bay Harbor Executive Office, Inc.) requested a discussion and reconsideration of the Business Tax Receipt previously issued to Smart Park, LLC.

In addition, Hippo Land Inc. is also requesting the Town Council consideration to approve a Business Tax Receipt to Smart Park, LLC for the management of commercial parking spaces for the property located at 1067-1085 Kane Concourse. The subject property owner entered into a parking lease agreement with the Town that was extended and set to expire on April 14, 2021.

The Town Council will need to discuss how to proceed with these matters and provide direction to staff.

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk
 Maria Lasday, Town Manager

ATTACHMENTS

1. Kane Concourse Properties
2. Section 23-24 of the Town Code
3. Dr. Wittels
4. Parking Lease Estimation 2021_04.08.2021
5. 2020.09.14 Memo on Block 11 - Alley Easement
6. Bay Harbor Executive Office Lease - 3-2020

7. Hippo Land Lease 09.23.20 EXP DATE MARCH 31, 2021
8. Hippo Land - Extension Exec Amend_Town of Bay Harbor Islands_Hippo_ exp 4-14-21



Parking easement between Town and Landon Hotel expired in 1986. The lease needs to be renewed to keep the Town's parking in a 5 - foot parking area. (5 feet in the westerly area of hotel property lot [Lot 2])

Exclusive parking at Landon; pursuant to town lease; 12 parking spaces.

9665 Bay Harbor Terrace (Town Property) – property line in yellow

Landon Hotel
9650 E BH- for sale (current issue re parking)

Platted alley owned by Town. Used for parking spaces and utilities.

1067 KC-Wittels
(Issue: Renewal of lease requested. If the current lease between the Town and owner is not renewed, access may be eliminated). Owner is also requesting to be allowed to install "Pay Parking" on their property if the lease is not renewed.

1065
KC
Finvarb

1045 KC-Sherman
(Issue: Smart Park-Owner would like to install "Pay Parking" at their property.)

1025 KC-Cohen (Issue: A building expansion is being considered by owner; If approved, owner would like to grant an easement to the Town under certain conditions.)

1019 KC - Bussel

Sec. 23-24. - Commercial parking approval required; enclosing commercial parking lots; parking of vehicles on certain unimproved lots; prohibition of parking spaces and parking structures on private property on the ground level within 60 feet of the pedestrian right-of-way of Kane Concourse and prohibiting visibility and access from Kane Concourse; number of parking spaces required generally.

- (a) In the B-1 business district commercial parking is prohibited except on specific approval of the town council. Commercial parking is defined as the operation of parking lots either with or without a charge. Such lots shall be enclosed on all sides, except at exits and entrances, by a solid masonry wall or hedge of a type approved by the town, or both, five feet in height just within the property lines. At all exits and entrances, the wall and/or hedge shall be installed and maintained at three feet in height for a distance of 25 feet on each side of each exit or entrance. Parking of vehicles on unimproved property on any lot in Blocks 11, 12, 20 and 21 is prohibited, excepting vehicles owned by the property owner, unless such parking fully complies with the provisions herein set forth. In the B-1 business district, parking spaces and parking structures are prohibited on an private property on the ground level within 60 feet of the pedestrian right-of-way of Kane Concourse, and visibility and access from Kane Concourse are prohibited.
- (b) Upon the occasion of any person seeking a permit for the erection, construction, reconstruction, structural alteration or addition to any buildings, the applicant for such permit shall, simultaneously with the submission of plans and specifications to the building department of the town, and simultaneously with the complying with any and all requirements therefor, specify in writing to the building department and designate on the plans for such building work an area or areas set aside for the exclusive use as parking and driveway facilities for vehicles on the building plot on which the proposed construction work is to be done, all in accordance with the provisions of this article.
- (c) The number of parking spaces to be provided in particular instances is as follows:

(1)	Single-family dwelling	Two spaces
(2)	Two-family dwellings	Two spaces for each dwelling unit
(3)	Multiple-family dwellings, including townhouses	A minimum of two parking spaces shall be required on the building plot for each dwelling unit within a multiple-family development, except as provided for otherwise in this article. In addition, guest parking spaces shall be provided for multiple-family developments in accordance with the following:

		1) At least one guest parking space shall be required for each whole platted lot.
		2) Within the RM-3 zoned tracts guest parking spaces shall be provided at a rate of 5% of the total number of required parking spaces.
		3) Guest parking spaces may be counted as a subset of the total number of required parking spaces within a development site.
		4) No guest parking spaces are required for townhouse developments that have the front of the dwelling unit facing directly on a public roadway with access to a garage. In this instance the individual dwelling unit driveway connecting the public road to the garage shall serve for guests. For townhouse developments with garages or parking facilities that are interior to the site, additional guest parking spaces are required at a rate of one parking space per platted lot.
		5) Through the Town's site development plan process the Town may allow dimensional variations of landscape strips to provide such guest parking spaces or for drop-off areas at building entrances. In no event shall the minimum percentage of green open space be reduced.
		6) All required guest parking spaces shall be placed within the development site. Guest parking spaces shall not be located on remote public or private parking lots/garages without prior approval of the Town Council.

		7) All required guest parking spaces shall be located in the front yard areas of a site, unless otherwise approved by the Planning and Zoning Board. Guest parking spaces may be co-designated as temporary delivery/loading areas. At least one guest parking space shall be so co-designated. All guest parking spaces/drop-off areas shall be noted by the use of signage/pavement markings.
		8) Notwithstanding the above, no guest parking spaces are required for a single-lot development site that is built without using TDR units. If any TDR units are requested guest parking spaces shall be required.
(4)	Hotels	One space for each of the first 20 individual guest rooms. One added space for each two guest rooms, or fraction thereof, in excess of 20.
(5)	Restaurants, public dining rooms, bars, private clubs, cocktail lounges	One parking space for each 100 square feet of customer service area. The above shall not be intended to include food and drink preparation areas, bathrooms, waiting areas or storage areas.
(6)	Retail, commercial, personal service, miscellaneous uses and business uses	One space for each 300 square feet of net floor area.
(7)	Office and professional uses	One space for each 300 square feet of net floor area
(8)	Private banking operations	A minimum of one space for each 475 square feet of net floor area or fraction thereof.

(9)	Places of assembly, religious institutions	One space for every four fixed seats, or one space for every six feet of bench seats, or one space per 60 square feet of net floor area for seating.
(10)	Public schools	The town adopts the minimum off-street parking requirements listed in F.S. chapter 423.10.2.8 as of July 1, 2005, and/or as modified as listed hereinafter: Faculty and staff—One parking space for each member of the faculty and staff (including administration, teachers and support staff); Visitors—One parking space for each 50 students; Community Clinic—Ten parking spaces, including at least one accessible space; High Schools—One space for every ten students in grades 11 and 12.

- (d) Whereas, multifamily buildings of more than one story in height generate a gross multitude of cars parked in the setback areas as well as all around the multifamily buildings themselves and thereby adversely affect the aesthetic beauty of the East Island of Bay Harbor Islands; and whereas multifamily buildings of one story do not create the poor appearance of a gross multitude of cars because not so many cars are parked around the perimeters of such one-story multifamily buildings; now, therefore, no automobiles or vehicles of any kind shall be parked in the setback area of any multifamily buildings in the East Islands which exceed one story in height, unless such multifamily buildings are presently constructed, except as allowed below.

Multifamily development parking design criteria.

- (1) A single-story multifamily building or townhouse may have required surface parking within the minimum building setback areas. A minimum ten-foot-wide landscape strip shall be provided between the street right-of-way line and any parking space or drive aisle and a minimum five-foot-wide landscape strip shall be provided between the interior lot line and any parking space or drive aisle. For townhouse developments, see subsection (5) below.
- (2) Off-street parking for multifamily buildings with more than one story shall be required to have, at a minimum, the following setbacks:

	Waterfront	Side Yards	Streets	Rear Yard
Ground Level	10 feet	5 feet	10 feet	5 feet

Below Grade	5 feet	5 feet	10 feet	5 feet
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- (3) Below-grade parking must shield the parking spaces and structure from view from all sides with decorative walls, earthen berms and landscaping.
- (4) Parking garages must meet the minimum setback requirements found with the appropriate multifamily zoning district; however, a below grade parking structure may cantilever to the setbacks established in this section. If a parking garage structure is provided above grade, the building facades of the parking garage facing adjoining development sites shall be closed-in and/or screened as required by the Planning and Zoning Board so that vehicular visibility, noise or odors emanating onto adjoining lots is minimized. If mechanical ventilation is used for the parking garage it shall be vented to outdoor areas and designed in such a manner to minimally impact adjoining residential development sites.
- (5) All multifamily developments shall provide for a designated drop-off area to a walkway at the building entrance into a lobby by the use of a driveway or shared driveway that does not block the normal flow of traffic for more than a few moments. This provision shall not apply to townhouse developments or development sites of one platted lot.
- (6) Special provisions for townhouse developments. Notwithstanding the above, due to the unique design characteristics of townhouse developments, the following variations in the design standards apply:
 - a. Townhouse developments are strongly encouraged to provide access to on-site parking areas and parking garages through internal driveways and frontage roads to minimize the number of driveway connections to adjoining roadways. When possible, garage doors should face either side or rear property lines and adequate screening from adjoining properties shall be provided.
 - b. For instances where townhouse units are approved in a row where each unit provides a direct driveway connection from an adjoining roadway to an on-site parking space or garage, driveway connections shall be limited to a maximum width of 12 feet for a single driveway and 18 feet for a double driveway at the curb line. Individual driveways shall be separated by landscaped islands of at least two feet in width and designed to include privacy walls or fences, shrubs and small trees/palm species to avoid a continuous hardscape appearance and to provide privacy between individual units. Not more than 50 percent of a property street frontage may have hard driveway surfaces. The remaining land must be landscaped area.
 - c. Townhouse developments shall provide a minimum of two parking spaces. At least one of the parking spaces shall be within a fully enclosed garage within each unit. Each parking

space shall be accessible without driving over or through another parking space.

- (e) Notwithstanding the above, existing buildings in the B-1 business district shall be exempt from the parking requirements of subsection (c)(5) and (6) as of the effective date of this ordinance [Ord. No. 1008, adopted May 8, 2017]. For purposes of this section an existing building is defined as one that is present, available and in operation as of the effective date of this ordinance and shall not include any future development that have not received a certificate of occupancy as of the date of this ordinance [Ord. No. 1008, adopted May 8, 2017].
- (f) Parking requirements for restaurants approved as a mixed-use development in the Gateway District which open only for dinner between the hours of 6:00 p.m. and 2:00 a.m are exempt from the parking requirements set forth above. Town licenses for restaurants which are open for business only between the hours of 6:00 p.m. and 2:00 a.m. shall specify on their faces that the license is restricted to the hours between 6:00 p.m. and 2:00 a.m., and if the restaurant is open for business before or after such hours, the license is void unless arrangements are made to secure additional parking spaces, pay into the parking trust, or the town has approved a parking reduction order. This exemption shall only be applicable to the Gateway District.
- (g) Buildings that are enlarged in floor area, volume, capacity or space occupied shall provide the additional off-street parking facilities as specified above.

(Ord. No. 130, §§ 4, 5, 6-8-59; Ord. No. 133, § 1, 12-14-59; Ord. No. 217, § 2, 3-31-69; Ord. No. 266, §§ 1, 2, 7-20-73; Ord. No. 350, § 1, 4-9-79; Ord. No. 387, § 1, 2-9-81; Ord. No. 405, § 1, 12-2-82; Ord. No. 659, § 1, 3-13-00; Ord. No. 688, § 1, 9-10-01; Ord. No. 738, 2-9-04; Ord. No. 740, § 2, 3-8-04; Ord. No. 747, § 4, 8-16-04; Ord. No. 770, § 1(Exh. A), 5-9-05; Ord. No. 779, § 1(Exh. A), 9-12-05; Ord. No. 810, § 1(Exh. A), 10-9-06; Ord. No. 813, § 1(Exh. A), 1-8-07; Ord. No. 949, § 1(Exh. A), 5-13-2013; Ord. No. 950, § 1(Exh. A), 6-10-2013; Ord. No. 951, § 1(Exh. A), 6-10-2013; Ord. No. 1008, § 1, 5-8-17)

ABBREVIATIONS

A = Arc Length
 A.C. = Air Conditioner
 A/B = As-Built
 ADJ. = Adjacent
 ASPH. = Asphalt
 B.C.R. = Broward County Record
 B.M. = Bench Mark
 C.B. = Catch Basin
 C.B.S. = Concrete Block Structure
 C.E. = Canal Easement
 C.F.T. = Calculated Field Traverse
 CH. = Chord
 CH. BRC. = Chord Bearing
 C.I. = Cast Iron
 C.M. = Concrete Monument
 COL. = Column
 CONC. = Concrete
 (C) = Calculated
 D.E. = Drainage Easement
 D.U. AND M.E. = Drainage Utility and Maintenance Easement
 (D) = Deed or description
 E/C = Edge of Curb
 EL. = Elevation
 E.O.W. = Edge of Water
 ESMT. = Easement
 E/P = Edge of Pavement
 F.F. = Finish Floor
 FND. = Found
 INV. = Invert
 I.P. = Iron Pipe
 I.R. = Iron Rod
 L.A.E. = Limited Access Easement
 L.F. = Lowest Floor
 L.M.E. = Lake Maintenance Easement
 M.E. = Maintenance Easement
 (M) = Measure
 N.G.V.D. = National Geodetic Vertical Datum
 N.T.S. = Not to Scale
 N.T.T. = Nail and Tin Tab
 N/D = Nail and Disc
 PAYMT. = Pavement
 P.B. = Plot Book
 P.B.C.R. = Palm Beach County Record
 P.C. = Point of Curvature
 P.C.P. = Permanent Control Point
 P.C. = Point of Intersection
 P.O.C. = Point of Commencement
 P.O.B. = Point of Beginning
 P.R.C. = Point of Reverse Curvature
 P.R.M. = Permanent Reference Monument
 (P) = Plot
 R. = Radius
 R.C.E. = Range
 R.O.E. = Roof Overhang Easement
 R.P. = Radius Point
 R/W = Right of Way
 SEC. = Section
 S/W = Sidewalk
 T/B = Top of Bank
 T/C = Top of Curb
 T/G = Top of Gutter
 T/R = Top of Rock
 T.O.P. = Top of Pipe
 TWP. = Township
 TYP. = Typical
 U.E. = Utility Easement
 U. AND M.E. = Utility and Maintenance Easement

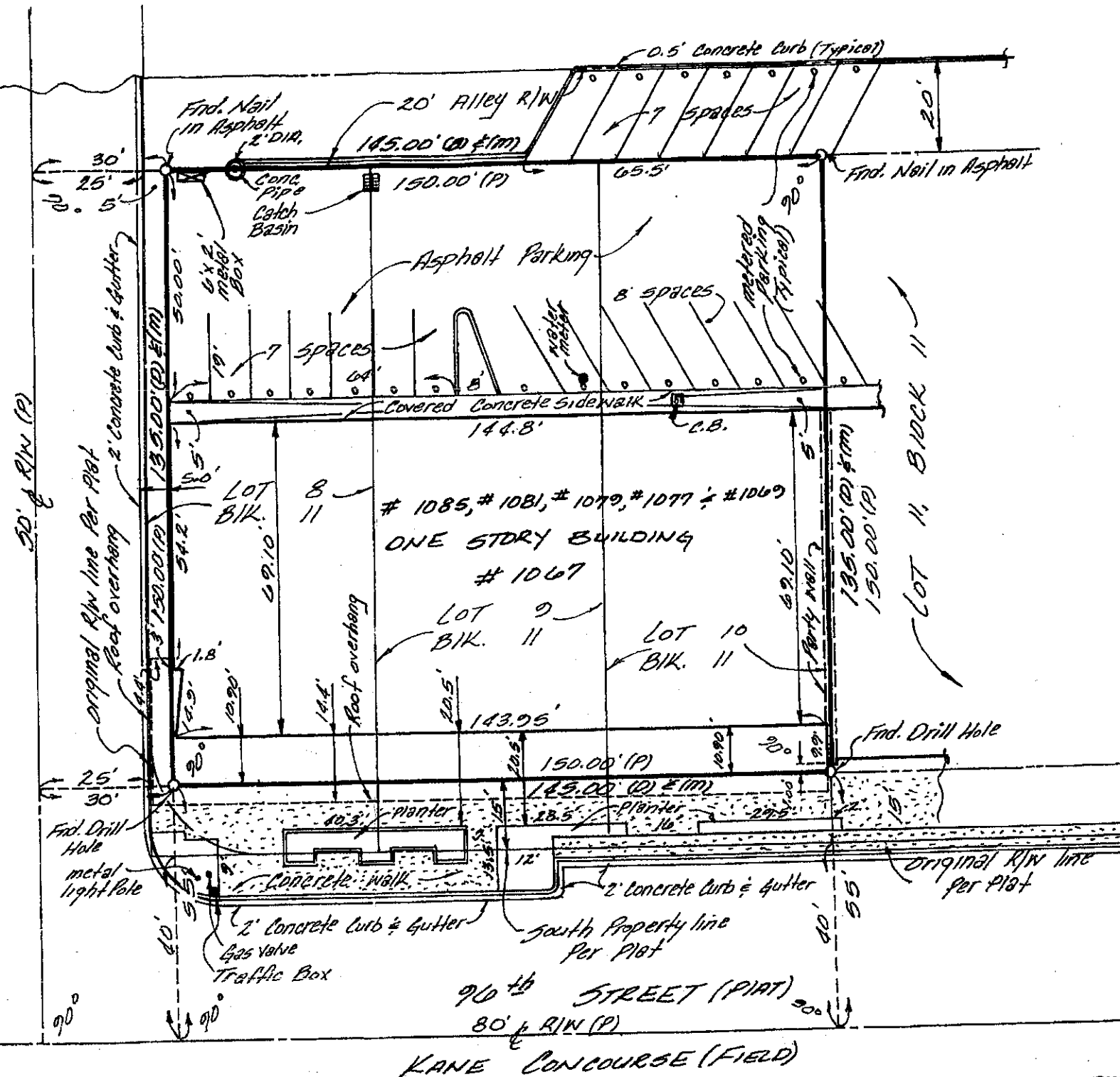
LEGEND

Center Line
 On Line
 Property Line
 Wood Fence (W.F.)
 Chain Link Fence (C.L.F.)
 Delta
 Fire Hydrant (F.H.)
 Manhole (M.H.)
 Catch Basin (C.B.)
 Anchor and Guy Wire
 Iron Rod and Cap (I.R.C.)
 Wood Power Pole
 Concrete Power Pole
 Permanent Control Point (P.C.P.)
 Permanent Reference Monument (P.R.M.)
 Water Meter (W.M.)
 Cable T.V. (C.A.T.V.)
 Telephone (TELE.)
 Concrete
 Existing Elevation

FOR FINANCING PURPOSES ONLY

2006 1"=30'
 NORTH

BAY HARBOR TERRACE



CERTIFIED TO:
 MICHAEL WITTELS, AS TRUSTEE
 EDGAR A. BENES, P.A.
 FIRST AMERICAN TITLE INSURANCE COMPANY
 ADMIRALTY BANK, A FLORIDA BANKING CORPORATION, its successors and/or assigns

LEGAL DESCRIPTION:

LOT 8, LESS THE WEST 5 FEET AND LESS THE SOUTH 15 FEET AND LOTS 9 AND 10, LESS THE SOUTH 15 FEET IN BLOCK 11, BAY HARBOUR ISLAND, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 46, PAGE 5, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA

LOWEST LIVING FLOOR EL = 5.82
 GARAGE EL = N/A
 HIGHEST ADJACENT EL = 5.7
 LOWEST ADJACENT EL = 5.3

MAP OF BOUNDARY SURVEY			SCALE: 1"=30'	NOTES/REVISIONS	GENERAL NOTES:	CERTIFICATION:	BASLINE ENGINEERING AND LAND SURVEYING, INC.
DATE: 120637-00925	PLAT: AE	BOOK OF RECORDS: ANGLES MEASURED	DRAWN BY:		Elevations shown hereon are referenced to the National Geodetic Vertical Datum, 1929; unless otherwise noted. Underground features, are not identified nor located except as may be indicated hereon. This survey shows platted easements and right-of-way. There may exist additional restrictions and/or encumbrances which affect this property legal description provided by client, or client's representative.	THIS SURVEY MEETS MINIMUM TECHNICAL REQUIREMENTS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 6507-4, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 402.021, FLORIDA STATUTES. WILLIAM L. HAZLETT PROFESSIONAL LAND SURVEYOR No. 4716 UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL HARD SEAL OF A FLORIDA LICENSED SURVEYOR AND THIS SURVEY MEETS PLAT ON MAP IS FOR INFORMATION PURPOSES ONLY AND IS NOT VALID.	1400 NW 1ST COURT BOCA RATON, FLORIDA 33432 (561) 417-0700
BOOK OF FIELD: 3-274	BOOK FLOOR EL: 8.0	BOOK OF RECORDS: B.M. A-4 NAIL & WASHER S.E. COR. 9TH ST. & B. Harbor Dr. EL. = 3.82	FIELD BOOK: FOLDER	PAGE:			
PROPERTY ADDRESS: 1067 Kane Concourse, Bay Harbor Island		PARTY CHIEF: [Signature]	SURVEY DATE: 3-7-00				

BAY HARBOR ISLANDS
PARKING LEASE WITH OWNERS
ESTIMATED FINANCIAL IMPACT

Total Green Lot Revenue	FY 2019	FY 2020
Pay-by-Phone	\$ 46,464.37	\$ 34,789.48
Parking Decals	\$ 12,566.15	\$ 8,122.30
Total PBP and Decal Revenues	\$ 59,030.52	\$ 42,911.78
Total Parking Spots	97	86
Total Revenue per Spot per Year	\$ 608.56	\$ 498.97

BUSINESS NAME	ESTIMATED REVENUES TOTAL	Cost/Parking Space Units	Number of parking spaces	Estimated Property Tax	ESTIMATED EXPENDITURE S TOTAL	ESTIMATED NET REVENUES/ (LOSS)
Bay Harbor Executive Offices Inc	\$ 6,091.45	\$ 610.00	11	\$ 11,000.00	\$ 17,710.00	(11,618.55)
Hippo Land Inc.	\$ 8,306.52	\$ 610.00	15	\$ 10,890.32	\$ 20,040.32	(11,733.80)
	Revenues	Parking Spots			Expenditures	Total
TOTAL:	14,398	26			\$ 37,750.32	(23,352.35)

FRANK SIMONE P.A.

Law Offices

701 BRICKELL AVENUE
SUITE 1550
MIAMI, FLORIDA 33131

TELEPHONE (305) 221-8000
TELEFAX (305) 357-2510
E-MAIL: frank@franksimone.com
WEBSITE: www.franksimone.com

Date: September 14, 2020

From: Frank C. Simone, Esq., Town Attorney

To: Marlene Siegel, Interim Town Manager

Re: Whether an easement exists in favor of the Town in the Alleyway to the North of Block 11.

During the February 25, 2020, Block 11 Meeting, a discussion was had concerning whether to enter into Parking Lot Leases. The issue raised was if the Parking Lot Leases (“Leases”) were not executed, would the Town of Bay Harbor Islands (“Town”) have an easement in the Alleyway to the North of Block 11 (“Alley”).

An easement, being an interest in land, can be created only by grant, the existence of which may be established by the production of a deed expressly declaring it, or may be inferred by construction from the terms and effect of an existing deed, or evidence of the grant may be derived from its having been so long enjoyed as to be regarded as proof that a grant was originally made, though no deed is produced which contains it. In other words, there are three ways in which an easement may be created — first, by express grant; second, by implication; third, by prescription. *Burdine v. Sewell*, 92 Fla. 375 (Fla. 1926).

An implied easement requires three showings. First, the use of the land for the easement must be apparent or visible, or reasonably discoverable at the time the unity of title was severed. Second, the use must be such that a permanent use was intended. Third, that the easement must be reasonably necessary for the use of the dominant tenement (here, the Town).

A prescriptive easement requires the following showing.

In order to establish a prescriptive easement, the claimant thereof must, by clear and positive proof, prove: (1) actual, continuous, and uninterrupted use by the claimant or any predecessor in title for the prescribed period of twenty years; (2) that during the whole prescribed period the use has been either with the actual knowledge of the owner or so open, notorious and visible that knowledge of the use is imputed to the owner; (3) that the use related to a certain limited and defined area of land or, if for a right-of-way, the use was of a definite route with a reasonably certain line, width, and termini; and (4) that during the whole prescribed period the use has been

adverse to the lawful owner; that is, (a) the use has been made without the permission of the owner and under some claim of right other than permission from the owner, (b) the use has been either exclusive of the owner or inconsistent with the rights of the owner of the land to its use and enjoyment, and (c) the use has been such that, during the whole prescribed period, the owner had a cause of action against the user for the use being made. Because the law does not favor the acquisition of prescriptive rights, use or possession of another's land is presumed to be subordinate to the owner's title and with the owner's permission. Thus, the burden is on the claimant to prove that such use or possession is adverse to the true owner. Further, [a]ll doubts as to the adverse character of a claimant's pattern of use must be resolved in favor of the lawful owner of the property.

(Citations Omitted). *Dan v. BJS Realty, LLC*, 953 So.2d 640, 642 (Fla. 3rd DCA 2007).

Due to the existence of a committee and Leases, the Town may not be able to satisfy the requirement that its use was without the permission of the owner in order to prove an implied easement by clear and convincing evidence.

Finally, Section 704.01, Florida Statutes – Common-law and statutory easements defined and determined, applies to ways of necessities that are required for ingress and egress.

If the Town could not come to a mutual agreement with the property owners for an easement, whether through the Leases or otherwise, a court would have to determine whether the Town has an easement, whether through an implied easement, an easement by way of necessity, or through another method. This would require the filing of an action and incurring litigation costs which may be substantial.

Even if an implied easement, other easement, or a way of necessity did not exist, the Town always has the right to take the Alleyway via eminent domain. Eminent domain would also require the filing of an action and incurring litigation costs, which may be substantial.

The undersigned would need to review the Leases and prior leases, the underlying deeds, and a title search report, among other items, in order to provide a more definitive opinion as to the success of such action(s).

FRANK SIMONE, P.A.

By: Frank Simone
Frank C. Simone, Esq., CFP®

This document prepared by:
CRAIG B. SHERMAN, ESQ.
City Attorney
Sherman Law Offices Chartered
1000 Corporate Drive, Suite 310
Fort Lauderdale, FL 33334

LEASE

THIS LEASE, executed this 14th day of October, 2019, between **BAY HARBOR EXECUTIVE OFFICES, INC.**, a Florida corporation, the owner of the following described real property, the Lessor, and the **TOWN OF BAY HARBOR ISLANDS**, Florida, the Lessee.

W I T N E S S E T H

The Lessor for and in consideration of the rent herein reserved to be paid by the Lessee, and in consideration of the covenants herein to be kept and performed by the Lessee, do hereby lease and demise unto said Lessee the following described premises, situate, lying and being in the Town of Bay Harbor Islands, County of Dade, State of Florida:

That portion of Lots 12 and 13, in Block 11, **BAY HARBOR ISLANDS** according to the Plat thereof, recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida, more particularly bounded and described as follows: Beginning at a point in the northerly line of said Lot 13 at its intersection with the westerly line of Lot 14; thence running westerly along the northerly line of said Lots 12 and 13, a distance of 100 feet more or less to the easterly line of Lot 11; thence turning at a right angle and running southerly along the westerly line of lot 12 a distance of 50 feet; thence turning at a right angle and running easterly along a line parallel to the northerly line of said Lots 12 and 13 a distance of 100 feet more or less to the westerly line of Lot 14; thence turning at a right angle and running northerly along the said easterly line of Lot 14 a distance of 50 feet more or less to the point of beginning.

TO HAVE AND TO HOLD the said premises unto said Lessee from the 1st day of April, 2019, to and including the 31st day of March, 2020, the Lessee yielding and paying to the Lessor the following rental:

The entire rental for this period to be the rate of \$610 per parking space per year payable as follows: \$610 X 11 PARKING SPACES = SIX THOUSAND SEVEN HUNDRED

Page 1 of 3

AND TEN DOLLARS (\$6,710.00) on the 1st day of APRIL, of each year stipulated in this agreement, with the said rental to be payment in advance for the year next ensuing after the date of payment.

The Lessee agrees to keep, conform to and abide by each and every of the following which are hereby made conditions of this Lease:

1. The premises shall be used only for the purpose of off-street parking, sidewalks, ingress and egress roads, and incidental beautification of the off-street parking.
2. The land hereby leased is declared to be exempt from state, county and city taxes of any nature and description whatsoever for the term of this Lease.
3. The Lessor hereby covenants with the Lessee that, upon the performance by the Lessee of all the conditions herein above set forth on the part of the Lessee to be performed, Lessee may quietly have, hold, occupy and use the above-described premises without interruption.
4. The Lessee hereby agrees to indemnify and save the Lessor harmless of any and all liability, loss, damage, claims, costs, expenses, taxes and judgments of any nature and description whatsoever arising out of, in connection with, or in anyway related to the land lease herein.
5. In the event that any repairs, maintenance, changes or modifications are necessary to the buildings located adjacent to the leased premises, whether ordinary or required pursuant to applicable building or zoning codes, which would deny or restrict access to the leased premises, the Lessee agrees that the Lessor shall not be liable for any loss in parking meter revenue or other damages incurred by the Lessee in connection therewith.

Notwithstanding the foregoing, the Lessee shall be permitted to charge parking fees to contractors and workers engaged in said repairs, maintenance, changes or modifications.

6. Lessee is responsible for maintenance of the leased premises.

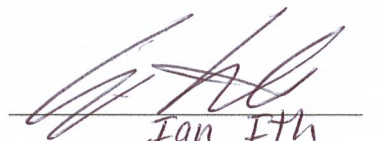
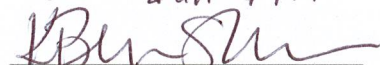
7. The Lessor is to be named as additional insured on town liability policy, solely with regard to the leased property.

8. Both parties have the right to cancel this agreement upon 60 days written notice to the other party.

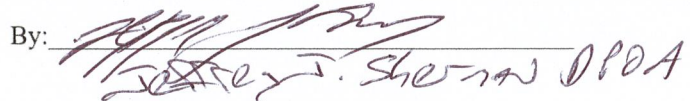
Page 2 of 3

IN WITNESS WHEREOF, the respective parties hereto have caused these presents to be signed, sealed, and delivered on the day and year first above written.

Witnesses:


Ian ITH

Kristen B Sherman

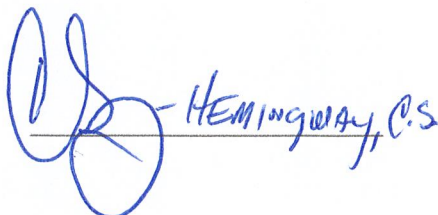
BAY HARBOR EXECUTIVE OFFICES, INC.,
a Florida corporation

By: 
Ian ITH

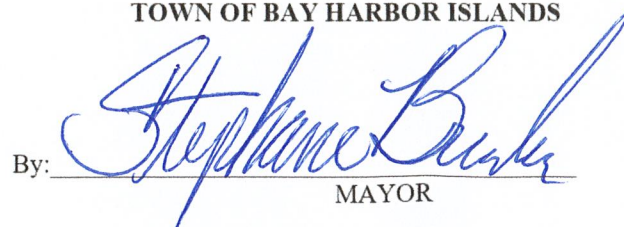
Attest: _____

(Corporate Seal)
(Lessor)

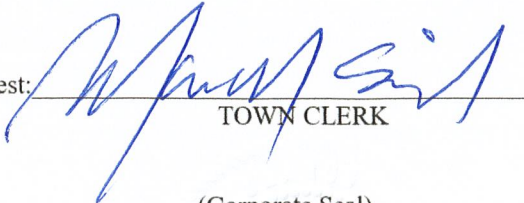
Witnesses:


Hemingway, C.S.

TOWN OF BAY HARBOR ISLANDS

By: 
MAYOR



Attest: 
TOWN CLERK
(Corporate Seal)
(Lessee)

DURABLE FAMILY POWER OF ATTORNEY

BY THIS DURABLE FAMILY POWER OF ATTORNEY, I, OFELIA SHERMAN, of Miami-Dade County, Florida, appoint as my attorney in fact to manage my affairs my son, JEFFREY J. SHERMAN.

This durable family power of attorney shall not be affected by any physical or mental disability that I may suffer except as provided by statute, and shall be exercisable from this date. All acts done by my attorney pursuant to this power shall bind me, my heirs, devisees, trust beneficiaries, and personal representatives. This power of attorney is nondelegable.

All of my property and interests in property, real and personal, of whatever nature or wheresoever situate are subject to this durable family power of attorney.

Specifically, without limiting the broad powers conferred by the preceding provisions, I authorize my attorney in fact to:

1. Collect all sums of money and other property that may be payable or belonging to me, and to execute receipts, releases, cancellations or discharges.

2. Settle any account in which I have any interest and to pay or receive the balance of that account as the case may require.

3. Enter any safe deposit box or other place of safekeeping standing in my name alone or jointly with another and to remove the contents and to make additions, substitutions and replacements.

4. Borrow money on such terms and with such security as my attorney may think fit and to execute all notes, mortgages and other instruments that my attorney finds necessary or desirable.

5. Draw, accept, endorse or otherwise deal with any checks or other commercial or mercantile instruments, specifically including the right to make withdrawals from any savings account or building and loan deposits, regardless of any interest penalties that might result from such withdrawals.

6. Redeem bonds issued by the United States Government or any of its agents, any other bonds and any certificates of deposit or other similar assets belonging to me.

7. Sell bonds, shares of stock, warrants, debentures, or other assets belonging to me, and execute all assignments and other instruments necessary or proper for transferring them to the purchaser or purchasers, and give good receipts and discharges for all money payable in respect to them.

8. Invest the proceeds of any redemptions or sales and any other or my money, in bonds, shares of stock and other securities as my attorney shall think fit.

9. Vote at all meetings of stockholders of any company and otherwise act as my attorney or proxy in respect of my shares of stock or other securities or investments that now or hereafter belong to me, and appoint substitutes or proxies with respect to any of those shares of stock.

10. Execute on my behalf any tax return and act for me in any examination, audit, hearing, conference or litigation relating to taxes, including authority to file and prosecute refund claims, and enter into any settlements.

11. Sell, rent, lease for any term, or exchange any real estate or interests in it for such considerations and upon such terms and conditions as my attorney may see fit, and execute, acknowledge and deliver all instruments conveying or encumbering title to property owned by me alone as well as any owned by me and another person jointly.

12. Prosecute, defend and settle all actions or other legal proceedings touching my estate or any part of it or touching any matter in which I may be concerned in any way.

13. Purchase bonds issued by the United States that can be applied at face or maturity value on account of estate tax liabilities, commonly known as "flower bonds".

14. Authorize the discontinuance of any heroic or unusual measures for the unnatural or undue prolongation of my life.

Statement of desires concerning life prolonging care and treatment, services and procedures:

My dying shall not be artificially prolonged under the circumstances set forth below and I do hereby declare as follows:

A. If at any time I should have a terminal condition and my attending physician(s) has (have) determined that there can be no recovery from such condition and my death is imminent, and where the application of life prolonging procedures would serve only to

artificially prolong the dying process, I direct that such procedures be withheld or withdrawn and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort, care or to alleviate pain. I desire that nutrition and hydration (food and water) be withheld or withdrawn when the application of such procedures will serve only to prolong, artificially, the process of dying.

B. In the absence of my ability to give directions regarding the use of such life prolonging procedures, it is my intention that this Declaration shall be honored by my family and physician(s) as a final expression of my legal right to refuse medical or surgical treatment and accept the consequences for such refusal.

15. To make a qualified disclaimer on my behalf under Section 2518 of the Internal Revenue Code (or any successor provisions with substantially the same effect) and under applicable state law, of any interest in property that could be disclaimed by me, regardless of whether my attorney in fact may benefit personally as a result of such disclaimer.

16. To have full and unimpeded access to all of my digital assets and information, passwords, login ID's and account information from any holders thereof, including emails.

STATEMENT OF RELEASE REQUIRED BY HEALTH INSURANCE PORTABILITY ACT (HIPAA)

The person named above shall have the status, power, uthority, rights and title as my Agent/Personal Representative(s) for all purposes as provided in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Pub. L. 104-191, 45 CFR §160-164, and under any and all state laws intended to provide privacy protection to me related to my medical, psychological, psychiatric, health, drug or other such records and/or information (all such state laws shall be hereinafter referred to as State-HIPAA laws).

I authorize my Agent/Personal Representative to execute any and all releases and other documents necessary in order to obtain disclosure to my Agent/Personal Representative of my patient records and other Protected Health Information that may be subject to and protected under HIPAA and/or any State-HIPAA laws.

I authorize my Agent/Personal Representative to appoint a Patient Advocate for me, who may be any person so designated by my Agent/Personal Representative. My Patient Advocate shall have the same right to ask questions and receive information regarding my medical condition(s), treatment, and any proposed treatment as I

and my Agent/Personal Representative would have, and the right to be in attendance to me at all times.

The powers conferred upon my attorney in fact extend to all of my right, title and interest in property in which I may have an interest jointly with any other person, whether in an estate by the entirety, joint tenancy or tenancy in common.

This instrument is executed by me in the State of Florida, but it is my intention that this power of attorney shall be exercisable in any other state or jurisdiction where I may have any property or interests in property.

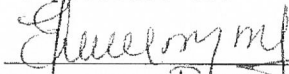
I hereby confirm all acts of my attorney in fact pursuant to this power.

Any act that is done under this power of attorney shall be valid and binding on me unless the party claiming benefit from such act had actual notice prior to such act that this power of attorney had been revoked.

BY THE EXECUTION HEREOF, I INDICATE THAT I UNDERSTAND THE PURPOSE AND EFFECT OF THIS DOCUMENT, AND FURTHER THAT I AM OF SOUND AND DISPOSING MIND AND MEMORY AND SUFFER NO IMPAIRMENT OR INCAPACITY EITHER PHYSICAL OR MENTAL, NOR AM I ACTING UNDER CONSTRAINT OR UNDUE INFLUENCE, AT THE DATE OF THE EXECUTION HEREOF.

IN WITNESS WHEREOF, I have set my hand and seal this 21st day of May, 2019.

Signed, sealed and delivered
in presence of:



Printed Name: Derianys Mendez



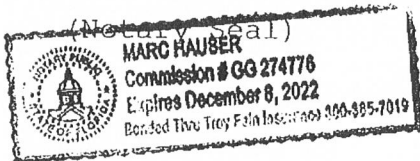
Printed Name: Moises Hernandez

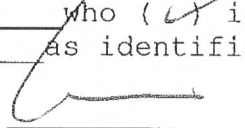


OFELIA SHERMAN

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

The foregoing instrument was acknowledged before me this 21st day of MAY, 2019 by OFELIA SHERMAN who (☒) is personally known or () has produced _____ as identification.




Notary Public State of Florida

LEASE AGREEMENT

This Lease Agreement ("Lease"), is made and entered into this 23rd day of September, 2020, by and between the **TOWN OF BAY HARBOR ISLANDS**, Florida ("Lessee") and **HIPPO LAND, INC.**, a Florida corporation ("Lessor").

WHEREAS, Lessor owns that certain property that consists of fifteen (15) parking spaces lying and being in the Town of Bay Harbor Islands, County of Miami-Dade, State of Florida, identified by folio number of 13-2227-001-2240 ("Folio"), and more particularly described as: Bay Harbor Islands, Plat Book 46-5, N50 Feet of Lots 9 & 10, Block 11, Lot Size 100' x 50' ("Parking Spaces").

WHEREAS, Lessee has leased the Parking Spaces in the past for use as off-street parking, sidewalks, ingress and egress roads, and incidental beautification of the off-street parking ("Permitted Uses");

WHEREAS, Lessor agrees to lease the Parking Spaces to Lessee for the foregoing Permitted Uses.

NOW THEREFORE, in consideration of the terms and conditions hereof, and for other good and valid consideration, the receipt of which is acknowledged, Lessor and Lessee agree as follows:

1. **Recitals.** The recitals set forth above are true and correct and are incorporated herein.
2. **Parking Spaces.** Lessor agrees to lease the Parking Spaces to Lessee to be used for any or all of the Permitted Uses.
3. **Lease Term.** The term of this Lease shall be one (1) year, with a Lease commencement date of April 1, 2020 ("Lease Commencement Date") and an expiration date of March 31, 2021 ("Term").
4. **Rent.** The rent for the Parking Spaces during the Term is nine thousand one hundred fifty dollars (\$9,150.00), payable in one (1) lump sum within ten (10) business days of the full execution of this Lease.
5. **Real Estate Taxes.** During the Term, Lessee shall pay the 2020 real estate taxes applicable to the Parking Spaces (assessed to the Folio) and the pro-rata portion of 2021 real estate taxes (from January 1, 2021 to March 31, 2021 assessed to the Folio). Lessee shall pay the 2020 real estate taxes prior to December 31, 2020. Lessee shall pay the 2021 pro-rata portion of the real estate taxes within ten (10) business days of Lessor presenting Lessee with the 2021 real property tax bill for the Folio.

SB

Lessee

[Signature]

Lessor

6. **Sublease and Assignment.** Lessee is prohibited from subleasing any of the Parking Spaces without Lessor's prior written approval. Lessee is prohibited from assigning this Lease to a third party without Lessor's prior written approval.

7. **Indemnification.** Lessee hereby agrees to indemnify and save the Lessor harmless of any and all liability, loss, damage, claims, costs, expenses, taxes and judgments caused by the Parking Spaces.

8. **Loss of Revenue.** In the event that any repairs, maintenance, changes or modifications are necessary to the buildings located adjacent to the Parking Spaces, whether ordinary or required pursuant to applicable building or zoning codes, which would deny or restrict access to the Parking Spaces, the Lessee agrees that the Lessor shall not be liable for any loss in parking meter revenue or other damages incurred by the Lessee in connection therewith. Notwithstanding the foregoing, the Lessee shall be permitted to charge parking fees to contractors and workers engaged in said repairs, maintenance, changes or modifications.

9. **Maintenance.** Lessee shall be responsible for maintenance of the Parking Spaces.

10. **Insurance.** Lessor shall be named as an additional insured on Lessee's liability policy, solely with regard to the Parking Spaces.

11. **Miscellaneous.**

- a. **Severability.** If any provision of the Lease is ultimately determined to be invalid or unenforceable, such provision shall be deemed limited by construction in scope and effect to the minimum extent necessary to render the same valid and enforceable, and, in the event no such limiting construction is possible, such invalid or unenforceable provision shall be deemed severed without affecting the validity of any other provision hereof.
- b. **Entire Agreement.** This Lease constitutes the entire understanding and agreement of the parties hereto with respect to the subject matter thereof and supersedes all prior written and all prior and contemporaneous oral agreements, understandings, inducements, and conditions, express or implied, among the parties with respect thereto. The express terms of this Lease control and supersede any course of performance or usage of trade inconsistent with any of the terms hereof. Neither this Lease, nor any term or provision hereof, may be changed, discharged, or terminated orally, unless by an instrument in writing signed by the party against whom enforcement of the change, discharge, or termination is sought.
- c. **Counterparts.** This Lease may be executed in any number of counterparts, each of which shall be an original as against any party whose signature appears thereon and all of which together shall constitute one and the same agreement. Facsimile and .PDF signatures shall constitute originals.



Lessee



Lessor

- d. **Construction of Lease.** This Lease has been negotiated by the respective parties hereto, and the language hereof shall not be construed for or against any party. The titles and headings herein are for reference purposes only and shall not in any manner limit the construction of the Lease, which shall be considered as a whole. All additions and deletions of provisions from and all drafts of the Lease shall be of no force or effect in interpreting the terms of the Lease or the intentions of the parties hereto.
- e. **Attorneys' Fees.** In event of any Litigation that arises out of or relates to the instant Lease the prevailing party shall be entitled to recover from the non-prevailing party all reasonable attorneys' fees and costs incurred at all levels including those incurred in all trial and appellate courts. The prevailing party shall also be entitled to receive from the non-prevailing party all attorneys' fees and costs incurred in order to establish the amount of attorneys' fees and costs to be awarded pursuant to the instant paragraph.
- f. **Notice.** All notices permitted or required in this Lease or in the Lease shall be made in writing and shall be delivered via overnight delivery by a nationally known carrier (FedEx, UPS, DHL, USPS, etc.) as follows:

If to Lessor:

Hippo Land, Inc.
Attn: Joel Benes
18610 NW 87th Avenue, Suite 204
Hialeah, FL 33015

If to Lessee:

Town of Bay Harbor Islands
Attn: Town Manager
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

With a copy, which shall not constitute notice, to:

Frank C. Simone, Esq.
Frank Simone, P.A.
701 Brickell Avenue, Suite 1550
Miami, FL 33131
Email: Frank@franksimone.com

SB

Lessee


Lessor

The parties hereto have executed this Lease, as of the day, month and year first above written.

HIPPO LAND, INC, a Florida corporation

By: _____

Print Name: MB Wiffels

Title: DIRECTOR

TOWN OF BAY HARBOR ISLANDS

By: Stephanie Bruder

STEPHANIE BRUDER
MAYOR

SB

Lessee

[Signature]
Lessor

AMENDMENT TO LEASE

THIS AMENDMENT TO LEASE ("Amendment") is entered into this 31st day of March 2021 ("Effective Date") by and between **HIPPO LAND, INC.**, a Florida corporation ("Lessor") and the **TOWN OF BAY HARBOR ISLANDS** ("Lessee").

WHEREAS, on or about September 23, 2020, Lessee entered into a lease with Lessor for the Parking Spaces ("Lease");

WHEREAS, the Lease is currently scheduled to expire on March 31, 2021. The parties desire to extend the Term of the Lease; and

NOW THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee hereby agree as follows:

1. **Recitals**. The above-mentioned recitals are true, correct and are incorporated herein by this reference.
2. **Defined Terms**. The defined terms set forth in the Lease shall be incorporated herein. Any term defined herein, shall also be applicable to the Lease.
3. **Amendments to the Lease**. The following amendments to the Lease are agreed to by the parties:
 - a. **Term**. The Term of the Lease (set forth in Section 3 of the Lease) shall be extended for an additional fourteen (14) days through and including April 14, 2021 ("Extended Term").
 - b. **Rental**. The Rent (set forth in Section 4 the Lease) during the Extended Term shall be \$350.96 (which is \$25.07, per day).
4. **Full Force and Effect; Conflict**. The Lease shall continue to be in full force and effect. To the extent that there is any conflict between the Lease and this Amendment, this Amendment shall control.
5. **Miscellaneous**.
 - a. **Severability**. If any provision of the Lease or this Amendment is ultimately determined to be invalid or unenforceable, such provision shall be deemed limited by construction in scope and effect to the minimum extent necessary to render the same valid and enforceable, and, in the event no such limiting construction is

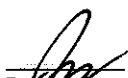

Lessor


Lessee

possible, such invalid or unenforceable provision shall be deemed severed without affecting the validity of any other provision hereof.

- b. **Entire Agreement.** This Amendment constitutes the entire understanding and agreement of the parties hereto with respect to the subject matter thereof, and supersedes all prior written and all prior and contemporaneous oral agreements, understandings, inducements, and conditions, express or implied, among the parties with respect thereto. The express terms of this Amendment control and supersede any course of performance or usage of trade inconsistent with any of the terms hereof. Neither this Amendment, nor any term or provision hereof, may be changed, discharged, or terminated orally, unless by an instrument in writing signed by the party against whom enforcement of the change, discharge, or termination is sought.
- c. **Counterparts.** This Amendment may be executed in any number of counterparts, each of which shall be an original as against any party whose signature appears thereon and all of which together shall constitute one and the same agreement. Facsimile and .PDF signatures shall constitute originals.
- d. **Construction of Amendment.** This Amendment has been negotiated by the respective parties hereto, and the language hereof shall not be construed for or against any party. The titles and headings herein are for reference purposes only and shall not in any manner limit the construction of the Amendment, which shall be considered as a whole. All additions and deletions of provisions from and all drafts of the Amendment shall be of no force or effect in interpreting the terms of the Amendment or the intentions of the parties hereto.
- e. **Attorneys' Fees.** In event of any Litigation that arises out of or relates to the instant Amendment, Lease, or Lease Extension, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable attorneys' fees and costs incurred at all levels including those incurred in all trial and appellate courts. The prevailing party shall also be entitled to receive from the non-prevailing party all attorneys' fees and costs incurred in order to establish the amount of attorneys' fees and costs to be awarded pursuant to the instant paragraph.
- f. **Notice.** All notices permitted or required in this Amendment or in the Lease shall be made in writing and shall be delivered as set forth in Section 11(f) of the Lease.

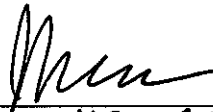
6. **Ratification of Lease.** The Lease, as amended hereby, is in full force and effect, and is ratified and confirmed, and there are no other amendments or modifications herein, except as stated herein.


Lessor

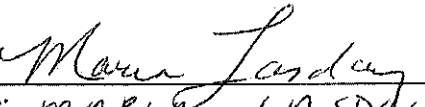

Lessee

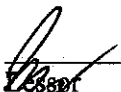
IN WITNESS WHEREOF, the parties hereto have executed this Amendment under seal,
as of the day, month and year first above written.

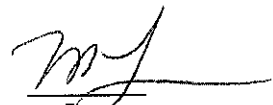
HIPPO LAND, INC.

By: 
Name: JOEL BRUES
Title: Asst. Mgr.

TOWN OF BAY HARBOR ISLANDS

By: 
Name: MARIA LASDAY
Title: Town Manager


Lessee


Lessee

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: A

ITEM: Discussion and possible action of a request from Bay Harbor Executives Office, Inc. regarding the Smart Park, LLC Business Tax Receipt revocation for management of the parking spaces, specifically located behind the property at 1025-1045 Kane Concourse.

DESCRIPTION:

At the March 10th, Regular Council Meeting, as a result of several complaints to Town staff and Elected Officials and in accordance to Section 13-7 of the Town Code, the Town Council revoked a Business Tax Receipt to Smart Park, LLC for the management of the parking spaces for the property located at 1025-1045 Kane Concourse. Following the notification, the property owners (Bay Harbor Executive Office, Inc.) requested a discussion and reconsideration of the Business Tax Receipt previously issued to Smart Park, LLC.

Enclosed is a copy of the Revoked Business Tax Receipt and the previous parking lease agreement that expired in 2020.

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk

ATTACHMENTS

1. SmartPark,LLC BTR Revoked 03.10.2021
2. Bay Harbor Executive Office Lease - 3-2020

AGENDA ITEM REPORT

March 10, 2021

ITEM NUMBER: 18.

ITEM: Discussion and possible action with regards to a Business Tax Receipt issued to Smart Park, LLC to administer commercial parking operations in the B-1 Business District. The business owner ("Smart Park, LLC") specifically manages eleven (11) parking spaces located in the rear of the building located at 1035-1055 Kane Concourse. Enclosed is a copy of the Business Tax Receipt submittal and other documents.

DESCRIPTION:

On September 8th, 2020, the Town Council approved the "commercial parking operations" to Smart Park, LLC. The business currently manages eleven (11) parking spaces located at 1035-1055 Kane Concourse (Block 11 - Alley) for Bay Harbor Executive Inc.

The Town Council approval of the Business Tax Receipt are subject to the following conditions:

- * There shall be no vehicle Towing.
- * There shall be no vehicle immobilization / booting
- * Approval is granted for the 2020/2021 fiscal year.

In recent months, the Town has received several complains from residents and visitors that have been issued a parking citation by a private parking enforcement company. The parking citations were issued in the amount of \$45.00. The Town Attorney and staff met with the property owner to address the complaints and the amount of the citations. Since the meeting the tickets have been lowered to the standard (Town and County) parking citation rate of \$32.00.

It was the direction of the Council to further discuss this matter at the March Meeting.

Enclosed is a copy of the Business Tax Receipt and other supporting documents.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk

ATTACHMENTS

1. 2409 SMART PARK, LLC_

THIS LICENSE MUST BE DISPLAYED IN A CONSPICUOUS PLACE

A penalty is imposed for failure to keep this license exhibited conspicuously at your establishment or place of business.

BUSINESS TAX RECEIPT

Year: 2020-2021

Number: 2409

Account Number: 34422

Mailing Address:

SMART PARK, LLC
285 NE 17 CT, #2
FT LAUDERDALE, FL 33305-2928

Business Name and Address:

SMART PARK, LLC
1035-1055 KANE CONCOURSE
BAY HARBOR ISLANDS, FL 33154

Category: MISCELLANEOUS

Phone Number: 954-673-0442

Tax ID Number: 84-2661941

Approval Date: 9/22/2020

Nature of Business:

MANAGEMENT OF COMMERCIAL
PARKING OPERATIONS FOR:
N 50 FT, LOT 12+13, BLOCK 13

Comments:

SUBJECT TO THE FOLLOWING
CONDITIONS:
-NO VEHICLE TOWING
-NO VEHICLE IMMOBILIZATION / BOOTING
-ONE-YEAR APPROVAL

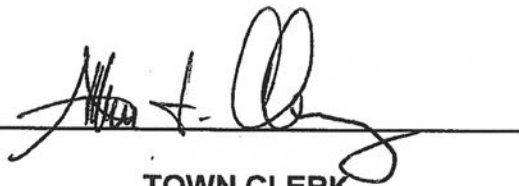
THIS RECEIPT EXPIRES SEPTEMBER 30th OF THE YEAR SHOWN ABOVE.

Fee: \$121.55

Late Fees: \$0.00

Date Issued: 9/22/2020

By



TOWN CLERK



Town of Bay Harbor Islands

APPLICATION FOR BUSINESS TAX RECEIPT - BUSINESS DISTRICT

PRINT OR TYPE ALL INFORMATION REQUESTED

BEFORE OPENING A BUSINESS IN BAY HARBOR ISLANDS MAKE SURE YOU CHECK WITH THE BUILDING DEPARTMENT FOR CERTAIN CONDITIONS THAT MAY APPLY TO THE BUSINESS OR LOCATION.

EXAMPLE: Change of Use and Occupancy Inspections
Fire Department Inspections
Sign Regulations

PROCESSING FEE - \$25.00

(For official use only)	
DATE RECEIVED: <u>9/14/2020</u>	
DATE ISSUED: <u>9/22</u>	LICENSE FEE: \$ <u>121.55</u>
ACCT. NO. <u>3422</u>	LICENSE NO. <u>2409</u>
CLASSIFICATION: <u>MISC</u> <u>B</u>	

INDICATE TYPE OF OWNERSHIP OF BUSINESS: ☐ Individual ☐ Corporation ☐ Partnership ☒ Other LLC

*APPLICANT: Ted M. Schuhle		DATE OF BIRTH: 08/21/1981
E-MAIL ADDRESS: teddy@smart-park.us		WORK PHONE: (954) 673-0442
SS#: [REDACTED]	FEIN: 84-2661941	DRIVER LICENSE: S400-813-81-301-0
BUSINESS NAME: Smart Park, LLC		CELL PHONE: (954) 673-0442
DOING BUSINESS AS (dba):		
BUSINESS ADDRESS: 1035-1055 Kane Concourse, Bay Harbor Islands, Florida		
MAILING ADDRESS (if different) 285 NE 17 Ct. # 2, Ft. Lauderdale, FL 33305-2928		
DESCRIPTION OF BUSINESS (provide details) paid public parking		

ESTIMATED NUMBER OF EMPLOYEES: 0 DAYS BUSINESS WILL BE OPEN: 7 days / week HOURS: 24 hours / day
WILL BUSINESS HAVE VENDING MACHINES NO IF SO, WHAT PRODUCT WILL BE VENDED: _____
ATTACH THE FOLLOWING DOCUMENTS:

CERTIFICATIONS ISSUED BY STATE/COUNTY AGENCIES
COPY OF ARTICLES OF INCORPORATION OR ARTICLES OF ORGANIZATION
LIST OF CORPORATE OFFICERS (Including Name, Address and Telephone Numbers)
COPY OF LEASE (IF APPLICANT IS OTHER THAN OWNER)
IF PROPERTY OWNER, PROVIDE COPIES OF DEED OR OTHER DOCUMENTS SHOWING OWNERSHIP

LIST NAME, ADDRESS AND TYPE OF BUSINESS (both current and previous) YOU HAVE OPERATED:
Smart Park, LLC has operated and continues to operate this exact same business at multiple locations throughout Florida and North Carolina.

LIST THREE (3) REFERENCES: (Note if you list a bank, corporation, etc. include name of a contact person)

NAME	ADDRESS	PHONE
Circle House Coffee (contact: Stephen Tulloch)	727 NE 3 Ave, Fort Lauderdale, FL 33304	(954) 870-6456
Tracy Curry	1211 Florida Ave S, Lakeland, FL 33803	(863) 660-9565
Ofelia Sherman	1045 Kane Concourse, Bay Harbor Islands, FL 33154	(786) 486-9804

I understand that in applying for a business license in the Town of Bay Harbor Islands it is my obligation to understand and comply with the rules and regulations of the Town of Bay Harbor Islands. I acknowledge receipt of a copy of the Town's sign regulations, if applicable.

APPLICANT'S SIGNATURE [Signature] DATE: 09/14/2020

FOR RESTAURANTS/FOOD ESTABLISHMENTS,
A SOLID WASTE DEPOSIT IS REQUIRED (This
amount can be adjusted depending upon monthly
volume usage)

**INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED
PLEASE BE SURE TO ATTACH ALL REQUIRED DOCUMENTATION**

Town of Bay Harbor Islands

APPLICATION FOR CERTIFICATE OF OCCUPANCY

Before the issuance of a Certificate of Occupancy will be granted for the completion of a building permit or for a Business Tax Receipt, the following information must be provided.

Per the Florida Building Code, Section 503 and 307, the premises must be inspected and approved prior to new occupancy being granted.

Date: 09/14/2020

Business Location	privately-owned parking spaces adjacent to 1035-1055 Kane Concourse
Previous Tenant: (name)	Town of Bay Harbor Islands
Previous Use (type of business)	same (paid public parking)
New Business Name	Smart Park, LLC
New Tenant's Name	Smart Park, LLC
Telephone Number	954-673-0442
Contractor's Name and Address and Phone Number	n/a

OFFICIAL USE ONLY

Town Clerk:

Type of Business Compliant with Code? ☒ Yes ☐ No
Council Approval Required? ☒ Yes ☐ No

Council Approval Date: 9/8/2020

Town Clerk: [Signature]

Town Clerk Approval Date: _____

Police Department:

Background Investigation Completed? ☒ Yes ☐ No
Approval for License ☐ Yes ☐ No

Date: 09/21/2020

Officer's Name: Det. Castaneda

Date: _____

Officer's Signature: [Signature]

Officer's Remark: No Criminal History or Brand

Building Department:

Change of Use? ☐ Yes ☐ No

Inspections Required:

- ☐ Code Compliance
- ☐ Building
- ☐ Electrical
- ☐ Mechanical
- ☐ Fire
- ☐ Public Works
- ☐ DERM

Inspector: _____
Inspector: _____
Inspector: _____
Inspector: _____
Inspector: _____
Inspector: _____
Inspector: _____

Date: _____
Date: _____
Date: _____
Date: _____
Date: _____
Date: _____
Date: _____

Smart Park, LLC

Directory of Members

1. **Ted M. Schuhle**

(954) 673-0442

teddy@smart-park.us

FL Mailing Address:

% Smart Park, LLC

285 NE 17 Ct. # 2

Ft. Lauderdale, FL 33305-2928

NC Mailing Address:

% Smart Park, LLC

4055 Stillwell Dr.

Winston-Salem, NC 27106-2003

2. **Brandon G. Little**

(954) 546-0640

brandon@legalreliefnow.com

% Smart Park, LLC

285 NE 17 Ct. # 2

Ft. Lauderdale, FL 33305-2928

**Electronic Articles of Organization
For
Florida Limited Liability Company**

L19000193836
FILED 8:00 AM
July 29, 2019
Sec. Of State
bnkinsey

Article I

The name of the Limited Liability Company is:

SMART PARK, LLC

Article II

The street address of the principal office of the Limited Liability Company is:

719 PLACE CHATEAU
DELRAY BEACH, FL. US 33445

The mailing address of the Limited Liability Company is:

719 PLACE CHATEAU
DELRAY BEACH, FL. US 33445

Article III

The name and Florida street address of the registered agent is:

BRANDON G LITTLE ESQ.
644 S.E. FOURTH AVENUE
FORT LAUDERDALE, FL. 33301

Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Registered Agent Signature: BRANDON LITTLE

Signature of member or an authorized representative

Electronic Signature: BRANDON LITTLE

I am the member or authorized representative submitting these Articles of Organization and affirm that the facts stated herein are true. I am aware that false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S. I understand the requirement to file an annual report between January 1st and May 1st in the calendar year following formation of the LLC and every year thereafter to maintain "active" status.

Parking Lot Management Agreement

This Parking Lot Management Agreement (the "Agreement") is entered into and made effective as of the date executed below (the "Effective Date"), by and between **Smart Park, LLC**, a Florida limited liability company ("Smart Park"), and **Bay Harbor Executive Offices, Inc.**, a Florida corporation (the "Client"), with respect to Client's property more specifically described in the attached Exhibit "A" (the "Property").

1. Term and Termination:

The Term of this Agreement shall be ^{one (1) yr.} ~~two (2) years~~ beginning on the date the Town of Bay Harbor Islands approves this Agreement and the Property becomes available to the public for parking as a pay-for-parking lot (the "Commencement Date") and terminating at midnight ^{one (1) yr.} ~~two (2) years~~ thereafter (the "Initial Term"). The Initial Term ~~and~~ any subsequent Term shall automatically renew for an additional period of ^{one (1) yr.} ~~two (2) years~~ (each, a "Renewal Term") unless either party notifies the other party in writing no less than sixty (60) days before the end of the then-current Term of its intent not to renew this Agreement.

2. Description of Property:

Client has possession of the subject Property by way of Deed duly recorded in the official record books of the county in which the Property is located. A copy of the Client's Deed is attached hereto as Exhibit "B".

Client expressly represents and guarantees that there is no other deed, lease, sublease, or other property interest, that would interfere with Client's use of the Property as a pay-for-parking lot as contemplated by the parties herein.

Client shall cooperate with Smart Park as required to obtain all necessary permitting and/or required consents from the Town of Bay Harbor Islands, Florida, related to establishing and maintaining operation as a pay-for-parking lot.

3. Requirement / Scope of Work:

Smart Park agrees to manage the Property for the purpose of operating a pay-for-parking lot for public parking of motor vehicles and for no other purposes. [REDACTED]

At all times the Client agrees to execute any and all documents required by ~~THE~~ Town of Bay Harbor Islands / (hereinafter referred to as "the City"), to assist Smart Park in any approval process necessary for Smart Park to obtain a permit for the use and ongoing operation of the Property as a pay-for-parking lot, if and as required. [REDACTED]

[REDACTED]

4. Revenue Collection and Distribution:

[REDACTED]

[REDACTED]

[REDACTED]

5. Insurance:

On or before the Commencement Date, Smart Park will deliver to the Client a Certificate of Insurance evidencing its maintenance of commercial insurance coverage (which coverage shall be maintained, by Smart Park, in full force and effect, throughout the Initial Term, if applicable, and shall not be cancellable or subject to material modification without at least twenty (20) days prior written notice to Client, including, at a minimum, General Commercial Liability coverage of \$1,000,000.00.

6. Additional Requirements:

Smart Park shall obtain all permits, licenses, and insurance, as may be required by the codes, ordinances, and statutes applicable to the Town of Bay Harbor Islands, subject to cooperation from Client, as necessary.

Smart Park and its employees shall comply at all times with all applicable federal, state, and local laws, rules, and regulations.

Smart Park shall provide all of its services to Client as an independent contractor and neither Smart Park nor any of its employees shall be deemed or otherwise considered an employee or agent of Client.

7. Default:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8. Taxes:

[REDACTED]

9. Miscellaneous Provisions:

9.1. [REDACTED]

9.2. [REDACTED]

9.3. [REDACTED]

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

9.4. [REDACTED] e

[REDACTED]

9.5. [REDACTED]

9.6. [REDACTED]

9.7. [REDACTED]

9.8. **Counterparts / Fax or Email Signatures:** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same agreement. Signatures may be transmitted via facsimile or electronic mail and shall be deemed given as of the date and time of the transmission by facsimile or electronic mail to the other party and shall be treated as originals.

9.9. [REDACTED]

9.10. [REDACTED]

9.11.

9.12.

9.13.

9.14.

Accepted and agreed to on this 9th day of July, 2020, by:

Bay Harbor Executive Offices, Inc.:

Smart Park, LLC:


By:
Title: Vice President


By: Ted M. Schuhle
Title: Manager



APPROVED

AGENDA ITEM REPORT

September 8, 2020

ITEM NUMBER: 1.

ITEM: Consideration and Approval of a request by Smart Park, LLC to administer commercial parking operations in the B-1 Business District. Specifically for the 11 parking spaces located in the rear of the building located at 1035-1055 Kane Concourse. Enclosed is a request submitted by Mr. Brandon Little of Smart Park, LLC.

DESCRIPTION:

The Town recently received a request from Smart Park, LLC, a commercial parking operator to install a parking metering system behind the 1035-55 Kane Concourse. Section 23-24(a) requires the Town Council to approve all "commercial parking operations".

There are 11 existing parking spaces located to the north of this building. Each of the properties built in Block 11 have a unique parking / access arrangement. When the lots fronting Kane Concourse were developed all of the buildings were placed right at the Kane Concourse frontage along the Town's pedestrian promenade (walkways / on-street parking / landscaping) and the required private parking was placed to the north of the buildings. At the time, some type of lease arrangement was made with the commercial property owners to provide cross access and shared parking for the area. The Town oversaw the alley corridor and adjoining parking areas and maintained them with revenue generated by parking permits. Some of the leases expired some years ago, but the physical design of the area has not changed. This particular property is one of last two lease holders in the area. The actual lease expired in March. The previous arrangements was that we paid the property taxes for that portion of the lot being used by the Town \$10,157 and paid the lease payment of \$6,710.

The property owner requested an increase of the lease payments last year of \$13,000. There was a meeting in February where Town Manager JC Jimenez discussed the issues with the Block 11 Committee and the increase was not approved. The Committee consensus was to continue to negotiate. I was approached by the property owners regarding the lease and I informed them of the committee decision not to renew under the new terms. There was some discussion after that but the owners have opted to request approval to have Smart Park, LLC, manage the spaces.

The plan from Smart Park, LLC is to post signage and collect the revenue for the owners via mobile app. The company would be responsible for cleaning and maintaining the spaces, and provide insurance. Traffic in the alley will not be impacted with this plan.

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba Chang, Interim Town Clerk
 Marlene Marante Siegel, Interim Town Manager

ATTACHMENTS

1. Smart Park Request to Town Council (BHI, FL)
2. SP-BayHarbor-Agmt_Redacted

Members of the Town Council
Town of Bay Harbor Islands, Florida

July 31, 2020

**Re: Request for approval for commercial parking pursuant to Town Code
Section 23-24(a) and for exemption from "enclosure" requirements.**

Members of the Town Council:

This request is made on behalf of Smart Park, LLC ("Smart Park"), and long-standing members of the Town's business community, for approval to engage in commercial parking operations in the B-1 business district.

Historically, the Town has entered into lease or licensing agreements with the owners of real property along Kane Concourse in order to utilize the property owners' private parking areas for general public use. Once a lease or license was acquired, the Town would make the parking spaces available to the general public, and would collect fees for parking through the use of parking meters or mobile payment systems. The Town engaged in this practice for many years.

More recently, though, the Town's leases have expired. Upon expiration of the Town's leases, some property owners have contacted Smart Park and requested that we continue their commercial parking operations – it's what we do.

Smart Park's founder, Teddy Schuhle, has been in the valet and paid parking industry in South Florida for over fifteen years. Smart Park channels Teddy's years of experience to operate as a full-service parking lot manager for its clients, providing maintenance, collections, and enforcement (generally without booting or towing cars for overtime or unpaid parking). Further, Smart Park provides each of its clients with \$1 MILLION in general commercial liability coverage in connection with their operation of public pay-for-parking lots.

The proposed parking area is among the same parking areas that the Town has utilized pursuant to its lease and licensing agreements, abutting 96th Street, one block north of Kane Concourse. The street address(es) of the building(s) adjacent to our first parking lot in the Town of Bay Harbor Islands is/are 1035-1055 Kane Concourse (the parking area is in the rear of the building). An aerial photograph of the area, more specifically identifying its approximately 11 parking spaces, is attached for your convenience and ease reference. The Parcel ID# is 13-2227-001-2270, and a copy of the property record from the Miami-Dade Property Appraiser is also attached for your reference and convenience.

A copy of our contract with the property owner, Bay Harbor Islands Executive Offices, Inc., can be made available for inspection, but is not attached hereto due to the State of Florida's broad public records laws, as the contract contains proprietary and otherwise confidential business information that should not be made public. Notwithstanding the foregoing, please consider the

following description of Smart Park's method of implementation of its operations at its location in the Town of Bay Harbor Islands:

Smart Park will post signage to receive payments for authorized public parking via mobile app. A sample image of Smart Park's payment collection signage is attached hereto, as are street-level photographs of the first parking area Smart Park has contracted to operate within the Town (subject, of course, to the Town's approval of this Request). The mobile payment signage would be the same approximate size, and placed in roughly the same locations, as those utilized by the Town in the course of its public pay-for-parking operations. In addition to revenue collection, Smart Park will also clean and maintain the parking area. Smart Park does not use any employees in the ordinary course of its revenue collection operations – all payments are made via mobile app. Cleaning and maintenance are performed by independent contractors, as is enforcement. All contractors are independently insured, and Smart Park maintains its own commercial liability insurance in the amount of \$1 MILLION.

The proposed use, as a public pay-for-parking lot, is within the scope of intended uses for the B-1 business district codified at Town Code Section 23-5(12). Section 23-24(a), however, requires that all commercial parking operations obtain "specific approval of the town council," which is the purpose of this Request by Smart Park. Section 23-24(a) further provides that:

Such lots shall be enclosed on all sides, except at exits and entrances, by a solid masonry wall or hedge of a type approved by the town, or both, five feet in height just within the property lines. At all exits and entrances, the wall and/or hedge shall be installed and maintained at three feet in height for a distance of 25 feet on each side of each exit or entrance.

The installation of such an enclosure would be impracticable if not impossible given the layout of the parking lot and vehicular access to parking spaces directly from the street. The entire north boundary of the lot is the entrance and exit, and no enclosure could reasonably or safely be constructed given its proximity to the street and the adjoining properties. The Town successfully and safely operated the same area as a public pay-for-parking lot, with no such enclosure, for many years; thus, no enclosure should be required.

If any additional information is needed, please feel free to contact the undersigned via phone or email at the Town's convenience.

Sincerely,

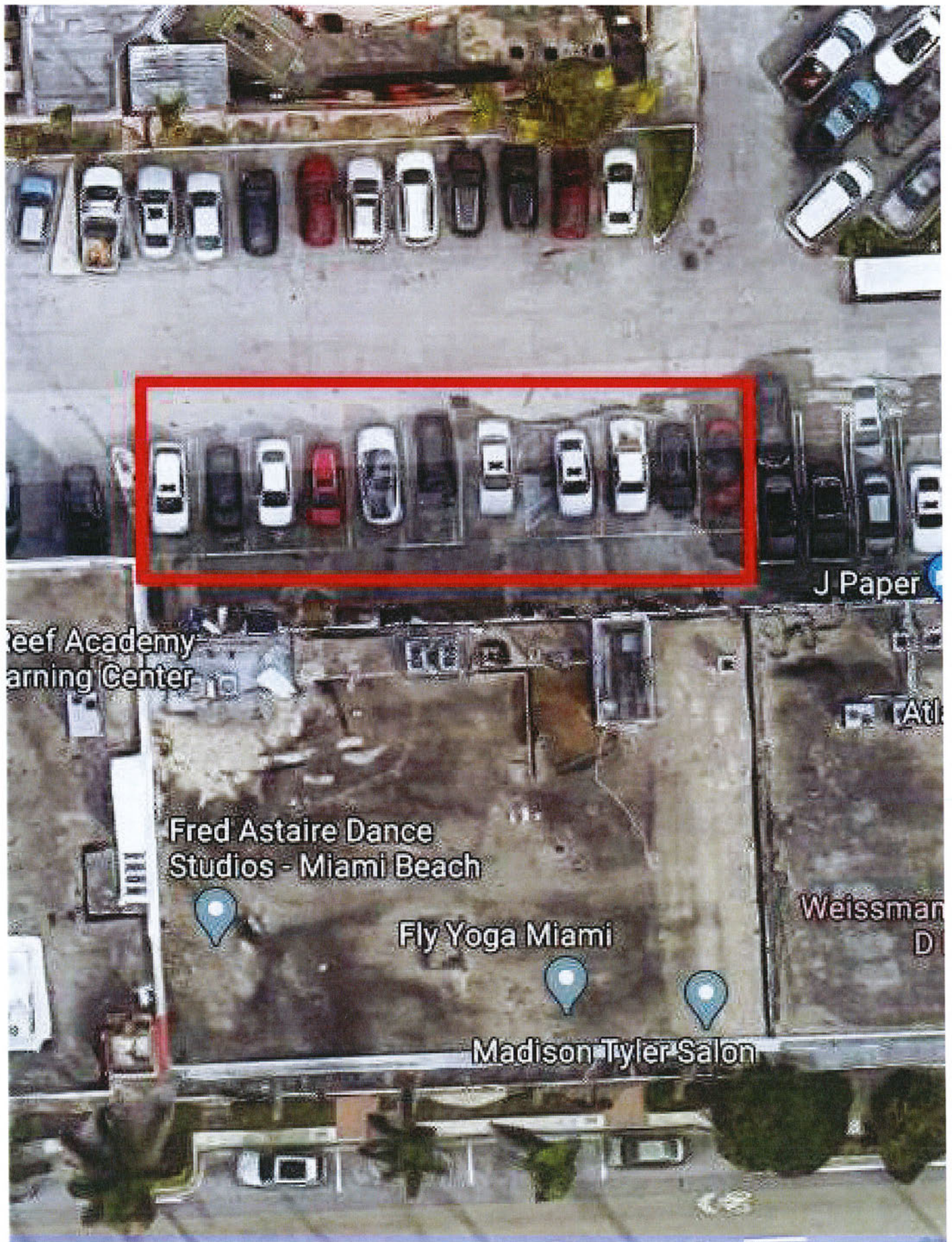
sl Brandon G. Little

Brandon G. Little

Smart Park, LLC

954.546.0640

brandon@legalreliefnow.com





PEDRO J. GARCIA MIAMI-DADE PROPERTY APPRAISER

Address Owner Name Folio

SEARCH:

13-2227-001-2270



[Back to Search Results](#)

PROPERTY INFORMATION

Folio: 13-2227-001-2270

Sub-Division:
BAY HARBOR ISLAND

Property Address
1045 KANE CONC

Owner
BAY HARBOR EXECUTIVE OFFICES INC

Mailing Address
PO BOX 546945
SURFSIDE, FL 33154-6945

PA Primary Zone
6000 COMMERCIAL - GENERAL

Primary Land Use
1913 PROFESSIONAL SERVICE BLDG : OFFICE BUILDING

Beds / Baths / Half 0 / 0 / 0

Floors 2

Living Units 0

Actual Area

Living Area

Adjusted Area

14,094 Sq.Ft

Lot Size

8,500 Sq.Ft

Year Built

1958



Featured Online Tools

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[PA Additional Online Tools](#)
[Property Search Help](#)
[Report Discrepancies](#)

[Glossary](#)
[Property Record Cards](#)
[Property Taxes](#)
[Report Homestead Fraud](#)

Special Taxing Districts and Other Non-Ad valorem Assessments
Tax Estimator
Value Adjustment Board

Tax Comparison
TRIM Notice

ASSESSMENT INFORMATION

Year	2020	2019	2018
Land Value	\$2,125,000	\$2,125,000	\$2,125,000
Building Value	\$932,537	\$487,857	\$890,149
Extra Feature Value	\$58,598	\$0	\$59,003
Market Value	\$3,116,135	\$2,612,857	\$3,074,152
Assessed Value	\$2,261,547	\$2,055,952	\$1,869,048

TAXABLE VALUE INFORMATION

	2020	2019	2018
COUNTY			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$2,261,547	\$2,055,952	\$1,869,048
SCHOOL BOARD			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$3,116,135	\$2,612,857	\$3,074,152
CITY			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$2,261,547	\$2,055,952	\$1,869,048
REGIONAL			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$2,261,547	\$2,055,952	\$1,869,048

BENEFITS INFORMATION

Benefit	Type	2020	2019	2018
Non-Homestead Cap	Assessment Reduction	\$854,588	\$556,905	\$1,205,104

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

FULL LEGAL DESCRIPTION

BAY HARBOR ISLAND PB 46-5
LOTS 12 & 13 LESS S15FT FOR
ST & LESS N50FT BLK 11
LOT SIZE 100.000 X 85
OR 19441-3973 0101 1

SALES INFORMATION

Previous Sale	Price	OR Book-Page	Qualification Description
01/01/2001	\$1,480,000	19441-3973	Sales which are qualified
10/01/1999	\$1,900,000	18816-2461	Deeds that include more than one parcel
02/01/1981	\$1,850,000	11005-0679	Deeds that include more than one parcel

For more information about the Department of Revenue's Sales Qualification Codes.

2020 2019 2018

LAND INFORMATION

Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value
GENERAL	BAAA, RBAA	6000 - COMMERCIAL - GENERAL	Square Ft.	8,500.00	\$2,125,000

BUILDING INFORMATION

Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value
1	1	1958			7,185	\$511,199
1	2	1958			6,909	\$421,338

EXTRA FEATURES

Description	Year Built	Units	Calc Value
Cent A/C - Comm (Aprox 300 sqft/Ton)	1980	7.5	\$7,088
Cent A/C - Comm (Aprox 300 sqft/Ton)	1976	6	\$5,310
Cent A/C - Comm (Aprox 300 sqft/Ton)	1958	40	\$33,000
Elevator - Passenger	1958	2	\$13,200

ADDITIONAL INFORMATION

* The information listed below is not derived from the Property Appraiser's Office records. It is provided for convenience and is derived from other government agencies.

LAND USE AND RESTRICTIONS

Community Development District:	NONE
Community Redevelopment Area:	NONE
Empowerment Zone:	NONE
Enterprise Zone:	NONE
Urban Development:	INSIDE URBAN DEVELOPMENT BOUNDARY
Zoning Code:	B-1 -
Existing Land Use:	113 - OFFICE BUILDING.
Government Agencies and Community Services	

OTHER GOVERNMENTAL JURISDICTIONS

- Business Incentives
- Childrens Trust
- City of Bay Harbor Islands
- Environmental Considerations
- Florida Inland Navigation District
- PA Bulletin Board
- Special Taxing District and Other Non-Ad valorem Assessment
- School Board
- South Florida Water Mgmt District
- Tax Collector

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

For inquiries and suggestions email us at <http://www.miamidade.gov/PAPortal/ContactForm/ContactFormMain.aspx>.

Version: 2.0.3

EXEMPTIONS & BENEFITS

Deployed Military

Disability Exemptions

Sign - 18" x 24"



Park & Pay
using
paybyphone



Download on the
App Store



GET IT ON
Google Play

or pay online:
paybyphone.com

Location #

19056



@paybyphone  





Town of Bay Harbor Islands

P.O. Box 546620

Bay Harbor Islands, FL 33154

Payee: TED MICHAEL SCHULE

Date: 9/23/2020 Time: 1:45 PM

Receipt Number: MAIN / 114243

Clerk: MARCE

ITEM	REFERENCE	AMOUNT
OCCLI	Account Number FEE	25.00
OCLNY	Account Number 34422	121.55
Total:		146.55
Credit 0424	146.55	
Change:		0.00

Town of Bay Harbor Islands

P.O. Box 546620

Bay Harbor Islands, FL 33154

Payee: TED MICHAEL SCHULE

Date: 9/23/2020 Time: 1:44 PM

Receipt Number: MAIN / 114243

Clerk: MARCE

ITEM	REFERENCE	AMOUNT
OCCLI	Account Number FEE	25.00
OCLNY	Account Number 34422	121.55
Total:		146.55
Credit 0424	146.55	
Change:		0.00

This document prepared by:
CRAIG B. SHERMAN, ESQ.
City Attorney
Sherman Law Offices Chartered
1000 Corporate Drive, Suite 310
Fort Lauderdale, FL 33334

LEASE

THIS LEASE, executed this 14th day of October, 2019, between **BAY HARBOR EXECUTIVE OFFICES, INC.**, a Florida corporation, the owner of the following described real property, the Lessor, and the **TOWN OF BAY HARBOR ISLANDS**, Florida, the Lessee.

W I T N E S S E T H

The Lessor for and in consideration of the rent herein reserved to be paid by the Lessee, and in consideration of the covenants herein to be kept and performed by the Lessee, do hereby lease and demise unto said Lessee the following described premises, situate, lying and being in the Town of Bay Harbor Islands, County of Dade, State of Florida:

That portion of Lots 12 and 13, in Block 11, **BAY HARBOR ISLANDS** according to the Plat thereof, recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida, more particularly bounded and described as follows: Beginning at a point in the northerly line of said Lot 13 at its intersection with the westerly line of Lot 14; thence running westerly along the northerly line of said Lots 12 and 13, a distance of 100 feet more or less to the easterly line of Lot 11; thence turning at a right angle and running southerly along the westerly line of lot 12 a distance of 50 feet; thence turning at a right angle and running easterly along a line parallel to the northerly line of said Lots 12 and 13 a distance of 100 feet more or less to the westerly line of Lot 14; thence turning at a right angle and running northerly along the said easterly line of Lot 14 a distance of 50 feet more or less to the point of beginning.

TO HAVE AND TO HOLD the said premises unto said Lessee from the 1st day of April, 2019, to and including the 31st day of March, 2020, the Lessee yielding and paying to the Lessor the following rental:

The entire rental for this period to be the rate of \$610 per parking space per year payable as follows: \$610 X 11 PARKING SPACES = SIX THOUSAND SEVEN HUNDRED

Page 1 of 3

AND TEN DOLLARS (\$6,710.00) on the 1st day of APRIL, of each year stipulated in this agreement, with the said rental to be payment in advance for the year next ensuing after the date of payment.

The Lessee agrees to keep, conform to and abide by each and every of the following which are hereby made conditions of this Lease:

1. The premises shall be used only for the purpose of off-street parking, sidewalks, ingress and egress roads, and incidental beautification of the off-street parking.
2. The land hereby leased is declared to be exempt from state, county and city taxes of any nature and description whatsoever for the term of this Lease.
3. The Lessor hereby covenants with the Lessee that, upon the performance by the Lessee of all the conditions herein above set forth on the part of the Lessee to be performed, Lessee may quietly have, hold, occupy and use the above-described premises without interruption.
4. The Lessee hereby agrees to indemnify and save the Lessor harmless of any and all liability, loss, damage, claims, costs, expenses, taxes and judgments of any nature and description whatsoever arising out of, in connection with, or in anyway related to the land lease herein.
5. In the event that any repairs, maintenance, changes or modifications are necessary to the buildings located adjacent to the leased premises, whether ordinary or required pursuant to applicable building or zoning codes, which would deny or restrict access to the leased premises, the Lessee agrees that the Lessor shall not be liable for any loss in parking meter revenue or other damages incurred by the Lessee in connection therewith.

Notwithstanding the foregoing, the Lessee shall be permitted to charge parking fees to contractors and workers engaged in said repairs, maintenance, changes or modifications.

6. Lessee is responsible for maintenance of the leased premises.

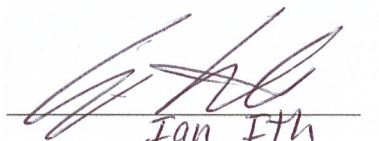
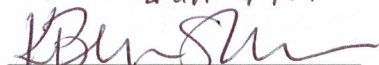
7. The Lessor is to be named as additional insured on town liability policy, solely with regard to the leased property.

8. Both parties have the right to cancel this agreement upon 60 days written notice to the other party.

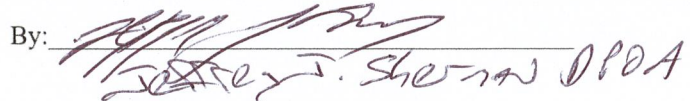
Page 2 of 3

IN WITNESS WHEREOF, the respective parties hereto have caused these presents to be signed, sealed, and delivered on the day and year first above written.

Witnesses:


Ian ITH

Kristen B Sherman

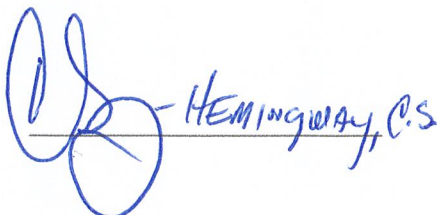
BAY HARBOR EXECUTIVE OFFICES, INC.,
a Florida corporation

By: 
Ian ITH

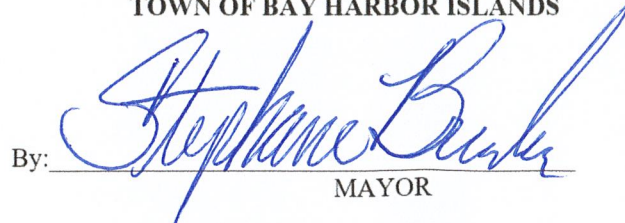
Attest: _____

(Corporate Seal)
(Lessor)

Witnesses:


Hemingway, C.S.

TOWN OF BAY HARBOR ISLANDS

By: 
MAYOR



Attest: 
TOWN CLERK
(Corporate Seal)
(Lessee)

DURABLE FAMILY POWER OF ATTORNEY

BY THIS DURABLE FAMILY POWER OF ATTORNEY, I, OFELIA SHERMAN, of Miami-Dade County, Florida, appoint as my attorney in fact to manage my affairs my son, JEFFREY J. SHERMAN.

This durable family power of attorney shall not be affected by any physical or mental disability that I may suffer except as provided by statute, and shall be exercisable from this date. All acts done by my attorney pursuant to this power shall bind me, my heirs, devisees, trust beneficiaries, and personal representatives. This power of attorney is nondelegable.

All of my property and interests in property, real and personal, of whatever nature or wheresoever situate are subject to this durable family power of attorney.

Specifically, without limiting the broad powers conferred by the preceding provisions, I authorize my attorney in fact to:

1. Collect all sums of money and other property that may be payable or belonging to me, and to execute receipts, releases, cancellations or discharges.

2. Settle any account in which I have any interest and to pay or receive the balance of that account as the case may require.

3. Enter any safe deposit box or other place of safekeeping standing in my name alone or jointly with another and to remove the contents and to make additions, substitutions and replacements.

4. Borrow money on such terms and with such security as my attorney may think fit and to execute all notes, mortgages and other instruments that my attorney finds necessary or desirable.

5. Draw, accept, endorse or otherwise deal with any checks or other commercial or mercantile instruments, specifically including the right to make withdrawals from any savings account or building and loan deposits, regardless of any interest penalties that might result from such withdrawals.

6. Redeem bonds issued by the United States Government or any of its agents, any other bonds and any certificates of deposit or other similar assets belonging to me.

7. Sell bonds, shares of stock, warrants, debentures, or other assets belonging to me, and execute all assignments and other instruments necessary or proper for transferring them to the purchaser or purchasers, and give good receipts and discharges for all money payable in respect to them.

8. Invest the proceeds of any redemptions or sales and any other or my money, in bonds, shares of stock and other securities as my attorney shall think fit.

9. Vote at all meetings of stockholders of any company and otherwise act as my attorney or proxy in respect of my shares of stock or other securities or investments that now or hereafter belong to me, and appoint substitutes or proxies with respect to any of those shares of stock.

10. Execute on my behalf any tax return and act for me in any examination, audit, hearing, conference or litigation relating to taxes, including authority to file and prosecute refund claims, and enter into any settlements.

11. Sell, rent, lease for any term, or exchange any real estate or interests in it for such considerations and upon such terms and conditions as my attorney may see fit, and execute, acknowledge and deliver all instruments conveying or encumbering title to property owned by me alone as well as any owned by me and another person jointly.

12. Prosecute, defend and settle all actions or other legal proceedings touching my estate or any part of it or touching any matter in which I may be concerned in any way.

13. Purchase bonds issued by the United States that can be applied at face or maturity value on account of estate tax liabilities, commonly known as "flower bonds".

14. Authorize the discontinuance of any heroic or unusual measures for the unnatural or undue prolongation of my life.

Statement of desires concerning life prolonging care and treatment, services and procedures:

My dying shall not be artificially prolonged under the circumstances set forth below and I do hereby declare as follows:

A. If at any time I should have a terminal condition and my attending physician(s) has (have) determined that there can be no recovery from such condition and my death is imminent, and where the application of life prolonging procedures would serve only to

artificially prolong the dying process, I direct that such procedures be withheld or withdrawn and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort, care or to alleviate pain. I desire that nutrition and hydration (food and water) be withheld or withdrawn when the application of such procedures will serve only to prolong, artificially, the process of dying.

B. In the absence of my ability to give directions regarding the use of such life prolonging procedures, it is my intention that this Declaration shall be honored by my family and physician(s) as a final expression of my legal right to refuse medical or surgical treatment and accept the consequences for such refusal.

15. To make a qualified disclaimer on my behalf under Section 2518 of the Internal Revenue Code (or any successor provisions with substantially the same effect) and under applicable state law, of any interest in property that could be disclaimed by me, regardless of whether my attorney in fact may benefit personally as a result of such disclaimer.

16. To have full and unimpeded access to all of my digital assets and information, passwords, login ID's and account information from any holders thereof, including emails.

STATEMENT OF RELEASE REQUIRED BY HEALTH INSURANCE PORTABILITY ACT (HIPAA)

The person named above shall have the status, power, uthority, rights and title as my Agent/Personal Representative(s) for all purposes as provided in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Pub. L. 104-191, 45 CFR §160-164, and under any and all state laws intended to provide privacy protection to me related to my medical, psychological, psychiatric, health, drug or other such records and/or information (all such state laws shall be hereinafter referred to as State-HIPAA laws).

I authorize my Agent/Personal Representative to execute any and all releases and other documents necessary in order to obtain disclosure to my Agent/Personal Representative of my patient records and other Protected Health Information that may be subject to and protected under HIPAA and/or any State-HIPAA laws.

I authorize my Agent/Personal Representative to appoint a Patient Advocate for me, who may be any person so designated by my Agent/Personal Representative. My Patient Advocate shall have the same right to ask questions and receive information regarding my medical condition(s), treatment, and any proposed treatment as I

and my Agent/Personal Representative would have, and the right to be in attendance to me at all times.

The powers conferred upon my attorney in fact extend to all of my right, title and interest in property in which I may have an interest jointly with any other person, whether in an estate by the entirety, joint tenancy or tenancy in common.

This instrument is executed by me in the State of Florida, but it is my intention that this power of attorney shall be exercisable in any other state or jurisdiction where I may have any property or interests in property.

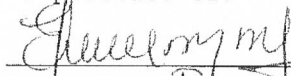
I hereby confirm all acts of my attorney in fact pursuant to this power.

Any act that is done under this power of attorney shall be valid and binding on me unless the party claiming benefit from such act had actual notice prior to such act that this power of attorney had been revoked.

BY THE EXECUTION HEREOF, I INDICATE THAT I UNDERSTAND THE PURPOSE AND EFFECT OF THIS DOCUMENT, AND FURTHER THAT I AM OF SOUND AND DISPOSING MIND AND MEMORY AND SUFFER NO IMPAIRMENT OR INCAPACITY EITHER PHYSICAL OR MENTAL, NOR AM I ACTING UNDER CONSTRAINT OR UNDUE INFLUENCE, AT THE DATE OF THE EXECUTION HEREOF.

IN WITNESS WHEREOF, I have set my hand and seal this 21st day of May, 2019.

Signed, sealed and delivered
in presence of:



Printed Name: Derianys Mendez



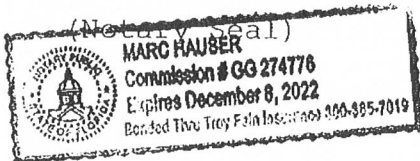
Printed Name: Moises Hernandez

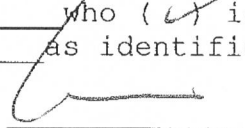


OFELIA SHERMAN

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

The foregoing instrument was acknowledged before me this 21st day of MAY, 2019 by OFELIA SHERMAN who (☒) is personally known or (☐) has produced _____ as identification.




Notary Public State of Florida

AGENDA ITEM REPORT

April 20, 2021

ITEM NUMBER: B

ITEM: Discussion and possible action of a request from Smart Park, LLC for a Business Tax Receipt to administer commercial parking operation in the B-1 Business District, more specifically located in Block 11. The applicant specifically requests approval to manage fifteen (15) parking spaces for Hippo Land, Inc. for the property located at 1067-1085 Kane Concourse. Enclosed is a copy of the Business Tax Receipt Application and other documents.

DESCRIPTION:

The Office of the Town Clerk received an application for a Business Tax Receipt from Smart Park, LLC for the management of fifteen (15) parking spaces located behind the property at 1067-1085 Kane Concourse owned by Hippo Land, Inc.

Pursuant to Section 23-24(a) of the Town Code, in the B-1 Business District commercial parking is prohibited except with specific approval of the Town Council.

The parking lease agreement with Hippo Land, Inc. was recently extended and will expire on April 14th.

Enclosed is a copy of the request for a Business Tax Receipt and other supporting documents.

RECOMMENDED ACTION:

Council Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk

ATTACHMENTS

1. 1065 KC.2021-02-26 Request to Town Council (BHI FL)
2. BTR 1067-1085KC

Members of the Town Council
Town of Bay Harbor Islands, Florida

February 26, 2021

Re: 1067-1085 Kane Concourse – request for approval for commercial parking

Members of the Town Council:

This request is made on behalf of Smart Park, LLC (“Smart Park”), and long-standing members of the Town’s business community, for approval to engage in commercial parking operations in the B-1 business district.

Historically, the Town has entered into lease or licensing agreements with the owners of real property along Kane Concourse in order to utilize the property owners’ private parking areas for general public use. Once a lease or license was acquired, the Town would make the parking spaces available to the general public, and would collect fees for parking through the use of parking meters or mobile payment systems. The Town engaged in this practice for many years.

More recently, though, the Town’s leases have expired and the Town has elected not to renew. Upon expiration of the Town’s leases, some property owners have contacted Smart Park and requested that we continue their commercial parking operations – *it’s what we do*.

The proposed parking area is among the same parking areas that the Town has utilized pursuant to its lease and licensing agreements, abutting 96th Street, one block north of Kane Concourse. The street address(es) of the building(s) adjacent to the parking lot which is the subject of this request is/are 1067-1085 Kane Concourse (the parking area is in the rear of the building). Aerial and street-level photographs of the area, more specifically identifying its approximately 16 parking spaces, are attached for your convenience and ease reference. The Parcel ID#s are 13-2227-001-2230 and 13-2227-001-2240, and copies of the property records for each parcel from the Miami-Dade Property Appraiser are also attached for your reference and convenience.

Pursuant to our contract with the property owner, Smart Park will post signage to receive payments for authorized public parking via mobile app. Smart Park’s payment collection signage would be in the same form as other parking locations operated by Smart Park within the Town (1035-1055 Kane Concourse). Enforcement policies and procedures will also be identical to those already agreed to with the Town, as recently modified by mutual agreement.

The proposed use, as a public pay-for-parking lot, is within the scope of intended uses for the B-1 business district codified at Town Code Section 23-5(12). Section 23-24(a), however, requires that all commercial parking operations obtain “specific approval of the town council,” which is the purpose of this Request by Smart Park. Section 23-24(a) further provides that:

Such lots shall be enclosed on all sides, except at exits and entrances, by a solid masonry wall or hedge of a type approved by the town, or both, five feet in height just within the property lines. At all exits and entrances, the wall and/or hedge shall be installed and maintained at three feet in height for a distance of 25 feet on each side of each exit or entrance.

The installation of such an enclosure would be impracticable if not impossible given the layout of the parking lot and vehicular access to parking spaces directly from the street. The entire north boundary of the lot is the entrance and exit, and no enclosure could reasonably or safely be constructed given its proximity to the street and the adjoining properties. The Town successfully and safely operated the same area as a public pay-for-parking lot, with no such enclosure, for many years; thus, no enclosure should be required.

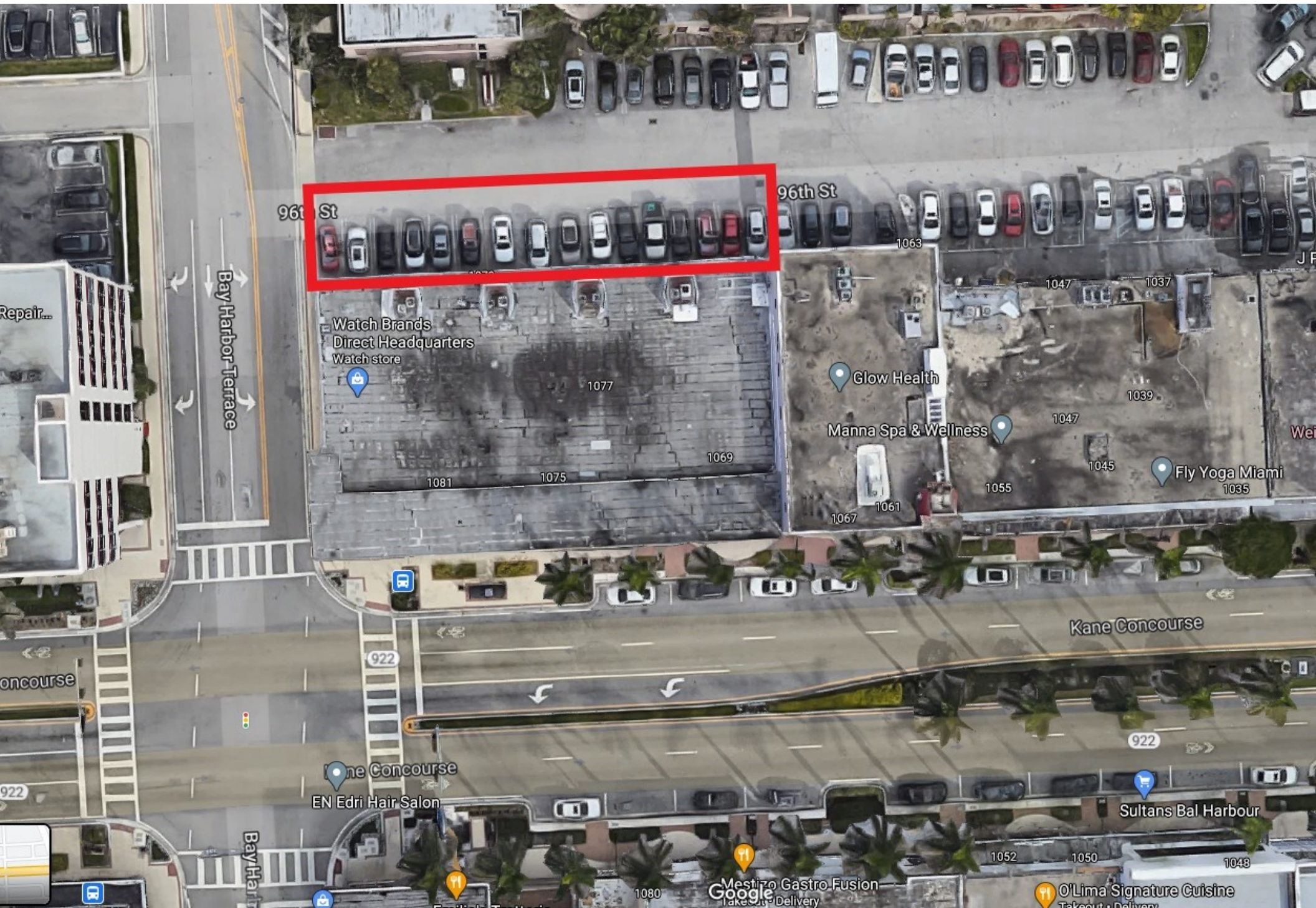
If any additional information is needed, please feel free to contact the undersigned via phone or email at the Town's convenience.

Sincerely,

s/ *Brandon G. Little*

Brandon G. Little

Smart Park, LLC



96th St

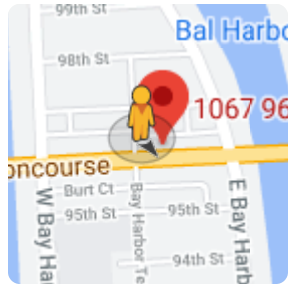


Image capture: Mar 2018 © 2021 Google

Bay Harbor Islands, Florida



Street View





PEDRO J. GARCIA MIAMI-DADE PROPERTY APPRAISER

Address

Owner Name

Folio

SEARCH:

Q

PROPERTY INFORMATION

Folio: 13-2227-001-2230

Sub-Division:
BAY HARBOR ISLAND

Property Address
1067 KANE CONC

Owner
HIPPO LAND INC

Mailing Address
18610 NW 87 AVE #204
HIALEAH, FL 33015

PA Primary Zone
6000 COMMERCIAL - GENERAL

Primary Land Use
1713 OFFICE BUILDING - ONE STORY : OFFICE BUILDING

Beds / Baths / Half 0 / 0 / 0

Floors 1

Living Units 0

Actual Area

Living Area

Adjusted Area	10,994 Sq.Ft
Lot Size	14,875 Sq.Ft
Year Built	1958



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- PA Additional Online Tools
- Property Search Help
- Report Discrepancies
- Special Taxing Districts and Other Non-Ad valorem Assessments

- Glossary
- Property Record Cards
- Property Taxes
- Report Homestead Fraud
- Tax Comparison

ASSESSMENT INFORMATION

Year	2020	2019	2018
Land Value	\$3,718,750	\$3,346,875	\$3,518,750
Building Value	\$606,605	\$10,000	\$356,150
Extra Feature Value	\$42,595	\$0	\$0
Market Value	\$4,367,950	\$3,356,875	\$3,874,900
Assessed Value	\$2,214,450	\$2,013,137	\$1,830,125

TAXABLE VALUE INFORMATION

	2020	2019	2018
COUNTY			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$2,214,450	\$2,013,137	\$1,830,125
SCHOOL BOARD			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$4,367,950	\$3,356,875	\$3,874,900
CITY			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$2,214,450	\$2,013,137	\$1,830,125
REGIONAL			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$2,214,450	\$2,013,137	\$1,830,125

BENEFITS INFORMATION

Benefit	Type	2020	2019	2018
Non-Homestead Cap	Assessment Reduction	\$2,153,500	\$1,343,738	\$2,044,775

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

FULL LEGAL DESCRIPTION

BAY HARBOR ISLAND PB 46-5
LOT 8 LESS S15FT & LESS W5FT
& LOTS 9 & 10 LESS S15FT FOR
ST & LESS N50FT BLK 11
LOT SIZE IRREGULAR
OR 19106-3778 0400 6

SALES INFORMATION

Previous Sale	Price	OR Book-Page	Qualification Description
11/19/2001	\$0	20063-0044	Sales which are disqualified as a result of examination of the deed
04/01/2000	\$1,425,000	19106-3778	Other disqualified
05/01/1988	\$0	13692-2172	Sales which are disqualified as a result of examination of the deed

For more information about the Department of Revenue's Sales Qualification Codes.

2020 2019 2018

LAND INFORMATION

Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value
GENERAL	BAAA, RBAA	6000 - COMMERCIAL - GENERAL	Square Ft.	14,875.00	\$3,718,750

BUILDING INFORMATION

Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value
1	1	1958			10,994	\$606,605

EXTRA FEATURES

Description	Year Built	Units	Calc Value
Cent A/C - Comm (Aprox 300 sqft/Ton)	1968	5	\$5,550
Cent A/C - Comm (Aprox 300 sqft/Ton)	1958	28	\$31,080
Paving - Asphalt	1958	7,230	\$5,965

ADDITIONAL INFORMATION

* The information listed below is not derived from the Property Appraiser's Office records. It is provided for convenience and is derived from other government agencies.

LAND USE AND RESTRICTIONS	
Community Development District:	NONE
Community Redevelopment Area:	NONE
Empowerment Zone:	NONE
Enterprise Zone:	NONE
Urban Development:	INSIDE URBAN DEVELOPMENT BOUNDARY
Zoning Code:	B-1 -
Existing Land Use:	113 - OFFICE BUILDING.
Government Agencies and Community Services	

OTHER GOVERNMENTAL JURISDICTIONS
Business Incentives
Childrens Trust
City of Bay Harbor Islands
Environmental Considerations
Florida Inland Navigation District
PA Bulletin Board
Special Taxing District and Other Non-Ad valorem Assessment
School Board
South Florida Water Mgmt District
Tax Collector

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

For inquiries and suggestions email us at <http://www.miamidade.gov/PAPortal/ContactForm/ContactFormMain.aspx>.

Version: 2.0.3

EXEMPTIONS & BENEFITS

- Deployed Military
- Disability Exemptions

Homestead

Institutional

Senior Citizens

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40 Yr Building
Re-Certification

Appealing Your Assessment

Defective Drywall

Folio Numbers

Mortgage Fraud

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PEDRO J. GARCIA MIAMI-DADE PROPERTY APPRAISER

Address

Owner Name

Folio

SEARCH:



[Back to Search Results](#)

PROPERTY INFORMATION

Folio: 13-2227-001-2240

Sub-Division:
BAY HARBOR ISLAND

Property Address

Owner
HIPPO LAND INC

Mailing Address
1085 KANE CONCOURSE
BAY HARBOUR ISLAND, FL 33154

PA Primary Zone
6000 COMMERCIAL - GENERAL

Primary Land Use
2865 PARKING LOT/MOBILE HOME PARK : PARKING LOT

Beds / Baths / Half 0 / 0 / 0

Floors 0

Living Units 0

Actual Area 0

Living Area	0
Adjusted Area	0
Lot Size	5,000 Sq.Ft
Year Built	0



Featured Online Tools

- Comparable Sales
- PA Additional Online Tools
- Property Search Help
- Report Discrepancies

- Glossary
- Property Record Cards
- Property Taxes
- Report Homestead Fraud

ASSESSMENT INFORMATION

Year	2020	2019	2018
Land Value	\$1,000,000	\$900,000	\$1,000,000
Building Value	\$0	\$0	\$0
Extra Feature Value	\$7,050	\$7,125	\$7,200
Market Value	\$1,007,050	\$907,125	\$1,007,200
Assessed Value	\$303,580	\$275,982	\$250,893

TAXABLE VALUE INFORMATION

	2020	2019	2018
COUNTY			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$303,580	\$275,982	\$250,893
SCHOOL BOARD			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$1,007,050	\$907,125	\$1,007,200
CITY			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$303,580	\$275,982	\$250,893
REGIONAL			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$303,580	\$275,982	\$250,893

BENEFITS INFORMATION

Benefit	Type	2020	2019	2018
Non-Homestead Cap	Assessment Reduction	\$703,470	\$631,143	\$756,307

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

FULL LEGAL DESCRIPTION

BAY HARBOR ISLAND PB 46-5

N50FT OF LOTS 9 & 10 BLK 11

LOT SIZE 100.000 X 50

SALES INFORMATION

Previous Sale	Price	OR Book-Page	Qualification Description	Previous Owner 1
11/19/2001	\$0	20063-0044	Sales which are disqualified as a result of examination of the deed	TOWN OF BAY HARBOR ISLAND LES
For more information about the Department of Revenue's Sales Qualification Codes.				

2020

2019

2018

LAND INFORMATION

Land Use	Muni Zone	PA Zone	Unit Type	Units	Calc Value
GENERAL	BAAA, RBAA	6000 - COMMERCIAL - GENERAL	Square Ft.	5,000.00	\$1,000,000

BUILDING INFORMATION

Building Number	Sub Area	Year Built	Actual Sq.Ft.	Living Sq.Ft.	Adj Sq.Ft.	Calc Value
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EXTRA FEATURES

Description	Year Built	Units	Calc Value
Paving - Asphalt	2011	5,000	\$7,050

ADDITIONAL INFORMATION

* The information listed below is not derived from the Property Appraiser's Office records. It is provided for convenience and is derived from other government agencies.

LAND USE AND RESTRICTIONS

Community Development District:	NONE
Community Redevelopment Area:	NONE
Empowerment Zone:	NONE
Enterprise Zone:	NONE
Urban Development:	INSIDE URBAN DEVELOPMENT BOUNDARY
Zoning Code:	B-1 -
Existing Land Use:	450 - GOVERNMENTAL/PUBLIC ADMINISTRATION (OTHER THAN MILITARY OR PENAL). Government Agencies and Community Services

OTHER GOVERNMENTAL JURISDICTIONS

Business Incentives
Childrens Trust
City of Bay Harbor Islands
Environmental Considerations
Florida Inland Navigation District
PA Bulletin Board
Special Taxing District and Other Non-Ad valorem Assessment
School Board
South Florida Water Mgmt District
Tax Collector

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Version: 2.0.3

EXEMPTIONS & BENEFITS

Deployed Military

Disability Exemptions

Homestead

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REAL ESTATE

40 Yr Building
Re-Certification

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Defective Drywall

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Town of Bay Harbor Islands

APPLICATION FOR BUSINESS TAX RECEIPT - BUSINESS DISTRICT

PRINT OR TYPE ALL INFORMATION REQUESTED

PROCESSING FEE - \$25.00

BEFORE OPENING A BUSINESS IN BAY HARBOR ISLANDS MAKE SURE YOU CHECK WITH THE BUILDING DEPARTMENT FOR CERTAIN CONDITIONS THAT MAY APPLY TO THE BUSINESS OR LOCATION.

EXAMPLE: Change of Use and Occupancy Inspections
Fire Department Inspections
Sign Regulations

(For official use only)	
DATE RECEIVED: _____	
DATE ISSUED: _____	LICENSE FEE: \$ _____
ACCT. NO. _____	LICENSE NO. _____
CLASSIFICATION: _____	

INDICATE TYPE OF OWNERSHIP OF BUSINESS: ☐ Individual ☐ Corporation ☐ Partnership ☒ Other LLC

*APPLICANT: Ted M. Schuhle		DATE OF BIRTH: 08/21/1981
E-MAIL ADDRESS: teddy@smart-park.us		WORK PHONE: (954) 673-0442
SSN: [REDACTED]	FEIN: 84-2661941	DRIVER LICENSE: 000044742290 (North Carolina)
BUSINESS NAME: Smart Park, LLC		CELL PHONE: (954) 673-0442
DOING BUSINESS AS (dba):		
BUSINESS ADDRESS: 1067-1085 Kane Concourse, Bay Harbor Islands, Florida		
MAILING ADDRESS (if different) 285 NE 17 Ct. # 2, Ft. Lauderdale, FL 33305-2928		
DESCRIPTION OF BUSINESS (provide details) paid public parking		

ESTIMATED NUMBER OF EMPLOYEES: 0 DAYS BUSINESS WILL BE OPEN: 7 days / week HOURS: 24 hours / day
WILL BUSINESS HAVE VENDING MACHINES NO IF SO, WHAT PRODUCT WILL BE VENDED: _____

ATTACH THE FOLLOWING DOCUMENTS:

CERTIFICATIONS ISSUED BY STATE/COUNTY AGENCIES
COPY OF ARTICLES OF INCORPORATION OR ARTICLES OF ORGANIZATION
LIST OF CORPORATE OFFICERS (Including Name, Address and Telephone Numbers)
COPY OF LEASE (IF APPLICANT IS OTHER THAN OWNER)
IF PROPERTY OWNER, PROVIDE COPIES OF DEED OR OTHER DOCUMENTS SHOWING OWNERSHIP

LIST NAME, ADDRESS AND TYPE OF BUSINESS (both current and previous) YOU HAVE OPERATED:
Smart Park, LLC has operated and continues to operate this exact same business at multiple locations throughout Florida and North Carolina.

LIST THREE (3) REFERENCES: (Note if you list a bank, corporation, etc. include name of a contact person)

NAME	ADDRESS	PHONE
Circle House Coffee (contact: Stephen Tulloch)	727 NE 3 Ave, Fort Lauderdale, FL 33304	(954) 870-6456
Tracy Curry	1211 Florida Ave S, Lakeland, FL 33803	(863) 660-9565
Ofelia Sherman	1045 Kane Concourse, Bay Harbor Islands, FL 33154	(786) 486-9804

I understand that in applying for a business license in the Town of Bay Harbor Islands it is my obligation to understand and comply with the rules and regulations of the Town of Bay Harbor Islands. I acknowledge receipt of a copy of the Town's sign regulations, if applicable.

APPLICANT'S SIGNATURE [Signature] DATE: 02/28/2021

FOR RESTAURANTS/FOOD ESTABLISHMENTS,
A SOLID WASTE DEPOSIT IS REQUIRED (This
amount can be adjusted depending upon monthly
volume usage)

**INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED
PLEASE BE SURE TO ATTACH ALL REQUIRED DOCUMENTATION**

Town of Bay Harbor Islands

APPLICATION FOR CERTIFICATE OF OCCUPANCY

Before the issuance of a Certificate of Occupancy will be granted for the completion of a building permit or for a Business Tax Receipt, the following information must be provided.

Per the Florida Building Code, Section 503 and 307, the premises must be inspected and approved prior to new occupancy being granted.

Date: 02/28/2021

Business Location	privately-owned parking spaces adjacent to 1035-1055 Kane Concourse
Previous Tenant: (name)	Town of Bay Harbor Islands
Previous Use (type of business)	same (paid public parking)
New Business Name	Smart Park, LLC
New Tenant's Name	Smart Park, LLC
Telephone Number	954-673-0442
Contractor's Name and Address and Phone Number	n/a

OFFICIAL USE ONLY

Town Clerk:

Type of Business Compliant with Code? ☐ Yes ☐ No

Council Approval Required? ☐ Yes ☐ No

Council Approval Date: _____

Town Clerk: _____ Town Clerk Approval Date: _____

Police Department:

Background Investigation Completed? ☐ Yes ☐ No Date: _____

Approval for License ☐ Yes ☐ No Date: _____

Officer's Name: _____ Officer's Signature: _____

Officer's Remark:

Building Department:

Change of Use? ☐ Yes ☐ No

Inspections Required:

☐ Code Compliance

Inspector: _____

Date: _____

☐ Building

Inspector: _____

Date: _____

☐ Electrical

Inspector: _____

Date: _____

☐ Mechanical

Inspector: _____

Date: _____

☐ Fire

Inspector: _____

Date: _____

☐ Public Works

Inspector: _____

Date: _____

☐ DERM

Inspector: _____

Date: _____

**Electronic Articles of Organization
For
Florida Limited Liability Company**

**L19000193836
FILED 8:00 AM
July 29, 2019
Sec. Of State
bnkinsey**

Article I

The name of the Limited Liability Company is:
SMART PARK, LLC

Article II

The street address of the principal office of the Limited Liability Company is:
719 PLACE CHATEAU
DELRAY BEACH, FL. US 33445

The mailing address of the Limited Liability Company is:
719 PLACE CHATEAU
DELRAY BEACH, FL. US 33445

Article III

The name and Florida street address of the registered agent is:
BRANDON G LITTLE ESQ.
644 S.E. FOURTH AVENUE
FORT LAUDERDALE, FL. 33301

Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Registered Agent Signature: BRANDON LITTLE

Signature of member or an authorized representative

Electronic Signature: BRANDON LITTLE

I am the member or authorized representative submitting these Articles of Organization and affirm that the facts stated herein are true. I am aware that false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S. I understand the requirement to file an annual report between January 1st and May 1st in the calendar year following formation of the LLC and every year thereafter to maintain "active" status.

Smart Park, LLC

Directory of Members

1. **Ted M. Schuhle**

(954) 673-0442

teddy@smart-park.us

FL Mailing Address:

% Smart Park, LLC

285 NE 17 Ct. # 2

Ft. Lauderdale, FL 33305-2928

NC Mailing Address:

% Smart Park, LLC

511 N Cherry St. # 317

Winston-Salem, NC 27101

2. **Brandon G. Little**

(954) 546-0640

brandon@legalreliefnow.com

% Smart Park, LLC

285 NE 17 Ct. # 2

Ft. Lauderdale, FL 33305-2928

Parking Lot Management Agreement

This Parking Lot Management Agreement (the "Agreement") is entered into and made effective as of the date executed below (the "Effective Date"), by and between **Smart Park, LLC**, a Florida limited liability company ("Smart Park"), and **Hippo Land, Inc.**, a Florida corporation (the "Client"), with respect to Client's property more specifically described in the attached Exhibit "A" (the "Property").

1. Term and Termination:

The Term of this Agreement shall be one (1) year beginning on April 1, 2021 (the "Commencement Date") and terminating at midnight one (1) year thereafter (the "Initial Term"). The Initial Term and any subsequent Term shall automatically renew for an additional period of one (1) year (each, a "Renewal Term") unless either party notifies the other party in writing no less than sixty (60) days before the end of the then-current Term of its intent not to renew this Agreement.

2. Description of Property:

Client has possession of the subject Property by way of the deed duly recorded in the official record books of the county in which the Property is located or written lease. A copy of the Client's deed or lease is attached hereto as Exhibit "B".

Client expressly represents and guarantees that there is no other deed, lease, sublease, or other property interest, that would interfere with Client's use of the Property as a pay-for-parking lot as contemplated by the parties herein.

Client shall cooperate with Smart Park as reasonably required to obtain any necessary permitting and/or required consents from the Property owner, related to establishing and maintaining operation as a pay-for-parking lot.

3. Requirement / Scope of Work:

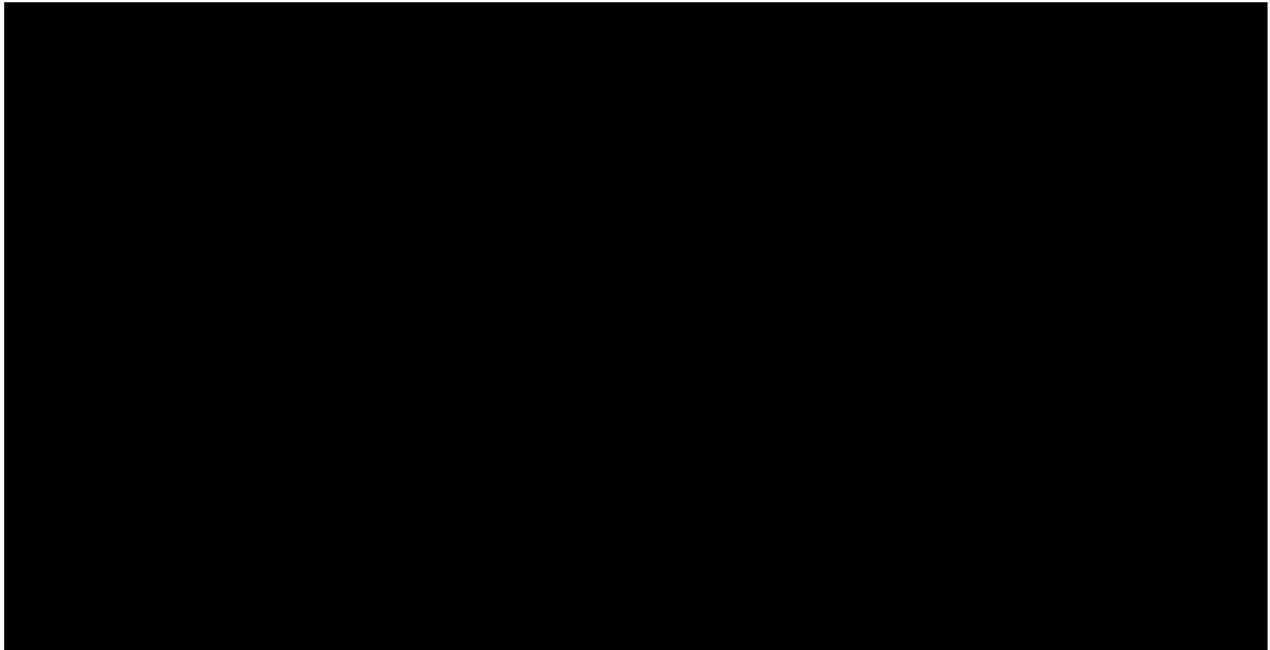
Smart Park agrees to manage the Property for the purpose of operating a pay-for-parking lot for public parking of motor vehicles and for no other purposes. The collection of revenues from the pay-for-parking operation will be via the use of revenue collection signage (payment by mobile phone app)



At all times the Client agrees to execute any and all documents required by any local government entity (hereinafter referred to as "the City"), to assist Smart Park in any approval process necessary for Smart Park to obtain a permit for the use and ongoing operation of the Property as a pay-for-parking lot, if and as required.



4. Revenue Collection and Distribution:



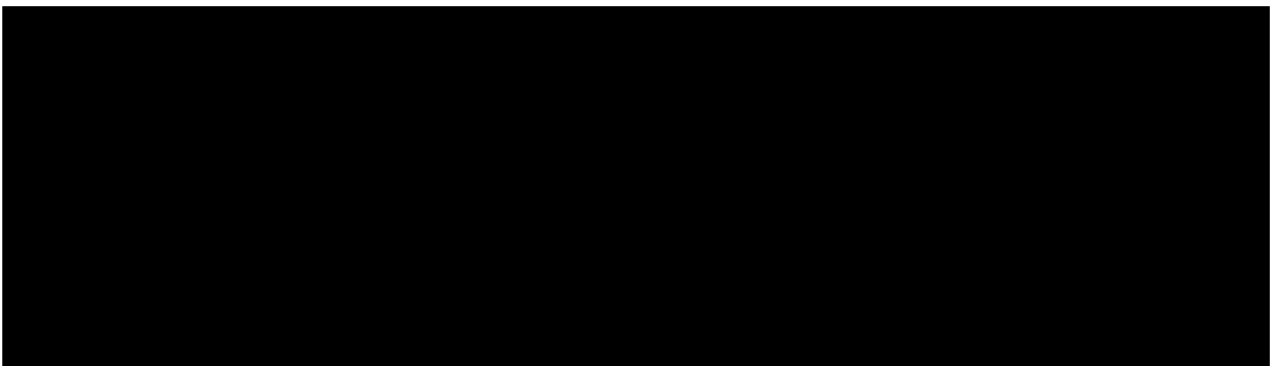
5. Insurance:

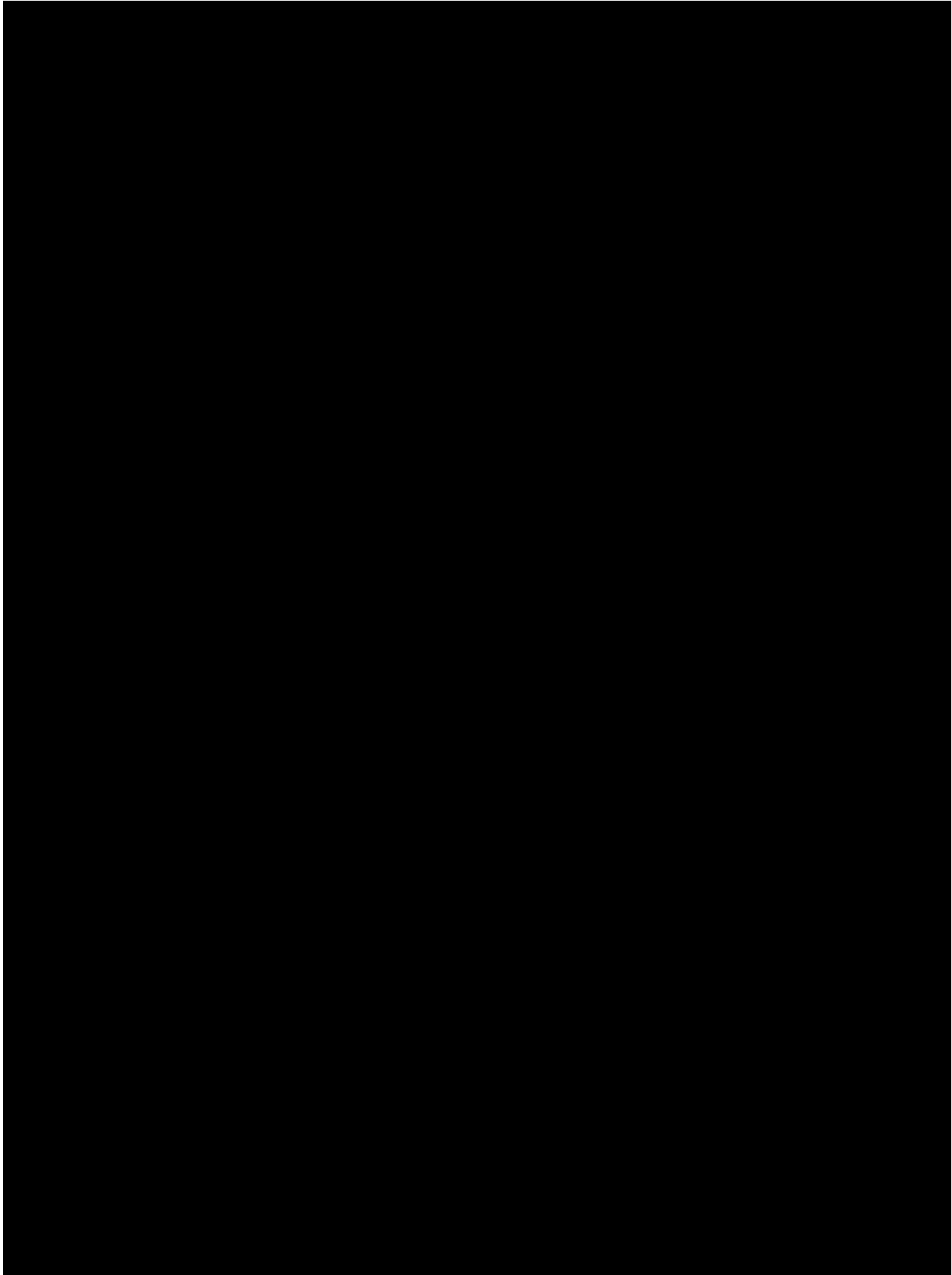
On or before the Commencement Date, Smart Park will deliver to the Client a Certificate of Insurance evidencing its maintenance of commercial insurance coverage (which coverage shall be maintained, by Smart Park, in full force and effect, throughout the Initial Term, if applicable, and shall not be cancellable or subject to material modification without at least twenty (20) days prior written notice to Client), including, at a minimum, General Commercial Liability coverage of \$1,000,000.00 and naming Hippo Land, Inc., and Horizon Properties of Miami, Inc., as additional insured.

6. Additional Requirements:

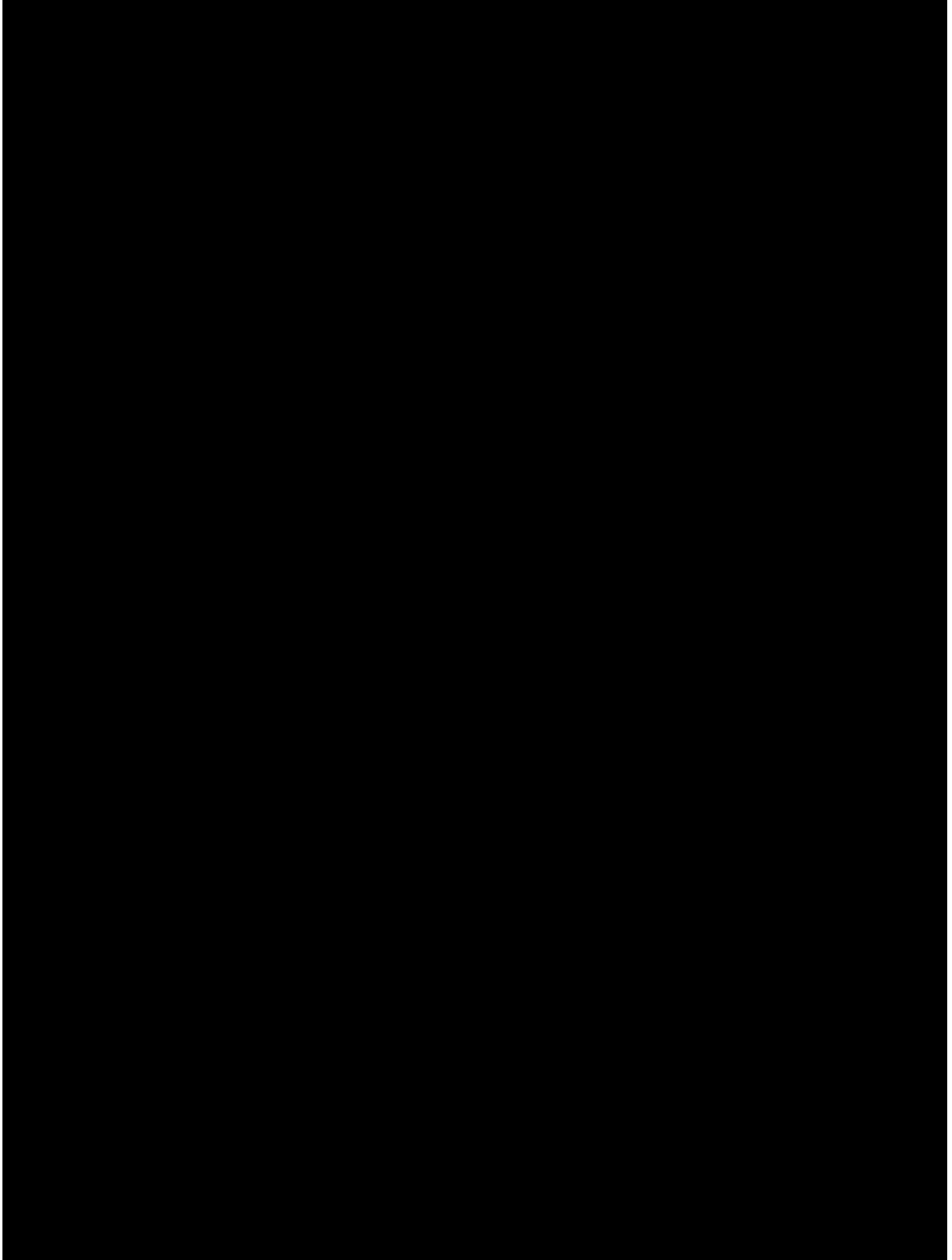
Smart Park shall provide all of its services to Client as an independent contractor and neither Smart Park nor any of its employees shall be deemed or otherwise considered an employee or agent of Client.

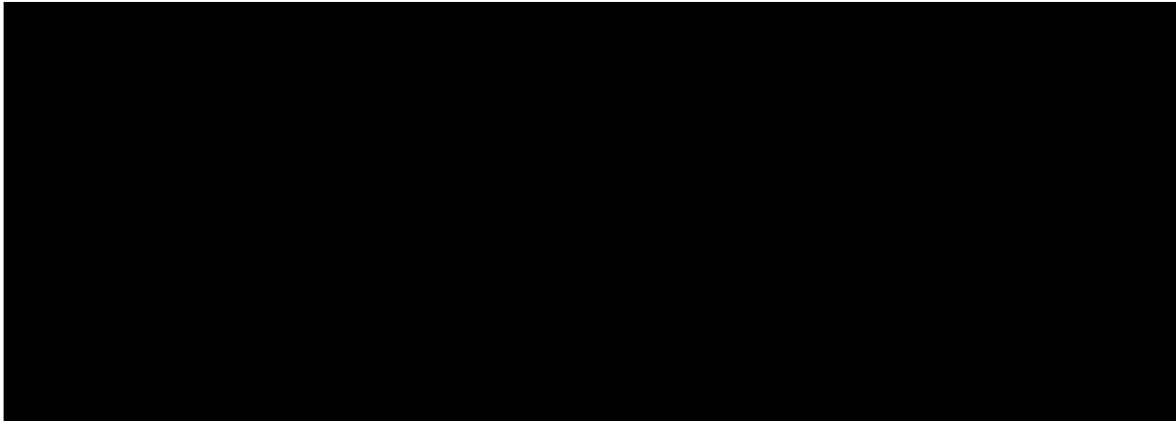
7. Default:



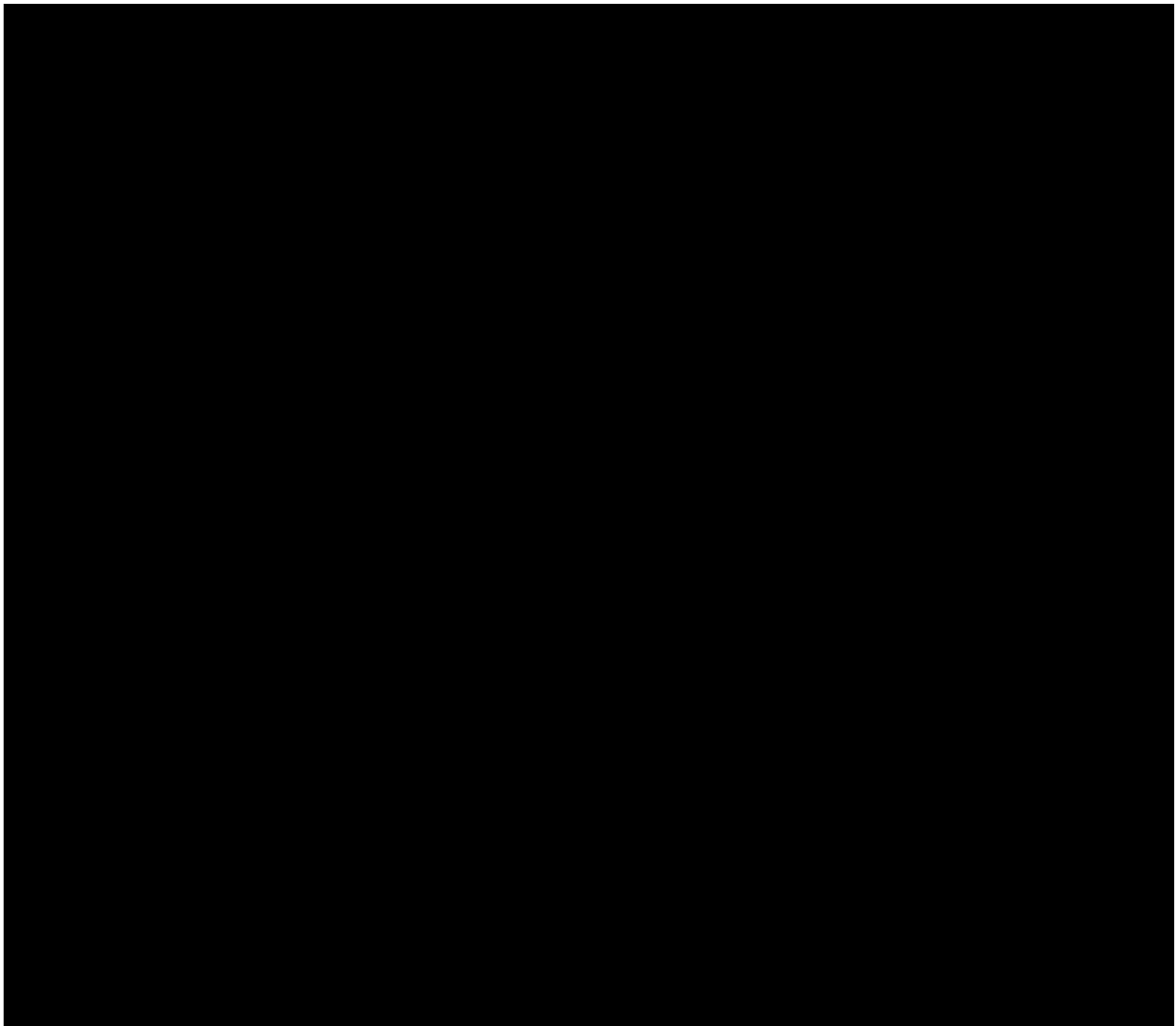


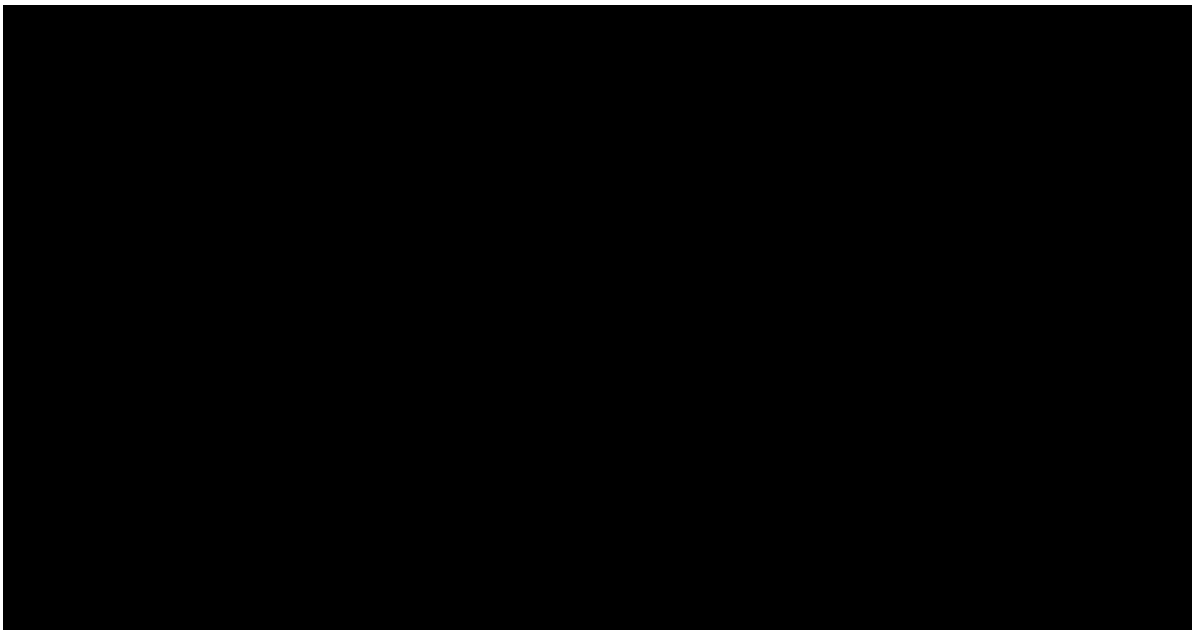
9. *Miscellaneous Provisions:*





9.8. Counterparts / Fax or Email Signatures: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same agreement. Signatures may be transmitted via facsimile or electronic mail and shall be deemed given as of the date and time of the transmission by facsimile or electronic mail to the other party and shall be treated as originals.



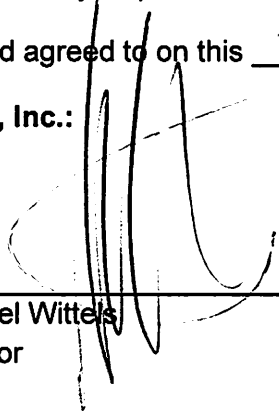


9.13. Modifications: This Agreement shall not be modified except in writing subscribed to by all parties and specifically referencing this Agreement.

Accepted and agreed to on this 12 day of February, 2020, by:

Hippo Land, Inc.:

Smart Park, LLC:



By: Michael Wittels
Title: Director



By: Ted M. Schuhle
Title: Manager

Exhibit "A"

Property Address: 1067-1085 Kane Concourse, Bay Harbor Islands, Florida 33154

Parcel ID #: 3-2227-001-2230, 13-2227-001-2240

Approximate # of Parking Spaces: 15

Exhibit “B”

This Instrument prepared by or under
the supervision of:

Ronald A. Kriss, Esq.
Gunster, Yoakley & Stewart, P.A.
One Biscayne Tower - Suite 3400
2 South Biscayne Boulevard
Miami, Florida 33131

DDR226582 2000 MAY 11 08:26

DOCSTFDEE 3,550.00 SURTX 6,412.50
HARVEY RUVIN, CLERK DADE COUNTY, FL

[THIS SPACE RESERVED FOR THE CLERK OF COURTS]

Property Appraiser's Parcel
I.D. #13-2227-001-2230

WARRANTY DEED

THIS DEED is made as of the 26 day of April, 2000, by and between **LORD BEACONSFELD CORP.**, a Florida corporation (the "**Grantor**"), whose address is Post Office Box 2880, Hallandale, Florida 33008, and **HIPPO LAND, INC.**, a Florida corporation (the "**Grantee**"), whose taxpayer identification number is [REDACTED] and whose address is 1085 Kane Concourse, Bay Harbor Islands, Florida 33154.

WITNESSETH:

GRANTOR, in consideration of Ten (\$10.00) Dollars and other good and valuable consideration paid by Grantee, the receipt and the legal sufficiency of which are hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain and sell, to Grantee, and Grantee's heirs and assigns forever, the following property located in Miami-Dade County, Florida (the "**Property**"), as more particularly described below:

Lot 8, less the West 5 feet and less the South 15 feet thereof, and Lots 9 and 10, less the South 15 feet thereof, Block 11, BAY HARBOR ISLAND, according to the Plat thereof, recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida

TOGETHER WITH all the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

SUBJECT TO:

1. Taxes and assessments for the year 2000 and subsequent years which are not yet due and payable.
2. All laws, ordinances, regulations, restrictions, prohibitions and other requirements imposed by governmental authority.
3. Matters appearing on the plat, or otherwise common to the subdivision, without the intention of reimposing same.
4. Restrictions, utility easements and other matters of record, without the intention of reimposing same.

1050

TO HAVE AND TO HOLD unto Grantee and Grantee's heirs, successors and assigns in fee simple forever.

GRANTOR hereby covenants with Grantee that Grantor is lawfully seized of the Property in fee simple, that Grantor has good right and lawful authority to sell and convey the Property, and that Grantor hereby warrants the title to the Property and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor has executed this Deed as of the day and year first above written.

Signed, sealed and delivered
in the presence of:

LORD BEACONSFELD CORP., a Florida
corporation

[Signature]
Print Name AND MAUTNER E. RA. 21

By: [Signature]
MERCEDES MAUTNER, President

[Signature]
Print Name SOHA TRION

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

The foregoing instrument was acknowledged before me this 28th day of April, 2000, by MERCEDES MAUTNER, as President of Lord Beaconsfeld Corp., a Florida corporation, on behalf of the Corporation. She is personally known to me or has produced FL D.L. as identification and took an oath.

[Signature]
Name SONIA HERNANDEZ
NOTARY PUBLIC, STATE OF FLORIDA
Comm. No./Exp. Date: _____

RECORDED IN OFFICIAL RECORDS BOOK
OF DADE COUNTY, FLORIDA
RECORD VERIFIED
HARVEY RUVIN
CLERK CIRCUIT COURT

[NOTARY SEAL]



20063PG0044

**NOTICE OF TERMINATION OF LEASE AND RETURN OF REAL
PROPERTY TO TAX ROLLS**

This Notice is executed this 19th day of November, 2001, by the Town of Bay Harbor Islands (BHI), a Florida municipal corporation, with its mailing address at 9665 Bay Harbor Terrace, Bay Harbor Islands, Florida 33154.

WITNESSETH:

WHEREAS, on or about April 1, 1996, the Town of Bay Harbor Islands entered into a lease with the owners of the following described real property for the purpose of providing municipal parking, and thereby resulting in a tax exempt status for the following real property:

The Northerly 50 feet of Lots 9 and 10 in Block 11,
Bay Harbor Island, according to the Plat thereof,
recorded in Plat Book 46, Page 5, of the Public
Records of Dade County, Florida; and

WHEREAS, as a result of said lease, the Town of Bay Harbor Islands acquired the right for the period commencing on April 1, 1996 to and including March 31, 2001, to utilize the above-described real property for a municipal parking lot, thereby causing said property to be tax exempt; and

WHEREAS, said real property has been determined by the Dade County Tax Assessors Office to be exempt under Tax Folio Number 13 2227 001 2240, and which exemption is evidenced in the tax records of the Dade County Tax Assessors Office; and

WHEREAS, said lease has expired and the owners of the real property, Hippo Land, Inc., have failed and refused to renew or otherwise execute a new lease, as a result of which said property is no longer available for use by the Town of Bay Harbor Islands for municipal parking; and

WHEREAS, as a result of the expiration, termination and cancellation of the above-described lease, the owner of said property, to wit: Hippo Land, Inc., has resumed sole use, possession and control of said real property described above and which use, possession and occupancy mandates that said property should be returned to the tax rolls as non-tax exempt real property.

NOW, THEREFORE, the Town of Bay Harbor Islands hereby gives notice to Hippo Land, Inc. and the public in general that the above-described real property lease has expired and terminated by its terms and that the real property described above is no longer being utilized by the Town of Bay Harbor Islands for municipal parking or for any other purpose, but rather said property has reverted to Hippo Land, Inc, the record title owner of said real property, so that it is no longer tax exempt and should be returned to the Tax Assessor's role as taxable real property.

01R676645 2001 DEC 17 09:00

1052

0

20063PG0045

The foregoing recitals are true and correct and are incorporated herein as a part of this Notice.

IN WITNESS WHEREOF, this document has been executed on the 19 day of November, 2001, as set forth below.

ATTEST:

TOWN OF BAY HARBOR ISLANDS
a municipal corporation

[Signature]
Town Clerk

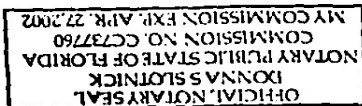
By: [Signature]
Town Manager

BEFORE ME, this 19th day of November, 2001, appeared LINDA KARLSSON, Town Manager of the Town of Bay Harbor Islands, and she is either personally known to me, or she has produced _____ as identification.

[Signature]
Notary Public, State of Florida

Donna S. Slotnick
Print Name of Notary Public

My Commission Expires:



This document prepared by and
record and return to:

Craig B. Sherman, Esquire
Town Attorney
Sherman Law Offices, Chartered
1000 Corporate Drive
Suit 310
Ft. Lauderdale, Florida 33334
\\Bn031a\files\Akarisson\Voice of Termination of Lease.wpt

RECORDED IN OFFICIAL RECORDS BOOK
OF DADE COUNTY, FLORIDA
RECORD VERIFIED
HARVEY RUVIN
CLERK CIRCUIT COURT